

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. ¹³³ OF 2011

BETWEEN CHARLES McCOY

PLAINTIFF

AND

THE HON. ATTORNEY-GENERAL

DEFENDANT

WRIT OF SUMMONS

*TO: THE HON. ATTORNEY-GENERAL
The Government Administration Building
Elgin Avenue, 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 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 return the Acknowledgement 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 judgement may be entered against you forthwith without further notice.

Issued this day of 2011

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.

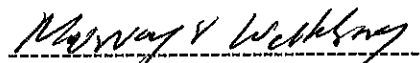
IMPORTANT

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

ENDORSEMENT

The Plaintiff claims against the Defendant pursuant to The Crown Proceedings Law to recover damages for personal injury caused to the Plaintiff by reason of the Plaintiff, an employee of the Cayman Islands Government, being required to work in an environment which was unfit and unsafe for him to work in contrary to Section 4 of The Public Service Management Law and the common law. The Plaintiff further claims against the Defendant pursuant to The Crown Proceedings Law to recover damages for breach of contract in that officers, servants, agents or employees of the Cayman Islands Government without the consent or authorization of the Plaintiff revealed to the public via the world wide web details of the Plaintiff's medical condition on or about the 17th day of April 2010.

Dated the 6th day of April 2011



Murray & Westerborg
Plaintiff's Attorneys-at-Law

IN THE GRAND COURT OF THE CAYMAN ISLANDS

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AND THE HON. ATTORNEY-GENERAL DEFENDANT

STATEMENT OF CLAIM

1. The Plaintiff was at all material times an employee of the Cayman Islands Government attached to the Finance Department.
2. The Defendant is made a party to this Cause by virtue of and pursuant to The Crown Proceedings Law.
3. The Plaintiff was employed by the Cayman Islands Government's Portfolio of Finance in 1997 and was stationed to work on the Second Floor of the Government Administration Building located on Elgin Avenue, George Town, Grand Cayman until he was transferred in 2000 to work at Radio Cayman on a six month stint.
4. The Plaintiff returned to the Government Administration Building and worked on the Second Floor of the said building until sometime in the year 2001 when he went to work in the private sector with Trident Trust for a six month period.
5. On the 15th day of April 2002 the Plaintiff was re-engaged by the Portfolio of Finance and was stationed to work on the 1st Floor of the Government Administration Building but was required to visit the second floor of the said Building as part of his work with the Portfolio of Finance.
6. The Plaintiff worked in the said Government Administration Building and remained there until on or about the 18th day of February 2010 when at the request of his treating physician he was transferred to another building.
7. The Plaintiff has during the course of his employment with the Cayman Islands Government consistently complained of respiratory problems while at work and has suffered various bouts of respiratory illnesses which required treatment by doctors in the Cayman Islands and in the United States of America.

8. On or about the 5th day of May 2008 following another bout of respiratory illness the Plaintiff was diagnosed with high antibody levels of spore pathogen *Aspergillus Niger* in his blood stream and in January 2010 he was diagnosed as suffering from bronchiectasis caused by the presence of the mold spore pathogen *Aspergillus*.
9. That the mold spore pathogen *Aspergillus* has since 1998, in various studies and tests carried out by or on behalf of the Cayman Islands Government, been found to be present in the said Government Administration Building.
10. That the said Government Administration Building has been described as "sick" in at least one of the reports provided to the Cayman Islands Government by one of its independent contractors engaged in the local air quality industry.
11. That in the premise the Plaintiff asserts that he has sustained severe injuries and has suffered loss and damage by working in the said Government Administration Building.

Particulars of Injuries

- (a) Permanently damaged left lung;
- (b) Bronchiectasis.

Particulars of Special Damages

To be provided

12. The said injuries, loss and damage were occasioned to the Plaintiff by reason of the negligence of the Cayman Islands Government, its Officers, Agent, Employees and Servants:

Particulars

- (a) Failing to take any or any adequate precautions for the safety of the Plaintiff while he was engaged upon his said work.
- (b) Failing to carry out such necessary testing to determine if the pathogen *Aspergillus Niger* was present in the said Government Administration Building after a test of the said Building showed a high concentration of the genus *Aspergillus* throughout the Building.
- (c) Exposing the Plaintiff to a risk of damage or injury of which they knew or ought to have known.
- (d) Failing to provide a safe place of work for the Plaintiff
- (e) Failing to provide a safe and healthy working environment for the Plaintiff in breach of Section 4 of the Public Services Management Law.


(f) The Plaintiff will further rely on the doctrine of *res ipsa loquitur*.

13. The Cayman Islands Government its Officers, Agents, Servants and Employees were contractually bound to keep all information relative to the Plaintiff's employment including details of his health confidential at all times.
14. On or about the 7th day of February 2011 following being contacted by an employee of Cayman News Service for a comment the Plaintiff discovered that on or about the 17th day of April 2010 officers, employees, servants or agents of the Cayman Islands Government caused or permitted to be published on the Government's Lands & Survey website details of the Plaintiff's medical condition without obtaining his consent or authority to do so in breach of his contract of employment with the Cayman Islands Government.
15. That the said publication was in breach of the Plaintiff's contract of employment and is likely to have an adverse effect on him and place him at a disadvantage on the market place in the event his employment with the Cayman Islands is determined for whatever reason and accordingly the Plaintiff seeks damages for the said breach.

AND THE PLAINTIFF CLAIMS:

1. General and Special Damages;
2. Interest on both General & Special Damages pursuant to the Judicature Law;
3. Costs.

Dated this 11th day of April 2011



Murray & Westerborg
Plaintiff's Attorneys-at-Law

Acknowledgment of Service of Writ

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 complete and serve a Defence* on the Attorney for the Plaintiff (or on the Plaintiff if acting in person) within 14 days of the time for acknowledging receipt of the Writ of Summons, unless in the meantime a Summons for Judgment is served on the Defendant. The Plaintiff is at liberty to apply for Default Judgment against the Defendant if the Defence is not filed and served within 14 days of the time for acknowledging receipt of the Writ of Summons.
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 seek time to pay the claim or 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 or seeking time to pay, 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 installments or otherwise.

See over for notes for guidance

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.

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AND THE HON. ATTORNEY-GENERAL DEFENDANT

ACKNOWLEDGEMENT 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 judgement being entered against a Defendant whereby he May have to pay the costs of applying to set it aside.

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

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

yes

no

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 judgement entered by the Plaintiff (tick box).

yes

Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for

[Defendant in person]

Address for service:

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 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 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:

Murray & Westerborg
Attorneys-at-Law
Second Floor (East Wing)
FIS Building
196 Shedden Road
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:

[Empty box for Defendant's Attorney indorsement]