

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO:

189

OF 2009

BETWEEN:

JACOB ALEX RIVERS

PLAINTIFF

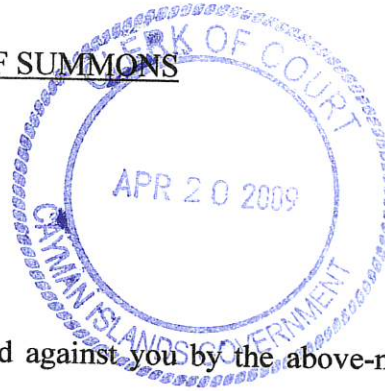
AND:

MICHAEL PERCHARD

DEFENDANT

WRIT OF SUMMONS

TO: Mr. Michael Perchard
6 Red Bay Road
Red Bay, 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 495GT, 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 20th day of April, 2009

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 was at all material times the owner and rider of a Honda CBR motor bike with registration No. 115404. The Defendant was at all material times the owner and driver of a Ford F-150 Truck with registration No. 90573.
2. On 5th June, 2006 at around 5:15 p.m., the Plaintiff was riding his motor bike along the Easterly Tibbetts Highway (also known as the Harquail Bypass). He was traveling in a westerly direction towards West Bay. The Defendant was also driving in same direction. Suddenly and without warning the Defendant turned around his Ford F-150 truck and made a "U TURN". While making that "U TURN" heading back towards George Town, the Defendant steered his vehicle in such a reckless and dangerous manner collided with the Plaintiff's motor bike causing the Plaintiff to fall off his bike and skid several feet along the asphalted road. As a result of the Defendant's reckless and dangerous driving the Plaintiff sustained serious injuries
3. As a result of the Defendant's reckless, dangerous and/or negligent driving, the Plaintiff experienced severe pain and suffering. He also sustained severe injuries including but not limited to fractures to his dominant right hand, fracture of his neck, fracture of his left knee and multiple abrasions and lacerations to his body. The fractures are expected to cause degenerative arthritis of the joints, intermittent swelling, weakness and pain. The Defendant is liable to the Plaintiff in damages.

PARTICULARS OF NEGLIGENCE

The Defendant was negligent in that he:

- (a) drove without due care and attention;
- (b) failed to take the necessary precautions such as keeping a proper look-out to ensure the road was clear before making the "U-TURN";
- (c) drove too fast in all the circumstances; and

- (d) failed to stop, slow down, apply brakes, steer or otherwise control his motor vehicle so as to avoid hitting with the Plaintiff off his bike;
4. As a result of the said accident the Plaintiff suffered pain and injury and sustained loss and damage.

PARTICULARS OF INJURY

1. Severe pain and suffering;
2. Fractured right hand;
3. Undisplaced fracture of the neck;
4. Fracture of his left shoulder;
5. Fracture of his left knee;
6. Multiple abrasions and lacerations over body;
7. Permanent scar on his right knee and on both arms;
9. Left knee giving out from time to time;
10. Continuous sensation of pins and needles in left knee; and
11. Continuous pain and sensation in right hand.

The Plaintiff was born on the 29th day of December, 1986 and was 19 years of age at the date of the accident. He was taken to the George Town Hospital by ambulance where he was treated and admitted for 5 days. Whilst in hospital, under general anaesthesia and x-ray guidance, fractures of the Plaintiff's right, first and second metacarpal bones were pinned and immobilized in a cast. Post-operative recovery was uneventful. He was hospitalized on 6th June and although he was discharged on 11th June, 2006 he returned to the hospital on several occasions as an outpatient for follow-ups and physiotherapy treatments. The Plaintiff left the hospital in a wheelchair as he was unable to walk even with the use of crutches. The Plaintiff suffered much pain and suffering whilst he was at home with pins in his right hand and cast on his right knee. The pins and cast were removed almost two months later on 1st August, 2006.

The Plaintiff is Caymanian by birth and was employed with the Bank of Butterfield at the time of the accident. He was unmarried and had no children at the time of the accident and lived by himself at 30 Boltins Avenue, West Bay, Grand Cayman. During the first three months of his illness, he had to hire a maid to cook wash and clean and carry out other duties around his home. He was unable to drive himself to and from doctors and physiotherapy appointments. He had to pay a taxi to transport him when a family member was not available to transport him.

Prior to the accident the Plaintiff enjoyed a fairly healthy life style. He was a member of the F.C. Tigers Football Club and practiced at least three times per week. He enjoyed dancing, swimming, working out at the gym and walking. After the accident, the Plaintiff is no longer able to play football, swim, or dance at all. The Plaintiff tried to swim but that causes pain and locking in his right knee. He is also not able to move his shoulder when swimming without experiencing pain and stiffness. His job requires him to use a computer. He has difficulty using the computer. He can no longer work out or lift weights in the gym as he did before the accident.

The Plaintiff will be handicapped on the job market. The Plaintiff continues to experience much pain and discomfort in his shoulder and wrist up to the time of filing this Writ. An x-ray from the Chrissie Tomlinson Hospital reveals that the fracture to his hand has not healed. He is not able to stand for a reasonable length of time without experiencing much pain in his left knee. The Plaintiff's life will never be the same again.

The Plaintiff has since married and is the father of a one year old baby girl. Due to his inability to move about freely without pain and locking of his hand and knee, he finds it difficult to play with his baby the way he would had he not been injured in the accident.

PARTICULARS OF SPECIAL DAMAGES

Medical expenses to date	6,716.30
Physiotherapy and pharmacy	1,820.99
Traveling expenses to and from doctors and Physiotherapists	200.00
Past home care	<u>1,258.00</u>
Total special damages	CIS9,995.29

The Plaintiff will ask the Court to make and award for future medical care or provisional damages on the assumption that he will need surgery on his hand and knee or possible knee replacement.

The Plaintiff claims interest on all sums due pursuant to the Judicature Law

AND THE PLAINTIFF claims:

1. Damages
2. Pre and Post-Judgment Interest
3. Costs

Dated this 20th day of April, 2009

Facey-Clarke & Associates
FACEY-CLARKE & ASSOCIATES
Attorneys-at-Law for the Plaintiff

This Writ of Summons was filed by Facey-Clarke & Associates, Attorneys-at-Law for the Plaintiff herein whose address for service is that of the said Attorneys-at-Law, Ground Floor, Unit 119, Elizabethan Square, George Town, Grand Cayman

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BETWEEN: JACOB ALEX RIVERS PLAINTIFF
AND: MICHAEL PERCHARD 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.

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

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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

Service of the Writ is acknowledged accordingly on the _____ day of _____, 2009

Defendant or his Attorney

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.

Facey-Clarke & Associates
Unit 119, Ground Floor, Elizabethan Square
P.O. Box 2545, KY1-1104
Grand Cayman, Cayman Islands

Tel: 345 946-8111
Fax: 345 946-8141
Email: mf@facey-clarke.com

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