

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: *6369* OF 2008

BETWEEN FACUNDO YERRO

PLAINTIFF

AND JOCELYN TEANO

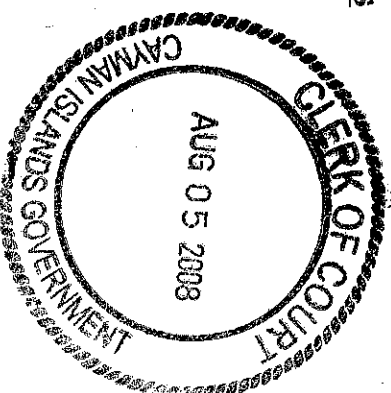
DEFENDANT



WRIT OF SUMMONS

TO: JOCELYN TEANO
#37 SATURN CLOSE
EASTERN AVENUE

AND: FIDELITY INSURANCE
Box 2174 CAYMAN FINANCIAL CENTRE
DR ROY'S DRIVE
GEORGE TOWN
GRAND CAYMAN



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

Within 14 days after the 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 495G, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment 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 *5th* day of August 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.

STATEMENT OF CLAIM

1. The Plaintiff is a citizen of Cuba and has been resident in the Cayman Islands for 14 years and currently resides in Grand Cayman. He was born on the 27th November 1958.
2. The Defendant was at the time of the accident a resident of the Cayman Islands and was the owner and driver of a Ford Escort registration number 68479.
3. On the 5th July 2005 at approximately 4.30 p.m. the Plaintiff was cycling from his employment at the Marriott Hotel, West Bay Road in the direction of North Sound Road and was in the process of cycling through the Quincentinal roundabout.
4. The Defendant was driving on North Sound Road in the vicinity of Tortuga Rumm Factory awaiting to enter the same roundabout.
5. The Plaintiff was established on the roundabout and the Defendant, without ensuring it was safe to do so, entered the roundabout and struck the bicycle being driven by the Plaintiff causing the Plaintiff to fall from his bicycle and causing personal injuries, loss and damage.
6. The Plaintiff went to hospital due to the injuries sustained. The Plaintiff remained in hospital for a number of hours after the accident and was released that night. The Plaintiff went to work the next day and was sent home due to his injuries.
7. The Plaintiff returned to Cuba for treatment to his injuries for one month after the accident and returned to Grand Cayman in an attempt to recommence employment. The Plaintiff continued to work for approximately 6 weeks after this time but was unable to continue due to his injuries and worsening physical condition. The Plaintiff has been unable to work since this time.

9. Particulars of Negligence

- (a) Driving too fast in the circumstances
- (b) Failing to keep any or a proper look out
- (c) Driving without due care and attention
- (d) Failing to avoid a collision
- (e) Failing to stop, swerve or otherwise manoeuvre the vehicle in time to avoid a collision.
- (f) Entering a roundabout when unsafe to do so.

10. As a result of the Defendant's negligence, the Plaintiff has suffered personal injuries, loss and damage.

11. Particulars of Personal Injury

- (a) Right Knee
- (b) Soft tissue injuries to neck, back and shoulder.
- (c) Injuries to Right arm.
- (d) Headaches and stiffness

Knee:

Partial rupture of the flexor muscles of right knee. This injury has no healed.

Neck, back and Shoulder

The Plaintiff sustained compressive radicular C5-C6 cervical posttraumatic syndrome and a partial rupture of the rotator sleeve of the right shoulder. He was also found to have narrowness of the cervical spaces from C3 to C6. He continues to suffer from these injuries.

Right Arm

The Plaintiff continues to suffer injuries to this area, related to the injuries to his neck, back and shoulder.

Headaches and stiffness

The Plaintiff suffered headaches and stiffness for some months post accident. These have now resolved barring the stiffness at the sites of his on-going symptoms.

The Plaintiff was employed as a landscape gardener and general labourer for 14 years prior to the accident. He is no longer capable of full time employment and has suffered a diminution to the quality of his life.

The Plaintiff is no longer capable of carrying out daily tasks nor able to take part in sporting and social functions as he did prior to his injuries.

The Plaintiff continues to suffer from the injuries sustained and relevant reports will be prepared in due course.

12. Particulars of Special Damage

(a) The Plaintiff has incurred medical expenses and will continue to do so. Particulars of this claim will be forwarded when complete.

(b) The Plaintiff has suffered loss of earnings and will suffer loss of earnings from now until retirement age. Such losses will be particularized at a later date.

(c) The Plaintiff will need continued care and assistance domestically and will incur additional living expenses due to his injuries.

AND THE PLAINTIFF claims:

1. Damages
2. Interest in accordance with the Judicature Law (2007 Revision)
3. Costs
4. Such further and other relief as this Court may deem just

STATEMENT REGARDING INSURER

The Defendant was insured by Fidelity Insurance

A handwritten signature in black ink, appearing to read 'S M G', written over a horizontal line.

Samson & McGrath

Attorneys for the Plaintiff

THIS WRIT was issued by Samson & McGrath, Attorneys for the Plaintiff whose address for service is 5th Floor Genesis Building, Genesis Close, P.O. Box 446 GT, George Town, Grand Cayman

*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 495G, 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 instalments or otherwise.

See over for notes for guidance

Please complete overleaf

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 its 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.

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PLAINTIFF

AND JOCELYN TEANO

DEFENDANT

**ACKNOWLEDGMENT 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.

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

 2. State whether the Defendant intends to contest the proceedings (tick appropriate box)
 yes no
 3. 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
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Service of the Writ is acknowledged accordingly

(Signed).....

Attorney for

Please complete overleaf

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.

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

Samson & McGrath Attorneys at Law 5th Floor Genesis Building Genesis Close PO Box 446 George Town Grand Cayman
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Indorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.

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