

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 346 OF 1998

BETWEEN: ANDY DARKOH

PLAINTIFF

AND: MITCHELL DAVIES

DEFENDANT



WRIT OF SUMMONS

TO: Mitchell Davies, c/o The Law School, 4th Floor, The Tower Building, George Town, Grand Cayman, Cayman Islands.

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.

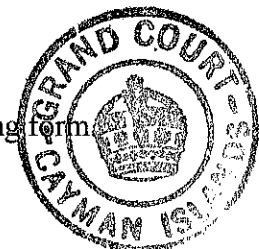
If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this ^{27th} Day of May, 1998.

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.




Signature of Plaintiff

THIS WRIT was issued by Andy Darkoh whose address for service is 144 Patrick's Avenue, Omega Bay, Prospect Park, Grand Cayman, Cayman Islands (P.O. Box 30444SMB).

IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO.....OF 1998

BETWEEN: ANDY DARKOH

PLAINTIFF

AND : MITCHELL DAVIES

DEFENDANT

STATEMENT OF CLAIM

1. The Plaintiff was employed as a Law Lecturer at the Cayman Islands Law School between September 1991 and November 1997.

2. The Defendant was employed as a lecturer at the same Law School before he was appointed Director of the Law School in or about July, 1992, after which time he became both a Director and a lecturer.

3. In or about October 1994 the Defendant in his capacity as the Director of the Law School came into the Plaintiff's office with a memorandum, a copy of which had been sent to the Attorney-General stating (the Plaintiff can only reproduce the contents to the best of his recollection as he did not keep his copy of the memorandum and the Defendant has refused to furnish him with a copy; the Plaintiff would seek disclosure at the Discovery stage and if need be amend the Statement of Claim with leave of the Court):

That the parent of a female student had complained that the Plaintiff had sexually harassed his daughter....

That the Plaintiff had clandestinely invited the female student in question to his house...

That the Plaintiff's behaviour was unprofessional and that the Plaintiff had no sense of judgment.

That the plaintiff should desist from any professional bias towards the female student in question and that the repetition of any such conduct was going to adversely affect the renewal of the Plaintiff's contract of employment.

The Plaintiff was not given the identity of the student nor the father in question and yet asked to respond to the memorandum. After various wide speculations and confrontations of the Defendant by the Plaintiff, the female student in question came to be identified as Susan Merren who was about thirty seven years old at the time.

4. The content of the said memorandum which had been published by being sent to the Attorney-General before the Defendant sought the Plaintiff's version, was written maliciously and contained material falsehood.

Particulars of malice and falsehood

After the Plaintiff had pressed the Defendant for the identities of the father and the student in question as well as the details of the complaint, the Defendant made it clear that the complaint had not been made in the course of the official duty of the Attorney-General but rather somewhere on the golf course or in the Attorney-General's social circles.

The Defendant admitted that the female student in question was doing poorly in his subject (Criminal law) too. The Defendant had all the opportunity to seek the plaintiff's version of events before sending the damaging memorandum to the Attorney-General but failed to do so. The female student in question had not made any direct complaint to the Defendant. The Defendant had no honest belief in the content of his memorandum which was communicated to him by way of gossip. The Defendant deliberately failed to ascertain the truth of the matter before publishing the said memorandum and subsequently, on the occasion of the renewal of the Plaintiff's contract of employment in 1995, the Defendant repeated the allegation to the Personnel Department and requested that the Plaintiff's contract, if it was to be renewed at all, be renewed for only one year instead of the usual two.

5. The Defendant, in the memorandum, referred to the Plaintiff's 'clandestine invitation of a female student to his house' and warned the Plaintiff to desist from exercising any form of 'professional bias' towards the female student in question. These allegations were false and published maliciously without any attempt to verify them.

Particulars of malice and falsehood

(i) The Plaintiff had not invited Susan Merren to his house in the first place and there was nothing clandestine about Susan Merren's presence in the Plaintiff's house. At the beginning of each academic year the Law School organises an induction course for the beginners to learn some basic skills of legal research. The Plaintiff was responsible for teaching this legal research otherwise known as library exercise. At the end of the first week the students are given an assignment to submit the following Monday. Susan Merren was unable to attend the lectures in question for the reason, as she informed the Plaintiff, that she was setting up a Trust Company. Susan Merren telephoned the Plaintiff on a Friday and asked if the Plaintiff could meet her at the Law School on Saturday to teach her the library exercise. The Plaintiff indicated to her that he was not going to the Law School on a Saturday and further clarified to her that the assignment was not part of the degree course and therefore not compulsory. Susan Merren insisted she wanted to submit the assignment on Monday. She asked if the Plaintiff could meet her anywhere to explain the exercise to her. The Plaintiff indicated he was not leaving the house. Susan Merren asked if she could come to the Plaintiff's house for the lecture. The Plaintiff told her if she wanted to do so she had to come with a friend or a sister as he was living by himself. Susan Merren said she would call on Saturday morning to confirm. On Saturday morning Susan Merren called the Plaintiff and indicated that she had arranged to come with her sister to the Plaintiff's house but the sister's child was not feeling well. Susan Merren said it was alright to come to the Plaintiff's house by herself because her aunt lived around the area in question, Prospect Park. Upon hearing this the Plaintiff invited his friend, Jabulani Ndlovu, who was by then working as a male nurse at

Northward Prison to come and sit in as a third party. Mr. Ndlovu arrived at the Plaintiff's house before Susan Merren. The Plaintiff spent some time to explain the library exercise to Susan Merren and thereafter prepared lunch for all of them to eat. The conversation from then on centered around the medical profession (Susan Merren's father being a dentist) and a Jamaican girl the Plaintiff had befriended, whom Susan Merren said used to work for her father. There was never a talk of a sexual nature nor advances of any kind towards Susan Merren. Both Susan Merren and Mr. Ndlovu left around the same time after Susan Merren had invited the Plaintiff and Mr. Ndlovu for lunch at her house after the pending Pirates' Week festivities. The Plaintiff, when he learnt of the identity of the female student in question after leads from the Defendant and much speculation on the Plaintiff's part, gave the Defendant the details of the place of work and telephone number of Mr. Ndlovu to contact him to verify matters for himself. The Defendant failed to do so. The Defendant thus intentionally shut his eyes to all matters which told in the opposite direction with regard to the allegation. Susan Merren had in fact been producing very poor assignments and kept complaining to the Plaintiff that the Plaintiff was discouraging her with those assignment marks and that she thought she was smarter than most of 'those kids' (referring to the other students). Susan Merren was eventually forced by pressure of work and study to abandon the degree programme (involving four subjects a year) to opt for the diploma in law (involving only two subjects in a year, still doing the Plaintiff's subjects) and went on to fail the June examinations marked in Liverpool.

(ii) The Defendant warned the Plaintiff to refrain from being biased towards the student in question when he had no evidence of bias and had in fact told the Plaintiff that the student in question was doing poorly in his own subject, Criminal law.

(iii) There are other extrinsic matters supporting the Plaintiff's allegation of malice on the part of the Defendant. In or about October 1991, the Plaintiff went with the Defendant and another lecturer, Patrick O'Hagan for happy hours at Sunset House. Whilst there, a first year student, Simone Khouri, came and invited the Plaintiff to a table which Ms. Khouri was sharing with her friends. Ms. Khouri introduced the Plaintiff to her friends and started discussing her divorce involving another female student in the first year (as co-respondent). At some point, the Defendant came to the table and stated "the two of you seem to be getting on very well, we are getting the vibes from where we are sitting". Ms Khouri was tipsy, depressed and sobbing uncontrollably in the Plaintiff's arms. The following week, a student, Sharon Roulstone, came into the Plaintiff's office and asked if he was aware of the plot brewing. She said Simone Khouri was aware that the Plaintiff had invited some of the girls in the year group for coffee at the Wholesome Bakery and had persuaded them (including Sharon Roulstone herself) to support her in an allegation to the Director of sexual harassment. Sharon Roulstone refused to join in any such plot and came to inform the Plaintiff thereof. Sharon Roulstone went on to say that Mr. Davies (the Defendant) was instigating Simone Khouri. The allegation was made. The then Director, Richard Finlay, wrote a nasty memorandum to the Plaintiff, placing a copy on his file before seeking the Plaintiff's version of events. Sharon Roulstone went to inform Mr. Finlay what she knew about the plot. After Mr. Finlay's departure from the Law School, the Plaintiff got the opportunity to read his personal file which contained notes confirming the involvement and statements of the Defendant. The Plaintiff confronted the Defendant over the issue at his first staff meeting as a Director when the Defendant was appointed to replace Mr. Finlay. The Defendant

tried to deny any involvement until the Plaintiff informed him that he had read his personal file containing what the Defendant said to Mr. Finlay. The Plaintiff again confronted the Defendant over that issue in October 1997 in the presence of Mr. Graham Wood, Acting Permanent Secretary of Personnel when the Defendant brought up the issue.

6. The language used by the Defendant in his memorandum i.e “clandestine invitation of a female student” and insinuations of bias towards a female student were without foundation, insulting and violent in the circumstances, going well beyond the requirements of the occasion, in particular, taking into account the fact that the Defendant had not received any complaint from Susan Merren herself, had not verified matters with the Plaintiff and had not investigated anything.

7. To humiliate the Plaintiff further, on the occasion of the renewal of his contract of employment in 1995, the Defendant compelled the Plaintiff to seek counselling from a specified Counsellor as a pre-condition for the renewal of his contract.

8. On or about the 7th October 1997, the Defendant went into the Plaintiff’s office with a memorandum, copies of which had been sent to the Acting Permanent Secretary, Personnel and the Attorney-General stating:

“ I have received two written complaints from female Law School students complaining of your behaviour towards them, alleging sexual harassment and conduct on your part which they consider to be demeaning to their gender. As you are aware, this is not the first time that such allegations have been levelled at you. Indeed, you have previously attended counselling in an apparent unsuccessful attempt to reform such inappropriate behaviour. This is, however, the first time that I have received written complaints which testify to extremely serious indiscretion on your part. These include the persistent importuning of female students to accompany you to dinner or on trips abroad, even in the face of firm rejection. The complaints also attest to verbal and physical harassment and sexual innuendo directed at the complainants, sometimes in front of the whole class. As you are aware, I regard allegations such as these as being extremely grave. Not only have the complainants been inexcusably subjected to emotional distress and embarrassment, but by abusing your professional position of trust you may have caused them to feel unable to approach you for academic assistance. Such conduct is not only demeaning to the affected students, but is likely to damage, perhaps irreparably, the hitherto untarnished reputation of the Law School. Taking these most recent complaints in conjunction with previous such allegations which have led to two formal written warnings being placed on your file, I must inform you that when your present contract of employment expires in September 6 1998, I shall not be supporting its renewal. Moreover, should there be any evidence of a repetition of such behaviour, this will be treated as grounds for instant dismissal. A meeting which you are required to attend has been scheduled for 3.00 p.m. on Friday, October 10, in my office with the Acting Permanent Secretary, Personnel.”

9. The Plaintiff was not shown copies of the so-called written allegations at the material time and has not as yet seen them despite written requests by himself and his lawyers, Quin and Hampson to the Defendant as the Director of the Law School. The Defendant gave the Plaintiff leads, for example, that one of the complainants had failed one of the Plaintiff’s subjects (Law of Contract)

in both the June examinations and the September resit and would have been retired by the University but for new regulations giving such failures one more automatic chance to sit the examination. And that the mother of the student in question had telephoned threatening the Law School that she hoped her daughter passed her examinations because her daughter never failed examinations. That led to Lisa Piper. The other lead was that the other complainant had just finished the Law School and had stated in her complaint that one day during lectures while she was in her second year she had made some comment about the laughter of some girls outside the lecture room and that the Plaintiff had retorted to the effect that the noise she makes in her apartment was probably worse than that. Only three girls had just completed the third year and the only person who was closely associated with Lisa Piper was Sharon Searle. Lisa Piper had told the Plaintiff one day in January 1997 at the Rackam Bar that her friend, Sharon Searle had expressed a dislike for the Plaintiff and did not want her to regard the Plaintiff as a friend and confidant because the Plaintiff liked women. The content of the Defendant's memorandum was false and published maliciously.

Particulars of malice and falsehood

(i) The Plaintiff repeats the particulars of malice contained in paragraphs 5(I) to 5(iii).

(ii) The Defendant explained to the Plaintiff that the written allegations were sent to him in close proximity, if not contemporaneously. The Defendant simply shut his eyes over the possibility of collusion between the two girl-friends. Lisa Piper had failed almost every assignment and mock examination in Contract and Constitutional Law despite numerous extra tuition she had demanded from the Plaintiff. Her marks in the mock examinations shortly before the June examination showed the strongest possibility that she would fail the final examinations. People who failed the June examinations and September resits were automatically barred from pursuing the course further unless they could provide Liverpool University with a strong excuse for their failure. After she failed the Easter mock examination in both Contract and Constitutional law and confronted the Plaintiff to demand why she failed, the Plaintiff took about three hours to explain the required answers to her. From then on, to the Plaintiff's surprise, Lisa Piper became very unfriendly and ceased to talk to the Plaintiff.

10. The Defendant stated that the Plaintiff had "persistently importuned female students to accompany him to dinners and trips abroad, even in the face of firm rejection. The statement is utterly false and made maliciously.

Particulars of malice and falsehood

The Plaintiff was approached by Lisa Piper after she had failed the Christmas mock examination in January. She wanted to find out what went wrong with her answers. The Plaintiff spent about three hours explaining to Lisa Piper what was required. After the extra tuition Lisa Piper invited the Plaintiff for a drink to express her thanks. Lisa Piper went and waited for the Plaintiff at the Rackam Bar where the plaintiff joined her later. At the Rackam Bar, Ms Piper talked about several things including her Concorde trip to most parts of the world shortly before she started the Law School; her bungee jump in Australia; her mother's problems after getting married into the

Geddes family in Jamaica; how she (Ms Piper) got rid of her boyfriend who was living off her and not wanting to work; her strong friendship with the ex-boyfriend's father who had been taking her to dinners; she showed the Plaintiff a chain with a gold heart-shaped nugget she had bought for her mother's birthday; talked about how her step-father and her mother had been annoying her by trying to marry her off to the pompous son of an English aristocrat; how unhappy she felt in Cayman and her desire to move abroad, preferably to Monaco. She said she had told her friend, Sharon Searle that the Plaintiff was her good friend and Sharon Searle had said that she did not particularly like the Plaintiff because the Plaintiff liked women. Ms Piper said a Safari trip to Africa by Concorde was her next dream and asked if the Plaintiff could organise that. The Plaintiff told Ms. Piper that a Concorde trip to Africa was financially beyond him. Ms. Piper suggested a weekend break by Concorde to New York where she said she had friends occupying luxury apartments overlooking Central Park with whom she could stay together with the Plaintiff. Alternatively she suggested that the two occupied a hotel called Regency Hotel which she said was very close to her friends so that she and the Plaintiff could spend some time with those friends. The Plaintiff explained that Concorde did not fly from Cayman in the first place and that if he had to travel with Ms Piper, his girlfriend who was living with him would have to come along. Ms Piper asked a few personal questions about the extent of the Plaintiff's relationship with his girlfriend. The Plaintiff explained that even if he were free to travel with Ms Piper they would have to stay at separate places. Ms Piper looked tipsy at that stage and the Plaintiff asked if she wanted some snacks to eat before going home. She said she was alright but that she would accept that offer for lunch the following day. She told the Plaintiff about her pending birthday. The Plaintiff said he would remember and send a flower or a card. Ms. Piper said she preferred going out to dinner and getting herself drunk on her birthday. She told the Plaintiff that going out for dinners was her favourite pastime and that her ex-boyfriend's father had been taking her to dinners almost every week. The Plaintiff informed her that he could not promise anything concrete at that time but would bear it in mind and send her flowers at least. Ms Piper told the Plaintiff that she had a big bottle of champagne at home and wanted to share it with the Plaintiff. The Plaintiff did not take the offer. The Plaintiff left the bar while Ms Piper was talking to someone she said was the manager of the place. The Plaintiff met Ms Piper for lunch the following day at the Casanova Restaurant. At no time did the Plaintiff request Ms Piper for a trip abroad or insist on a lunch or dinner with her. Ms. Piper had invited the Plaintiff for a drink, gone for lunch with him and had suggested a dinner and heavy drinking on her birthday.

11. The Defendant stated that the Plaintiff's sexual harassment of the female students included verbal and physical harassment. The said statement is false and malicious.

Particulars of malice and falsehood

The Plaintiff used to pat Ms Piper and other students on the shoulder or back to say "Hi !". At no time did Ms Piper object to that or show a negative reaction. However on one occasion, after Ms Piper had failed both subjects taught by the Plaintiff in the Easter mock examination, the Plaintiff pat her on the back while she was standing by the Law School's photocopier. She gave no smile and showed no reaction. The following day, the Defendant walked into the Plaintiff's office to warn him that a female student had complained that the Plaintiff pat her on the backside and that she did not like it. The Plaintiff had always considered Ms Piper as a friend and did not consider

his friendly action as sexual harassment. The Plaintiff did not verbally harass any female student.

12. The Defendant stated that the Plaintiff by abusing his position of trust "may have caused the students to be unable to approach him for academic assistance." The said statement is false and made maliciously.

Particulars of malice and falsehood

(i) Sharon Searle was in the third year of the course and was not being taught by the Plaintiff at the material time. Even in her first and second years when she was taught by the Plaintiff, she preferred to spend her time going for lunches and jogging with her friend and mate, Petula Twinn during lecture hours instead of attending lectures. When she did attend lectures she chose to distract the group with talks of her nightclub adventures with men and whenever any caselaw involved a sexual crime, in particular in the Law of Evidence she would dwell on the facts throughout the period and impede the continuance of the lecture. Most of the students felt relieved whenever she failed to attend a lecture or tutorial.

(ii) Lisa Piper received more extra tuition from the Plaintiff than any other student in her year group. She was late starting the course. The Plaintiff gave her three afternoons of extra tuition to catch up with the rest. Whenever she failed assignments or mock examinations she would approach the Plaintiff for hours of extra tuition. After failing the June final examination in Contract Law, Ms. Piper approached the Defendant to ask him to request the Plaintiff to mark the copy of her examination paper (the Law School keeps photocopies of the scripts sent to Liverpool after each examination). She was threatening to bring an action against Liverpool University after the Plaintiff had explained to her that the Law School lecturers had nothing to do with the marking of the final examinations and resits. The request by the Defendant for the Plaintiff to remark Ms Piper's examination paper was quite unusual. Law School lecturers are not supposed to remark and in fact have no right to remark examination papers marked by Liverpool University. Moreover Ms. Piper got only 28% and was nowhere near a pass mark.

(iii) The assistance given by the Plaintiff to Lisa Piper was not just confined to academic help. Ms Piper approached the Plaintiff for advice and help whenever she fell out with her fellow students. And this happened on numerous occasions. On one occasion, Ms Piper had a serious altercation with a fellow student, Annie Green, whom Ms Piper alleged was spreading bad rumours about her family. She approached the Plaintiff and informed the Plaintiff that she trusted the Plaintiff to resolve the situation more effectively than the Director of the Law School (the Defendant). The Plaintiff however thought it wise to seek the concurrence of the Defendant before any intervention. On 5th October 1997 (two days before the Plaintiff received the Defendant's memorandum alleging sexual harassment), the Plaintiff received a call at home at about 10 p.m. from Lisa Piper, apparently from Jamaica, congratulating the Plaintiff on his wedding. Ms Piper then asked the Plaintiff about her September resit results. The Plaintiff informed her that she had not been successful. She asked if anything could be done to help her continue the course. The Plaintiff asked Ms Piper to see him on her arrival in Cayman for the two to approach Mr. Davies (the Defendant) to work out any options available. She apparently visited Mr. Davies the following day without approaching the Plaintiff. The next day, the Defendant sent the Plaintiff the

memorandum alleging sexual harassment.

13. The Defendant's memorandum of 7th October just like his memorandum of October 1994 or thereabouts, was actuated by ill-will and a desire to cause the Plaintiff to lose his position as a Lecturer. The Defendant's malice and hatred towards the Plaintiff were demonstrated on numerous other occasions. For instance during a staff meeting one day in 1996, the Defendant was talking generally about student misbehaviour during lectures and tutorials. A few days before the staff meeting in question, during one of the Plaintiff's tutorials, two students had an argument over an answer given by one of the students to a tutorial question. Despite the Plaintiff's efforts to keep the peace, one of the students walked out of the tutorial room and apparently went to the Defendant's office to complain that the other student had attended the tutorial unprepared and that the Plaintiff ought to have expelled her from the tutorial room. The Defendant's comment at the staff meeting was that he had been informed by a student that a particular lecturer "specifically encouraged student misbehaviour during his tutorials". Given the proximity of the exchange between the students in question to the staff meeting, it was obvious that the Defendant's comment was directed at the Plaintiff. The Defendant had not had any prior discussion with the Plaintiff over the issue. The Plaintiff confronted the defendant over the comment and he admitted that the student in question, Paula Lysaght had made such a report to him. The comment, coming from the director of a law school, was most inappropriate, especially when he had not ascertained from the lecturer as to what occurred. The Defendant was simply demonstrating his spite and hatred towards the Plaintiff. He readily believed whatever was said against or about the Plaintiff.

14. On the 10th of October, 1997, following the Defendant's memorandum of 7th October, a meeting was arranged involving the Defendant, the Plaintiff and Mr. Graham Wood from Personnel. At the meeting, the Defendant referred to two warnings on the Plaintiff's file following allegations of sexual harassment. The Plaintiff questioned the validity the Defendant's memorandum of October 1994 or thereabouts based on a gossip between the Attorney-General and the father of a student in the Attorney-General's social circle. The Plaintiff also pointed out the involvement of the Defendant in the so-called complaint of 1991. The Defendant was ostensibly embarrassed and tried to deny any involvement in the 1991 situation. About three weeks after the said meeting, the purpose of which the Plaintiff thought was to enable him to explain his version of the allegation, the Defendant presented the Plaintiff with another memorandum recommending his immediate suspension and the premature termination of his contract of employment. The content of the memorandum of 7th November was contrary to the content of the memorandum of 7th October which stated that the Defendant was not going to support the renewal of the Defendant's contract upon its expiration in September 1998. The entire behaviour of the Defendant towards the Plaintiff dating back to 1991 was actuated by malice, spite and hatred. As a final testimony of the Defendant's hatred towards the Plaintiff, he had recommended the dismissal of the Plaintiff based on so-called written allegations which were never shown to the Plaintiff to comment on. As a precedent, the Defendant had relied on his own memorandum written officially following a gossip between the Attorney-General and someone in his social circles.

15. The Defendant having published two libellous and uninvestigated memoranda used the same to recommend the termination of the Plaintiff's contract of employment. The said

recommendation was acted upon and the Plaintiff has since lost his position and livelihood. In addition the Plaintiff has suffered humiliation, embarrassment and loss of dignity in the community.

AND THE PLAINTIFF CLAIMS:

(i) Special damages resulting from the premature termination of his contract of employment in the nature of salaries between the 1st of February, 1998 and 6th September, 1998 at the monthly pay of \$4,861 in the total sum of \$35,000 or thereabout and interest on the said amount at such rate as the Honourable Court thinks fit.

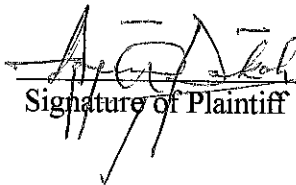
(ii) Damages for humiliation, embarrassment and loss of dignity.

(iii) Aggravated damages.

(iv) Exemplary damages resulting from the oppressive, humiliating and spiteful way by which the Defendant used his position as the Director of the Law School to defame the Plaintiff as well as cause him to lose his livelihood.

(v) Costs of these proceedings.

DATED this ^{29th}.....of May, 1998


Signature of Plaintiff

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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 346 OF 1998

BETWEEN: ANDY DAKON

PLAINTIFF

AND: MITCHELL DAVIES

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.

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