

IN THE GRAND COURT OF THE CAYMAN ISLANDS

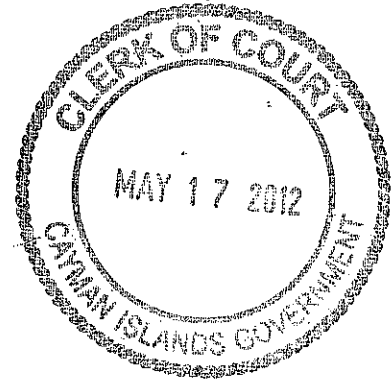
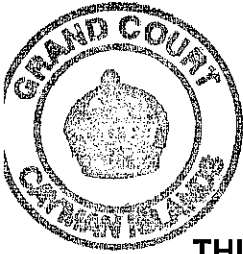
CAUSE NO. ²⁵⁰ OF 2012

BETWEEN: Dr. Clyde Sirju PLAINTIFF

AND: Trincay Medical Services Ltd. DEFENDANT

WRIT OF SUMMONS

TO: Trincay Medical Services Ltd.
Suite 1204 Camana Bay
West Bay Road
Grand Cayman KY1-1207



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 Acknowledge of Service stating therein whether you intend to contest these proceedings.

If you fail to supply the claim or to 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 judgment may be entered against you forthwith without further notice.

Issued this 17 day of MAY 2012.

NOTE – This Writ may be served later 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. THE Defendant is a limited liability company carrying on business as TrinCay Medical Services Ltd., ("Company") providing medical services to the public in the Cayman Islands from its place of business and office at Suite 1204, Camana Bay, George Town, Grand Cayman.
2. The Plaintiff is a medical practitioner, internist, fifty-five years old and was employed by the Defendant to provide medical services through the Company in the Cayman Islands.
3. Dr. Deosoran the Medical Director of the Company has known the Plaintiff for some ten years when both were practitioners in the Island of Jamaica and by virtue of the Plaintiff's expertise which was known to the said Dr. Deosoran, the Plaintiff was encouraged to take up employment with TriniCay Limited. He did so on or about the 14th of January 2010.
4. By the Terms of the Understanding and the statements made to the Plaintiff, Plaintiff was led to believe that he would be given a five year work permit but in the interim for expeditious purposes prior to assuming duties he was to have a six month temporary work permit. This six month permit was applied for and obtained. There were several terms that were orally agreed. The most important of which was the remuneration. The Plaintiff was to be employed at a salary of CI\$12,000 per month.
5. The Plaintiff endeavoured to obtain a written contract. A draft contract was provided but the Plaintiff was unhappy with some of the terms and the parties could not agree the final terms of the contract. Consequently it was never reduced to writing.
6. The Plaintiff was in fact paid CI\$12,000 a month.
7. An 'on-call' allowance of CI\$600 per month was agreed to paid to the Plaintiff on various months.
8. Vacation pay was also agreed to and paid to the Plaintiff.

9. The terms of overtime payments were not agreed to.
10. As the terms were never reduced to writing, no express provision was made as to the payment of the salary during absence or illness or otherwise but it was an implied term of the agreement that temporary illness should not terminate the contract and that full salary should continue to be paid during any such absences or temporary illness.
11. The Plaintiff took up his duties on 14 January 2010 and continued to perform the said duties, including advertising, and promoting the Company and its services by making speeches and touring the many medical facilities in the Cayman Islands. In short he was promoting business to enhance the Company's revenues.
12. During the course of the Plaintiff's working life at Trincay he had some family medical issues and safety concerns and was forced to depart the Island on two occasions as a matter of urgency.
13. The Plaintiff's departures were known to and where appropriate authorized by the Defendant. One of the departures was warranted by issues of health of the Plaintiff's son in Canada followed by the Plaintiff's own illness whilst away from the Islands for which the Plaintiff produced medical certificate to the Defendant in confirmation of his illness. On another occasion, the Plaintiff's departure was the result of the need to protect his family during an uprising in Jamaica, where the Plaintiff's wife was continuing to reside pending her planned migration to the Cayman Islands.
14. The Plaintiff returned to Cayman and continued to carry on his duties, but the Defendant did not accommodate him as warmly as previously. The Defendant did not provide him with an opportunity to discuss the terms of the contract. Despite several requests no effort was made to reach an amicable settlement in order to ensure that a written contract was in place. This was in breach of the Cayman Islands Labour Law.
15. The Plaintiff's departure was necessitated on the 4th of July 2010 as a result of his temporary work permit expiring and his renewal permit not being

applied for in a timely manner by the Defendant. The Plaintiff was advised and verily believed that once the work permit had expired he was required to leave the island until authorization of a renewal and that until renewal was granted he could not work and should be off the island under the Immigration Law.

16. The Defendant in or about 1 July 2010, continued to advise the Plaintiff that he could break the law and stay in the island and continue employment because the Defendant would ensure that he would eventually get a work permit. Even at this time the Defendant was anxious to retain the Plaintiff's services and assured him that a work permit was being applied for. A work permit for a one year permit was in fact applied for and granted in July 2010.
17. That the Plaintiff temporarily departed the island on the 4th of July 2010 for a period which included a long weekend holiday in order not to breach the Immigration Law with every intention of returning to his employment in lieu of the work permit he was promised.
18. That the Plaintiff returned to employment on 7 July 2012 and was served a termination letter on the 9th of July 2010 terminating his employment as of the 15th of July 2010. The letter was dated the 1st July 2010. The Plaintiff will rely on these letters at the trial of this issue.
19. That from the commencement of his employment to January 2010, the Plaintiff had not received any letters of complaint nor was he ever advised that his performance was not satisfactory nor indeed were there ever any complaints, brought to his attention. The letter of the 1st of July 2010 (and brought to the Plaintiff's attention on 9 July 2010) was a general letter, thanking the Plaintiff for his service, giving no specifics for the termination other than that the recession was the reason for the Plaintiff being terminated.
20. In the premise the Defendant has wrongfully dismissed the Plaintiff and has repudiated his contract with him which repudiation the Plaintiff has accepted, by the issuance of the writ herein.

21. By reason of the matters aforesaid the Plaintiff took the matter to the Department of Employment Relations Conciliations and Mediation Unit, which ruled on 5 March 2012 that the Plaintiff was wrongfully dismissed.

22. The Plaintiff now sues for the damages as a result of the wrongful dismissal, and breach of the requirements of the Labour Law.

AND Particulars of Special Damage:

- a) Salary of three months in lieu of notice in the sum of CI\$36,000.
- b) Overtime unpaid in the sum of CI\$10,500.
- c) Monies wrongfully deducted by the Defendant from the Plaintiff's salary in the sum of CI\$4,522.
- d) On Call payment for 4 months not paid by the Defendant in the sum of CI\$2,400
- e) Loss of wages due to notice of termination lacking the three months notice in the sums of CI\$12,600.

AND The Plaintiff also claims general damages for breach of contract and interest thereon to be paid.

Costs.



Hanson P. Ebanks
Attorney-at-Law

**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE
OF WRIT OF SUMMONS**

1. The accompanying form of Acknowledgement of Service should be completed by an Attorney on behalf of the Defendant or by Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, PO 495G, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement 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 not endorsed 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 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 Acknowledgement, 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 overleaf for notes for guidance

Please complete overleaf

Notes of Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement 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 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 form 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 authorized to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney 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. The Defendant acting in person may obtain help in completing the form at the Court Office.

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.

Hanson P. Ebanks Attorney-at-Law A4 Queen's Court, West Bay Road Grand Cayman, KY1-1202, 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.

--