

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CIVIL DIVISION

CAUSE No. 26 of 2018

BETWEEN:

(1) PETERGAY KIMBERLEY DENNIS

(2) CHARLES VIVIAN GLAVES

Plaintiffs

-AND-

TEDDY ANTHONY JONES

Defendant



WRIT OF SUMMONS

TO: TEDDY ANTHONY JONES
111 Beach Bay Road
Bodden Town
GRAND CAYMAN
CAYMAN ISLANDS

AND TO: BRITISH CAYMANIAN INSURANCE CO. LTD.
BritCay House
236 Eastern Avenue
PO Box 74
GRAND CAYMAN KY1-1102
CAYMAN ISLANDS



THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiffs 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 21st day of February 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.

GENERAL INDORSEMENT

The Plaintiffs claim is for:

- (1) Damages and loss arising out of personal injuries sustained by the Plaintiffs on 22nd February 2015 in a road traffic accident on the Bodden Town Road, Grand Cayman. Full and further particulars whereof are set out in the attached Statement of Claim.
- (2) Interest thereon pursuant to the Judicature Law (2007 Revision) and the Grand Court Rules (1995 Revision) and
- (3) Costs

Dated this 21st day of February 2018



BRADY
Attorneys-at-law for the Plaintiffs

This Writ was issued by Brady, Attorneys-at-Law for the Plaintiffs and whose address for service is B5-6, Crown Square, Eastern Ave, George Town, P.O. Box 11740 APO, Grand Cayman KY1-1009

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STATEMENT OF CLAIM

1. On 22nd February 2015 the 1st and 2nd Plaintiffs were respectively the front-seat passenger and the driver in a white Dodge Ram motor vehicle with registration mark 118 207 travelling on the Bodden Town Road and waiting stationary on the road to execute a right turn near Tranquility Cove.
2. At or about 11.26am the Defendant driving a Dodge Ram pickup truck motor vehicle registration mark 88 432 (owned by Kendal Whittaker and insured with British Caymanian Insurance Company Limited also known as 'BritCay') travelling in the opposite direction to the Plaintiffs collided with the Plaintiffs' vehicle head-on pushing the Plaintiffs' vehicle off the road and resulting in a road traffic accident.
3. The said accident was caused by the negligence and or breach of a common law duty of care of the Defendant.

PARTICULARS OF NEGLIGENCE and or BREACH OF DUTY

The Defendant,

- (a) Drove too fast in the circumstances;
 - (b) Drove carelessly;
 - (c) Failed to keep any or any proper lookout or be aware of the road and or traffic conditions ahead;
 - (d) Failed to slow down or stop in time;
 - (e) Drifted across the road onto the opposite side of the carriageway;
 - (f) Failed to control his vehicle or swerve or otherwise take evasive action to avoid a collision;
 - (g) Collided with the Plaintiff's vehicle;
 - (h) Failed in all the circumstances to discharge the common duty of care owed to other road users and to the Plaintiffs in particular
4. Pursuant to the provisions of the Evidence Law (2011 Revision) the Plaintiffs will seek to rely upon the conviction of the Defendant of careless driving (full particulars of the date of the conviction and the penalty imposed are awaited) as proof of negligence and or breach of duty of care as alleged.
5. By reason of the matters aforesaid the Plaintiffs have suffered pain injury loss and damage.

PARTICULARS

- (a) The 1st Plaintiff was born on 1st June 1984 and was aged 30 at the date of accident. She suffered no loss of consciousness but felt pain to the right side of her body in particular to the neck, right shoulder, right knee and ankle and later swelling and pain to the right side of her jaw. She was taken by ambulance to George Town Hospital where x-rays were taken and revealed no bony injuries. She was noted to have abrasions to the right lower neck and clavicle consistent with a seat belt injury and tenderness and swelling to the right lower leg and was discharged on crutches with pain killing and anti-inflammatory

medication. Her less significant symptoms subsided over time but a numbness to her right knee persisted for over six months and she continues to have constant pain and swelling to her right ankle and foot.

- (b) Symptoms have persisted to date and are continuing despite a course of physiotherapy for four weeks in 2017. Her symptoms are worse in cold weather. The 1st Plaintiff cannot stand comfortably for more than 15 minutes. MRI scans were conducted in Jamaica in January 2017 and showed an elongation of the lateral process of the talus with subchondral cysts noted as 'possible degeneration secondary to trauma' (she was unable to finance MRI scans on island and was not covered for those investigations by her own medical insurance policy; BritCay declined to pay for those scans). Her injury has since been diagnosed as an 'anterior talo fibular ligament sprain and lateral osteophyte at the tip of the lateral malleolus and lateral process of the talus'.

Presently she is receiving steroidal injections to her right ankle under the care and supervision of Health City Cayman. If that treatment fails to alleviate her symptoms she is likely to require surgical intervention at an estimated cost of US\$20,000.

She is unable to wear closed footwear and is limited in her movements because of swelling and pain. Her quality of life and sleep have been adversely affected and pre-accident pastimes including walking and exercise have been curtailed; she has gained weight because of her loss of mobility. She is unable to fully assist with household chores.

Full and further particulars are provided by way of letters and reports from her treating physicians appended and may be supplemented way of a medico-legal report to be obtained.

She was initially signed off work as a janitor for a cleaning company for two weeks and briefly returned to work but was unable to remain at work and has repeatedly lost time off work since then. She has not worked at all since July 2017, although her job remains open for her at this time. The 1st Plaintiff is likely to be at a disadvantage on the open labour market.

- (c) The 2nd Plaintiff was born on 24th June 1960 and was aged 54 at the date of accident. He suffered soft tissue injuries with initial pain to the abdomen and chest. He was suspected to have a broken rib. He was taken by ambulance to George Town Hospital where x rays revealed no bony injury. He developed neck pain in the week following the accident. His chest and abdomen symptoms were worst in the three to four days post-accident and those symptoms resolved fully within a few months of the accident. The neck pain has largely recovered but persists as a clicking sensation and recurring low-level pain to the cervical spine approximately every three to four weeks lasting for up to two to three days. It is treated by pain killing medication. He was off work from his employment as a construction worker for two to three weeks post-accident. He has since returned to work full time and remains apprehensive on the road and suffers psychological trauma including occasional flashbacks of the accident. Full and further particulars are provided by way of reports from the hospital and may be supplemented way of a medico-legal report to be obtained.
- (d) The 2nd Plaintiff has lost the value of personal hand tools and equipment damaged or destroyed in the accident (for the avoidance of doubt the vehicle was written off).

PARTICULARS OF SPECIAL LOSS

The Plaintiffs will file and serve a full Schedule of Loss as and when all items of loss have been quantified.

The heads of special loss include,

1. Loss of earnings to date for each of the Plaintiffs (to be confirmed)

2. The Plaintiffs medical expenses through the Health Services Authority and Chrissy Tomlinson Memorial Hospital and Health City Cayman or other medical facilities and for physiotherapy (to be confirmed)
3. Police accident report fee CI\$100
4. Out of pocket expenses for painkilling medication to date (to be confirmed and continuing)
5. The 2nd Plaintiff's hand tools and equipment valued at \$3,900

AND THE PLAINTIFFS claim:

1. General damages
2. Special damages for their losses to date and continuing
3. Interest thereon pursuant to the Judicature Law (2007) Revision or at such rate and for such time as the Court shall deem fit
4. Costs
5. Such further and/or other relief as may be just

Dated this 21st day of February 2018



BRADY, Attorneys-at-Law

Attorneys for the Plaintiffs

To: The Defendant

And to: British Cayman Insurance Co. Ltd.

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.

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of 2018

BETWEEN:

(1) PETERGAY KIMBERLEY DENNIS

(2) CHARLES VIVIAN GLAVES

Plaintiffs

-AND-

TEDDY ANTHONY JONES

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 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).....

Defendant / Attorney for the Defendant

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

Brady, Attorneys-at-Law
Building B5-6, Crown Square
Eastern Ave, George Town
PO Box 11740 APO
Grand Cayman, KY1-1009
T: +1 (345) 743-3207
Ref. PKJ
caymanattorney@icloud.com

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