

IN THE GRAND COURT OF THE CAYMAN ISLANDS



377
CAUSE NO: OF 2009

BETWEEN:

MARC I & WILLIAM I WOOD

PLAINTIFFS

AND

ERNEST POWELL

DEFENDANT

WRIT OF SUMMONS



TO: ERNEST POWELL

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 12th day of August 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 Plaintiffs are two Caymanian brothers and business partners lawfully trading in the Cayman Islands as owner and operator of a quarry.
2. The Defendant is at all material times to this action an individual residing in the Cayman Islands.
3. In or around June 2008 the Defendant began to employ the services of the Plaintiffs to supply and deliver Cayman rock and crusher run to a site on Crewe Road, George Town, Grand Cayman.
4. The process was that the Defendant, his servants or agents would instruct the Plaintiffs to supply an amount of rock and deliver it to his site. The Plaintiff would do so and in exchange for this the Defendant agreed to pay for the services rendered.
5. On the 18th, 19th and 20th of June 2008 the Plaintiff's delivered the goods to the Defendant. On the 20th June 2008 the Defendant paid the Plaintiff the sum of CI\$33,000 as part payment for goods and services supplied to that date. At the time of payment a balance remained on account of CI\$5,676.
6. On the 21st and 24th June the Plaintiff delivered further Cayman rock and crusher run to the Crewe Road site at the request of the Defendant, his servants or agents. The Defendant to date has failed to pay for the goods and services rendered despite requests from the Plaintiffs for payment.
7. The Plaintiff seeks \$38,093.80 as monies due and owing from the Defendant for goods and services provided by the Plaintiff to the Defendant between the 18th and 24th June 2008. A breakdown of this amount is set out below:

Invoice number	Date	Invoice Amount
Balance due @ 20th June 2008		5,676
11603	21/6/08	875
11585	21/6/08	660
11586	21/6/08	440
11587	21/6/08	770
11588	21/6/08	638

11589	21/6/08	660
11590	21/6/08	440
11591	21/6/08	770
11593	21/6/08	638
11594	21/6/08	660
11595	21/6/08	770
11597	21/6/08	660
11598	21/6/08	638
11600	21/6/08	770
11601	21/6/08	638
11602	21/6/08	660
11605	21/6/08	750
11606	21/6/08	725
11608	21/6/08	875
11609	21/6/08	750
11610	21/6/08	725
11623	24/6/08	781
11624	24/6/08	638
11625	24/6/08	638
11626	24/6/08	484
11627	24/6/08	682
11628	24/6/08	448.8
11629	24/6/08	506
11630	24/6/08	627
11631	24/6/08	462
11632	24/6/08	638
11633	24/6/08	781
11634	24/6/08	638
11635	24/6/08	506
11636	24/6/08	484
11637	24/6/08	682
11638	24/6/08	466.4
11640	24/6/08	448.8
11641	24/6/08	506
11643	24/6/08	627
11644	24/6/08	781
11645	24/6/08	638
11646	24/6/08	446.6
11647	24/6/08	638
11648	24/6/08	682
11649	24/6/08	506
11650	24/6/08	484
11651	24/6/08	448.8
11652	24/6/08	466.4
11653	24/6/08	506
11654	24/6/08	627
11655	24/6/08	638
		38,093.80

8. All monies owed were due and owing within 28 days of invoicing. On 28th May 2009 the defendant paid the sum of CI\$5,000 in part satisfaction of the debt and leaving a balance of CI\$33,093.80.

Since that payment the Defendant has not paid any further monies to the Plaintiff and the Plaintiff seeks interest on the sum owed.

STATEMENT REGARDING INTEREST

- a) The prescribed rate of interest from 24th July 2008 to date was 5%.
- b) The date from which interest accrues is from 24th July 2008.
- c) The total interest claimed as at the date of this Writ is CI\$1,736.29.
- d) The amount of interest accruing each day following the issue of this Plaint is CI\$4.53.

AND THE PLAINTIFF claims:

- 1. CI\$33,093.80 for monies due and owing for goods and services provided by the Plaintiff and received by the Defendant.
- 2. The Plaintiff claims pre and post judgment interest from 24th July 2008 in accordance with the Judicature Law (2007 Revision) and the Judgment Debt (Rates of Interest) Rules as amended from time to time.
- 3. Costs

INDORSEMENT

If, within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed of \$33,093.80 (interest of CI\$1,736.29, fixed costs of \$500, filing fees of CI\$200 and ad valorem fees of CI\$230.94) further proceedings will be stayed. The money must be paid to the Plaintiff or his Attorney.

Samson & McGrath

Samson and McGrath

Attorney's 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 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2009

BETWEEN:

MARC I & WILLIAM I WOOD

PLAINTIFFS

AND

ERNEST POWELL

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

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

Samson & McGrath
Attorneys at Law
5th Floor Genesis Building
Genesis Close
PO Box 446
George Town
Grand Cayman

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