

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE No. ⁴⁶⁸ of 2009

BETWEEN: ERIC O CLARKE PLAINTIFF

AND: CAYMAN ISLANDS HEALTH SERVICES AUTHORITY DEFENDANT

WRIT OF SUMMONS

TO: Cayman Islands Health Services Authority
P.O. Box 915 GT
Grand Cayman
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.

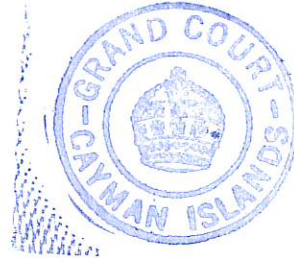
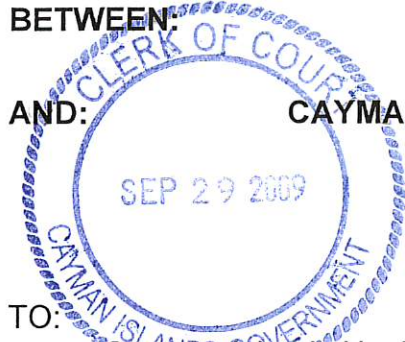
If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued: 29 September 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

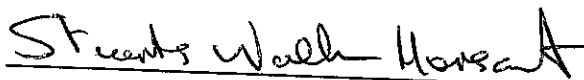
Directions for Acknowledgment of Service are given with the accompanying form.



GENERAL INDORSEMENT

1. The Plaintiff is a former employee of the Defendant who became partially disabled as a result of a work related accident in the employ of the Defendant.
2. By an agreement in writing dated 1 October 2002 and made between the Plaintiff and the Defendant, the Defendant agreed to employ the Plaintiff for a two year period ending 30 September 2004, as a Phlebotomist at a basic salary of C1\$31,992 per annum plus benefits.
3. On 30 September 2003, in breach of agreement, and without reasonable notice, the Plaintiffs contract of employment was wrongfully terminated on medical grounds on the basis of a hastily convened medical boards findings, the board producing no professional ergonomic assessment of the Plaintiff's ability to work and be productive, the board being discriminatory in its finding's.
3. It was further provided by the special conditions of the said contract that the Plaintiff would be subject to an appeals committee prior to his termination on medicals grounds, which was not proffered to the Plaintiff by the Defendant.
4. In addition the Defendant was in breach of the implied term of trust & confidence because it had no reasonable grounds to terminate the Plaintiff on medical grounds, was discriminatory in its actions and withheld internationally recognised basic human rights from the Plaintiff.
4. By reason of the matters aforesaid the Plaintiff has suffered loss of salary, benefits and damage.
5. In addition, the Plaintiff claims pre-judgment and post-judgment interest in accordance with the Judicature Law and at a daily rate of interest established at the discretion of this Honourable Court, together with Court costs and Legal fees
6. Such further and other relief as this Honourable Court may deem just and equitable.

Dated: 29 September 2009



Stuarts, Walker Hersant

Attorneys at Law for the Plaintiff

1. The accompanying form of *Acknowledgment of Service* should be completed by an Attorney acting on behalf of each Defendant or by each 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 Acknowledgement 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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BETWEEN: ERIC O CLARKE PLAINTIFF

AND: CAYMAN ISLANDS HEALTH SERVICES DEFENDANT
AUTHORITY

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

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 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 communication 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.

Stuarts, Walker Hersant
Attorneys-at-Law
Cayman Financial Centre
36A Dr. Roy's Drive
P.O. Box 2510 GT
George Town
Grand Cayman

Ref: IB/1250
Attention: IRVIN BANKS

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

