

**IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION**

CAUSE NO: 130 OF 2019
LEGAL AID NO. LACV0112/2018

BETWEEN:



VALENTINE STERLING

AND:

CAYMAN ISLANDS ROOFING LTD



DEFENDANT

WRIT OF SUMMONS

TO: Cayman Islands Roofing Ltd
T/A CIR
Block 38C, Parcel 104, 10 Easy Street, Bodden Town
Grand Cayman, Cayman Islands

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff of 203 Berry Drive, Bodden Town, Grand Cayman 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 01ST day of August 2019.

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.

STATEMENT OF CLAIM

1. The Plaintiff was at all material times employed by the Defendant as a Roofer, he was assigned to undertake work at a property on Canal Point Drive, Grand Cayman.
2. On the 16th March 2018 at approximately 2pm, the Plaintiff, whilst acting in the course of his employment was working on the roof of the property attaching fascia wrap with the assistance of a colleague.
3. To enable him to attach the fascia wrap, he was standing three or four rungs down from the top of a ladder holding a screw gun in one hand and using the other to hold the fascia board in place. The other end of the fascia board was being held by his colleague who was standing on the roof itself. As he was in the process of attaching the fascia board, the bottom of the ladder slid out causing him to fall to the ground approximately 12 feet below, landing on top of the ladder.
4. The accident and resulting injury were caused by the negligence of the Defendant, their employees or agents acting in the course of their employment.
5. Particulars of Negligence
 - (a) Failing to take any or adequate precautions for the safety of the plaintiff when he was engaged in the work as directed to undertake;
 - (b) Failing to provide a fall protection system or personal fall arrest system for the plaintiff whilst working at a height over 6 feet;
 - (c) Failing to provide scaffolding when requiring the Plaintiff to work on an uneven surface and at a height.
 - (d) Failing to provide the Plaintiff with any suitable or sufficient means for arresting his fall when he was working in excess of 10 feet above the ground;
 - (e) Failing to provide or maintain a safe and proper system of work;
 - (f) Failed to provide appropriate or adequate equipment for the purpose of undertaking the task;
 - (g) Failed to provide or maintain for the Plaintiff safe or adequate equipment;
 - (h) Exposed the Plaintiff to a danger or a trap and a foreseeable risk of injury.
6. Further or in the alternative, the Defendant was in breach of their statutory duty of care under The Labour (Occupational Safety and Health) (Construction Industry) Regulations 2008 in that they: -
 - (a) In breach of Section 8(a) failed to ensure that the site was free from recognizable hazards that are likely to cause death or serious injury to operatives or the general public;
 - (b) In breach of Section 8(d) failed to ensure suitable and safe working systems were instituted and followed.

7. Further, the Defendant owed to the Plaintiff a statutory duty to provide health insurance for the Plaintiff during the course of his employment pursuant to Section 5(2) of the Health Insurance Law (2016 Revision).
8. By reason of the aforesaid, the Plaintiff aged 39, date of birth is the 24th July 1979 has suffered personal injury, loss and damage.

Particulars of General Damage

9. The Plaintiff was taken to the Accident and Emergency Department of George Town Hospital by ambulance.
10. He was diagnosed as having suffered a broken hip, broken arm and fractured wrist. He also suffered lacerations to his face and finger which required stitches.
11. He was admitted as an inpatient for 4 days when he was discharged to go and stay at his brother's house with a walking stick.
12. He was provided sick notes and remained under the care of the Orthopaedic department at the hospital and underwent extensive physiotherapy.
13. He requires further physiotherapy to his leg and hand but is not in a financial position to pay for the same as he does not have health insurance and has not been able to return to work.
14. The Plaintiff continues to suffer pain in his leg/hip and is unable to run or walk any longer distance. He cannot sit or stand for long periods of time He also suffers a lack of strength in his hand and is unable to straighten his fingers. He remains under the care of his physicians and has been advised it will take some time for him to improve.

Particulars of Special Damage

15. The Plaintiff's particulars of special damage will be forwarded in due course by way of a Schedule of Loss including but not limited to claims for loss of earnings, cost of medical treatment and gratuitous care.

Statement as to interest

16. The Plaintiff will claim interest pursuant to section 34 of the Judicature Law (2017 Revision) at half the rate as prescribed under the Judgment Debts (Rates of Interest) Rules (as amended) from the 16 March 2018 to Trial.

AND THE PLAINTIFF claims:

1. General and Special Damages
2. Interest in accordance with the Judicature Law (2017 Revision)
3. Costs



KSG Attorneys-at-Law
Attorneys for the Plaintiff

**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.

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.

KSG Attorneys at Law
4th Floor, Harbour Centre
42 North Church Street
PO Box 2255
George Town
Grand Cayman
KY1-1107

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