

IN THE GRAND COURT OF THE CAYMAN ISLANDS

304
CAUSE NO. OF 2009

BETWEEN:



CLEO MARTINLYN EBANKS

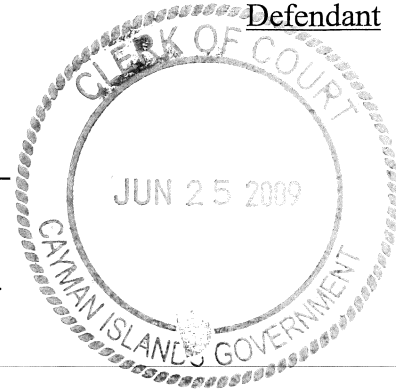
Plaintiff

-AND-

FOSTER'S FOOD FAIR (STRAND) LIMITED

Defendant

WRIT OF SUMMONS



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 GT, 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 25TH day of June 2009

NOTE – This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of 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 is a government employee residing in West Bay, Grand Cayman in the Cayman Islands and was born on the 2nd of August 1955.
2. The Defendant is a limited liability company incorporated under the laws of the Cayman Islands, having its registered office at P.O. Box 10400 APO, Foster Group, Airport Road, Industrial Park, Grand Cayman, Cayman Islands.
3. At all material times the Defendant owned and operated the Foster's Food Fair supermarket located at The Strand, 46A Canal Point Drive, Seven Mile Beach, Grand Cayman (the "Premises"). At all material times the Defendant was the occupier of the Premises.
4. On 9 November 2006, the Plaintiff was shopping at the Premises and was, accordingly, the Defendant's lawful visitor.
5. While shopping at the Premises on 9 November 2006, the Plaintiff slipped on some grapes that were on the floor of the Premises (the "Spillage"), fell to the floor and was injured (the "Accident").
6. The Accident was caused by the negligence of the Defendant, its servants or agents.

PARTICULARS OF NEGLIGENCE

- 6.1. Failing to institute and/or ensure the operation of a system of inspection, reporting and prompt cleaning of spillages at the Premises;
- 6.2. failing to detect and clear the Spillage;
- 6.3. failing to warn shoppers of the presence of the Spillage;

- 6.4. in the circumstances, exposing the Plaintiff to a risk of injury of which it knew or ought to have known.
7. By reason of these matters the Plaintiff suffered injury, loss and damage.

PARTICULARS OF INJURY

- 7.1. herniated disc at T10 - T11 with spinal cord compression;
- 7.2. L4 – L5 degenerative spondylolisthesis with intractable right more than left lumbar radiculopathy and neurogenic claudication;
- 7.3. L5 - S1 foraminal stenosis;
- 7.4. difficulty moving;
- 7.5. obesity;
-
- 7.6. muscle atrophy;
- 7.7. torn knee ligament;
- 7.8. deep vein thrombosis in both legs;
- 7.9. difficulty sleeping;
- 7.10. difficulty standing or sitting for long periods of time;
- 7.11. chronic pain in the lower back, upper back and both legs;
- 7.12. addiction to various medications prescribed for pain relief.

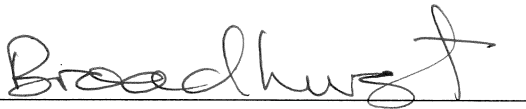
PARTICULARS OF SPECIAL DAMAGE

- 7.13. Medical expenses in the Cayman Islands and abroad;
- 7.14. Travel expenses incidental to receiving medical treatment.

8. The Plaintiff's losses are ongoing and there is significant risk of further treatment, including surgery, being necessary in the future. Further particulars of the Plaintiff's loss will be provided prior to trial.

AND THE PLAINTIFF CLAIMS:

- A Damages;
- B Pre-Judgment interest on damages pursuant to the Judicature Law (2007 Revision);
- C Post-Judgment interest on damages pursuant to the Judicature Law (2007 Revision);
- D Costs;
- E Such other relief as this Honourable Court sees fit.



BROADHURST LLC.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2009

BETWEEN:

CLEO MARTINLYN EBANKS

Plaintiff

- AND -

FOSTER'S FOOD FAIR (STRAND) LIMITED

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.
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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 []
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Service of the Writ is acknowledged accordingly.

(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. BARRISTERS
ATTORNEYS-AT-LAW
40 LINWOOD STREET,
GEORGE TOWN,
PO BOX 2503
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]

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.

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, he must complete the form 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 step in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL PATIENT, an Attorney acting for a guardian ad litem must complete the form.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.