

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 469 OF 2011

BETWEEN: KP'S HEAVY EQUIPMENT LTD.
t/a KP's Quarry

PLAINTIFF

AND: CHESTER M. WATLER T/A
CHESTER'S HEAVY EQUIPMENT SERVICES

DEFENDANT

Writ of SUMMONS



To: CHESTER M. WATLER
P.O. Box 238
Grand Cayman, KY1-1601
Tel 9161529

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 G.T., 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 30th day of November 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.

STATEMENT OF CLAIM

1. That at all material times the Plaintiff was a registered limited Company in the Cayman Islands.
2. That at all material times the Defendant was a businessman operating a business known as Chester's Heavy Equipment Services located at 653 Bodden Town Road, P.O. Box 238, Grand Cayman, KY1-1601, Cayman Islands.
3. Between June 2010 and January 20, 2011 at the request of the Defendant and/or his servants and/or agents, the Plaintiff sold aggregate to the Defendant in the total sum of \$29, 873.80. The Plaintiff made repeated requests for payment which were for the most part ignored by the Defendant except for a recent offer to pay a very small amount, which was unacceptable to the Plaintiff in all the circumstance and the Defendant has failed and refused to pay.
4. The Plaintiff also claims pre-judgement and post-judgment interest on the said amount in accordance with the rate prescribed under the Judicature Law (2007) Revision) and the Judgement Debts (Rate of Interest) Rules.

AND THE PLAINTIFF CLAIMS:

- a. The sum of Twenty-Nine Thousand, Eight Hundred and Seventy Three Cayman Islands Dollars and eighty cents, (CI\$29,873.80).
- b. Interest pursuant to Section 34 of the Judicature Law (2007 Revision) in the amount of CI\$610.70 and increasing at a per diem rate of \$1.94.
- c. Costs

Dated 30th November 2011.

McKinney Reid & Company
McKinney Reid & Company
Attorneys-at-Law for the Plaintiff

This Writ of Summons and Statement of Claim was issued by McKinney Reid & Company, Attorneys-at-Law for the Plaintiff, whose address for service is Suite 224 Elizabethan Square, Shedden Road, P.O. Box 1573 Grand Cayman, KY1-1110, Cayman Islands

INDORSEMENT

The amount claimed in respect of the debt or demand is CI\$29,873.80 as principal and CI\$610.70 as interest until the issue of the Writ of Summons for a total amount of CI\$30,484.50. The amount of the fixed costs is CI\$500.00 and the costs of issuing the Writ of Summons is \$200.00 plus the ad valorem fee of CI\$198.74. If within the time for returning the Acknowledgement of Service, the Defendant pays the Plaintiff or its Attorneys-at-Law the total amount claimed in principal and interest, the fixed costs and the costs of issuing the Writ of Summons, further proceedings will be stayed. The money must be paid to the Plaintiff or to its Attorneys-at-Law.

STATEMENT REGARDING INTEREST

- i. The date from which interest accrues is January 20, 2011.
- ii. The prescribed rate of interest from January 20, 2011 to November 29, 2011 is 2.375% per year. The total interest claimed up until the issuance of the Writ of Summons (November 30th, 2011) is CI\$610.70;
- iii. The amount of interest accruing each day following the issuance of the Writ of Summons is CI\$1.94.

Acknowledgement of service of writ of summons (0.12, r.3)

**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 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 instalments or otherwise.

See over for notes for guidance

Please complete overleaf

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.

BETWEEN: KP'S HEAVY EQUIPMENT LTD.
t/a KP's Quarry

PLAINTIFF

AND: CHESTER M. WATLER T/A
CHESTER'S HEAVY EQUIPMENT SERVICES

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 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

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.

MCKINNEY REID & COMPANY
SUITE 224 ELIZABETHAN
SQUARE
P.O. BOX 1573
GRAND CAYMAN
CAYMAN ISLANDS KY1-1110

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]

Defendant's Signature

REMINDER - This form must be taken or sent to the Court Office, P.O. Box 495, Grand Cayman KY1-1106, CAYMAN ISLANDS within 14 days of receipt otherwise a default Judgement may be entered against you