



IN THE GRAND COURT OF THE CAYMAN ISLANDS

CIVIL DIVISION

CAUSE NO. G0049/2012

BETWEEN: JAMES HURLSTON

PLAINTIFF

AND: CARIBBEAN UTILITIES COMPANY LIMITED

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 6TH day of FEBRUARY 2012

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. The Plaintiff is a natural born Caymanian and has lived in this jurisdiction his whole life.
2. The Defendant is a company duly registered in the Cayman Islands and have operated in this jurisdiction in excess of forty seven years. The Defendant's business is that of the only public electric utility in Grand Cayman. The Defendant is more popularly known as "CUC"
3. The Plaintiff was employed to the Defendant as a Linesman and his duties required him to be on site to various locations across the island.
4. On or about February 10, 2009 the Plaintiff was acting in the course of his employment as a Linesman and was the sole member of a two man team responsible for securing a 450 lb auger to a truck when the Plaintiff, while in the process of conducting his duties, without warning slipped and fell and as a result the 450 lb auger knocked the Plaintiff back approximately 50 feet resulting in bodily injury to the Plaintiff.
5. As a result of the accident the Plaintiff was obliged to attend the emergency room of the George Town hospital, where X rays were conducted, the Plaintiff was treated and discharged with medication.
6. The accident was caused or contributed to by the negligence of the Defendant, its employees or agents acting in the course of their employment.

SPECIAL DAMAGES

18. The Plaintiff's medical expenses, to the date of filing, total CI\$15,000.00. Surgical procedures are the recommended treatment for the Plaintiff's injuries and these have not yet been performed.
19. The Plaintiff also incurred loss due to loss of earnings. The Plaintiff was unable to resume his trade with the Defendant as following the injury the Plaintiff recommenced duties which included the use of a jackhammer, work in buckets, leaning over and pulling. This loading and twisting of the Plaintiff's back increased pain and the Plaintiff was put on light duties by the Defendant as medical opinion was that the Plaintiff was permanently restricted from heavy physical labour.
20. The Plaintiff was assigned lighter duties but could not sit for more than 20 minutes at a time and could not stand for more than 30 minutes at a time without experiencing pain and foot numbness.
21. The Plaintiff suffered from depression and could not effectively do his assigned duties. The Defendant dismissed the Plaintiff in July 27, 2011 as a result of poor work performance.
22. The Plaintiff claims loss of earnings at the rate of approximately CI\$3,200.00 monthly. Approximately seven months have transpired between the date of the accident and filing hereof.
23. Future loss of earnings are foreseeable as the Plaintiff is diagnosed with a Permanent Partial Disability and the Plaintiff, prior to the accident, enjoyed good health and presumed to be able to ply his trade until he attained retirement at 70 years.

AND THE PLAINTIFF CLAIMS:

1. Special damages and General damages

2. Pre Judgment and Post Judgment interest in accordance with Section 34 of the Judicature Law (1995 Revision)
3. Such further and other relief as this Honourable Court deems fit
4. Costs

Dated this 6th day of February 2012

STACY THOMPSON

Stacy Thompson

Attorney-at-Law for the Plaintiff

This Writ of Summons and Statement of Claim are filed by Stacy Thompson, Attorney-at-Law for and on behalf of the Plaintiff, whose address for service is Unit 207 Elizabethan Square, George Town, Grand Cayman, Cayman Islands. Tel: 345 747-4279, Fax 345 949 4279. Email stacythompson@candw.ky

DETAILS OF INJURY

9. The Plaintiff sustained lacerations, pain and bruising to the right side of his body. The impact catapulted him 50 feet and he landed on his right lateral hip/pelvis.
10. Initial hospital diagnosis was of soft tissue damage to the right upper arm.
11. The Plaintiff began to experience agonizing pain in the hips, trunk and lower back radiating to the gluteal area of the right side.
12. The Plaintiff also experienced a left side mirror pain and tingling in both feet.
13. The Plaintiff has significant restriction in range of mobility in the lumbar spine with decreased ability to flex to either side and extend the back.
14. The Plaintiff also has significant restriction in his right hip mobility and his symptoms are most consistent with traumatic mechanical back dysfunction.
15. The Plaintiff continues to be in excruciating pain which recurs on a regular basis and which incapacitates him.
16. The Plaintiff suffers from depression as a result of his physical pain and injuries.
17. The Plaintiff continues to receive medical care for his injuries and fuller particulars will be made available to the court.

**ALLEGATIONS OF NEGLIGENCE AND/OR BREACH OF
STATUTORY DUTY**

7. The Plaintiff claims that the accident was caused by the negligence and/or breach of statutory duty of the Defendant in:
- i. Failing to take appropriate steps to reduce the risk of injury to the lowest level reasonably practicable
 - ii. Failing to warn the Plaintiff of the dangers of working solely when additional personnel was needed on the truck and in the course of the duties or otherwise to prevent him from doing so.
 - iii. Causing, permitting requiring or suffering the Plaintiff to work as above when it was unsafe to do so
 - iv. Exposing the Plaintiff to a danger and a foreseeable risk of injury of which they ought to have known
 - v. Failing to provide for the Plaintiff a safe system of work
 - vi. Failing to devise or institute or operate or ensure the institute or operation of a safe system for loading and unloading the equipment from the truck
 - vii. Failing to take any or any adequate care for the safety of the Plaintiff
8. As a result of the Defendant's negligence, the Plaintiff who is now years of 44 years of age and whose date of birth is the 27th May 1967, suffered pain, injury, loss and damage.

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO. 30049/2012

BETWEEN: JAMES HURLSTON

PLAINTIFF

AND: CARIBBEAN UTILITIES COMPANY LIMITED

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 201 Elizabethan Square
P.O. Box 12133
Grand Cayman KY1-1010
Cayman Islands

Tel : 345 747 4279
Fax: 345 949 4279/ 946 0504
Email stacythompson@candw.ky

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

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 his 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.