

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. *G0196* OF 2016

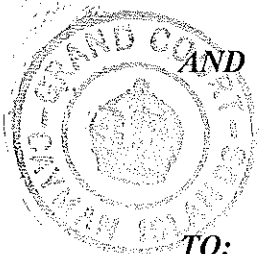
BETWEEN PHILIP CLARK t/a CLARK's TOURS

PLAINTIFF

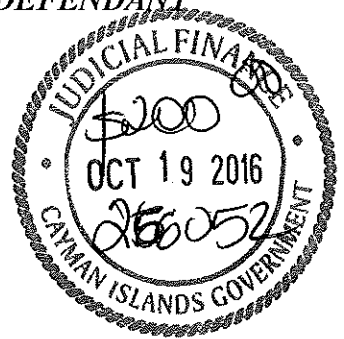
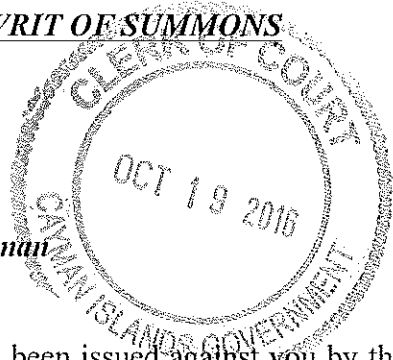
AND LEONARDO CLARK

DEFENDANT

WRIT OF SUMMONS



TO: LEONARDO CLARK  
c/o Leo's World  
Dorcy Drive  
Industrial Park  
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 judgement may be entered against you forthwith without further notice.*

Issued this *18* day of *October* 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 Acknowledgement of Service are given with the accompanying form.

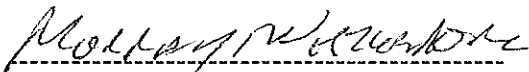
**ENDORSEMENT**

The Plaintiff claims against the Defendant for an accounting of all moneys and properties obtained by the Defendant between April 2016 to date on behalf of Clark's Tours, the return of property belonging to Clark's Tours removed by the Defendant on or about the 1<sup>st</sup> September 2016 and for an Order prohibiting the Defendant from using the name "Clark's Tours" or on derivative thereof, or soliciting or engaging in any activity in the name of Clark's Tours.

***AND THE PLAINTIFF CLAIMS:***

1. An accounting of all moneys and properties obtained by the Defendant between April 2016 to date on behalf of Clark's Tours;
2. Interest on any sum obtained by the Defendant and not credited to the account of Clarks Tours;
3. The return of properties belonging to Clarks Tours and unlawfully removed by the Defendant on or about the 1<sup>st</sup> day of September 2016;
4. An injunction barring the Defendant from trading in or using the name Clarks Tours or any variation thereof or holding himself out as being involved in or having authority to act on behalf of Clark's Tours;
5. Costs.

Dated this 17<sup>th</sup> day of October 2016



Murray & Westerborg  
Plaintiff's Attorneys-at-Law

*IN THE GRAND COURT OF THE CAYMAN ISLANDS*

*CAUSE NO. OF 2016*

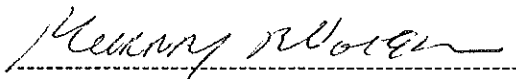
*BETWEEN PHILIP CLARK t/a CLARK's TOURS PLAINTIFF*  
*AND LEONARDO CLARK DEFENDANT*

**STATEMENT OF CLAIM**

1. The Plaintiff, a licensed Tour Operator, is a resident of the Cayman Islands and operated as Clark's Tours since 2005 and since 2009 held a Trade and Business Licence in the name of Clark's Tours. The Plaintiff is also the father of the Defendant.
2. The Defendant is a resident of the Cayman Islands and the son of the Plaintiff.
3. In 2014 the Plaintiff added the Defendant to his Trade & Business Licence, "Clark's Tours" and employed the Defendant in the capacity of driver for the said business.
4. It was agreed between the parties that the Defendant would enter into certain agreements with third parties on behalf of Clark's Tours and that the proceeds from such agreements would be shared equally between the parties.
5. As part of that agreement the Defendant was required to provide the Plaintiff with a monthly printout of all transactions entered into by him in the name of Clark's Tours.
6. The Defendant duly provided such printouts until April 2016.
7. The Plaintiff made repeated requests of the Defendant for the accounting since April 2016 but was and had been unable to obtain the same to date.
8. On or about the 1<sup>st</sup> day of September 2016 the Plaintiff again made request of the Defendant for the accounting but received none. Following a discussion between the parties the Plaintiff advised the Defendant to cease working for Clark's Tours and to return the bus belonging to the Plaintiff to his home.
9. On the said 1<sup>st</sup> September 2016 the Plaintiff wrote to the Transportation Board advising them that the Defendant was no longer in his employ and requesting the rescinding and recall of his licence to operate as a driver for the Clark's Tours.
10. In complying with the Plaintiff's request to return the bus the Defendant unlawfully removed rims on the bus as well as the signage on the side of the bus with the name Clark's Tours emblazoned on it, which are the properties of Clark's Tours.
11. Despite requests for the Defendant to return the said items to the Plaintiff in an undamaged state the Defendant has failed to act in accordance with the demands.
12. On The 10th October members of the Transportation Board called the Plaintiff to the Dock.

13. On arrival the Plaintiff observed the Defendant and another man on the Dock with signage in the name of Clark's Tours.
14. Enquiry was made of the Plaintiff by members of the Transportation Board as to whether or not the Defendant or the man with him were engaged by the Plaintiff to solicit passengers on behalf of Clark's Tours.
15. The Plaintiff advised the members of the Transportation Board that he had given no such authority.
16. The Defendant and the man were both advised by members of the Transportation Board to cease soliciting passengers and to leave the Dock.
17. The Defendant, in leaving the Dock, advised the members of the Transportation Board that he had the permission of a senior member of the Port Authority to be on the Dock.
18. Later that day the Plaintiff, in the course of his activities as a Tour Operator, returned to the dock and found the Defendant there.
19. The Plaintiff has since discovered that the Defendant has established a Facebook account in the name of Clark's Tour.
20. The Plaintiff has at no time authorised the creation of such an account.
21. The Plaintiff, subsequent to the discussion between the Defendant and him on the 1<sup>st</sup> September 2016, discovered that the Defendant had made unauthorized withdrawals from the Clarks Tours accounts at the Cayman National Bank.
22. In the circumstances the Plaintiff seeks an Order in terms of the Writ of Summons and such other Orders as the Court deems just and appropriate in all the circumstances.

Dated the 17<sup>th</sup> day of September 2016



Murray & Westerborg  
Plaintiff's Attorneys-at-Law

THIS STATEMENT OF CLAIM was filed by Murray & Westerborg, Attorneys-at-Law, for and on behalf of the Plaintiff, whose address for service is that of his said Attorneys-at-Law, the Second Floor (South West Wing) Cayman Shipping Centre Building, 10 Shipping Lane, George Town, Grand Cayman.

Acknowledgment of service of writ of summons (O.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 PHILIP CLARK t/a CLARK's TOURS PLAINTIFF

AND LEONARDO CLARK 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 wrongly, ***THIS FORM MAY HAVE TO BE RETURNED.***

Delay may result in judgement being entered against a Defendant whereby he May have to pay the costs of applying to set it aside.

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 judgement entered by the Plaintiff (tick box).

yes

Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for

[Defendant in person]

Address for service:

*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 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.

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

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