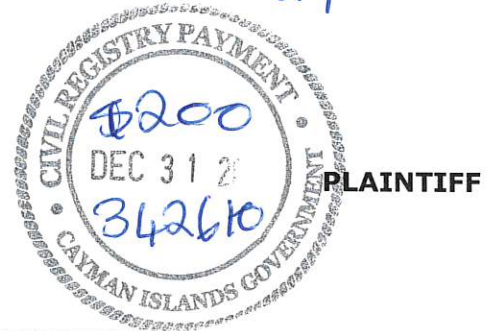


**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION**

CAUSE NO: 214 OF 2019

**BETWEEN:**

**JASON MCCOY**



**PLAINTIFF**

**AND:**

**THE CAYMAN ISLANDS GOVERNMENT**

**FIRST DEFENDANT**



**AND:**

**ATTORNEY GENERAL OF THE CAYMAN ISLANDS**



**SECOND DEFENDANT**

**WRIT OF SUMMONS**

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

**THIS WRIT OF SUMMONS** has been issued against you by the above-named Plaintiff of, 75 Montana Drive, West End, 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 31<sup>st</sup> 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.

This Writ and Statement of Claim is issued by KSG Attorneys-at-Law whose address for service is 4<sup>th</sup> Floor, Harbour Centre, 42 North Church Street, George Town, Grand Cayman. P.O. Box 2255 GT, KY1-1107.

## STATEMENT OF CLAIM

1. The Plaintiff was at all relevant times employed by the first defendant as a fire 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 5<sup>th</sup> 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 driver of the fire truck accompanied by his colleague Garfield Ritch as passenger. He was driving the fire truck 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 who is 36 years old with a date of birth of 19 May 1983 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 exit the truck through the smashed windshield.
11. He was immediately aware of pain to his back and was transported to Faith Hospital by a co-worker in the fire service truck.
12. He was assessed and significant bruising to the back and chest was noted. He underwent X-rays and was transferred to Grand Cayman for further review. He underwent further examination and imaging and was discharged with advice and medication.
13. He subsequently attended at Faith Hospital on a number of occasions with continued back pain and also pain to the right side of his head and face and anxiety/guilt symptoms. He was referred for Orthopaedic review and for counselling. He underwent a session of group counselling.
14. He underwent an MRI scan which confirmed a number of disc herniations. He underwent physiotherapy for approximately 6 months with limited assistance.
15. He was absent from work for just over 2 months. When he returned to work he did so on light duties for the first month. He had extreme difficulty and was in severe pain. The physical nature of the job caused him great difficulty. His protective gear itself weighs over 40 pounds and having to bend to take the fire hose from the truck or lift anything heavy caused and continues to cause him significant problems.
16. He was referred to a neurosurgeon by Dr Smith at Faith Hospital for the back pain and headaches. Dr Stanley diagnosed him as suffering from low back pain and occipital neuralgia. He was offered facet joint injections and injection for the headaches and referred for continued physiotherapy.
17. He underwent facet injections in August and September 2017 with limited success. He was advised as to potential rhizotomy or to continue the physiotherapy to attempt core strengthening. He continued with the physiotherapy.
18. He again saw the neurosurgeon in May 2018 with minor improvement and was again advised on the possibility of rhizotomy and prescribed further medication.
19. Prior to the accident he enjoyed playing football and spear fishing which he has been unable to return to.
20. Approaching three years post-accident the plaintiff continues to suffer pain on a daily basis which is worsened with physical activity and heavy lifting which is impossible to avoid in his job.

21. He remains under the care of his neurosurgeon and has recently been referred for physiotherapy. He takes diclofenac for pain relief on a daily basis.
22. The plaintiff also suffered from guilt and anxiety as a result of the accident. He continues to suffer from anxiety on occasion.

**Particulars of Loss and Damage**

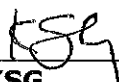
23. The plaintiff's particulars of special damage will be forwarded in due course by way of a Schedule of Loss including but not limited to claims for loss of earnings, cost of medical treatment and gratuitous care.

**Statement as to interest**

24. 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

  
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**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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**PLAINTIFF**

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**FIRST DEFENDANT**

**AND:**

**ATTORNEY GENERAL OF THE CAYMAN ISLANDS**

**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.

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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

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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  
4<sup>th</sup> 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.