

IN THE GRAND COURT OF THE CAYMAN ISLANDS

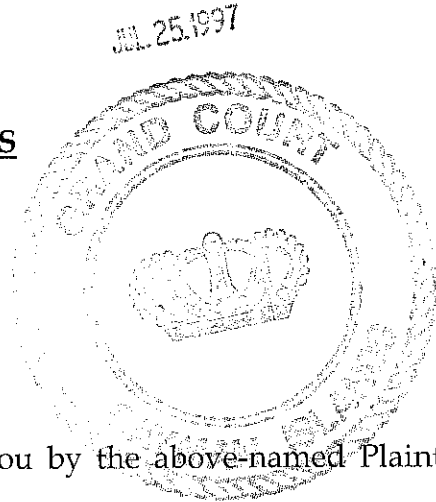
CAUSE NO. 604 OF 1997

BETWEEN: HUDSON ROY WARREN PLAINTIFF

AND: THOMPSON SHIPPING CO. LTD DEFENDANT

WRIT OF SUMMONS

TO: Thompson Shipping Co. Ltd.  
PO Box 1708  
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, PO Box 495, 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 24<sup>th</sup> day of July 1997

**IMPORTANT**

Directions for Acknowledgment of Service are given with the accompanying form.

## STATEMENT OF CLAIM

1. On 19<sup>th</sup> June 1992 the Plaintiff and one Wilbur M. Thompson ("Thompson") for and on behalf of the Defendant orally agreed that the Defendant would employ the Plaintiff as Chief Executive Officer of the Thompson Group of Transportation Companies ("the Group") on terms which the Plaintiff subsequently recorded in a written memorandum ("the Memorandum") sent to Thompson on or about 24<sup>th</sup> June 1992 ("the Agreement").
2. For the avoidance of doubt, the Plaintiff will say that the Agreement was made:-

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- (a) with the Defendant alone; alternatively
  - (b) with the Defendant in partnership with the other companies in the Group, and that the Defendant's liability to the Plaintiff under the Agreement as one of those partners is both a joint and a several one.
3. There were express terms of the Agreement (as recorded in the clauses in the Memorandum particularised below) *inter alia* as follows:-

- (a) The Defendant would pay the Plaintiff a base salary of CI\$110,000 per annum in 24 instalments of CI\$4,583.34 (clause B);
- (b) Each year, the local cost of living index would be reviewed with the base salary being adjusted upwards by the same percentage increase as in the index (clause T);
- (c) The Defendant would reimburse the Plaintiff for the costs involved in selling his residence in Florida (including broker/realtor fees, legal fees, title insurance, post move maintenance expenses, and losses on resale and the like), such costs

(hereinafter "relocation expenses") to be grossed-up by 35% to cover the Plaintiff's tax liabilities (clause P);

(d) The Defendant would establish a retirement savings plan within 12 months of the Plaintiff commencing employment, under which the Plaintiff could contribute up to 10% of his base salary with a "dollar for dollar matching contribution" being made by the Defendant (clause O);

(e) The Defendant would provide the Plaintiff with a "utility allowance" in the amount of CI\$575 per month (clause K);

(f) In the event of an "involuntary separation" (i.e. termination of the employment other than by the decision of the Plaintiff) the Defendant would pay the Plaintiff *inter alia*:-

(i) a sum equivalent to at least 12 months salary and allowances;

(ii) for any unused vacation and sick/personal days; and

(iii) all vested amounts in the Retirement Savings Plan

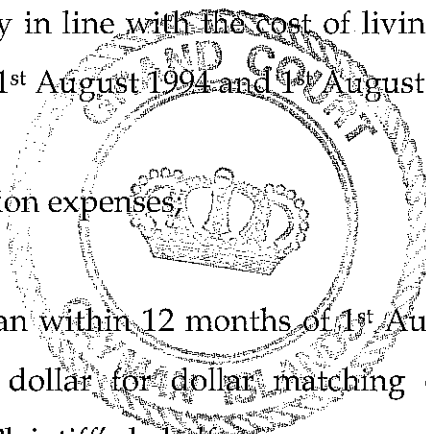
(clause W).

4. The Plaintiff commenced employment with the Defendant pursuant to the terms of the Agreement on or about 1<sup>st</sup> August 1992.

5. On or about 27<sup>th</sup> June 1995, the Plaintiff had a meeting with *inter alia* Thompson and the Group's Attorney-at-Law one Karin Thompson ("the Meeting") at which Thompson told the Plaintiff that:-

- (a) the Group was down-sizing its operation; and
  - (b) as a result, the Defendant had chosen to initiate "involuntary separation" with regard to the Plaintiff's employment; but
  - (c) the Defendant would honour the commitments in the Memorandum.
6. The Plaintiff worked for the Defendant until the end of September 1995 when his employment determined in accordance with the decision communicated to him at the Meeting.
7. Wrongfully and in breach of the Agreement the Defendant failed and neglected:-
- (a) to increase the Plaintiff's base salary in line with the cost of living index for the years commencing 1<sup>st</sup> August 1993, 1<sup>st</sup> August 1994 and 1<sup>st</sup> August 1995;
  - (b) to reimburse the Plaintiff his relocation expenses;
  - (c) to establish a retirement savings plan within 12 months of 1<sup>st</sup> August 1992 or at all, and thereby avoided making dollar for dollar matching or indeed any contributions to such a plan on the Plaintiff's behalf;
  - (d) to pay the Plaintiff his utility allowance for September 1995;
  - (e) to pay the Plaintiff on his involuntary separation from the Defendant at the end of September 1995:-
    - (i) a sum equivalent to 12 months salary and allowances;

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(ii) in respect of his 20 unused sick/personal days, and/or in respect of 4 ½ weeks untaken holiday.

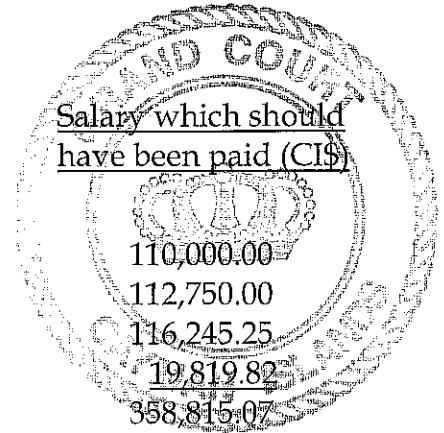
8. In the premises, the Defendant is indebted to the Plaintiff in the sums set out below and/or the Plaintiff has suffered loss and damage in those or similar sums.

PARTICULARS

JUL. 25. 1997

I. UNDERPAYMENT OF SALARY

	<u>Date</u>	<u>Salary paid</u> (CIS)	<u>Cost of living</u> <u>increase</u>	<u>Salary which should</u> <u>have been paid (CIS)</u>
i.	1.8.92-31.7.93	110,000.00	N/A	110,000.00
ii.	1.8.93-31.7.94	110,000.00	2.5%	112,750.00
iii.	1.8.94-31.7.95	110,000.00	3.1%	116,245.25
iv.	1.8.95-31.7.96	<u>18,333.33</u>	2.3%	<u>19,819.82</u>
		348,333.33		358,815.07
	Total underpayment			CIS <u>10,481.74</u>



II. NON-PAYMENT OF RELOCATION EXPENSES

i.	Total Relocation Expenses	-	CIS 37,567.45
ii.	Partial Reimbursement (July 94)	-	CIS 16,800.00
	Total unpaid	-	CIS <u>20,767.45</u>

III. NON-CONTRIBUTION TO RETIREMENT SAVINGS PLAN

If plan had been established by 1.8.93 and the Defendant had contributed a sum equivalent to 10% of Plaintiff's salary thereto:-

<u>Dates</u>	<u>Salary (CI\$)</u>	<u>10% thereof (CI\$)</u>
i. 1.8.93-31.7.94	112,750.00	11,275.00
ii. 1.8.94-31.7.95	116,245.25	11,624.53
iii. 1.8.95-30.9.95	19,819.82	1,981.98
Total unpaid:-		CI\$ <u>24,881.51</u>

IV. UTILITY ALLOWANCE; SEPTEMBER 1995

Total unpaid:- CI\$ 575.00

V. TERMINATION PAYMENTS

i. One year's salary - at least,	CI\$118,918.89
ii. One year's benefits - at least equivalent to 20% of salary	CI\$ 23,783.78
iii. 20 unused sick/personal days	CI\$ 9,147.61
iv. 4 ½ weeks untaken holiday	CI\$ 10,291.06
Total unpaid	CI\$ <u>162,141.34</u>

VI. TOTAL DUE AND/OR DAMAGES CLAIMED CI\$218,847.04

9. Further or in the alternative, the Plaintiff claims and is entitled to severance pay in accordance with sections 40 and 41 of the Labour Law (1996 Revision) being  $3 \times (CI\$118,918.89 \div 52) = CI\$6,860.71$ .

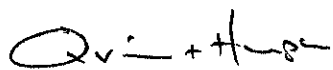
10. Moreover, the Plaintiff is entitled to and claims interest pursuant to section 34 of the Judicature Law (1995 Revision) on the said sums of CI\$218,847.04 and CI\$6,860.71 at the rate of  $8 \frac{3}{8}\%$  per annum from 1<sup>st</sup> October 1995 until 31<sup>st</sup> January 1996, amounting to CI\$6,370.06, and at the rate of  $7 \frac{3}{8}\%$  per annum from 1<sup>st</sup> February 1996 until the date

hereof, amounting to the further sum of CI\$23,304.32, and continuing hereafter until judgment or sooner payment at the rate of CI\$45.61 per day; alternatively on the amount found to be due to the Plaintiff at such rate and for such period as may be just.

AND THE PLAINTIFF CLAIMS:-

- (1) The said sums of CI\$10,481.74 and/or CI\$20,767.45 and or CI\$24,881.51 and/or CI\$575.00 and/or CI\$162,141.34; and/or
- (2) Damages for breach of contract in a like amount or in such other amount as the Court shall determine; and/or
- (3) The said sum of CI\$6,860.71 pursuant to the Labour Law (1996 Revision); and
- (4) Pre-judgment interest, in accordance with section 34 of the Judicature Law (1995 Revision) as aforesaid in the amount of CI\$29,674.38 and continuing in the sum of CI\$45.61 per day;
- (5) Post-judgment interest in accordance with section 34 of the Judicature Law (1995 Revision);
- (6) Further and/or other relief;
- (7) Costs.

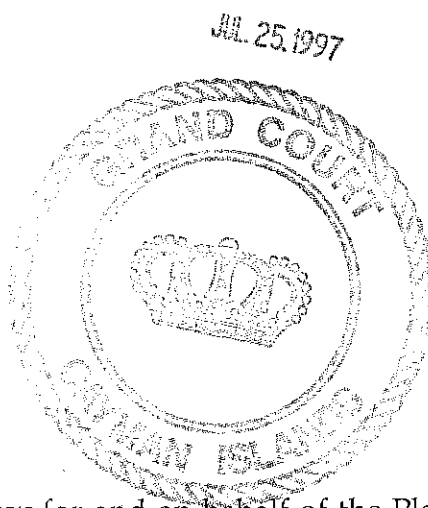
Dated this 24<sup>th</sup> day of July 1997.



QUIN & HAMPSON  
Attorneys-at-Law for the Plaintiff

TO: The Clerk of the Court

AND TO: Thompson Shipping Co. Ltd.  
PO Box 1708 GT  
Grand Cayman



Filed by Quin & Hampson, Attorneys-at-Law for and on behalf of the Plaintiff herein whose address for service is Third Floor, Harbour Centre, PO Box 1348, George Town, Grand Cayman, Cayman Islands, BWI.

BETWEEN: HUDSON ROY WARREN PLAINTIFF

AND: THOMPSON SHIPPING CO. LTD. 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 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

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 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.*

Messrs. Quin & Hampson  
Attorneys-at-Law  
Third Floor, Harbour Centre  
P.O. Box 1348  
George Town,  
GRAND CAYMAN

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

Quin + Hampson  
3rd Floor, Harbour Centre  
PO Box 1348  
George Town  
Grand Cayman

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 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.