



**GRAND COURT OF THE CAYMAN ISLANDS**

**CAUSE NO.**

**OF 2022**

**SONIA FERRARI**

**ADMINISTRATOR OF THE ESTATE OF WILLIAM JOHN TURNER)**

**PLAINTIFF**

**-and-**

**MANGO JAM CHARTERS LTD**

**FIRST DEFENDANT**

**SEAN MICHAEL MCDONALD**

**SECOND DEFENDANT**

**WRIT OF SUMMONS**

**TO:** Mango Jam Charters Ltd, 75 Omega Drive, Prospect, PO Box 3067, George Town

**AND TO:** Sean Michael McDonald, 75 Omega Drive, Prospect, PO Box 3067, George Town

**AND AS A NOTICED PARTY TO:** Island Heritage Insurance Company, Island Heritage House, 128 Lawrence Boulevard, PO Box 2501, Grand Cayman, KY1-1104.

**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 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 20<sup>th</sup> day of December 2022

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

### The Parties

1. The Plaintiff is the daughter of John William Turner ("JT"), who died on the 12<sup>th</sup> August 2019.
2. The Plaintiff is the administrator of JT's Estate, having been granted Letters of Administration on the 8<sup>th</sup> December 2022.
3. The Plaintiff brings this action for the benefit of the Estate and its dependants.
4. At all material times the First Defendant carried on a business as a tour operator, providing boating and water sport activities. The First Defendant was the registered owner and operator of a 32 foot Wellcraft Scarab motor boat called the *Pepper Jelly*.
5. At all material times the Second Defendant was a company officer, employee, servant and/or agent of the First Defendant. The Second Defendant's duties included the operation of the *Pepper Jelly* on behalf of the First Defendant.

### The Collision

6. On the 11<sup>th</sup> August 2019, the Second Defendant was operating the *Pepper Jelly* in the North Sound.
7. On the same date, JT and two other individuals were in the North Sound aboard a 24 foot motor boat called the *Godfrey Hurricane*.
8. During the evening of the 11<sup>th</sup> August 2019, the *Pepper Jelly*, under the control of the First and Second Defendant, collided with the *Godfrey Hurricane* while both travelled in the North Sound.
9. As a result of the collision, JT and another passenger of the *Godfrey Hurricane* were killed.
10. The First and Second Defendant owed a duty of care to others using vessels in the vicinity.

11. The collision was caused by the negligence and/or breach of duty of the Second Defendant, who operated the boat. The First Defendant is vicariously liable for the Second Defendant's negligence.
12. Further or alternatively, the First Defendant is liable as the registered owner of the *Pepper Jelly*.

### **PARTICULARS OF NEGLIGENCE**

13. The Second Defendant, and vicariously, the First Defendant, was negligent in that he:
  - i. Failed adequately or at all, to see, heed or act upon the presence, speed or proximity of the *Godfrey Hurricane*;
  - ii. Failed to take any or adequate steps to manoeuvre the *Pepper Jelly* to avoid the *Godfrey Hurricane*;
  - iii. Failed to alert the occupants of the *Godfrey Hurricane* to the presence of the *Pepper Jelly*, so that the *Godfrey Hurricane* could be manoeuvred to avoid it;
  - iv. Drove the *Pepper Jelly* at speed excessive in the circumstances;
  - v. Collided with the *Godfrey Hurricane*;
  - vi. In all the circumstances, caused the above collision and resulting damage to the Plaintiff.
14. As a result, JT, who was 70 years old, suffered multiple injuries as a result of which he died the following day by reason whereof his Estate and dependants have suffered and will continue to suffer loss and damage.

### **PARTICULARS OF INJURY**

15. JT was killed. The cause of death was multiple blunt force injuries.

### **PARTICULARS OF LOSS TO THE ESTATE**

16. The Plaintiff claims on behalf of the Estate:

- i. General damages for JT's pain, suffering and loss of amenity before death;
- ii. Special damages incurred by JT between the date of the accident and the date of death (including past loss of earnings, past care and other expenses);
- iii. Funeral expenses paid for by the Estate.
- iv. Damages for bereavement.

### **PARTICULARS OF LOSS OF DEPENDANTS**

17. The Plaintiff claims for financial losses suffered in her capacity as the daughter and dependant of JT.
18. The above losses will be particularised in a Schedule of Loss.

### **STATEMENT REGARDING INTEREST**

19. The Plaintiff seeks pre- and post-judgment interest from the 11<sup>th</sup> August 2019 at the rate of 2 3/8% per annum on the sum due and owing until payment and in accordance with the provisions of the Judicature Act (2021 Revision) and the Judgment Debt (Rates of Interest) Rules (2021 Revision).

And the Plaintiff claims:

- i. Damages
- ii. Interest
- iii. Costs
- iv. Further or other relief

DATED this 20<sup>th</sup> day of December 2022 at Grand Cayman



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**KSG**

**Attorneys-at-Law 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 installments 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2022

BETWEEN:

SONIA FERRARI
(AS ADMINISTRATOR OF THE ESTATE OF WILLIAM JOHN TURNER)

PLAINTIFF

-and-

MANGO JAM CHARTERS LTD

FIRST DEFENDANT

SEAN MICHAEL MCDONALD

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 the Plaintiff

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.

Endorsement 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 KY1-1107  
George Town  
Grand Cayman

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