

**Writ of Summons (O.6, r.1)**



IN THE GRAND COURT OF THE CYMAN ISLNDS  
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. 51 OF 2009

BETWEEN  
AND

GARY JAMES  
WOODS FURNITURE & DESIGN

PLAINTIFF  
DEFENDANT

SPECIALLY ENDORSED WRIT OF SUMMONS

TO THE DEFENDANT: WOODS FURNITURE & DESIGN at P.O. Box 10485  
APO, 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 Acknowledgement of Service stating  
therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement of Service within the  
time stated, or if you return the Acknowledgement 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 14 day of October 2009

NOTE- This Writ may not be served later than 4 calendar months beginning with the  
date of issue unless renewed by an order of the Court

**IMPORTANT**

Directions for Acknowledgement of Service are given with the accompanying form

## **STATEMENT OF CLAIM**

1. The Defendants are and were at all material times a furniture & Design business providing home furnishings, customs cabinetry, floor finishes and interior design for both residential and commercial customers.
2. The Plaintiff was at all material times employed by the Defendants as a floor installer/helper.
3. It was an implied term of the contract of employment between the Plaintiff and the Defendants and/or it was the duty of the Defendants to take all reasonable precautions for the safety of the Plaintiff whilst he was at his place of work not to expose him to the risk of damage or injury of which they knew or ought to have known, and to provide adequate and suitable equipment to enable the Plaintiff to carry out his work in safety.
4. On 14 November 2008 the Plaintiff, who is a 34 year old right handed man working as a flooring installer for Defendant, was injured at work. This accident occurred at or about 8:00 a.m.
5. The Plaintiff whilst at his place of work had completed loading his truck with materials in order to complete a job situated at the offices of Walkers.
6. The Plaintiff went inside the office to call the Defendant's servant or agent, Leroy Rolando aka Troy, who was a co-worker, to let him know that the forklift truck was not working properly and had stalled. Whilst investigating the problem with Leroy Rolando the Plaintiff had bent down and was examining the forklift truck and in particular but including the foot-pedal. The Plaintiff had placed his left arm under the lift to point out to Leroy Rolando what he considered was the problem. Unbeknownst to the Plaintiff, Leroy Rolando had moved to the front of the forklift truck and opened the front of the machine. Leroy Rolando, without any notice to the Plaintiff, used the manual lowering valve which released the lift and caused it to come down and crush the Plaintiff's arm. The Plaintiff's arm was trapped under the lift for at least 20 minutes. The Plaintiff had to tell the co-worker what to do in order to release his arm. Whilst the co-workers were trying to lift the lift off the Plaintiff's arm it slipped and trapped his arm a second time. Eventually a second forklift truck had to be used to lift the lift off the Plaintiff's arm.
7. The Plaintiff's injuries were caused by the negligence of the Defendants, their servant or agents

### **PARTICULARS OF NEGLIGENCE**

- (a) Failing to take any or any adequate precautions for the safety of the Plaintiff while he was engaged upon the work and or performing his duties.

- (b) Exposing the Plaintiff to a risk of damage or injury of which they knew or ought to have known.
- (c) One, Leroy Rolando, a servant or agent of the Defendant released the lift when he knew or ought to have known that the Plaintiff was checking under the forklift.
- (d) Leroy Rolando, failed to ascertain or ensure that it was safe to use the manual lowering valve when he did which released the lift.
- (e) Leroy Rolando failed to pay any or any sufficient heed to the presence or the position of the Plaintiff.
- (f) In the circumstances, failing to provide and maintain safe plant and equipment, or to provide a safe place of work for the Plaintiff or to provide a safe system of working.
- (g) The Claimant will further rely upon the happening of the said accident as evidence in itself of the negligence of the Defendant.

8. By reason of the matters aforesaid, the Plaintiff suffered injuries, loss and damage

**PARTICULARS OF INJURIES**

9. The Plaintiff's date of birth is 19 August 1974. The Plaintiff lost consciousness on reaching George Town Hospital. The Plaintiff suffered a crushing injury to his left arm and will rely on the medical reports dated 24 April 2009 and 6 March 2009 of Dr. Bailey, MD., FRCSC and Dr. Caroline Quartly respectively and served herewith for the particulars of his injuries.

**PARTICULARS OF SPECIAL DAMAGES**

Date	Particulars	costs (CI\$)
	Medical expenses	5,609.78
	Medical expenses (Jamaica)	125.00.
	Travel expenses	1,350.00
1 May 2009 to date	Loss of salary (22 Weeks)	9,900.00.

AND the Plaintiff claims:

- (i) Damages
- (ii) Further, pursuant to The Judicature Law (1995) Revision the Plaintiff is entitled to and claims interest on such sums as are found to be due at such rate and for such period as the Court deems fit
- (iii) Costs

**CLYDE H. ALLEN, CHAMBERS**

THIS WRIT was issued by Clyde Allen whose address for service is Clyde H. Allen, Chambers, Attorney-At-Law, PO Box 31076SMB, Jack & Jill Building, Fort Street, Grand Cayman, KY1-1205, Cayman Islands.



**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.*

Clyde Allen  
Clyde H. Allen, Chambers,  
Attorneys-At-Law  
PO Box 31076SMB  
Jack & Jill Bldg, KY1-1205  
Grand Cayman  
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.*