

IN THE GRAND COURT OF THE CAYMAN ISLANDS **60167**
CAUSE NO. OF 2016

BETWEEN: MARSENA HYDES **Plaintiff**
AND: HIVEN CARTER T/A
CAYMAN PAINTERS & CONSTRUCTION **Defendant**



WRIT OF SUMMONS



TO: Hiven Carter T/A Cayman Painters & Construction
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 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 th 8 day of ^{Sept.} 2016

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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS G0167
CAUSE NO. OF 2016

BETWEEN: MARSENA HYDES **Plaintiff**

AND: HIVEN CARTER T/A
CAYMAN PAINTERS & CONSTRUCTION **Defendant**

STATEMENT OF CLAIM

1. The Plaintiff is and was at all material times the owner of a dwelling house situated at 121 Scholars Drive, West Bay, Grand Cayman.
2. The Defendant was at all material times carrying on business as Cayman Painters & Construction.
3. On or about the 3rd September 2015 the Defendant enter into an agreement with the Plaintiff to carry out substantial Renovations and Repairs to the Plaintiffs said dwelling house inclusive of the Roof, porch and fence.
4. It was an express term of the said agreement that the Defendant would commence the work on the 28 September 2015 and substantially complete the work on or before 30th October 2015.
5. The agreed price between the Plaintiff and the Defendant for material and Labour to perform the said work was the sum of CI\$ 44,680:00.
6. Payment of the said sum of CI\$ 44,680:00 by the Plaintiff was agreed to be by the following installments:

- A) CI\$ 22,290:00 on 23 September 2015;
- B) CI\$ 11,145:00 once the work reached 75% completion;
- C) CI\$ 11,145:00 on completion of the work.

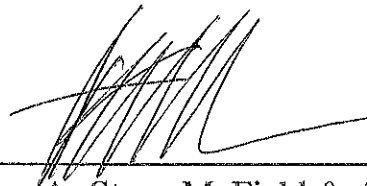
7. It was also an expressed term of the Agreement between the Plaintiff and the Defendant that the Defendant shall complete the work in a workmanship manner and in compliance.
8. In compliance with the said agreement, the Plaintiff paid the Defendant the sum of CI\$ 44,680:00.
9. The Defendant after receiving the said sum of CI\$ 44,680:00 from the Plaintiff started the said work. However, the Defendant removed the roofing of the said house removed the ceiling, removed insulation ducking, and wall panels, but did not return to finish the said work or to make the said house safe from destruction of the rain and the elements.
10. Further, the Defendant began work on the said fence, but abandoned it leaving steel rods and debree strewn all over the Plaintiff yard in a dangerous and unsafely manner.
11. The Defendant left the Plaintiff's said house in such a state of unrepair that, the said house became flooded with Rain water because no sufficient provision was made by the Defendant for keeping the water from damaging the Plaintiff's furniture fittings and appliances. The Defendant was aware of these facts, or had he exercise due care and skill he would have ascertained and been aware of them. He was also aware that the to secure the porch was an important part of the said house that unless the porch is dry and the water kept out, damage would be caused to the interior of the house.
12. The Defendant is guilty of negligence and breach of his duty and contract to and with the Plaintiff in the following Respects:

- a) Failing to replace and or to repair the Roof to prevent flooding inside the house
 - b) He omitted to provide for any, or in the alternative any proper or, sufficient, means of keeping out the rain and preventing the said house from being flooded
 - c) He omitted to construct the parch, so that it could protect the said house
 - d) He omitted during the brief construction of the work to ascertain and remedy the aforesaid omissions
 - e) He failed to finish the work and to take adequate precaution to secure the said work site.
13. In consequence the Plaintiff has suffered and continues to suffer serious loss and damage. The said house will require extensive work to make it habitable. The furniture has been destroyed inside walls and floors have been damaged and deteriorated.
14. Further, the Plaintiff has lost the payment made to the Defendant. And as a consequence of the Defendant's negligence, the Plaintiff will have to engage another contractor to finish the work. That contractor will have to estimate the dollar amount to finish the work negligently done by the Defendant.
15. The Defendant is also guilty of negligence and breach of his duty and contract to and with the Plaintiff in that instead of finishing the said work the Defendant took the Plaintiff's money and left the work unfinished and negligently and improperly refused to comply with the numerous request by the Plaintiff to finish the said work or and to return the money paid to him of which he had not earned.
16. By reason of the Plaintiff's negligence and breach of Contract the Plaintiff has suffered loss and damages.

And The Plaintiff Claims:

1. Return of the Sum of CI\$ 44,680:00 paid to the Defendant.
2. The amount that will be required to finish the said work.
3. Pre Judgment and Post Judgment interest on the said sums of CI\$ 44,680:00 pursuant to the Grand Court Rules.
4. Damages.
5. Cost
6. Such further or other relief as the Court deem proper.

Dated this 17 day of August 2016



A. Steve McField & Associate
Attorney-at-Law for the Plaintiff

To: The Clerk of the Court
And To: The Defendant,
George Town,
Grand Cayman

THIS Statement of Claim was FILED by A. STEVE MCFIELD & ASSOCIATES of P.O. Box 680 GT, Grand Cayman, KY1-1107, Cayman Islands, Suite D2, Cayman Business Park, 10 Huldah Avenue, Attorneys-at-Law, whose address for service is that of his said Attorney-at-Law.

IN THE GRAND COURT OF THE CAYMAN ISLANDS **G0167**
CAUSE NO. OF 2016

BETWEEN: MARSENA HYDES **Plaintiff**

AND: HIVEN CARTER T/A
CAYMAN PAINTERS & CONSTRUCTION **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 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*)

Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for

[Defendant in person]

Address for service:

Notes on address for service

Please complete overleaf

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.

A. Steve McField & Associates
Suite D2, Cayman Business Park,
10 Huldah Avenue,
P.O. Box 680 GT,
KY1-1107, Grand Cayman,
Cayman Islands

Indorsement by plaintiff's Attorney (or by plaintiff if suing in person) of his name, address and reference, if any, in the box below.

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.