



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

CAUSE NO: OF 2023

BETWEEN:

MITCHELL LYLE HILL SNR

Plaintiff

AND

**ATTORNEY GENERAL OF THE CAYMAN ISLANDS
as the representative of the CAYMAN ISLANDS GOVERNMENT
(THE DEPARTMENT OF ENVIRONMENTAL HEALTH)**

Defendant

WRIT OF SUMMONS

**TO: ATTORNEY GENERAL OF THE CAYMAN ISLANDS as the
representative of the CAYMAN ISLANDS GOVERNMENT (THE
DEPARTMENT OF ENVIRONMENTAL HEALTH)**

4th FLOOR, Government Administration Building
133 Elgin Avenue, George Town
Grand Cayman

And as a Notice Party to: Saxon Insurance Company
14 Saxon Close, Eastern Avenue
P.O. Box 1094, George Town
Grand Cayman, KY1-1205
Cayman Islands

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 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 11th day of July 2023.

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, Mitchell Lyle Hill Snr, was at all material times the owner and occupier of a building at number 42 Stadium Drive, West Bay, Cayman Islands (the “**Property**”). The Plaintiff resides in the Property.
2. The Defendant is the Attorney General of the Cayman Islands in his capacity as the representative of the Cayman Islands Government (the “**CIG**”) pursuant to section 11 (2) of the Crown Proceedings Act (1997 Revision). The Department of Environmental Health is a department of within the CIG, responsible, *inter alia*, for the removal and disposal of house refuse and garbage pursuant to s. 50 Public Health Act (2021 Revision).
3. The Defendant is the owner and operator of a truck, vehicle registration number 200109 (the “**Vehicle**”). The Vehicle is a grab truck consisting of a truck with a large bed and an attached hydraulic grab arm utilized to move or collect waste and deposit it within the bed of the truck. The Vehicle had controls within the cab which allowed the truck to be driven and a separate set of controls in the rear of the vehicle utilized to control the hydraulic grab arm (the “**Arm**”).
4. On or about the 2nd April 2022, while on or in the vicinity of the Property the Defendant was operating the Arm. The Plaintiff was struck in the head by the Arm and/or material that was being moved by the Defendant utilizing the Arm. The force of the impact knocked the Plaintiff unconscious and fall to the ground. The Plaintiff was found by a passerby on the ground unconscious and bleeding while the Defendant continued to operate the Arm. As a result of aforesaid the Plaintiff suffered severe injuries and had to be transported by ambulance to the hospital.
5. The incident was caused by the negligence and/or breaches of duty of the Defendant, and/or its servants or agents.

PARTICULARS

The Defendant and/or its servants or agent were guilty of negligence and/or breach of duty in that:-

- a) Failing to ensure that the area was clear and/or remained clear while utilizing the Arm;
- b) Failing to provide any or any sufficient or adequate training in the safe operation of the Arm;
- c) Failing to have sufficient look out by way of a “spotter” or other system to ensure that the Arm could be utilized safely;
- d) Failing to implement and adhere to a safety protocol to prevent injuries nearby and during the operation of the Arm;
- e) Failing to operate the Arm in a manner so that its operation was clearly visible to the operator of same;
- f) Failing to employ or maintain a safe and proper systems of work;
- g) Utilizing equipment that was not appropriate for the work and/or which was not safe to utilize in the circumstances;
- h) Failing to make any or any suitable assessment or evaluation of the risk;

- i) Failing in all the circumstances to take reasonable care or regard for members of the public and, specifically, the Plaintiff;
 - j) Failed to take any or any adequate precautions for the safety of the Plaintiff;
 - k) Caused, permitted or failed to prevent materials from falling onto and injuring the Plaintiff;
 - l) Operated the grab truck in an unsafe manner;
 - m) Failed to keep any or any proper lookout;
 - n) Failed to ensure that the area was free of members of the public before beginning to operate the machinery;
 - o) Failed to place any protective measures in place whether by barricade or otherwise to ensure that persons would not travel in the swing area in which the Arm was being operated;
 - p) Failed to be aware that the operation of the Arm had injured the Plaintiff and to seek early medical assistance for the Plaintiff;
 - q) Attempting to move materials with the Arm when it was unsafe to do so;
 - r) Attempting to move materials with the Arm when it was not the Arm was not fit for purpose;
 - s) Failing to operate the Arm so as to have full control of same at all times;
 - t) Failing to operate the Arm so that it and any materials being moved by it remained in the view of the operator at all times;
 - u) Operating the Arm in a manner which was unsafe in the circumstances.
6. Further or alternatively, the Plaintiff will rely on the doctrine of *res ipsa loquitur* in that the Defendant struck him in the head by operation of the Vehicle and by extension, the Arm.
 7. By reason of the Defendant and/or its servants or agents' negligence and/or breaches of duty, the Plaintiff has suffered serious and permanent life-changing injuries, losses and damage.

PARTICULARS OF INJURIES

The Plaintiff, whose date of birth is 20 February 1960, was 62 years old at the time of incident. The injuries suffered by the Plaintiff include but are not limited to the following:

- a) Fracture skull;
- b) Acquired brain injury;
- c) loss of consciousness;
- d) increased risk of seizures;
- e) subgaleal haematoma
- f) Post-traumatic subgaleal air bubbles;
- g) 11 stitches to his head;
- h) Significant scarring;
- i) suffered and continues to suffer with pain and aching to his:-
 - a. Neck
 - b. Base of skull
 - c. Opposite side of his head
 - d. Right side of torso
- j) psychological symptoms.

8. As a result of the foregoing, the Plaintiff suffered loss, damage, and expenses which are continuing. Full particulars of special damages will be set out in a schedule of loss, which will including but not be limited to claims for loss of income, medical treatment, travel, gratuitous care, interest, and costs.
9. The Plaintiff claims pre and post judgment interest on all loss, damage, and expenses pursuant to section 34 of the *Judicature Act (2021 Revision)* in accordance with the *Judgment Debts (Rates of Interest) Rules* (as amended).

AND THE PLAINTIFF CLAIMS:

- (1) General damages;
- (2) Special damages;
- (3) Pre-Judgment interest in accordance with Section 34 of the *Judicature Act (2021 Revision)*;
- (4) Post-Judgment interest in accordance with Section 34 of the *Judicature Act (2021 Revision)*;
- (5) Costs;

Dated this 11th day of July 2023.



Broadhurst LLC
Attorneys-at-Law for the Plaintiff

This Writ of Summons and Statement of Claim is issued by Broadhurst LLC, Attorneys-at-Law for the Plaintiff, whose address for service is 4th Floor, Monaco Towers, 54 Edward Street, P.O. Box 2503, Grand Cayman KY1-1104, Cayman Islands

INDORSEMENT AS TO INSURER OF MOTOR VEHICLE

The Plaintiff's claims arise out of the use of a government-owned vehicle on a private property. The insurer of the vehicle of the Defendant named herein is Saxon Insurance Company, 14 Saturn Close, Eastern Avenue, P.O. Box 1094, George Town, Grand Cayman KY1-1205, Cayman Islands.

INDORSEMENT AS TO INTEREST

Interest on both general and special damages in accordance with the *Judicature Act (2021 Revision)* in accordance with the *Judgment Debts (Rates of Interest) Rules* (as amended) to be assessed.

**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

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
CIVIL DIVISION

CAUSE NO: OF 2023

BETWEEN:

MITCHELL LYLE HILL SNR

Plaintiff

AND

ATTORNEY GENERAL OF THE CAYMAN ISLANDS
as the representative of the CAYMAN ISLANDS GOVERNMENT
(THE DEPARTMENT OF ENVIRONMENTAL HEALTH)

Defendant

ACKNOWLEDGEMENT OF SERVICE
OF WRIT OF SUMMONS

If you intend to instruct an Attorney to act for you, give him/her 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
[Defendant in Person]
Address for service:

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 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
54 Edward Street, P.O. Box 2503
George Town, Grand Cayman,
Cayman Islands, 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.

[Empty box for Defendant's Attorney endorsement]