

**IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION**

**CAUSE No. FSD 0003
of 2009**

BETWEEN:

**(1) THOMAS ENTERPRISES INC.
(2) FOURTH QUARTER PROPERTIES 1 (CAYMAN ISLANDS) LTD.**

AND

BRITISH CAYMANIAN INSURANCE COMPANY

Plaintiffs

Defendant

WRIT OF SUMMONS

**TO: British Caymanian Insurance Company
BritCay House
236 Eastern Avenue
George Town
PO Box 74
Grand Cayman
KY1 - 1102
CAYMAN ISLANDS**

THIS WRIT OF SUMMONS has been issued against you by the above-named First Plaintiff of 45 Ansley Drive, Newnan, GA 30263, USA, and the Second Plaintiff of PO Box 1316, 4th Floor Kirk House, George Town, Grand Cayman KY1-1108, 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, PO Box 495, 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 5th day of November, 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

The Plaintiffs' claim is for the monies owed under a policy of insurance entitled Commercial Combined Policy IN 48389 ("the Policy") arising out of damage caused by Hurricane Paloma on or around 7 and 8 November 2008 to the Courtyard Marriott Hotel located at 1590 West Bay Road, Grand Cayman.

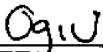
Further, the Plaintiffs seek consequential and exemplary damages.

Further, the Plaintiffs seek interest upon any amount awarded pursuant to section 34 of the Judicature Law (2004 Revision) at such a rate for such a period as the Court deems fit.

Further or alternatively the Plaintiffs seek a direction as to which, if any, issues in the claim should be referred to arbitration, pursuant to the Policy.

AND THE PLAINTIFF CLAIMS: -

- (1) Amounts (as yet unquantified) due under the Policy;
- (2) Damages;
- (3) A direction as to the issues, if any, to be referred to arbitration;
- (4) Interest pursuant to Section 34 of the Judicature Law (2004 Revision);
- (5) Costs.



OGIER
Attorneys for the Plaintiffs

Dated this 5th day of November 2009

This Writ was issued by Ogier, Attorneys for the Plaintiff, whose address for service is 89 Nexus Way, Camana Bay, Grand Cayman, KY1-9007, Cayman Islands
(Ref: 421152.00001/CRU/RAR)

**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 495GT, 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 (ie., 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 is 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 of 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 his 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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FINANCIAL SERVICES DIVISION

CAUSE No. _____ of 2009

BETWEEN:

(1) THOMAS ENTERPRISES INC.
(2) FOURTH QUARTER PROPERTIES 1 (CAYMAN ISLANDS) LTD.

Plaintiffs

AND

BRITISH CAYMANIAN INSURANCE COMPANY

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 of Summons is being acknowledged.**

2. **State whether the Defendant intends to contest or otherwise participate in 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 of Summons is acknowledged accordingly.

Defendant / Attorney for the Defendant

Address for service:

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 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.

OGIER
Attorneys-at-Law
89 Nexus Way,
Camana Bay,
Grand Cayman
Cayman Islands
T: 345.949.9876
F: 345.949.1987
Ref: 421152.00001/CRU/RAR

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