

IN THE GRAND COURT OF THE CAYMAN ISLANDS



CAUSE NO:

627

OF 2009

BETWEEN:

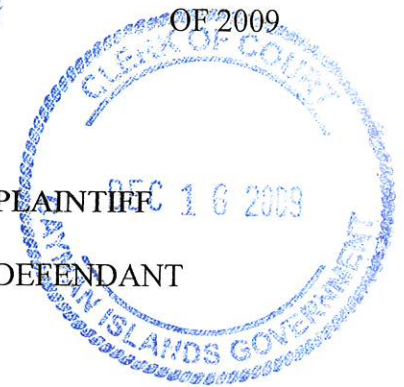
CARL P. BARNES (trading as  
BARNES CONSTRUCTION

PLAINTIFF DEC 16 2009

AND:

BRIAN BARNES

DEFENDANT



WRIT OF SUMMONS

TO: Mr. Brian Barnes  
Shore Circle  
The Shores, West Bay, Grand Cayman

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 495GT, 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 15<sup>th</sup> day of December, 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 was at all material times licensed under the Cayman Islands Trade and Business Licensing (2002 Revision) to carry on the trade or business of a Building Contractor.
2. The Defendant was at all material times the legal owner of Block 9A, Parcel 680 at Shorecrest Circle, The Shores, West Bay, Grand Cayman.
3. On 19<sup>th</sup> June, 2008, the Plaintiff and the Defendant entered into a written contract wherein the Plaintiff agreed to build the Defendant's home on Block 9A, Parcel 680. It was also agreed that the Defendant would pay the Plaintiff the total amount of CI\$668,219.00 by way of installments or drawdown for work completed as follows:
  - (a) Filling, foundations, structure/frame, external walls%, internal walls, electrical and plumbing 1<sup>st</sup> fix preliminaries%, pool% CI\$147,000.00
  - (b) Preliminaries, structure/frame, external walls, internal walls, electrical and plumbing 2<sup>nd</sup> fix, wall finish% CI\$125,000.00
  - (c) Roof installation, wall finishes, ceiling finishes%, air condition 1<sup>st</sup> fix (cabinet mobilization 13,000.00) CI\$135,000.00
  - (d) Windows and doors, floor finishes%, ceiling finishes%, Air conditioning 2<sup>nd</sup> fix, electrical 4<sup>th</sup> fix, painting and decorating%, preliminaries CI\$120,219.00
  - (e) Floor finishes%, air conditioning 3<sup>rd</sup> fix, cabinets, electrical 4<sup>th</sup> fix, air condition 3<sup>rd</sup> fix, painting and decorating, pool% driveway, sanitary drainage, driveway. C\$141,000.00
4. The Plaintiff received the sum of CI\$512,000.00 from the Defendant as draw downs on or around the following dates:

23 <sup>rd</sup> June, 2008	CI\$147,000.00
10 <sup>th</sup> September, 2008	CI\$125,000.00
23 <sup>rd</sup> September, 2008	CI\$135,000.00
22 <sup>nd</sup> December, 2008	<u>CI\$105,000.00</u>

5. The Defendant has only paid CI\$512,000.00 instead of the contracted amount of CI\$668,219.00, a shortfall of **CI\$156,219.00**.
6. The Plaintiff completed the construction of the home by 31<sup>st</sup> December, 2008 and requested the remaining balance of **CI\$156,219.00** from the Defendant.
7. The Defendant persuaded the Plaintiff that he would pay him the balance owing in a short time as he the Defendant was awaiting a further draw down from his bank. The Defendant asked the Plaintiff for the key to the home and the Plaintiff handed over the key in good faith that the Defendant would pay him the balance within a short time as promised.
8. When the payment was not forthcoming, the Plaintiff made several demands both orally and in writing to collect the outstanding monies from the Defendant without success.
9. The Defendant has failed to pay the outstanding balance to the Plaintiff and is indebted to he Plaintiff in the sum of **CI\$156,219.00** plus interest thereon and costs.
10. The Defendant took possession of the home since 31<sup>st</sup> December, 2008.
11. The Defendant is in breach of the contract entered into on 19<sup>th</sup> June, 2008 and is liable to the Plaintiff for damages, interests and costs.
12. The Plaintiff claims interest on all sums due pursuant to the Judicature Law.

AND THE PLAINTIFF claims:

1. Damages in the sum of CI\$156,219.00 (one hundred fifty six thousand, two hundred and nineteen dollars)
2. Pre and Post-Judgment Interest
3. Costs

Dated this 16th day of December, 2009

*Facey-Clarke & Associates*  
FACEY-CLARKE & ASSOCIATES  
Attorneys-at-Law for the Plaintiff

This Writ of Summons was filed by Facey-Clarke & Associates, Attorneys-at-Law for the Plaintiff herein whose address for service is that of the said Attorneys-at-Law, Ground Floor, Unit 119, Elizabethan Square, George Town, Grand Cayman

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CAUSE NO:

OF 2009

BETWEEN: CARL P. BARNES (trading as  
BARNES CONSTRUCTION PLAINTIFF

AND: BRIAN BARNES 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.

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

\_\_\_\_\_

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2. State whether the Defendant intends to contest the proceedings (tick appropriate box)

yes  no

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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

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Service of the Writ is acknowledged accordingly on the \_\_\_\_\_ day of \_\_\_\_\_, 2009

\_\_\_\_\_  
Signature of the Defendant or his Attorney

Please complete overleaf

