

STATEMENT OF CLAIM

1. The Plaintiff at the material times was employed as a Truck Driver by the Port Authority of the Cayman Islands, a public authority and a division of the Cayman Islands Government.
2. This claim is brought against the Defendant on behalf of the said Cayman Islands Government pursuant to the stipulations of the Crown Proceedings Law (1997 Revision) section 11.
3. The said employment is one to which at the material time the Public Services Management Law (2017 Revision) and the Personnel Regulations (2013 Revision) applied.
4. On 6th December 2017 the Plaintiff suffered lower back injury in the course of his work at his workplace:
 - (a) The Plaintiff was assigned to assist with the offloading of a container BSIU94547 positioned on ramp 4.
 - (b) A second employee was also assigned as a forklift operator (the "Forklift operator") for said the container.
 - (c) Whilst in the process of directing the Forklift operator on how to properly place the blades of the forklift under a pallet that was positioned in an obscured manner within the container, one of the loose/unsecured boxes at the top of the pallet fell off the pallet. The Plaintiff raised his hands over his head bracing himself to catch the falling box and to avoid being struck directly on the head by the falling box.
 - (d) The Plaintiff caught the falling box with his arms above his head. However, he quickly realized that the box was too heavy and called for help.
 - (e) Once the Forklift operator realised the Plaintiff was stuck in his position holding the box over his head, he dismounted the forklift and whilst the Plaintiff continued precariously holding the box so as to avoid it falling onto his head and neck, the Forklift operator listed/pushed back the box back onto the pallet and off the Plaintiff.

- (f) The incident was witnessed by a third employee who came to assist, however, at this point the box had been pushed back onto the pallet thereby the Plaintiff was able to let go of the box and move out of danger.
 - (g) The Plaintiff returned to the warehouse to recover from the shock, however, within two to three minutes he began to experience pain and discomfort to his lower back and requested that he be allowed to seek medical attention.
 - (h) The Plaintiff's requests for permission to leave the work site to seek medical attention was initially refused. The Plaintiff's Supervisor told the Plaintiff to wait two to three hours to see whether the pain would cease.
 - (i) The Plaintiff was allowed to visit the George Town Hospital Emergency Services, hours later as the pain became unbearable.
5. The said accident was caused by the negligence and or breach of statutory duty and or breach of duty of care at common law of the Defendant or its servants or agents.

PARTICULARS OF NEGLIGENCE

- (a) Failed to provide and or institute a safe place of work and or a safe system of work so as to avoid the risk of injury;
- (b) Specifically failed to provide a safe place of work or ensure a safe system of work;
- (c) Failed generally to ensure the safety of employees at the workplace and the Plaintiff in particular and or failed to discharge the common duty of care owed to the Plaintiff.
- (d) By reason of the matters aforesaid the Plaintiff has suffered injury loss and damage. Full particulars will be provided upon discovery.
- (e) The Plaintiff also claims interest at the prevailing statutory rate until payment and/or judgment.

AND THE PLAINTIFF claims:

- (a) Damages; and
- (b) Interest as aforesaid pursuant to section 34(1) of the Judicature Law (2013 Revision) until Judgment or sooner payment or at such rate and for such time as the Court shall deem fit; and
- (c) Costs.

Dated the **3rd** Day of **December 2020**.

Brady's

BRADY Attorneys-At-Law for the Plaintiff

Acknowledgment of service of writ of summons (O.12, r.3)

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE OF WRIT OF SUMMONS

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 Plaintiffs (or on the Plaintiffs 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 Plaintiffs 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 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 guardian ad litem.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.

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

Brady, Attorneys-At-Law P.O. Box 11740 APO 2 nd Floor, Anderson Square Building George Town Grand Cayman KY1-1009 T: +1 (345) 743-3207
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Indorsement by Defendant's Attorney (or by Defendant if suing in person) of his name, address, and reference, if any, in the box below.

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