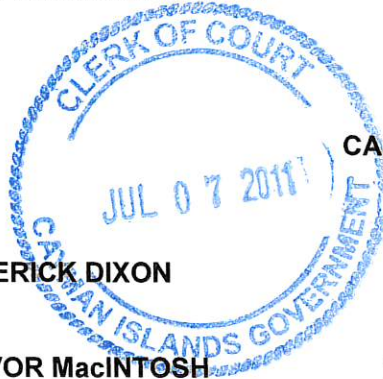




**IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION**



CAUSE NO. JSS/11

BETWEEN: RODERICK DIXON PLAINTIFF

AND: TREVOR MacINTOSH DEFENDANT

WRIT OF SUMMONS

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 495, George Town, Grand Cayman, KY1-1106 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 30th day of June 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 Acknowledgment of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. On the 7th day of September 2010, the Plaintiff entered into a written contract with the Defendant for his services in constructing a perimeter wall at the Plaintiff's residence.
2. Important terms of the contract include that:
 - a. the agreed cost of constructing the wall was CI\$12,000.00;
 - b. construction of the wall was to commence on September 8, 2010 and be completed by December 19, 2010;
 - c. In the event that the Defendant receives a Notice to Proceed from the Plaintiff, the Defendant will complete the construction project within ten days from the date of the Notice to Proceed, and
 - d. In the event that after the Notice to Proceed is issued and the Defendant fails to comply with completing the project, liquidated damages accrue to the Plaintiff in the sum of CI\$200.00 daily until the construction is completed.
3. On the 17th day of September 2010 the Defendant was in breach of the contract by his failure to commence the construction of the wall and approached the Plaintiff with a request for an advance payment on the agreed cost for the construction. In good faith, the Plaintiff paid the sum of CI\$3,000.00 to the Defendant as a deposit for the services to be rendered. The Defendant provided the Plaintiff with a receipt for the payment.
4. The Defendant then delivered or caused to be delivered some construction material to the residence of the Plaintiff. The

construction material included some building blocks and bags of cement.


5. On September 21, 2010 the Defendant again approached the Plaintiff for the balance of funds due under the contract for constructing the wall. Despite the fact that Defendant up to this point failed or neglected to commence construction of the wall the Plaintiff, again in good faith, agreed to advance CI\$9,000.00 to the Defendant. The Defendant provided the Plaintiff with a receipt for the payment.
6. Between the period September 17, 2010 to March 2011 the Plaintiff made repeated requests to the Defendant to either construct the wall or refund the sums paid. In response to the Plaintiff's requests, the Defendant would always make verbal assurances to the Plaintiff that construction would soon commence.
7. On March 15, 2011, the Plaintiff obtained legal representation on account of the fact that the Defendant failed to commence the construction on the wall and failed to refund the CI\$12,000.00.
8. The Plaintiff's legal representative wrote a letter to the Defendant on March 15, 2011 and gave the Defendant a Notice to Proceed as provided in the contract. The Notice to Proceed directed that construction should commence by March 17, 2011 and be completed by March 27, 2011.
9. Despite the Defendant acknowledging receipt of the letter dated March 15, 2011 and the Notice to Proceed, up to the date of filing this plaint the Defendant has yet to commence construction of the wall or refund the Plaintiff the CI\$12,000.00 paid for the construction project.

10. The Plaintiff has suffered loss and damages as a result of the actions of the Defendant in that the construction material left on the ground of the Plaintiff's property is unsightly and encourages rodents. Much of the construction material is no longer fit for use and the Plaintiff has expended additional sums for clean up of his property.
11. The liquidated damages agreed contractually from March 27, 2011 to the date hereof total CI\$19,200.00.
12. The Defendant operates the Archie's Bar and Restaurant on Shedden Road and to the best of the Plaintiff's knowledge he offers construction services to the public. The Defendant therefore should have the means to stand the cost of these proceedings and be able to perform the relief requested.
13. The Plaintiff therefore claims a principal amount of CI\$12,000.00 and interest on the principal amount at the rate of CI\$200.00 per day from March 27, 2011 and continuing until the full debt to the Plaintiff is repaid in full. The Plaintiff also claims costs on an indemnity basis.

AND THE PLAINTIFF CLAIMS:

1. The sum of CI\$12,000.00
2. Interest in the amount of CI\$19,200.00
3. Interest in the amount of CI\$200.00 daily from the date of filing to the date of judgment
4. Costs to the Plaintiff.
5. Such further and other relief as this Honourable Court deems fit.

Dated this 30th day of June 2011



Stacy Thompson
Attorney-at-Law for the Plaintiff

This Writ of Summons and Statement of Claim are issued by Stacy Thompson, Attorney-at-Law for and on behalf of the Plaintiff whose address for service is Unit 207, Elizabethan Square, P.O. Box 12133 APO George Town, Grand Cayman KY1-1010, Cayman Islands. Tel: 345 747-4279/946-0500.

INDORSEMENTS TO WRIT OF SUMMONS

DEBT OR LIQUIDATED DEMAND

The amount claimed in respect of the debt or liquidated demand is \$35,120.00 Cayman Islands Dollars and is comprised as follows:

Principal	\$12,000.00
Interest	\$19,200.00
Legal Fees	\$3,500.00
Filing fee for Writ of Summons	\$ 200.00
Ad Valorem Fee	\$ 120.00
Service of Writ of Summons	\$100.00

If, within the time limited for acknowledging service of this Writ of Summons, the Defendant pays the total amount of \$35,120.00 to the Plaintiff or the Plaintiff's Attorney-at-Law, further proceedings will be stayed.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CIVIL DIVISION

CAUSE NO. 255/11

BETWEEN RODERICK DIXON PLAINTIFF

AND: TREVOR MacINTOSH 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 wrongfully, 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 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

Service of the Writ is acknowledged accordingly

(Signed) _____
[Attorney] for
[Defendant in Person]
Address for service:

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.

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

Stacy Thompson
Attorney-at-Law
Unit 207, Elizabethan Square
P.O. Box 12133
Grand Cayman KY1-1010
Cayman Islands

Tel : 345 747 4279/946 0500
Fax: 345 946 0504

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

**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 495, 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 installments or otherwise.

See over for notes for guidance