

THE GRAND COURT OF THE CAYMAN ISLANDS
JIL DIVISION

EC 631
CAUSE NO: OF 2009
Legal Aid 73/09

BETWEEN:

CLAYBURN EBANKS

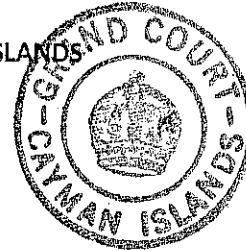
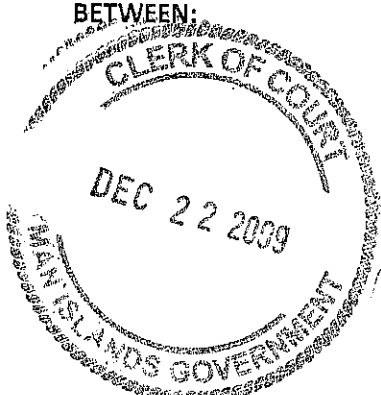
PLAINTIFF

AND:

ATTORNEY GENERAL OF THE CAYMAN ISLANDS

DEFENDANT

WRIT OF SUMMONS



TO: The Attorney General of the Cayman Islands
Ansbacher House
George Town
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 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 this 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

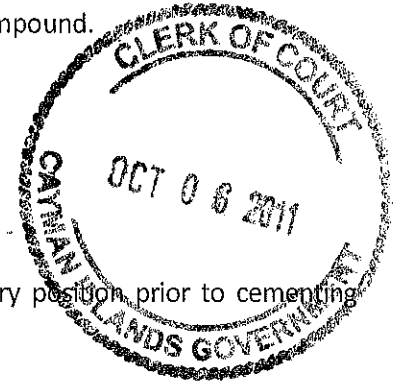
Directions for Acknowledgment of Service are given with the accompanying form.

G 651/2004

AMENDED STATEMENT OF CLAIM
(AMENDED ON 6th OCTOBER 2011 PURSUANT TO GCR O.20, R.12)



1. The Plaintiff is a Caymanian male d.o.b 23rd February 1971 and was at all material times employed by the Public Works Department of the Cayman Islands Government as a labourer.
2. The Defendant is a named party to proceedings by virtue of Section 11(2) of the Crown Proceedings Law (1997 Revision).
3. On or around August 2007 the Plaintiff was instructed to work within the Public Works Department compound to assist with internal maintenance of the compound.
4. ~~On the 22nd~~ During the period August – September 2007 in the course of his employment the Plaintiff was instructed by his supervisor to undertake a number of manual tasks to complete the construction and finish of a parking lot and flower bed within the compound.
5. Those tasks were as follows:
 - (a) Clean and remove debris from the area.
 - (b) Cast a cement trench with cement.
 - (c) Place the cement parking lot curbstones into a preparatory position prior to cementing them into place.
6. The task at paragraph 5 (c) required the lifting of cement curbstones weighing between 80 and 150 pounds.
7. Despite this the Plaintiff was asked to complete these tasks alone and was not provided with any manual or mechanical assistance.
8. In the course of lifting a cement curbstone the Plaintiff suffered a back injury.
9. The personal injuries sustained were caused as a result of the negligence of the Defendant, its servants or agents in the course of their employment.



Particulars of Negligence

- (a) failed to provide the Plaintiff with information about the weight of the curbstones or the risk to his health in attempting a manual lift thereof;
- (b) employed the Claimant to lift, move or manoeuvre loads so heavy as to be likely to cause him injury;
- (c) failed to provide for the Claimant any or any adequate manual or mechanical assistance for the purpose of the above operation;
- (d) failed adequately or at all in time or at all to ensure that the Plaintiff used manual or mechanical assistance for the purpose of the above operation;
- (e) caused, permitted, required or suffered the Plaintiff to work as above when it was unsafe so to do;
- (f) failed to warn the Plaintiff of the dangers of working as above or otherwise to prevent him from so doing;
- (g) exposed the Plaintiff to a danger or a foreseeable risk of injury;
- (h) failed to provide or maintain for the Plaintiff a safe system of work;
- (i) failed to provide for the Plaintiff safe or adequate plant or equipment;
- (j) failed to take any or any adequate care for the safety of the Plaintiff;

11. As a result the Plaintiff who is now aged 39 years having been born on the 23rd February 1971 has suffered pain, injury, loss and damage.

12. Particulars of Personal Injury

- a. General pain and suffering including severe pain in the back.
- b. Herniated disc at L4-5 of his lumbar spine requiring surgery.

13. The Plaintiff has been unable to continue full time work in manual labour due to his injuries and continues to suffer pain to his back area.

14. Particulars of Special Damage

- a. The Plaintiff has incurred medical expenses and will continue to do so. Particulars of this claim will be forwarded when complete.
- b. The Plaintiff has suffered loss of earnings and will suffer loss of earnings from now until retirement age. Such losses will be particularized at a later date.

- c. The Plaintiff has suffered a loss in the labour market and claims under the rule in Smith v Manchester.
- d. The Plaintiff will need continued care and assistance domestically and will incur additional living expenses due to his injuries.
- e. The Plaintiff has suffered a diminution in his social life.
- f. All such losses will be particularized when complete.

AND THE PLAINTIFF claims:

1. Damages
2. Interest in accordance with the Judicature Law (2007 Revision)
3. Costs
4. Such further and other relief as this Court may deem just

Samson & McGrath
Attorneys for the Plaintiff

STATEMENT OF CLAIM

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2. The Defendant is a named party to proceedings by virtue of Section 11(2) of the Crown Proceedings Law (1997 Revision).
3. On or around August 2007 the Plaintiff was instructed to work within the Public Works Department compound to assist with internal maintenance of the compound.
4. On the 22nd August 2007 in the course of his employment the Plaintiff was instructed by his supervisor to undertake a number of manual tasks to complete the construction and finish of a parking lot and flower bed within the compound.
5. Those tasks were as follows:
 - (a) Clean and remove debris from the area.
 - (b) Cast a cement trench with cement.
 - (c) Place the cement parking lot curbstones into a preparatory position prior to cementing them into place.
6. The task at paragraph 5 (c) required the lifting of cement curbstones weighing between 80 and 150 pounds.
7. Despite this the Plaintiff was asked to complete these tasks alone and was not provided with any manual or mechanical assistance.
8. In the course of lifting a cement curbstone the Plaintiff suffered a back injury.
9. The personal injuries sustained were caused as a result of the negligence of the Defendant, its servants or agents in the course of their employment.

Particulars of Negligence

- (a) failed to provide the Plaintiff with information about the weight of the curbstones or the risk to his health in attempting a manual lift thereof;
- (b) employed the Claimant to lift, move or manoeuvre loads so heavy as to be likely to cause him injury;
- (c) failed to provide for the Claimant any or any adequate manual or mechanical assistance for the purpose of the above operation;
- (d) failed adequately or at all in time or at all to ensure that the Plaintiff used manual or mechanical assistance for the purpose of the above operation;
- (e) caused, permitted, required or suffered the Plaintiff to work as above when it was unsafe so to do;
- (f) failed to warn the Plaintiff of the dangers of working as above or otherwise to prevent him from so doing;
- (g) exposed the Plaintiff to a danger or a foreseeable risk of injury;
- (h) failed to provide or maintain for the Plaintiff a safe system of work;
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- a. The Plaintiff has incurred medical expenses and will continue to do so. Particulars of this claim will be forwarded when complete.
- b. The Plaintiff has suffered loss of earnings and will suffer loss of earnings from now until retirement age. Such losses will be particularized at a later date.

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

Samson & McGrath
Attorneys at Law
5th Floor Genesis Building
Genesis Close
PO Box 446
George Town
Grand Cayman

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