

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

113

CAUSE NO. OF 2020

BETWEEN:

BARBARA CECILE BRYAN

Plaintiff

AND:

ALEXEIS GONZALEZ ESPINOZA

Defendant



WRIT OF SUMMONS

TO: Alexeis Gonzalez Espinoza

AND:

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out on the next page.

Within fourteen (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, 61 Edward Street, George Town, Grand Cayman, Cayman Islands, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement 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 3rd day of August

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 issued unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgement of Services are given with the accompanying form.

This Writ of Summons was issued by Broadhurst LLC, Attorneys-at-law for the Plaintiff, whose address for service is 40 Linwood Street, George Town, Grand Cayman, Cayman Islands.

STATEMENT OF CLAIM

1. The Plaintiff resides at 55 Paxton Street, George Town, Grand Cayman.
2. At all material times the Plaintiff was the owner and driver of a Honda CRV van registration 165315 and the Defendant was the driver of a Kia Rio car registration 163491.
3. On the 1 September 2017 at approximately 6.30pm, the Plaintiff was travelling along North Sound Road and entering the AL Thompson's roundabout at George Town on the outer lane and waiting for the traffic to pass from the right-hand side. The Defendant was travelling behind the Plaintiff and approached from behind, when the Defendant suddenly and without warning collided with the rear of the Plaintiff's stationary vehicle.
4. At all material times the Defendant's vehicle was insured with Cayman First Insurance Ltd who had issued a policy of insurance relating to the vehicle in accordance with the Motor Insurance (Third Party Risks Law).
5. As a result, the Plaintiff sustained a severe personal injury, loss, damage, inconvenience and expense.

PARTICULARS OF NEGLIGENCE

6. The said accident was caused by the Defendant's negligence and breach of duty, including statutory duty pursuant to section 67 and 68 of the Traffic Law (2011 Revision) in so far as he:
 - a) failed to exercise due care and control when using the road;
 - b) failed to have due regard to the safety of other road users;
 - c) drove too fast in the circumstances;
 - d) failed to keep any or any proper look out;
 - e) failed to see the Plaintiff in time or at all;
 - f) failed to apply his brakes whether in time or at all;
 - g) lost control of the vehicle;
 - h) failed to maintain a safe distance;
 - i) failed to steer or control his vehicle so as to avoid the said collision;
 - j) collided with the Plaintiff's vehicle;
 - k) failed to warn the Plaintiff of the impending collision;

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- l) failed to exercise reasonable skill and care as would be expected of the reasonably skillful driver;
 - m) was otherwise in breach of s. 67 and 68 of the Traffic Law (2011 Revision).
7. The Plaintiff reserves the right to provided further Particulars of Negligence prior to or at the time of trial of this action.
8. By reason of the aforesaid, the Plaintiff has suffered personal injury, loss and damage.

PARTICULARS OF GENERAL DAMAGE

9. The Plaintiff's date of birth is 25 November 1955 and at the date of the accident she was 62 years old.
10. Immediately after the accident, the Plaintiff was taken to the Accident and Emergency Department at George Tow hospital by ambulance.
11. She was aware of pain in her lower back and legs. She was prescribed medicine and was thereafter discharged.
12. She suffered continued pain and returned to George Town Hospital one week after the accident. She underwent x-ray and CT examination. She underwent MRI examination in Jamaica.
13. She commenced physiotherapy at George Town Hospital and at RVC Rehabilitation.
14. She attended Health City with continued lower back pain and underwent further examination.
15. The Plaintiff suffers continued lower back pain and discomfort particularly when bending or lifting. She finds it difficult doing everyday tasks.
16. The Plaintiff continues to take pain-relieving and anti-inflammatory medication.
17. At the time of the accident the Plaintiff was self-employed as a taxi driver. She was unable to return to work post-accident for approximately 57 days.

PARTICULARS OF SPECIAL DAMAGES

18. 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 costs of past and future

medical expenses, loss of earnings, expenses incidental to receiving medical treatment, travelling expenses and health insurance.

19. The Plaintiff reserves the right to provide additional particulars of Special Damage prior to the hearing of the action.

AND THE PLAINTIFF CLAIMS:

1. Damages;
2. Pre and Post-Judgment interest on damages pursuant to section 34 of the Judicature Law (2017 Revision);
3. Costs;
4. Such further and other relief as this Honourable Court deems just.

Dated this 3rd day of August 2020



BROADHURST LLC
Attorneys-at-Law for the Plaintiff

**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE
OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgement 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, PO Box 495,
George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement 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 endorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2). The defence must be served within fourteen (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 endorsed on the Writ, the defence need not be served until fourteen (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 fourteen (14) days after his Acknowledgement, 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 installments or otherwise.

Notes for Guidance

This Writ of Summons was issued by Broadhurst LLC, Attorneys-at-law for the Plaintiff, whose address for service is 40 Linwood Street, George Town, Grand Cayman, Cayman Islands.

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement of Service and return it to the Courts Office.
2. For the purpose of calculating the period of fourteen (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 authorized to act on behalf of the Company, but the Company can take no further steps in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL HEALTH 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

CAUSE NO. OF 2020

BETWEEN:

BARBARA CECILE BRYAN

Plaintiff

-AND-

ALEXEIS GONZALEZ ESPINOZA

Defendant

ACKNOWLEDGEMENT 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 []
-

Service of the Writ is acknowledged accordingly

This Writ of Summons was issued by Broadhurst LLC, Attorneys-at-law for the Plaintiff, whose address for service is 40 Linwood Street, George Town, Grand Cayman, Cayman Islands.

(Signed) _____

[Attorney] for

[Defendant in Person]

Address for service:

Please see 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 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.

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

**BROADHURST LLC
ATTORNEYS-AT-LAW
40 LINWOOD STREET
PO BOX 2503
GRAND CAYMAN KY1-1104**

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