

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

L/A 1/08

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

CAUSE NO. ²⁷³ OF 2010

BETWEEN
AND

ANDREW FITROY MULLINGS
A & C CONSTRUCTION Ltd
Mr. CLIVE SMITH

PLAINTIFF
1st DEFENDANT
2nd DEFENDANT

SPECIALLY ENDORSED WRIT OF SUMMONS

JUL 28 2010

TO THE DEFENDANTS: A & C CONSTRUCTION Ltd and Mr. CLIVE SMITH, P.
O. Box 2549 GT 46 Nash Street, 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 28 day of July 2010

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 1st Defendant operated at the material time a construction company and the second Defendant and others operated the 1st Defendant and/or was its servant or agent.
2. The Plaintiff was at all material times employed by the Defendants as a carpenter.
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 while he was engaged in his work as a carpenter, 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 personal protective equipment to enable the Plaintiff to carry out his work in safety. The Plaintiff requested goggles to be provided but the Defendants refused to provide the Plaintiff with goggles.
4. On 18 October 2007 the Plaintiff was performing his duties and whilst hammering a nail it broke and a piece of the nail struck him in the left eye.
5. 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 in performing his duties.
 - (b) Exposing the Plaintiff to a risk of damage or injury of which they knew or ought to have known.
 - (c) Failing to provide the Plaintiff with any suitable protective goggles or any other adequate personal protective equipment to enable him to carry out his work safely.
 - (d) Allowing the practice to be adopted of hammering nails without protective eyewear which they knew or ought to have known to be unsafe
 - (e) Providing an unsafe system and place of work
6. By reason of the matters aforesaid, the Plaintiff suffered injuries, loss and damage

PARTICULARS OF INJURIES

The Plaintiff's date of birth is 28 June 1973. As a result of the accident on 18 October 2007 the Plaintiff suffered severe injuries to the cornea of his left eye occasioning surgery to effect a full removal of the said eye. Further particulars appear in the

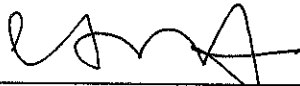
reports of Dr. Pandit, Prof. Smiddy M.D and Dr. Shriver dated 20 October 2007, 1 December 2008 and 14 January 2008 respectively and served herewith.

PARTICULARS OF SPECIAL DAMAGES

Date	Description	Amount
	Medical treatment	US\$900.00
	Medical eye patch	US\$50.00
	Travel expenses	
	i. Air fares	US\$450.00
	ii. Accomodation (60 days)	US\$4,800.00
	iii. Food & Drink (60 days)	US\$1,500.00
6 November 2007 to date	Loss of earnings (CI\$700 per week)	CI\$98,700.00

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.

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CAUSE NO. OF 2010

BETWEEN

AND

ANDREW FITROY MULLINGS
A & C CONSTRUCTION Ltd
Mr. CLIVE SMITH

PLAINTIFF
1st DEFENDANT
2nd 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 is being acknowledged.

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

yes no

3. If the claim against the Defendant is for a debt or a 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 is acknowledged accordingly

(Signed).....

[Attorney] for

Address for service: (please see overleaf)

Please complete overleaf

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.