

NO 1

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

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO 696 OF 1999

BETWEEN EDWIN NICELY PLAINTIFF  
( As Administrator of The Estate of Carlington Nicely )

A N D A.L. THOMPSON LTD 1ST DEFENDANT  
AND AIR CARE LTD 2ND DEFENDANT  
A N D CHARLES MCFIELD THIRD DEFENDANT

WRIT OF SUMMONS

TO: The First Defendant  
George Town Grand Cayman.

And to: The Second Defendant  
Shedden Road, George Town  
Grand Cayman

And to: The Third Defendant  
Palm Dale Heights George Town  
Grand Cayman



THIS WRIT OF SUMMONS has been issued against you by the abovenamed 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 return the Acknowledgement within the time stated or if you return the acknowledgement without stating therein an intention to contest the proceedings the Plaintiff may proceed with the action and judgement may be entered against you forthwith without further notice.

issued this      day of      19/20 .

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.

## ENDORSEMENT

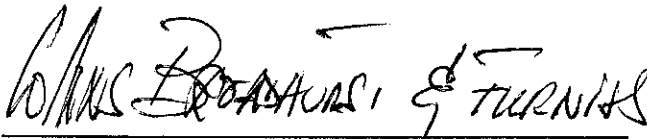
The Plaintiffs claim is as Administrator of the Estate of Carlington Nicely late of George Town Grand Cayman against the Defendants for:-

1. Damages for the relatives of the said Carlington Nicely under the Law of Torts Law (Revised) ; and

2 Damages for the benefit of the estate of the said Carlington Nicely deceased under the Estate Proceedings Law (1974) as amended

In respect of injuries to the said Carlington Nicely his death occurring on the 27th day of November 1998 which was caused by the Negligence of the Defendants in that the Deceased was asphyxiated traumatically whilst on the compound of the first Defendant and in the employ of the 2nd and third Defendants herein. The Plaintiff also claims against the Defendants interest on any amount recovered by way of Damages and the Costs of and incidental to these proceedings

Dated this 9th day of November 1999



Collins Broadhurst & Furniss

This writ was filed by Collins Broadhurst & Furniss Attorneys at law for and on behalf of the Plaintiff herein whose address for service is c/o his Attorney(s) of 40 Linwood St., P.O. Box 2503 G.T. Grand Cayman, Cayman Islands, B.W. I.

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*

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO 696 OF 1999

BETWEEN	EDWIN NICELY	PLAINTIFF
	( As Administrator of the Estate of Carlington Nicely )	
A N D	A.L. THOMPSON LTD	1ST DEFENDANT
A N D	AIR CARE LTD	2ND DEFENDANT
A N D	CHARLES MCFIELD	3RD DEFENDANT

ACKNOWLEDGEMENT OF SERVICE OF WRIT OF SUMMONS

If you intend to instruct an Attorney to act for you you must 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 setting it aside

1. State the 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.  
Yes. No. ( tick as appropriate )

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  
Yes. ( tick if appropriate )

Service of the Writ is acknowledged accordingly.

Signed  
(Defendant or Attorney)

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 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.*

Collins Bradhurst & Furness  
40 LINWOOD ST. P.O. BOX  
9503 G.T. GRAND CAYMAN

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

[Empty box for defendant's attorney indorsement]

## 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.