

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. GC0042 OF 2015

BETWEEN:

PAUL RODRIGUES

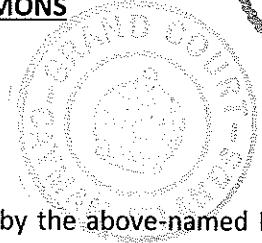
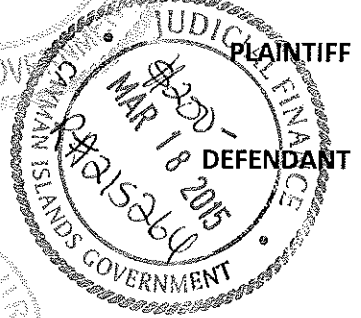
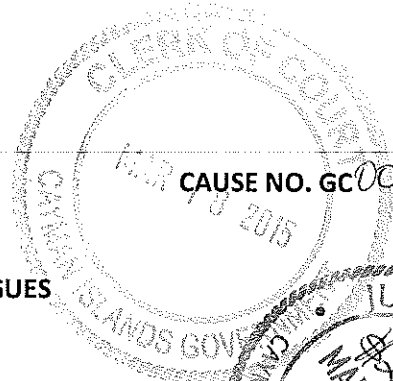
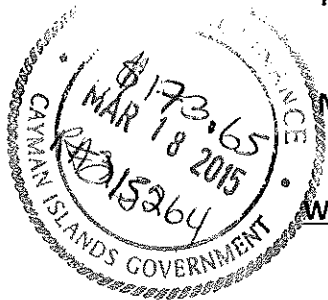
AND

MERLIN SEYMOUR

WRIT OF SUMMONS

TO:

Merlin Seymour  
George Town  
Grand Cayman



**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 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 Acknowledgement of Service, stating therein whether you intend to contest these proceedings.

*If you fail to satisfy the claim or 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      day of March 2015

**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. On the 16<sup>th</sup> day of June 2010 the defendant and MPM Construction Ltd. entered into a Bill of Sale for the loan of US\$62,210 plus associated costs with the said sum to be advanced by way of transfer of chattels as listed:
  - 1.1 John Deere 744E Wheel Loader s/n 744EB000343
  - 1.2 Kent KF22 Hydraulic Hammer s/n 1530
2. On 27 September 2013 MPM Construction Ltd assigned its interest in the Bill of Sale to the plaintiff and on the same date gave written notice of the assignment to the defendant.
3. By a further agreement in writing undated but having been signed on or around the 1<sup>st</sup> October 2013 and made between the plaintiff and the defendant in consideration of the plaintiff agreeing to forego his claim against the defendant for breach of contract upon the executed Bill of Sale dated 16<sup>th</sup> June 2010 and to withhold the commencement of proceedings to enforce such claim against the defendant, the defendant agreed to pay the plaintiff the sum of USD\$66,288.71 in full and final satisfaction of his claim.
4. Pursuant to the agreement and not otherwise the plaintiff did not commence proceedings to enforce his claim against the defendant.
5. The said sum of USD\$66,288.71 was to be paid as follows:
  - 3.1 \$7,500 by postdated cheque 4<sup>th</sup> October 2013
  - 3.2 \$8,500 by postdated cheque dated 11<sup>th</sup> October 2013
  - 3.3 The balance of USD\$50,288.71 with interest at 4% per annum on the reducing balance by way of monthly installments of USD\$3,000 commencing 11<sup>th</sup> November 2013 and on the 11<sup>th</sup> of each month thereafter.
  - 3.4 That notwithstanding 3.3, any balance outstanding on 31<sup>st</sup> July 2015 was to be paid in full on or before that date.
6. But the defendant has wrongfully failed and refused to pay any money to the plaintiff since July 2014 and as at the 10<sup>th</sup> July 2014 the sum of USD\$27,363.62 was owing to the plaintiff. Such sum remains due and owing to the plaintiff.
7. The plaintiff also claims interest on the sum of USD\$27,363.62 from 10<sup>th</sup> July 2014.

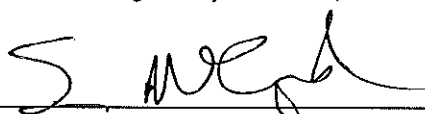
**STATEMENT REGARDING INTEREST**

8. The Plaintiff seeks pre and post judgment interest from the date of default in accordance with the Judicature Law (2013 Revision) and the Judgment Debt (Rates of Interest) Rules as amended from time to time.
- a. The interest rate claimed as per the agreement is 4% per annum.
  - b. The amount of interest owing at date of issue of this Plaint is USD\$740.67.
  - c. The amount of interest accruing each day following the issue of this Plaint is USD\$2.99.

**AND THE PLAINTIFF CLAIMS:**

- (i) The said sum of USD\$27,363.62.
- (ii) Pre and post judgment Interest on the said sum of USD\$27,363.62 in accordance with the contract terms and the Judicature Law (2013 Revision) and the Judgment Debt (Rates of Interest) Rules as amended from time to time.
- (ii) Costs plus filing fees and bailiff's fee for service.

Dated this 18<sup>th</sup> day of March, 2014



**SAMSON & McGRATH**

Attorneys-at-Law for the Plaintiff

BETWEEN:

PAUL RODRIGUES

PLAINTIFF

AND

MERLIN SEYMOUR

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. Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.**

1. State the name of the Defendant by whom or on whose behalf the service of this Writ is being acknowledged.

2. State whether the Defendant intends to contest the proceedings (tick the 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 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 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:*

SAMSON & MCGRATH  
5<sup>th</sup> FLOOR GENESIS BUILDING  
GENESIS CLOSE  
PO BOX 446  
GRAND CAYMAN KY1 - 1106  
CAYMAN ISLANDS

*Endorsement 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 endorsement]

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.