

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

IN THE GRAND COURT OF THE CAYMAN ISLAND
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

LEGAL AID



CAUSE NO. 116 OF 1997

BETWEEN

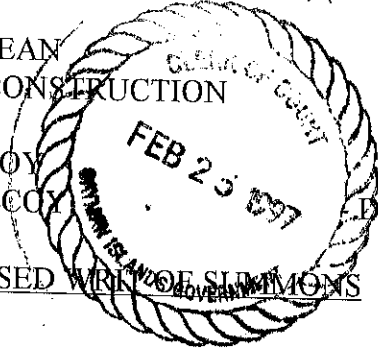
ELBERT McLEAN
t/a McLEAN CONSTRUCTION - PLAINTIFF

AND:

CARL D. McCOY
ANNETTE McCOY DEFENDANTS

AND:

SPECIALY ENDORSED WRIT OF SUMMONS



TO: DEFENDANTS Mr. Carl D. McCoy and Mrs. Annette McCoy, PO Box 1725GT,
Grand Cayman, Cayman Islands, BWI.

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 25th day of February 1997.

NOTE - This Writ may not be served later than 4 calendar beginning with the date of issue
unless renewed by order of the Court.

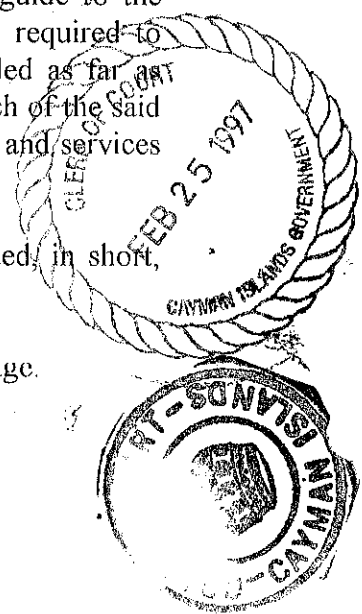
IMPORTANT

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

STATEMENT OF CLAIM

1. At all material times the Plaintiff carried on business as a building contractor ("the builder"). The Defendants are the building owners ("the employer"). By an oral agreement the Plaintiff agreed to build a four bedroom three bathroom two storey house ("the house") which amounted to 4,532 square feet on Block 32C Parcel 224 situated at Hibiscus Gardens, Lower Valley, Grand Cayman at an estimated costs of or about CI\$320 - 350,000.00.
2. In order to build the house the Defendants required the assistance of a loan from a bank. The Defendants informed the Plaintiff that they would not received the full funding which would be required to build the house from the Bank of Nova Scotia ("the bank"). The Defendants informed the Plaintiff that the bank would provide them with a loan to build the house, albeit less than that actually required, if it received an indication of what the house would costs to build. The Defendants explained and the Plaintiff accepted that they would pay to the Plaintiff any and all additional funds required to build the house which were over and above the sum loaned by the bank to them.
3. At all times and in order to assist the Defendant to obtain the loan the Plaintiff agreed to build the house on the terms set out above.
4. Pursuant to the oral agreement, the Defendants purported to prepare a "Letter of Intent" ("the written agreement") describing the said building works and a schedule of payments. For the purpose of obtaining the loan, the total contract sum for building the house was estimated to be CI\$189,698.40.
5. Both parties signed the written agreement. At no time did the Plaintiff sign any other document. Based on the written agreement the bank lent the funds to the Defendants to pay for the costs of building the house.
6. Pursuant to the oral agreement, and using the written agreement as a guide to the building schedule, notwithstanding that it does not show all the stages required to build the house, the Plaintiff commenced the development, and proceeded as far as constructing the first and second floor walls up to the belting, but in breach of the said contract the Defendants have refused to pay the Plaintiff for all the goods and services provided.
7. On 1 November 1996 the Defendants wrote to the Plaintiff and requested, in short, that he no longer continue to build the house.
8. By reason of the matters aforesaid, the Plaintiff has suffered loss and damage.

PARTICULARS OF SPECIAL DAMAGES



1. The sum of CI\$35,036.48 (see Schedule of Expenses)

AND THE PLAINTIFF claims:

(1) Damages for breach of contract of CI\$35,036.48;

(2) 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 shall think fit.

3. Costs.



THIS WRIT was issued by Clyde H. Allen BSc whose address for service is Brooks & Brooks, Attorneys-At-Law, PO Box 1355, Grand Cayman, British West Indies



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CAUSE NO. OF 1997

BETWEEN

ELBERT McLEAN
t/a McLEAN CONSTRUCTION

- PLAINTIFF

AND:

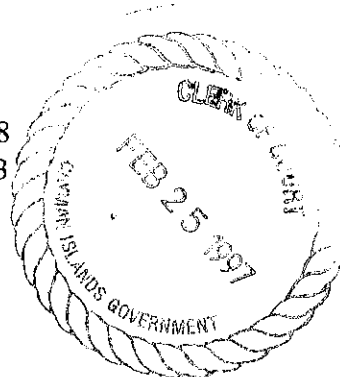
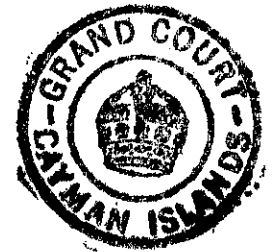
CARL D. McCOY
ANNETTE McCOY

- DEFENDANTS

Schedule of Expenses

The Plaintiff has incurred the following expenses towards building the house:-

1. CNB overdraft	3,400.00
2. C. L. Flowers & Sons	6404.00
3. Jack Kelly	600.00
4. Will Carter	400.00
5. Arnold Senior	450.00
6. Greg Ashbirth	666.50
7. Cox Lumber	20,346.68
8. Quarry Products	12,352.03
9. James Challenger	1200.00
10. Chester Watler	213.00
11. Kirkconnell Bros.	2230.00
12. Chris Vousden	3500.00
13. Jacques Robinson	400.00
14. Rick's Electrical	2,500.00
15. True Value	349.50
16. A. L. Thompson	288.00
17. Water Authority	80.56
18. Labour	35,744.40
19. National Cement	821.70
TOTAL	<u>91,946.00</u>



The Defendants have paid to the Plaintiff a total sum of CI\$56,909.52.

There remains outstanding and owing to the Plaintiff the sum of CI\$35,036.48.

