

IN THE GRAND COURT OF THE CAYMAN ISLANDS

BETWEEN:

ARNOLD BERRY

BERISON'S DEVELOPMENT COMPANY LIMITED

AND:

CHARLES BARNES

CAUSE NO. 330 OF 2009

1st PLAINTIFF

2nd PLAINTIFF

DEFENDANT

WRIT OF SUMMONS

TO: Charles Barnes
DMS Broadcasting Limited
Micro Centre
North Sound Road
P.O. Box 31910
George Town
Grand Cayman, KY1-1208

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.

DATED this 8th day of July, 2009.

ISSUED this ___ day of July, 2009.

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 1st Plaintiff is an ordinary resident of the Cayman Islands and was at all material times the owner and controller of the 2nd Plaintiff Company. The 2nd Plaintiff is a Cayman Islands ordinary company whose registered address is Unit C2, Cayman Business Park, George Town, Grand Cayman. The 2nd Plaintiff was at all material times carrying on business as an Architect and Building Contractor.
2. The Defendant is an ordinary resident of the Cayman Islands whose address for service is Micro Centre, North Sound Road, P.O. Box 31910, George Town, Grand Cayman, KY1-1208 and was at all material times holding himself out as a Property Developer/Property Owner.
3. On or about the 7th day of June 2006, the Plaintiffs and the Defendant entered into an Agreement whereby the Plaintiffs would carry out Architectural design work and construction works on the Defendant's property located at registration section Block 19E Parcel # 104 on behalf of the Defendant and at the Defendant's request.
4. In pursuance of the said Contract, the Plaintiffs provided the services and carried out the works on an ongoing basis during 2006 and 2007 for the Defendant, who received and accepted the same.
5. Yet the Defendant has wrongfully failed, refused or neglected to pay the Plaintiffs the price of the said services, namely CI\$125,000, and the same is still due and owing to the Plaintiff.
6. Further in or about June 2006 through December 2007, the Defendant applied to the Plaintiffs for several loans in the total sum of CI\$120,957.08. The Plaintiffs furnished

the Defendant with various sums of money in cash and in cheque format, as well as discharging monies owed by the Defendant to the Water Authority and to JEC Property Consultants. The Defendant undertook to repay these loans at the time they were granted and upon receipt by him of a bank loan for the purpose of discharging same but has failed, refused or neglected to do so. Full particulars of these loans have been furnished to the Defendant.

7. The Plaintiffs also claim interest on all overdue sums pursuant to the Judicature Law and the Judgment Debts Rates of Interest Rules with effect from June 2006 to date and until such outstanding sums are fully paid.

THE PLAINTIFFS THEREFORE CLAIMS:

- (a) Damages in the sum of CI\$245,957.08
- (b) Interest at a rate of 2% per month calculated on daily basis in accordance with the agreement on the principal amount outstanding per month from the date of the writ until payment in full;
- (c) Alternatively, Interest Pursuant to the Judicature Law and Judgment Debts (Rates of Interest) Rules; date of the writ until payment in full;
- (d) Costs to be Taxed if not agreed;

If within the time for returning the Acknowledgement of Services, the Defendant pays the total amount claimed CI\$245,957.08 plus interest and costs further proceedings will be stayed. The money must be paid to the Plaintiffs or their Attorneys.

DATED this 6th day of July 2009

Goldfield Cayman Attorneys-at-Law
GOLDFIELD CAYMAN ATTORNEYS-AT-LAW
Attorneys-at-Law for the Plaintiffs

THE WRIT OF SUMMONS and STATEMENT OF CLAIM is prepared and filed by **GOLDFIELD CAYMAN ATTORNEYS-AT-LAW**, Attorneys-at-Law for and on behalf of the Plaintiffs herein, whose address for service is situated at Rankin's Plaza, 21 Eclipse Drive, P.O. Box 1431 GT, George Town, Grand Cayman, Cayman Islands.

***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 Plaintiffs (or on the Plaintiffs 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 Plaintiffs 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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1st PLAINTIFF

BERISON'S DEVELOPMENT COMPANY LIMITED

2nd PLAINTIFF

AND:

CHARLES BARNES

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** she 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 Defendant

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

Goldfield Cayman Attorneys-at-Law
Rankin's Plaza, 21 Eclipse Drive
P.O. Box 10734
Grand Cayman, KY1-1007
Cayman Islands

Indorsement 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 indorsement by Defendant's Attorney]