

Writ of Summons (O.6, r.1)

IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. **G0039** OF 2015

BETWEEN LOUANA DELAPENHA

PLAINTIFF

AND: VERNON B MILLER

DEFENDANT

SPECIALY ENDORSED WRIT OF SUMMONS

TO: DEFENDANT: VERNON B. MILLER, Grand Cayman, Cayman Islands.

BRITCAY, British Caymanian Insurance Co. Ltd, BritCay House, 236 Eastern Avenue,
George Town, P.O. Box 74, KY1-1102, Cayman Islands

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 Plaintiffs may proceed with the action and judgment may be entered
against you forthwith without further notice.

Issued this th11 day of March 2015

NOTE - This Writ may not be served later than 4 calendar 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. At approximately 6.45am on the 14 March 2012 the Plaintiff was driving a Ford Edge motor vehicle registration number 142133 east along Bodden Town Road towards East End where the road has broken white lines and the speed limit is 50 mph. The Defendant was driving a Mitsubishi Lancer registration number 115710 when he went to overtake a vehicle directly behind the Plaintiff's motor vehicle as well as the Plaintiff's motor vehicle. The Defendant was forced by an oncoming vehicle to move back to the right where he collided with the Plaintiff motor vehicle.
2. The collision was caused by the negligence of the Defendant.

Particulars of Negligence

- a) Driving at an excessive speed
 - b) Failing to keep any or any proper look-out or to have any or any sufficient regard for traffic that was or might reasonably be expected to be on the road.
 - c) Emerging into the opposite lane and attempting to take over without first ascertaining or ensuring that it was safe so to do and when it was unsafe and dangerous so to do.
 - d) Overtaking at a point and attempting to pass a motor vehicle when it was unsafe and dangerous so to do.
 - e) Failure to avoid colliding with the Plaintiff.
 - f) Failure to stop, to slow down, to swerve, or in any way so to manage or control his motor car as to avoid the collision.
3. On 10 day of September 2012 the Defendant was convicted in the Summary Court sitting at George Town, Grand Cayman, on his plea of guilty of careless driving of his motor vehicle registration number 115710 contrary to section 69 of the Traffic Law (R2003) and using a vehicle with an expired driver's license. The said conviction is relevant to the issue of negligence and the Defendant intends to rely on it as evidence in this action.
 4. Further it is averred that the facts of the accident speaks for themselves as being an occurrence which cannot normally happen without negligence.
 5. By reason of these matters, the Plaintiff sustained injuries and she has suffered loss and damage.

Particulars of Injuries

6. As a result of the accident, the Plaintiff will rely on the report of Dr Frank Smith on 8 July 2013 in his medico-legal report which documents, *inter alia*, that she has suffered various injuries as documented by him including bruising her ribs on

the right side, her sternum, breathing difficulties and significant right shoulder pain. She had surgery on both shoulders. She has cervical spine crepitus in her shoulders and pain from the metacarpophalangeal joint of her right ring finger. There is a diagnosis of rotator cuff injury and moderate proximal biceps tendinosis and some fluid in the sub deltoid bursa. She has a labral tear of the labral substance in the anterior superior and posterior aspects and also some cystic changes in the humeral head within the greater tuberosity. Latterly, she has pain radiating down her arms and in her thoracic and lumber spine.

Particulars of Special Damage

6) Description and date	Amount
1. Medical Expenses paid by CINICO for travel and treatment in the Unites States—to be particularised and disclosed during disclosure to cover travel and medical expenses.	
2. Invoice for C.I. Health Services Authority – Statement # 6635195 dated 19 March 2012 for CI\$89.00.	
3. Invoice for C.I. Health Services Authority – Statement # 6635188 dated 19 March 2012 for CI\$355.84 attached to document No. 6.	
4. Invoice for C.I. Health Services Authority – Statement # 6635189 dated 19 March 2012 for CI\$12.00	
5. Invoice from Health Services Authority – Patient Financial Services – Statement # 6635449 dated 20 March 2012 for CI\$163.01.	
6. Estimate from Vampt Motors Ltd. dated 20 March 2012 for CI\$5,292.41.	
7. Invoice for C.I. Health Services Authority – Statement # 6640438 dated 3 April 2012 of CI\$74.01.	
8. Invoice from Vampt Motors Ltd dated 11 April 2012 for CI\$150.00.	
9. Invoice from Vampt Motors Ltd dated 5 April 2012 attached to document dated 11 April 2012 for CI\$6,520.91.	
10. Royal Cayman Islands Police Service - Traffic Accident Report dated 25 April 2012 for CI\$75.00.	
11. Invoice from Health Services Authority – Patient Financial Services – Statement # 6698741 dated 3 September 2012 for CI\$187.96.	
12. Invoice from Health Services Authority – Patient Financial Services – Statement # 6698742 dated 3 September 2012 for CI\$120.00.	
13. Invoice from Health Services Authority – Patient Financial Services – Statement # 6698743 dated 3 September 2012 for CI\$74.01.	
14. Invoice from Health Services Authority – Patient Financial Services – Statement # 6698744 dated 3 September 2012 for CI\$162.90.	
15. Invoice from Health Services Authority – Patient Financial Services – Statement # 6698745 dated 3 September 2012 for CI\$183.82.	
16. Invoice from Health Services Authority – Patient Financial Services – Statement # 6698747 dated 3 September 2012 for CI\$304.50.	
17. Invoice from Health Services Authority – Patient Financial Services – Statement # 6698748 dated 3 September 2012 for CI\$74.01.	

18. Invoice from Health Services Authority – Patient Financial Services – Statement # 6698749 dated 3 September 2012 for CI\$80.00.
19. Invoice from Health Services Authority – Patient Financial Services – Statement # 6698750 dated 3 September 2012 for CI\$932.78.
20. Invoice from Health Services Authority – Patient Financial Services – Statement # 6698753 dated 3 September 2012 for CI\$150.82.
21. Invoice from Health Services Authority – Patient Financial Services – Statement # 6698755 dated 3 September 2012 for CI\$7.00.
22. Cayman Orthopaedic Group – Patient Statement dated 7 September 2012 for CI\$220.00.
23. Cayman Islands Health Services Authority – CIN dated 21 September 2012 for CI\$262.26.
24. Patient Statement from Cayman Orthopaedic Group dated 2 September 2013 for Dr Frank Smith for CI\$500.00.
25. Patient Statement from Cayman Orthopaedic Group dated 6 March 2015 for CI\$18,407.93.
26. Patient Statement from Cayman Orthopaedic Group dated 6 March 2015 for CI\$500.00.
27. Patient Statement from Cayman Orthopaedic Group dated 6 March 2015 for CI\$125.00.
28. Patient Statement from Cayman Orthopaedic Group dated 6 March 2015 for CI\$125.00.
29. Patient Statement from Cayman Orthopaedic Group dated 6 March 2015 for CI\$125.00.
30. Patient Statement from Cayman Orthopaedic Group dated 6 March 2015 for CI\$16,529.60.
31. Patient Statement from Cayman Orthopaedic Group dated 6 March 2015 for CI\$420.00 paid on bill CI\$30.00 balance.

AND the Plaintiff claims

- (i) Damages
- (ii) Further, pursuant to The Judicature Law (1995 Revision), the Defendant is entitled to and claims interest on such sums as are found to be due at such rate and for such period as the Court shall think fit.
- (iii) Costs



CHAMBERS

THIS WRIT was issued by Clyde H. Allen, CHAMBERS on behalf of the Plaintiff whose address for service is P.O. Box 31076 SMB, 2nd Floor, Suite 9, Jack & Jill Building, 19 Fort Street, KYI-1205, George Town, Grand Cayman, Cayman Islands.

Acknowledgement of service of writ of summons (0.12, r.3)

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.

IN THE GRAND COURT OF THE CAYMAN ISLAND
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. OF 2015

BETWEEN LOUANA DELAPENHA

PLAINTIFF

AND: VERNON B MILLER

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.

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 a 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

Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for

Address for service: (please see overleaf)

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.

Clyde Allen
CHAMBERS,
Attorneys-At-Law
PO Box 31076 SMB
Jack & Jill Bldg, KY1-1205
Grand Cayman
Cayman Islands

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