

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 348 OF 2008

BETWEEN:

GEORGE PATRICK MCFARLANE

PLAINTIFF

AND:

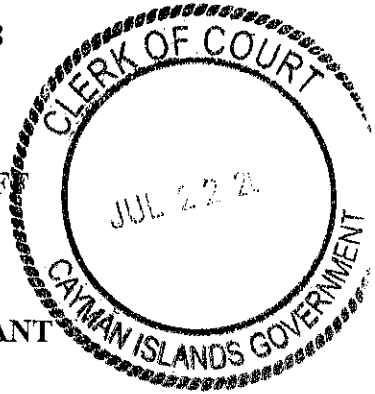
YVONNE MONIQUE MCFIELD

FIRST
DEFENDANT

AND:

CITI HEDGE FUND SERVICES (CAYMAN) LTD
(Formerly BISYS Hedge Fund Services (Cayman) Ltd)

SECOND
DEFENDANT



SPECIALLY ENDORSED WRIT OF SUMMONS

TO: Yvonne Monique Mcfield
36, Stanford Lane
George Town
Grand Cayman

To: CITI Hedge Fund Services (Cayman) Ltd
Cayman Corporate Centre 27,
Hospital Road

To: British Caymanian Insurance Co. Ltd
P.O. Box 74,
Britcay House
Eastern Avenue
Grand Cayman, KY1-1102.

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of a claim set out on the next page.

Within 14 days after service of this writ on you, counting the day of service, you must either satisfy the claim or return to the Court office, P.O. Box 495GT, George Town, Grand Cayman, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein an intention to

contest the proceedings , the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 23rd day of July 2008

NOTE – This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

INDORSEMENT OF INSURER

The Plaintiff's claim arises out of the use of a motor vehicle on a public road. The insurer of the Second Defendant named herein is British Caymanian Insurance Co. Ltd.

STATEMENT OF CLAIM

1. The Plaintiff is a Caymanian citizen and was at all the times material to the issues in these proceedings resident in the Cayman Islands.
2. The First Defendant is a Caymanian citizen and was at all material times resident in the Cayman Islands.
3. The First Defendant was at all material times an employee of the Second Defendant.
4. Alternatively, the First Defendant was the agent of the Second Defendant his Principal.
5. The First Defendant was, at 19th August 2005 , the operator of a grey 2005 Honda Stream, registration # 85383, which was owned and insured by the Second Defendant (hereinafter the "Vehicle").
6. On Friday 19 August 2005 on or around 3:00 p.m. the Plaintiff was riding a bicycle along a pavement in Eastern Avenue, near to Uncle Bills Hardware Store, in George Town, Grand Cayman when the Vehicle collided with the Plaintiff (the "Incident").
7. During the material time when the Incident took place, the weather and visibility conditions were good, it being a dry sunny day.
8. The road at the point where the First Defendant mounted the pavement and collided with the Plaintiff, at the time of the Incident, was in good condition.

PARTICULARS OF ASSAULT AND BATTERY

9. The Incident was caused by the First Defendant wrongfully and tortiously assaulting and battering the Plaintiff by wilfully, intentionally and/or recklessly driving the Vehicle onto the pavement, into and over the Plaintiff whilst he rode his bicycle. The First Defendant, after initially colliding with the Plaintiff, thereafter reversed the Vehicle over the Plaintiff wrongfully assaulting and battering the Plaintiff a second time. By reason thereof the Plaintiff has suffered severe injuries, loss and damage as herein particularised.

10. The First Defendant was arrested by the Royal Cayman Islands Police as a result of the Incident. The First Defendant was subsequently convicted of causing grievous bodily harm to the Plaintiff in June 2006 at the Summary Court. The said conviction is relevant to the issue of the assault herein and the Plaintiff intends to rely upon the same as evidence, pursuant to section 52 Evidence Law (2006 Revision), and relies on the doctrine of *Res ipsa loquitur*

PARTICULARS OF NEGLIGENCE

10. Alternatively, with regard to the Incident, the Plaintiff's injuries were caused by the negligent driving of the First Defendant. By reason thereof the Plaintiff has suffered severe injuries, loss and damage as herein particularised.

11. The particulars of the First Defendant's negligence being set out below;
 - i.) In operating the Vehicle in such a manner and at such a speed from the Plaintiff on his bicycle that the First Defendant was

unable to stop in an emergency without avoiding a collision with the same;

- ii.) In failing to keep any or, alternatively, any proper lookout;
- iii.) In failing to operate the vehicle in such a manner that she would be able to stop within the limit of vision at any given time;
- iv.) In failing to observe that she had mounted or was about to mount a pavement and correct such action to avoid the Plaintiff;
- v.) In failing to apply the Vehicle's brakes or direct the course of the Vehicle so as to avoid collision with the Plaintiff;
- vi.) In failing to drive in a manner as to have full control of the Vehicle at all times and by driving in a reckless, dangerous and/or careless manner;
- vii.) In failing to operate the Vehicle with due care and attention and, or alternatively, without reasonable consideration for other persons using the road and/or pavement and, or in the alternative, at a speed that was excessive relative to the road, traffic, visibility or weather conditions;
- viii.) In operating the Vehicle when she was an incompetent driver lacking any reasonable skill and/or self command and ought not to have attempted to operate the Vehicle; and
- ix.) Such further and other negligent acts, omissions or statutory breaches as may be discovered or disclosed prior to trial.

12. The fact that the First Defendant drove the Vehicle into the Plaintiff's bicycle, which was travelling on the pavement at the time of the collision, is evidence of itself of the First Defendant's negligence and breach of the common law and statutory duties owed by her to the Plaintiff. The Plaintiff relies on and pleads the doctrine of *Res ipsa loquitur*.
13. By reasons of the First Defendant's negligence and the Second Defendant's vicarious liability for the same as the employer and insured owner of the Vehicle, the Plaintiff has suffered pain and will continue to suffer future losses and damages attributable to the First and Second Defendants who are responsible in both equity and law.

PARTICULARS OF VICARIOUS LIABILITY

14. The Second Defendant is vicarious liable for the First Defendant's actions as their employee and/or agent. The Plaintiff has suffered pain and will continue to suffer future losses and damages attributable to the First and Second Defendants who are both responsible in equity and law for the Plaintiff's injuries and damage.

PARTICULARS OF INJURY, LOSS AND DAMAGE

15. As a result of the Incident, the Plaintiff suffered injuries which are summarised, but not limited to, the following;
 - b) Loss of tissue / skin on the left mid shin
 - c) Laceration to the left lower shin

- d) Deep muscle laceration to the back of the left knee joint resulting in restricted movement of the same.
- e) Highly visible scarring on the left knee joint and left shin.
- f) Severe ongoing pain and discomfort.

16. At the time of the Incident, the Plaintiff was 35 years of age (born 19th August 1970). He enjoyed good health prior to the Incident. As a result of the negligence, or in the alternative the assault, of and by the First Defendant, the Plaintiff has suffered loss or damage as follows:

- g) Loss of income;
- h) Loss of employment opportunity
- i) Special damages for medical care and other expenses arising from the accident and the Plaintiff's injuries;
- j) General damages for pain, suffering and loss of amenities;
- k) Losses for paid and unpaid assistance;
- l) Aggravated damages;
- m) Pre-judgment and post-judgment interest in accordance with the Judicature Law (as amended); and,
- n) Such other losses that may later be claimed.

17. The Plaintiff will provide specific details of the claim for special damages prior to trial.
18. By reason of the matters aforesaid, the Plaintiff has suffered personal injury, loss and damage, by the First Defendant as the employee and/or agent of the Second Defendant, both Defendants being liable in damages due to the Plaintiff.
19. The Plaintiff makes claim for injuries sustained and damages incurred as a result of the Incident against the First and Second Defendants, pursuant to The Tort (Reform) Law (1996 Revision) and/or the common law.
20. Pursuant to the Judicature Law (R) the Plaintiffs are entitled to and so claim interest on such sum as may be awarded herein, at such rate and for such period as the Court thinks fit

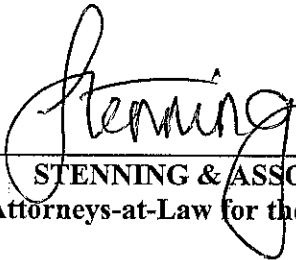
AND THE PLAINTIFF CLAIMS as follows:

- i. Loss of income;
- ii. Loss of employment opportunity;
- iii. Special damages for medical care and other expenses arising from and in connection with the Incident and the Plaintiff's injuries;
- iv. General damages for pain, suffering and loss of amenities;
- v. Aggravated damages;
- vi. Losses for paid and unpaid assistance;
- vii. Pre-judgment and post-judgment interest in accordance with the Judicature Law (as amended);

viii. Such other loss as may later be claimed; and

ix. Such further and other relief as this Honourable Court deems appropriate.

Dated the 23rd day of July 2008


STENNING & ASSOCIATES
Attorneys-at-Law for the Plaintiff

TO: Clerk of the Court

AND TO: Yvonne Monique Mcfield
36, Stanford Lane
George Town
Grand Cayman

AND TO: British Caymanian Insurance Co. Ltd
P.O. Box 74,
Britcay House
Eastern Avenue
Grand Cayman, KY1-1102.

AND TO: CITI Hedge Fund Services (Cayman) Ltd
P.O. Box 10293
Cayman Corporate Centre 27,
Hospital Road.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2008

BETWEEN: GEORGE PATRICK MCFARLANE PLAINTIFF

AND: YVONNE MONIQUE MCFIELD FIRST DEFENDANT

AND: CITI HEDGE FUND SERVICES
(CAYMAN) LTD
(Formerly BISYS Hedge Fund Services
(Cayman) Ltd) SECOND DEFENDANT

ACKNOWLEDGEMENT OF SERVICE
OF WRIT OF SUMMONS

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

2. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged -

3. State whether the Defendant intends to contest the proceedings (*tick appropriate box*)
 yes no

4. If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (*tick box*)
 yes no

Service of the Writ is acknowledged accordingly

Attorneys for Defendant

Address for service:

NOTES ON ADDRESS FOR SERVICE

Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

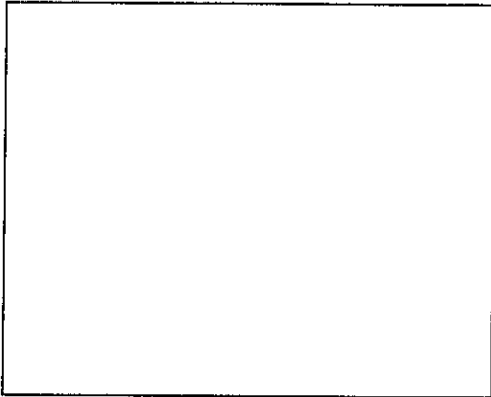
Endorsement by plaintiff's Attorney (or by plaintiff if suing in person) of his name, address and reference, if any, in the box below.

STENNING & ASSOCIATES

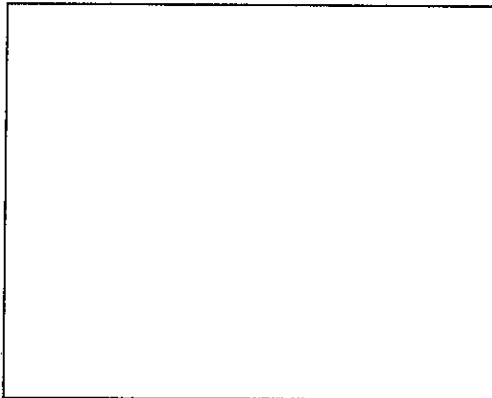
Attorneys-at-Law
Unit # 8 Thompson Building
58, Mary Street
George Town
Grand Cayman

REF: JS/756/001

*Endorsement by **First defendant's Attorney** (or by defendant if suing in person) of his name, address and reference, if any, in the box below.*



*Endorsement by **Second defendant's Attorney** (or by defendant if suing in person) of his name, address and reference, if any, in the box below.*



DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE

OF WRIT OF SUMMONS

1. The accompanying form of *Acknowledgment of Service* should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495, George Town, Grand Cayman

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings *must also serve a defence* on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A *Stay of Execution* against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, *issue a Summons* for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by installments or otherwise.

See over for notes for guidance

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (*the name stated on the Writ of Summons*)".
4. Where the Defendant is a **FIRM** and an attorney is not instructed, the form must be completed by a **PARTNER** by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
5. Where the Defendant is sued as an individual **TRADING IN A NAME OTHER THAN HIS OWN**, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
6. Where the Defendant is a **LIMITED COMPANY** the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on his behalf.
7. Where the Defendant is a **MINOR** or a **MENTAL PATIENT**, the form must be completed by an Attorney acting for a guardian *ad litem*.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.