

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. ³⁸² OF 2009

BETWEEN:

HAYMON EBANKS

1st PLAINTIFF

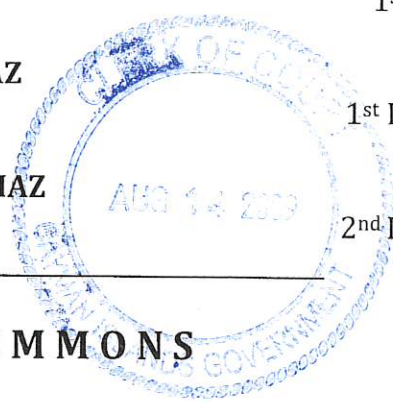
AND:

ALEX DIAZ

1st DEFENDANT

SHARON DIAZ

2nd DEFENDANT



WRIT OF SUMMONS

TO: Alex Diaz
P.O. Box 981
Grand Cayman
KY1-1102

Sharon Diaz
PO Box 981
Grand Cayman
KY1-1102

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 14 day of August, 2009

ISSUED this ___ 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 Plaintiff is a resident of the Cayman Islands and was at all material times the operator of a heavy equipment business and the owner of a Motor Vehicle GMC 700 License Number 62-294 (hereinafter the "Truck").
2. The 1st Defendant is a resident of the Cayman Islands whose address for service is P.O. Box 981, Grand Cayman, KY1-1102. At all material times the 1st Defendant was the operator of a Honda Integra License Number 112-273 (hereinafter the "Honda").
3. The 2nd Defendant is a resident of the Cayman Islands whose address for service is P.O. Box 981, Grand Cayman, KY1-1102 and at all material times the 2nd Defendant was the owner of the Honda. At all material times the 1st Defendant was insured on the policy of insurance for the Honda and held in the name of the 2nd Defendant.
4. On or about the 13th day of August 2006, the Plaintiff's Truck was lawfully parked when the 1st Defendant, as an authorized user, servant or agent for the 2nd Defendant, so negligently drove, managed and controlled the Honda that he caused or permitted the Honda to run off the road and soft shoulder and on to private property and once there to collide with the Plaintiff's Truck

Particulars of Negligence

- (a) Driving too fast;
- (b) Failing to keep any or any proper look out;
- (c) Jumping the soft shoulder of the road and there after colliding with the Plaintiff's Truck which was parked on private property;

- (d) Failing to exercise or maintain any or any proper or effective control of the Honda;
 - (e) Failing to stop, to slow down, to swerve or in any other way so to manage or control the said Honda as to avoid Jumping the soft shoulder of the road and there after colliding with the Plaintiff's Truck which was parked on private property;
5. By reason of the collision, extensive damage was caused to the Plaintiff's Truck and particulars of the Damage caused to the Truck will be provided at Trial. Despite numerous requests for same, the Defendants have wrongfully failed, refused and/or neglected to pay the Plaintiff the cost of the repairs, namely CI\$4,851.50, and the same is still due and owing to the Plaintiff.
6. At the time of the said accident the Plaintiff was actively engaged in the supply of heavy equipment related services for a profit. By reason of the said damages to the Truck, the Plaintiff was rendered unable to complete his scheduled jobs and he was unable to secure new jobs and/or he was unable to use the said Truck to carry on with and to otherwise support his business in consequence whereof the Plaintiff lost profits which he would have otherwise earned in carrying out the business and particulars of the consequential loss of earnings shall be provided at trial.
7. The Plaintiff also claims interest on all overdue sums pursuant to the Judicature Law and the Judgment Debts Rates of Interest Rules with effect from August 2006 to date and until such outstanding sums are fully paid.

THE PLAINTIFFS THEREFORE CLAIMS:

- (a) Damages for the cost of repairs in the sum of CI\$4,851.50.
- (b) Damages for loss of earnings to be assessed.
- (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 Service, the Defendant pays the cost of the claim plus interest and costs further proceedings will be stayed. The money must be paid to the Plaintiff or his Attorneys.

DATED this 14th day of August 2009

Goldfield Cayman
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.

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 Defendant's Attorney indorsement]