

Writ of Summons (O.6, r.1)

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

CAUSE NO. ⁵⁴⁰ OF 1998

BETWEEN: Ms. KAREN NIXON PLAINTIFF
AND: HIS EXCELLENCY THE GOVERNOR DEFENDANT

SPECIALLY ENDORSED WRIT OF SUMMONS

TO: DEFENDANT, HE the Governor c/o the Legal Department, Legal Department, Cayman Islands Government, George Town, Grand Cayman, Cayman Island, B.W. I.

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 4th day of September 1998.

NOTE - This Writ may not be served later than 4 calendar 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.



- decision of the Governor dated 2 January 1998 to dismiss the applicant from her employment contained a procedural flaw in that (a) the applicant was wrongly denied a copy of a written complaint dated 2 September 1997 and (b) a letter dated 28 October 1997 setting out the charges against the applicant was not properly particularised.
12. The Plaintiff's attorney advised that the rules of natural justice, Law and regulations operate as an implied and express mandatory requirement respectively, non-observance of which invalidates the exercise of the power. In those circumstances, the Plaintiff considered that her employment was never terminated in that the violation of natural justice, Law and regulations made the decision null and void.
 13. The Plaintiff was not provided with a written contract but she understood that at all times she was employed pursuant to the express terms of the General Orders, Law and the regulations.
 14. The following terms were implied in order to give the Plaintiff's employment business efficacy and arising from the mutual intentions of the parties thereto, that:
 - (a) the Defendant would maintain trust and confidence with the Plaintiff;
 - (b) the Plaintiff would have access to all documents necessary for her to carry out her duties;
 - (c) the Defendant would do nothing to render it impossible for her to carry out her duties;
 16. Following the court hearing and decision on 21 July 1998, the Defendant's legal advisor informed the Plaintiff's attorney that, in short, the Plaintiff was not entitled to re-instatement. The Plaintiff had not been allowed to return to work. By acting in this way, the Defendant has repudiated the Plaintiff's contract of employment.
 17. By a letter dated 25 August 1998 from the Plaintiff's attorney to the Defendant's attorney, the Plaintiff has accepted the repudiation of her employment agreement by indicating that she considers herself constructively dismissed.
 18. Further, by reason of the wrongful repudiation by the Defendant of the Plaintiff's employment, the Plaintiff has suffered loss and damage.

PARTICULARS OF SPECIAL DAMAGES

- | | |
|---|-------------|
| (a) loss of salary from 1 January 1998 to August 1998 @ \$3404 per month | \$27,232.00 |
| (b) leave earned for period 1 January 1998 - 12 days. | \$2269.33 |
| (c) Loss of Pension contributions (details of which will be provided in due course) | |
| (d) Motor vehicle upkeep (\$125.00) | \$1,000.00 |

AND THE PLAINTIFF claims:

- (1) Damages;
- (2) Further, pursuant to The Judicature Law (1995 Revision), the Plaintiff is entitled to and claims interest on such sums as are found to be due at such rate and for such period as the Court shall think fit; and
- (3) Costs.



THIS WRIT was issued by Clyde H. Allen BSc whose address for service is Brooks & Brooks, Attorneys-At-Law, PO Box 1355, Grand Cayman, British West Indies

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

CAUSE NO. 540 OF 1998

BETWEEN: Ms. KAREN NIXON PLAINTIFF
AND: HIS EXCELLENCY THE GOVERNOR 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 a 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

Address for service: (please see overleaf)

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.

C. H. Allen BSc
Brooks & Brooks
Attorneys-At-Law
PO Box 1355 GT
Grand Cayman
Cayman Islands
BWI

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