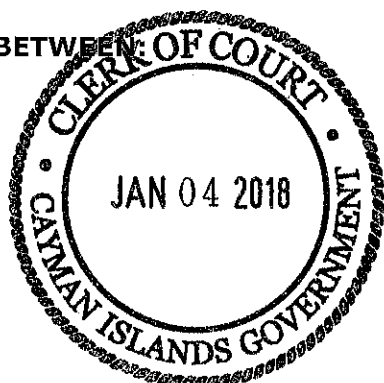


**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION**

**CAUSE NO: 191 OF 2016**

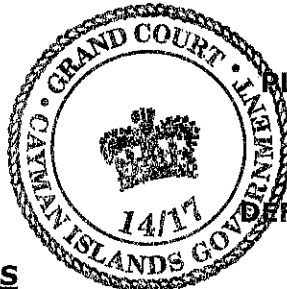
BETWEEN



**JONATHAN PARCHMENT**

**AND:**

**ROLLAND HENRY**



**PLAINTIFF**

**DEFENDANT**

**AMENDED WRIT OF SUMMONS**

**TO:** Rolland Henry

**THIS WRIT OF SUMMONS** has been issued against you by the above-named Plaintiff of 303 Powery Road, West Bay, Grand Cayman 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 13<sup>th</sup> day of October, 2016.

*re-issued this 14<sup>th</sup> day of January, 2018*

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.

And as a Noticed Party to:

British Caymanian Insurance Company Limited  
BritCay House  
236 Eastern Avenue  
George Town  
P.O. Box 74  
Grand Cayman KY1-1102

## **AMENDED STATEMENT OF CLAIM**

1. At all material times the Plaintiff was the owner and driver of a Yamaha motorcycle registration 148582 and the Defendant was the driver of a Toyota Highlander registration 60285.
2. On the 4<sup>th</sup> December 2013 the Plaintiff was proceeding correctly on his vehicle along Shamrock Road in Red Bay, Grand Cayman in the direction of George Town. He was driving in a straight path past the turning to the roundabout leading to the East-West arterial Road and Prospect Point Road when suddenly and without warning the Defendant, travelling in the opposite direction in a Toyota Highlander, turned right and across the path of the Plaintiff's vehicle.
3. At all material times the Defendant was insured to drive the Toyota Highlander registration number 60285 with British Caymanian Insurance Company Ltd who had issued a policy of insurance relating to the vehicle in accordance with the Motor Insurance (Third Party Risks Law).

### **Particulars of negligence**

4. The Defendant was negligent in that he:
  - a) failed to keep any or any proper look out;
  - b) failed to see the Plaintiff in time or at all;
  - c) drove across the Plaintiff's path when it was unsafe and dangerous to do so;
  - d) failed to wait for the Plaintiff to pass him safely before commencing his manoeuvre;
  - e) failed to apply his brakes whether in time or at all;
  - f) failed to steer or control his vehicle so as to avoid the said collision.
5. By reason of the aforesaid, the Plaintiff has suffered personal injury, loss and damage.

### **Particulars of General Damage**

6. The Plaintiff's date of birth is the 9<sup>th</sup> October 1987 and he is currently 29 years old.
7. The plaintiff went into respiratory arrest and had to be resuscitated by paramedics at the scene of the accident.
8. Following this the Plaintiff was taken to George Town hospital by ambulance where he was placed on an advanced trauma life support program.
9. The plaintiff was diagnosed as having sustained: -
  - a) A closed head injury;
  - b) A fracture to the right femur with vascular compromise;
  - c) A fracture to the left femur uncompromised;
  - d) A fracture to the right tibia and left fibula;
  - e) A fracture to the right forearm bones;
  - f) Fracture to the C1/C2 area with instability.

10. He was stabilized and transferred the next day by air ambulance to the Broward medical Centre in Fort Lauderdale, Florida.
11. He underwent extensive surgery on the 5<sup>th</sup> December 2013 in relation to his fractures.
12. He developed post-traumatic gangrene to the right lower leg and as a result he underwent a below the knee amputation on the 16<sup>th</sup> December 2013.
13. He was subsequently transferred to Daytona Rehabilitation Centre on the 17<sup>th</sup> January 2014 until discharge on the 13<sup>th</sup> February 2014. He then returned to Grand Cayman for continued treatment.
14. He was fitted for his prosthesis for his right lower leg at the beginning of February 2014 and has been under the care of Dorset Orthopaedic in the UK since 2015.
15. The Plaintiff has suffered a very severe traumatic brain injury resulting in long-term neurological consequences and a risk of developing epilepsy.
16. He continues to suffer considerable pain and remains under the care of experts and a counsellor.
17. The Plaintiff will rely on expert evidence in support of his injuries.

#### **Particulars of Loss and Damage**

18. See attached Schedule of Special Damages.
19. The Plaintiff will claim interest pursuant to section 34 of the Judicature Law (2013 Revision) at half the rate as prescribed under the Judgment Debts (Rates of Interest) Rules (as amended) from the 4<sup>th</sup> December 2013 to Trial.

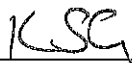
#### **Conviction for Careless Driving**

20. The Plaintiff intends to adduce evidence that the Defendant was convicted of the offence of careless driving contrary to S77(1) of the Traffic Law 2011 at the Summary Court, George Town, Grand Cayman as a result of his driving resulting in the collision.
21. The conviction for careless driving was recorded on 22<sup>nd</sup> March 2017 by judgment handed down by Magistrate Nervik after a trial occurring on 1<sup>st</sup>, 2<sup>nd</sup> and 15<sup>th</sup> February 2017.
22. The conviction is relevant to the issue of the negligent driving of the defendant resulting in the collision.

#### **AND THE PLAINTIFF claims:**

1. General and Special Damages
2. Interest in accordance with the Judicature Law (2013 Revision)
3. Costs

Re-filed this 4<sup>th</sup> day of January 2018

  
\_\_\_\_\_  
**Samson & McGrath**  
**KSG Attorneys-At-Law**  
**Attorneys for the Plaintiff**

**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION**

**CAUSE NO: 191 OF 2016**

**BETWEEN:**

**JONATHAN PARCHMENT**

**PLAINTIFF**

**AND:**

**ROLLAND HENRY**

**DEFENDANT**

**SCHEDULE OF SPECIAL DAMAGES**

**1. EARNINGS**

- 1.1 The accident occurred when the plaintiff was 26 years old. At that time the plaintiff was employed by Automotive Art as a Sales Advisor coordinator.
- 1.2 He commenced employment with Automotive Art in November 2012 as a Customer Service Representative earning \$450.00 per week.
- 1.3 He was promoted to Sales Advisor coordinator in November 2013 earning \$500-\$550 per week.
- 1.4 It was anticipated he would have been promoted to Supervisor within a further 1-2 years earning \$620.00 per week.
- 1.5 The Plaintiff returned to work in June 2014 initially doing a couple of hours per day due to his physical limitations. This gradually increased to full time hours earning \$10 per hour.
- 1.6 However, the Plaintiff was unable to cope with the mental aspects of his work and was in significant pain and experiencing high levels of fatigue. He resigned from his job in October 2014 and moved to Wales.
- 1.7 Whilst in Wales the Plaintiff has worked as a volunteer for Oxfam.
- 1.8 In the summer of 2015 the Plaintiff again worked temporarily for 3 months for Automotive Art as a service advisor at the front desk. He worked 3 days a week from 8am to 3pm earning \$10 per hour. He was able to manage this due to it being quiet and due to them being a supportive employer.
- 1.9 He has not worked since this time with the exception of one day at a garage in Wales.
- 2.1 The claim for loss of earnings is therefore put on the following basis:
- 2.2 Taking the midpoint of \$525 per week, the plaintiff's salary at the time of the accident was \$27,300 per annum.
- 2.3 Assuming a promotion to Supervisor in 2015 the plaintiff's salary would have increased to \$32,240.

2.4 In 2014 the Plaintiff worked for 18 weeks earning \$450 per week.

2.5 In 2015 the Plaintiff worked for 13 weeks earning \$210 per week.

<b>Year</b>	<b>Age</b>	<b>Actual Salary</b>	<b>Pension</b>	<b>Expected Salary</b>	<b>Expected Employer Pension Contribution (5%)</b>	<b>Loss</b>
2013	26	\$25,200	\$1,260	\$27,300	\$1,365	\$2,205
2014	27	\$8,100	\$0	\$27,300	\$1,365	\$20,565
2015	28	\$2,730	\$0	\$32,240	\$1,612	\$31,122
2016	29	\$0	\$0	\$32,240	\$1,612	\$33,852
Total		\$36,030	\$1,260	\$119,080	\$5,954	\$87,744

**Loss**

**\$87,744**

## **2. CARE AND ASSISTANCE**

As evidenced in the Rehabilitation and Care cost report of Michelle Clarence dated 16 October 2015.

<b><u>From</u></b>	<b><u>To</u></b>	<b><u>Amount</u></b>
04/12/2013	15/01/2014	\$3,763.00
16/01/2014	14/02/2014	\$1,286.00
15/02/2014	14/06/2014	\$4,200.00
15/06/2014	03/01/2015	\$5,329.00
04/01/2015	26/08/2015	\$4,113.00
27/08/2015	30/06/2016	\$4,056.00
01/07/2016	30/09/2016	\$1,610.00

**Loss**

**\$24,357**

### 3. OVERSEAS EXPENDITURE UNITED STATES

Date from	Date to	Person	Number of days	Total Airfare US\$	Total Sustenance US\$	Total
04/12/2013	15/02/2014	Plaintiff	74	247.50	3,700	
04/12/2013	05/01/2014	Plaintiff's Mother	33	168.20	1,650	
05/12/2013	12/12/2013	Plaintiff's Father	8	342.55	750	
03/01/2014	17/1/2014	Plaintiff's Father	15	343.15	1,550	
27/01/2014	02/02/2014	Plaintiff's Mother	7	476.15	350	
30/01/2014	02/02/2014	Plaintiff's Brother	4	416.15	200	
27/01/2014	02/02/2014	Plaintiff's Brother	7	438.65	350	
13/02/2014	15/02/2014	Plaintiff's Mother	3	366.15	150	
07/2014	07/2014	Plaintiff's Mother	1		100	
Total				2,798.50	8,800	<b>US \$11,598.50</b>

Loss **\$9,510.77**

### 4. MISCELLANEOUS EXPENSES

Description	Date	US\$	GB£	CI\$
Medication	21 Dec 2013	1.14		0.93
Dr Richmond	22 Dec 2013	275.00		225.50
Accommodation	5 Dec 2013 - 16 Jan 2014	4,401.24		3,609.02
Medication	3 Mar 2014			33.98
Medication	6 Mar 2014			13.41
Medical Records	17 Jun 16			14.50
BAF Subrogated Claim	18 Jul 2014			118,263.15
Dorset Orthopaedic			10,770	14,503.02
Taxi's whilst in Wales 52 x £3.00	Various		156.00	166.01
CIHSA	Various			15,275.69
Acupuncture - UK				TBA
Travel and Accommodation - London	18 -21 Feb 2015		208.00	221.35

Travel to Driving Assessment - Cardiff	May 2015		5.60	5.96
Travel to Neuropsychologist Appointment	Jan 2016		37.50	39.91
Travel to Ringwood	Sep 2015		297.10	316.17
Travel to Ringwood	June 2016		347.30	369.90
GCM-LHR	13 Jan – 16 Jun 2015	1,313.39		1,076.98
Upgrade GCM -TPA	Aug 2016	300.00		246.00
Upgrade GCM – TPA	Oct 2016	300.00		246.00
Replacement Footwear				500.00
On Islands Travel to Hospital				300.00
<b>TOTAL</b>				<b>\$155,427.48</b>

Loss \$

The Plaintiff will provide a full Schedule of Loss to particularise all special damages to the date of trial in due course in the proceedings.

## 7. FUTURE

The Plaintiff will pursue future claims for loss of earnings, care, prosthetics, medical treatment, occupational therapy, equipment and travel.

**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 ISLANDS  
CIVIL DIVISION**

**CAUSE NO: 191 OF 2016**

**BETWEEN:**

**JONATHAN PARCHMENT**

**PLAINTIFF**

**AND:**

**ROLLAND HENRY**

**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.

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2. State whether the Defendant intends to contest the proceedings (tick appropriate box)

yes

no

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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

(Signed).....

Attorney for

**Please complete overleaf**

**Notes on address for service**

**This Writ and Amended Statement of Claim is issued filed by ~~Samson & McGrath~~, KSG Attorneys at Law whose address for service is 4<sup>th</sup> Floor Harbour Centre, George Town, Grand Cayman, ~~5<sup>th</sup> Floor, Genesis Building, George Town, Grand Cayman, P.O. Box 446 GT, KY1-1106.~~ Parchment v Henry.**

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  
5<sup>th</sup> Floor Genesis Building  
Genesis Close  
PO Box 446  
George Town  
Grand Cayman KGR~~

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