



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

CAUSE NO: OF 2024

BETWEEN:

ISAAC LAWRENCE LEWIS

Plaintiff

AND

**W.H. MCTAGGART & SON (1995) CO. LTD.
trading as UNCLE BILLS HOME IMPROVEMENT CENTRE**

Defendant

WRIT OF SUMMONS

TO: W. H. MCTAGGART & SON (1995) CO. LTD., trading as
Uncle Bills Home Improvement Centre
10 Shipping Centre
Thompson Shipping Centre Building, 2nd Floor,
PO Box 10050, George Town,
Grand Cayman KY1-1001

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 19th day of September 2024.

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, Isaac Lawrence Lewis, who resides at 49 Spice Drive, Bodden Town, Cayman Islands, was at all material times employed by the Defendant as a Warehouse Assistant.
2. The Defendant, W.H. McTaggart & Son (1995) Co. Ltd. trading as Uncle Bills Home Improvement Centre, is a home hardware store duly incorporated under the *Companies Acts* of the Cayman Islands with a storefront located at 343 Eastern Avenue, in George Town, Grand Cayman, and was at the material time, the employer of the Plaintiff and the occupier of 343 Eastern Avenue in George Town.
3. The Plaintiff was at all material times, working at his employer's worksite at 343 Eastern Avenue, George Town, Grand Cayman, Cayman Islands (the "Worksite").

The Incident

4. During the Defendant's busy Christmas season, and specifically on 19 December 2023, and at all material times, the Plaintiff was duly engaged in his said course of employment. He was so negligently directed and instructed by the Defendant's agent and supervisor, Sherlene, to stack furniture in boxes on the top shelves of the store's warehouse. The work process involved a reasonable possibility of injury to the Plaintiff.
5. It was a term of the contract of employment between the Plaintiff and the Defendant and/or it was the duty of the Defendant to take all reasonable care and precautions for the safety of its employees, including the Plaintiff.

6. It was a term of the contract of employment between the Plaintiff and the Defendant and/or it was the duty of the Defendant to implement safety protocol, and properly instruct and train industry standards of safety protocol and take all reasonable care and precautions for the safety of its employees, including the Plaintiff.
7. The Plaintiff reasonably expected, while he was engaged in his work as a Warehouse Assistant, to not be exposed to an unreasonable risk of injury and damage. The Defendant failed to implement safety protocols, failed to ensure management and employees were properly trained and reasonably safe while engaged in their employment duties. The Defendant failed to provide and maintain a suitable work environment to allow the Plaintiff to carry out his work safely, and to provide a safe system of work.
8. On 19 December 2023, at approximately 10:30am, the Plaintiff's coworker was operating a loaded forklift and lifted it up to the top shelf (approximately 20 to 25 feet off the ground) while the Plaintiff was standing on the pallet with the furniture that he was instructed to move and stack onto the top shelf.
9. While attempting to move the furniture off the pallet and onto the shelving, the wooden pallet suddenly and without warning broke loose and fell away from under the Plaintiff's feet. The pallet slapped backwards and hit the forklift, causing the Plaintiff to fall onto the ground together with the boxes of furniture that were on the pallet which piled on top of him, causing serious personal injuries.
10. As a result of the incident, the Plaintiff suffered severe personal injuries, loss, damage, inconvenience and expense.
11. The injuries, loss and damage to the Plaintiff were caused by the negligence and breach of contract of the Defendant, its servants, employees, and/or agents acting in the course of their employment, and/or by the Defendant's breaches of its

statutory duties under Part VIII, including, but not limited to Sections 58-63 of the *Labour Act (2021 Revision)*.

PARTICULARS OF NEGLIGENCE

12. The Defendant was negligent and is guilty of the said breaches of statutory duties by:

- a) Failing to maintain a safe worksite;
- b) Failing to take any or any adequate precautions for the health, safety and welfare of its employees, and the Plaintiff in particular when engaged in the work he was directed to perform;
- c) Failing to ensure that the Plaintiff received adequate training for the purposes of health and safety, including training in methods to adopt when engaging in moving heavy items off pallets and using forklifts, and any risks which such activities may entail and precautions to be taken;
- d) Exposing the Plaintiff to a risk of damage or injury of which the Defendant knew or ought to have known;
- e) Causing, permitting or failing to prevent the Plaintiff from falling from the forklift;
- f) Failing to provide a scissor lift/sky jack to allow the safe movement of heavy items at height;
- g) Failing to provide the Plaintiff with adequate or suitable safety equipment, including a safety harness to enable him to carry out the work safely;
- h) Requiring or causing or permitting the Plaintiff to stand on the forklift knowing it was not secure and failure to ensure it was secured with a proper base and a cage;
- i) Failing to provide the Plaintiff with a safe working platform;
- j) Failing to ensure that the Plaintiff had received adequate training for the purposes of health and safety, including training in the methods which may be adopted when engaging in lifting furniture from the forklift and onto the warehouse shelves, any risks which such activities may entail and precautions to be taken;

- k) Failing to properly supervise and direct the workers in the warehouse, including the Plaintiff;
- l) Failing to provide the Plaintiff with any or any suitable or sufficient means for arresting his fall when he was working some distance above the ground;
- m) Directing and requiring the Plaintiff to carry out the work at a significant height above the ground without providing him with any or any adequate safety equipment in the event of a fall when it knew or ought to have known that it was unsafe and dangerous to carry out the work in this manner;
- n) Failing to take any or any reasonable care to ensure that the Plaintiff would be reasonably safe in using the work premises;
- o) Failing to warn its employees of the dangers to the Plaintiff and others of working in the warehouse and with a defective forklift;
- p) Failing to set up and implement a safe system of work for the Plaintiff;
- q) Exposing the Plaintiff to a risk of injury of which it knew or ought to have known;
- r) Failing to make any or any suitable efficient assessment or evaluation of the risks;
- s) Failing to provide or maintain a safe place of work for the Plaintiff;
- t) Failing in all the circumstances to take reasonable care for the safety of the Plaintiff; and
- u) Exposing the Plaintiff to an unnecessary risk of injury.

13. The Defendant is vicariously liable for the acts/omissions of its employees.

14. The Plaintiff will rely on the doctrine of *res ipsa loquitur*.

15. The Plaintiff reserves the right to provide additional particulars of negligence and/or breach of statutory duties at any time up to and including the trial of the action.

16. By reason of the Defendant's negligence and breach of duty, the Plaintiff has suffered serious injuries, losses and extensive damages.

PARTICULARS OF INJURIES

17. The Plaintiff has suffered the following injuries arising from the Incident which include, but are not limited to:

- a) Right distal radius fracture;
- b) Scapholunate disassociation/perilunate dislocation;
- c) Traumatic carpal tunnel syndrome;
- d) Wound infection;
- e) Delayed/non-union of the radius fracture;
- f) Callus formation to the fracture site;
- g) Right sided facial injuries;
- h) Loss of mobility and function of the right wrist; and
- i) Arm pain and swelling.

18. The Plaintiff continues to suffer from the above injuries and is impacted by them daily. Full particulars of the Plaintiff's injuries and the impact of them upon him will be provided prior to trial.

PARTICULARS OF SPECIAL DAMAGES

19. At the time of the incident, the Plaintiff was employed as a Warehouse Assistant. He has been unable to work since being injured and has therefore suffered a past and future loss of income and earning capacity.

20. The Plaintiff has suffered loss and incurred expenses which are ongoing. Full particulars of the damages will be supplied by way of a Schedule of Loss, including, but not limited to, claims for loss of income, medical treatment, travel, gratuitous care, interest and costs. Full particulars of the Plaintiff's special damages and losses, which are continuing, will be provided prior to trial.

21. The Plaintiff claims pre and post-judgment interest on special damages from the date of loss pursuant to section 34 of the *Judicature Act (2021 Revision)* and in accordance with the *Judgment Debts (Rates of Interest) Rules* (as amended).

22. The Plaintiff claims pre and post judgment interest on general damages from the notice of the claim pursuant to section 34 of the *Judicature Act (2021 Revision)* and in accordance with the *Judgment Debts (Rates of Interest) Rules* (as amended).

AND THE PLAINTIFF CLAIMS:

- A. General damages;
- B. Special damages;
- C. Pre-judgment and post-judgment interest on special damages from the date of loss pursuant to the *Judicature Act (2021 Revision)* and the *Judgment Debts (Rates of Interest) Rules* (as amended); or
- D. At such rate this Honourable Court deems fit;
- E. Pre-judgment and post-judgment interest on general damages from the date of notice of the claim pursuant to the *Judicature Act (2021 Revision)* and the *Judgment Debts (Rates of Interest) Rules* (as amended); or
- F. At such rate this Honourable Court deems fit; and
- G. Costs

Dated this 19th day of September 2024.

Broadhurst

Broadhurst LLC

Attorneys-at-Law for the Plaintiff

This Writ of Summons and Statement of Claim is issued by Broadhurst LLC, Attorneys-at-Law for the Plaintiff, whose address for service is 4th Floor, Monaco Towers, 54 Edward Street, P.O. Box 2503, Grand Cayman KY1-1104, Cayman Islands.

INDORSEMENT AS TO INTEREST

Pre-judgment and post-judgment interest on special damages from the date of loss pursuant to the *Judicature Act (2021 Revision)* and the *Judgment Debts (Rates of Interest) Rules (as amended)*.

Pre-judgment and post-judgment interest on general damages from the date of notice of the claim pursuant to the *Judicature Act (2021 Revision)* and the *Judgment Debts (Rates of Interest) Rules (as amended)*.

**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, PO Box 495, George Town, 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 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 not 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 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 fourteen (14) days after his Acknowledgement, 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 installments 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 fourteen (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 authorized to act on behalf of the Company, but the Company can take no further steps in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL HEALTH 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.

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Plaintiff

AND

W.H. MCTAGGART & SON (1995) CO. LTD.
trading as UNCLE BILLS HOME IMPROVEMENT CENTRE

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 [] No []

Service of the Writ is acknowledged accordingly

(Signed) _____

[Attorney] for

[Defendant in Person]

Address for service:

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 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.

Endorsement by Plaintiff’s Attorney (or by Plaintiff if suing in person) of his name, address and reference, if any, in the box below.

BROADHURST LLC
ATTORNEYS-AT-LAW
4th FLOOR MONACO TOWERS
54 EDWARD STREET
GEORGE TOWN
P.O. BOX 2503
GRAND CAYMAN
KY1-1104

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

