

IN THE GRAND COURT OF THE CAYMAN ISLANDS

Cause No. 509 of 19 98 .

Between:

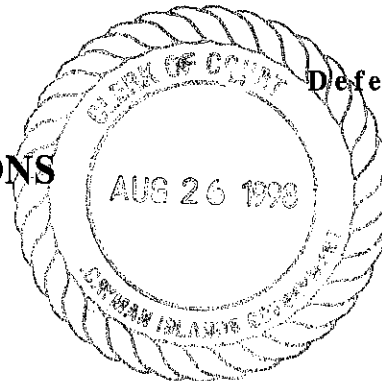
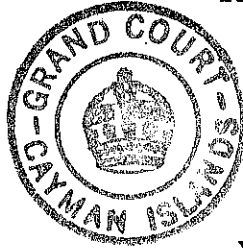
ROBERT ASHLEY SMITH

Plaintiff

- and -

DAVID SCOTT

Defendant



WRIT OF SUMMONS

To: David Scott
Marina Drive
Prospect
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, P.O. Box 495, G.T. Grand Cayman, Cayman Islands, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement 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 the 26th day of August, 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 Acknowledgement of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiff is a Boat Captain and resides in West Bay, Grand Cayman.
2. The Defendant is a Boat Builder and resides in Prospect near to Harbour House Marina.
3. On June 23rd, 1997 the Plaintiff gave his 22 foot boat to the Defendant to repair. The agreement was that the Plaintiff would pay the Defendant the total sum of CI\$1,800.00 in consideration for this repair work. Between June, 1997 and August, 1997 the Plaintiff paid the Defendant CI\$1,450.00 towards their agreed sum leaving a balance of CI\$350.00 at that time.
4. In December, after failing to repair the boat as agreed, the Defendant sold the Plaintiff's boat to a third party, one Charles Ebanks. Subsequently, Charles Ebanks returned the boat to David Scott, the Defendant, upon discovering that the boat belonged to Robert Smith, the Plaintiff.
5. After a time the Police were brought into the matter by the Plaintiff. The former, being advised by the Legal Department, went with the Plaintiff to the Defendants yard, where the boat was still being kept, in an effort to restore the boat to its rightful owner, the Plaintiff. On this occasion the Defendant chased the Plaintiff and the Police Officer and the other persons away from his premises and their efforts proved fruitless. The matter has been deadlocked since.

AND THE PLAINTIFF claims:

1. An injunction restraining the Defendant from disposing of the Plaintiff's property to a third party.
2. An order commanding the Defendant to turn over the Plaintiffs boat to the Plaintiff in its present condition.
3. Costs

Dated this 25th day of August, 1998.

Collins Broadhurst & Furniss
Collins Broadhurst & Furniss
Attorneys-at-Law for the Plaintiff

This Writ & Statement of Claim has been issued by **Collins Broadhurst & Furniss** whose address for service is Elizabethan Square, P.O. Box 2503, G.T. , Grand Cayman, Cayman Islands, B.W.I.

**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE
OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgement 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 495, G.T. Grand Cayman.

2. A Defendant who states in his Acknowledgement 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 not endorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2). the defence must be served within fourteen (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 endorsed on the Writ, the defence need not be served until fourteen (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 within 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 Acknowledgement of Service, that he intends to apply for a stay, execution will be stayed for fourteen 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.

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement 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. 509 of 1998 .

Between:

ROBERT ASHLEY SMITH

Plaintiff

- and -

DAVID SCOTT

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 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:

Notes on address for service

Attorney: where 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 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.

COLLINS BROADHURST & FURNISS
Attorneys-at-Law
40 Linwood St.
P.O. Box 2503, G.T.
Grand Cayman
Cayman Islands, B.W.I.

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