

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

CAUSE NO: **215** OF 2019

BETWEEN:

GARFIELD RITCH

AND:

THE CAYMAN ISLANDS GOVERNMENT

AND:

THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS



PLAINTIFF

FIRST DEFENDANT



THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS

WRIT OF SUMMONS



SECOND DEFENDANT

TO: Cayman Islands Government
And
Attorney General of the Cayman Islands

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff of, 9 James Scott Road, Cayman Brac 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 31st day of December 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 was at all relevant times employed by the first defendant as a sub officer, within the Cayman Islands Fire Service, he was assigned to work at the first defendant's premises situated at Charles Kirkconnell Airport, Cayman Brac.
2. The second defendant is included in these proceedings by virtue of Section 11 of the Crown Proceedings Law (1997 Revision).
3. At all relevant times the first defendant was the owner and operator of a fire truck, namely appliance #16 registration 145 890.
4. On the 5th January 2017 at approximately 11.40am, the plaintiff whilst acting in the course of his employment, was engaged in a monthly performance test of the fire truck. He was the passenger of the fire truck which was being driven by his colleague Jason McCoy along the side of the runway at Charles Kirkconnell Airport.
5. As the fire truck was in the process of performing a right turn it started to tip on to its left side before subsequently being rolled onto the roof. The appliance continued to roll before coming to a rest in an upright position.
6. It was established by an accident reconstructionist that the principal cause of the accident was that an axel stop designed to stabilize the vehicle as it turns, failed due to one of the bolts shearing off due to rust.
7. The accident and resulting injury were caused by the negligence of the first defendant, their employees or agents acting in the course of their employment.

8. Particulars of Negligence

The first defendant was negligent in that they:

- (a) failed to ensure the health, safety and welfare of the plaintiff;
 - (b) failed to maintain or provide a safe system of work;
 - (c) failed to provide or maintain for the Plaintiff safe or adequate plant or equipment.
 - (d) failed to provide a preventative maintenance programme.
 - (e) provided plant and equipment that was defective and dangerous;
 - (f) exposed the Plaintiff to a danger or a trap and a foreseeable risk of injury.
 - (g) failed to provide any or any adequate driver training.
9. By reason of the aforesaid, the plaintiff aged 53, date of birth 18 July 1966 has suffered personal injury, loss and damage.

Particulars of General Damage

10. Following the truck rolling and coming to a stop, the plaintiff was able to unbuckle his seatbelt and crawl out of the appliance through the smashed windshield.
11. He was immediately aware of pain to his neck and dizziness and was transported to Faith Hospital by ambulance.
12. He was assessed and diagnosed as suffering a cervical spine injury (hangman's fracture), bruising to his shoulder and chest and scalp laceration. He underwent X-rays and was given a pain relieving injection.
13. He was transferred to Grand Cayman by helicopter for further review and CT scan at George Town Hospital. The medics were unable to fit a cervical collar due to the extent of swelling and he was secured for the journey using sandbags.
14. He underwent CT scan revealing fractures in the cervical spine. He was admitted as an inpatient and advice given on cervical fusion. His scalp laceration was sutured.
15. On the 6 January 2017 he underwent surgery to repair the fractures including the insertion of a plate and screws. He remained in hospital for the next two days and was then discharged
16. He subsequently attended at Faith Hospital for follow up and removal of the scalp sutures.
17. He attended on the 2 February 2017 suffering from dizziness and for post-surgery follow up.
18. On the 16 February 2017 he attended at Faith Hospital suffering from right shoulder pain, he underwent imaging, was provided analgesics and was referred for physiotherapy and orthopedic review.
19. On 23 March 2017 he had an MRI of the right shoulder in Grand Cayman which confirmed a full thickness rotator cuff tear.
20. He underwent further surgery on the 18 April 2017 to repair the tear and was referred for physiotherapy
21. He underwent a session of group counselling which was of limited assistance and now seeks occasional support from DCFS.
22. He was absent from work for 3 months and returned on light duties. However, he was subsequently found to be unable to perform the job and he was medically retired in August 2018.

23. Almost 3 years post-accident, the plaintiff continues to suffer shooting pain and knots in his neck and also pain in his head on a daily basis which is worsened with physical activity. He often suffers from dizziness and blurring. He remains under the care of his physicians.
24. He recently attended with Dr Akinwunmi with continued pain, he was advised to undergo an MRI and then facet joint injections. He underwent the injections on the 4 October 2019.
25. Prior to the accident he enjoyed exercising but is now very restricted in what he is able to do. He has a young son who was 4 at the time of the accident and has been unable to play with him as he had previously due to his restrictions which has been very upsetting and frustrating.
26. The plaintiff also suffers continued anxiety and flashbacks as a result of the accident. He lives close to the runway and when he hears the fire engines this brings back memories of the incident.

Particulars of Loss and Damage


27. The plaintiff's particulars of special damage will be forwarded in due course by way of a Schedule of Loss including but not limited to claims for past and future loss of earnings, cost of medical treatment and gratuitous care.

Statement as to interest

28. 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 5 January 2017 to Trial.

AND THE PLAINTIFF claims:

1. General and Special Damages
2. Interest in accordance with the Judicature Law (2017 Revision)
3. Costs



KSG
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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FIRST DEFENDANT

AND:

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SECOND 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.

KSG Attorneys at Law
4th Floor, Harbour Centre
42 North Church Street
PO Box 2255
George Town
Grand Cayman
KY1-1107

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