

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO: 44 OF 2019

BETWEEN:

GRETEL PINET ISERN
(As Personal Representative of the Estate of LENNY RAY PINET-TRUSTY, Deceased)
PLAINTIFF

AND:

ZAYNE HALL
DEFENDANT

WRIT OF SUMMONS



TO: Zayne Hall
C/O The Insurance Company Of The West Indies Ltd.
150 Smith Road
George Town
Grand Cayman
PO Box 461
Cayman Islands
KY1-1106

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff of 168 Selkirk Drive, Unit 3, Red Bay, Grand Cayman, Cayman Islands 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 495, 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 22 day of March 2019

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 the wife of Lenny Ray Pinet-Trusty, deceased ("the Deceased"), and is the Personal Representative of his Estate, having been granted Letters of Administration by the Probate Registry of the Grand Court on 29 June 2018. She brings this action on behalf of the Estate of the Deceased and on behalf of the dependents of the Deceased named in paragraph 13 below pursuant to the Torts (Reform) Law (1996 Revision).
2. At all material times, the Deceased was riding his Suzuki Hayabusa motorcycle, registration 148-565.
3. The Plaintiff understands that on 25 March 2018 at approximately 5:00pm, the Deceased was travelling along Shamrock Road, Grand Cayman. It is also understood by the Plaintiff that the Defendant, driving a Toyota Altezza (registration 164-982), pulled out of Soto Lane and across the path of the Deceased's oncoming motorcycle, causing a collision between the two vehicles. The Royal Cayman Islands Police Service is yet to complete their investigations into the index accident. Therefore, the Plaintiff reserves the right to amend her pleading following the conclusion of such investigations, if it is considered necessary.
4. As a result of the accident, the Deceased died on 25 March 2018.
5. At all material times, the Defendant was insured to drive the aforementioned Toyota Altezza, registration 164-982, with The Insurance Company of The West Indies Ltd who had issued a policy of insurance relating to the vehicle in accordance with the Motor Insurance (Third Party Risks) Law.
6. The accident and the Deceased's fatal injuries sustained therein were caused by the negligence of the Defendant.

Particulars of Negligence

7. The Defendant was negligent in that he:
 - 7.1 Drove too fast in all of the circumstances;
 - 7.2 Failed to keep any or any proper look out;
 - 7.3 Failed to adequately control his vehicle;
 - 7.4 Failed to apply his brakes whether in time or at all; and
 - 7.5 *res ipsa loquitur*
8. By reason of the aforesaid, the Deceased, suffered personal injuries which lead to his death. This in turn caused for the Deceased's Estate and his dependents to suffer loss and damage.

Particulars of General Damage

9. The Deceased's date of birth was 30 March 1982. At the date of the accident, he was 35 years old.
10. Following the accident the Deceased was taken to George Town Hospital and subsequently pronounced dead.

11. The cause of death was found to be a severe blunt trauma to the head resulting in an extensive skull fracture, dural haemorrhage and injury to the brain.

Particulars of Loss to the Deceased's Estate

12. The Plaintiff claims the following losses on behalf of the Deceased's Estate:

- 12.1 Gold sovereign medallion coin: CI\$500.00

- 12.2 Total loss of motorcycle: CI\$15,000.00

Total: CI\$15,500.00

Particulars of Dependency

13. The claim under the Torts (Reform) Law (1996 Revision) is brought on behalf of the following dependents:

- 13.1 The Plaintiff, who was born on 1 December 1988 and was aged 29 at the date of the Deceased's death. The Plaintiff is the wife of the Deceased;

- 13.2 Havanna Chanell Pinet Isern, the daughter of the Deceased, who was born on 2 September 2015;

- 13.3 Leniya Marie Pinet, the daughter of the Deceased, who was born on 8 May 2009;

- 13.4 Jayquan Omar Pinet, the son of the Deceased, who was born on 1 May 2005;

- 13.5 Shakur Owann Pinet Flores, the son of the Deceased, who was born on 16 September 2002;

- 13.6 Halen Martinez Isern, the step-son of the Deceased, who was born on 19 August 2011;

Pecuniary Dependency

14. The Deceased was employed by A L Thompson in the capacity of a Delivery Driver. At the time of the accident, the Deceased had been employed by A L Thompson for a period of 14 years.
15. At the time of the accident, the Deceased received a salary of CI\$27,500.00. With his salary, the Deceased financially supported the dependents listed at paragraph 13 above.

Non-Pecuniary Dependency

16. The Deceased was a loving and devoted husband and father. He spent his free time away from work with the Plaintiff and the other dependents listed at paragraph 13 above. The Deceased undertook family activities such as going to Camana Bay, going to parks, going swimming and going on boat trips.
17. The Deceased always placed his dependents' needs before his own.

18. In respect of the minor dependents, the Deceased would have supported them as their needs changed until they completed full-time education.
19. Naturally, the Deceased and the Plaintiff had a very close relationship and they would spend a lot of time talking about and planning for their future together. The Deceased provided substantial emotional support to the Plaintiff. In addition, the Deceased shared household chores and errands with the Plaintiff.
20. The Deceased's contribution to the lives of his dependents is irreplaceable. The Deceased devoted at least 50 hours per week to the care of the minor dependents listed at paragraph 13 above and to support and assist the Plaintiff. The commercial cost of such contributions would be in the region of C\$500.00 per week.
21. Further and in any event, the Plaintiff claims for the loss of intangible services rendered as either a husband or father to the Deceased's dependents.
22. The Plaintiff will provide full particulars of damages sought in due course.
23. The Plaintiff will claim interest pursuant to section 34 of the Judicature Law (as Revised) on the amount of damages found to be payable by the Defendant at such a rate and for such a period as the Court deems fit.

AND THE PLAINTIFF claims:

1. Damages on behalf of the Estate of the Deceased;
2. Damages pursuant to the Torts (reform) law (1996);
3. Interest pursuant to the Judicature Law and the Grand Court Rules on the amount of damages found to be payable by the Defendant at such a rate and for such a period as the Court deems fit; and
4. Costs.



McGrath Tonner
Attorneys for the Plaintiff

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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(As Personal Representative of the Estate of Lenny Ray Pinet-Trusty, Deceased)
PLAINTIFF**

AND:

**ZAYNE HALL
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).....

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.

McGrath Tonner
Attorneys at Law
5th Floor Genesis Building
Genesis Close
PO Box 446
George Town
Grand Cayman

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

[Empty box for defendant's Attorney indorsement]