

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

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

BETWEEN
AND:

GARTH FEARON
ORION DEVELOPERS LTD

PLAINTIFF
DEFENDANT

456
CAUSE NO. OF 2011

SPECIALLY ENDORSED WRIT OF SUMMONS

TO: THE DEFENDANT: ORION DEVELOPERS LTD, 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 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 22 day of November 2011.

NOTE - This Writ may not be served later than 4 calendar 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. At all material times, the Plaintiff was employed by the Defendant as an Administrative Sales Support Staff. The description of the Plaintiff's contract was set out in an advertisement posted by the Defendant and will be relied on for its full terms and effect as follows:

ORION DEVELOPERS LTD.

Invites applications for the position of:

SALES COORDINATOR

QUALIFICATIONS:

- Minimum 2+ years experience in a Sales/Marketing environment.
- Excellent computer skills including comprehensive knowledge of ACT, Excel, word Perfect, Power Point.
- Outstanding interpersonal and communication skills.
- Excellent written and verbal English communication skills.
- Proficiency with Microsoft products and computer software programs.
- Ability and willingness to work evenings, holidays and weekends as required, to accomplish various objectives.

RESPONSIBILITIES:

- Provide sales and marketing support to the Director of Sales, acting as receptionist/hostess.
 - Field inquiries from interested parties via telephone, internet or direct contact.
 - Manage appointments with potential clients, agents etc.
 - Organize special events for clients: Dinners, Tours, Fishing Trips, Golf, Boat Trips etc.
 - Coordinate the ordering and distribution of sales collateral materials, promotions, gifts, etc.
 - Assist with various public relations events and various private receptions.
 - Supervise & distribute local marketing material, newspaper inserts, etc.
 - Maintain the ACT database and ensure records updated, including preparing comprehensive sales reports and schedules as required.
- Starting salary will be commensurate with experience, in the range of USD25, 000 – USD30, 000 per annum, plus benefits. Caymanians, status holders, individuals married to Caymanians, and Permanent Residents with the Right to Work will be preferred. Please send résumés to the attention of:

Human Resources Manager

Orion Developers Ltd.

PO Box 32319, KY1-1209

George Town, Grand Cayman

Or

E-Mail: bmcfield@residences-cayman.com

NO PHONE CALLS OR EMPLOYMENT AGENCIES PLEASE!

ONLY APPLICANTS SELECTED FOR INTERVIEW WILL BE CONTACTED.”

2. It was the duty of the Defendant to take all reasonable precautions for the safety of the Plaintiff whether under the common law and/or under any statute.
3. On 18 September 2009 and contrary to the terms of the Plaintiff's contract of employment the Plaintiff was instructed by representatives, servants or agents of the Defendant to unload furniture from a 40ft trailer. The furniture was inclusive of items ranging from lawn and pool chairs and tables.
4. At approximately 2:30 p.m. and pursuant to the above instruction, the Plaintiff and another co-worker were unloading a 4 seat wooden square patio table from the trailer. They walked nearly 30 yards with it when the Plaintiff felt a burning sensation in his lower back. He continued working for another hour until an intense pain came over him. This caused the Plaintiff's feet to feel numb resulting in him lying on the concrete floor. The Plaintiff was given pain killers by co-workers but eventually had to be ambulated to the George Town Hospital Emergency Room.

PARTICULARS OF NEGLIGENCE

- (a) Instructing the Plaintiff to perform a task outside the terms of his contract of employment.
 - (b) Exposing the Plaintiff to a risk of damage or injury which exposure breached the Plaintiff's contract as lifting furniture is outside his job description as Administrative Support Staff.
 - (c) Failing to provide a safe place of work for the Plaintiff.
5. Furthermore by the Defendant instructing the Plaintiff to assist with lifting the furniture he was in breach of the Plaintiff's work permit terms. The work permit dated 4 May 2009 allows the plaintiff to work as Real Estate Support Staff.
 6. By reason of the matters aforesaid, the Plaintiff sustained personal injuries and has suffered loss and damage.

PARTICULARS OF INJURIES

7. The Plaintiff's date of birth is 11 August 1967. The Plaintiff suffered a work-related lower-back injury. He has undergone medical treatment including a visit to Florida Spine Institute. The Plaintiff appears to have a lumber-sacro back injury which still needs further treatment to alleviate the pain that he is presently experiencing.
8. The Plaintiff received a termination letter dated 3 February 2010. He is not able to work going forward or obtain suitable replacement employment as a result of this injury. This is due to the fact that the Plaintiff's symptoms are aggravated by bending, coughing, sitting, standing and walking. He has some relief when lying

down. He is only able to stand and walk only for short periods with no or minimal pain.

PARTICULARS OF SPECIAL DAMAGE

Date	Name on Receipt	Paid Amount
	Medical Expenses.	2500.00 JMD
	Physical Therapy Solutions	
18-Sep-09	Cayman Islands Hospital	152.00 CI
25-Sep-09	Cayman Islands Hospital	18.00 CI
1-Oct-09	Norman Manley Int'l Airport Taxi	3,805.00 JMD
2-Oct-09	Dr.Edgar A. Abbott	7,000.00 JMD
6-Oct-09	Medical MRIImaging Services	58,000.00 JMD
8-Oct-09	Aj Marketing Co. Limited	585.00 JMD
9-Oct-09	Physical Therapy Solutions	3,000.00 JMD
12-Oct-09	Physical Therapy Solutions	2,500.00 JMD
16-Oct-09	Tangerine Orthopaedic Services	4,500.00 JMD
16-Oct-09	Dr.Edgar A. Abbott	4500.00 JMD
28-Oct-09	Chrissie Thomlinson Memorial Hospital	75.00 CI
28-Oct-09	Chrissie Thomlinson Memorial Hospital	6.00 CI
30-Oct-09	Dr.Edgar A. Abbot	4,500.00 JMD
2-Nov-09	Physical Therapy Solutions	2,500.00 JMD
6-Nov-09	Physical Therapy Solutions	2,500.00 JMD
9-Nov-09	Physical Therapy Solutions	2,500.00 JMD
6-Nov-09	Taxi Service	2,600.00 JMD
9-Nov-09	Taxi Service	2,600.00 JMD
13-Nov-09	Taxi Service	2,600.00 JMD
13-Nov-09	Physical Therapy Solutions	2,500.00 JMD
13-Nov-09	Dr. Edgar A. Abbott	4,500.00 JMD

Such further medical expenses will be particularised in due course.

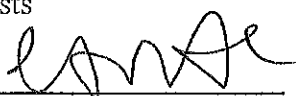
1. Travel expenses – to be particularised in due course.
2. Loss of income from the date of termination of employment to date – to be particularised in due course.

AND the Plaintiff claims

(i) Damages

(ii) Further, pursuant to The Judicature Law (1995 Revision), the Defendant 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.

(iii) Costs


Clyde H. Allen, Chambers

THIS WRIT was issued by Clyde H. Allen, Chambers on behalf of the Plaintiff whose address for service is P.O. Box 31076 SMB, 2nd Floor, Suite 9, Jack & Jill Building, 19 Fort Street, KYI-1205, George Town, Grand Cayman, Cayman Islands.

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ACKNOWLEDGMENT OF SERVICE
OF SPECIALLY ENDORSED 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 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 H. Allen
CHAMBERS
Attorney-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.

[Empty box for defendant's attorney indorsement]