

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. ⁷⁶⁸ OF 1999

BETWEEN: WILLIAM LORENZO CARTER

Plaintiff

AND: SCOTT'S INDUSTRIES LIMTIED

Defendant

WRIT OF SUMMONS

TO: Scott's Industries Limited
Registered Office: c/o Trident Trust Company (Cayman) Ltd.
P.O. Box 847 G,
Grand Cayman.

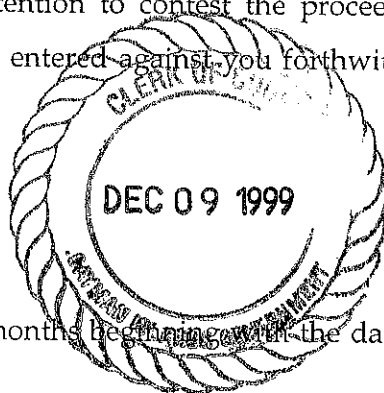


THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out on the next page.

Within Fourteen days [14] 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, 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 ^{9th} day of Dec, 1999.



NOTE - This Writ may not be served later than 4 calendar months beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgment of Service at given with the accompanying form.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. ⁷⁶⁸ OF 1999

BETWEEN: WILLIAM LORENZO CARTER Plaintiff
AND: SCOTT'S INDUSTRIES LIMITED Defendant

STATEMENT OF CLAIM

1. The Plaintiff is and was at all material times a resident of 143 Water Street, Savannah, Grand Cayman. The Plaintiff was prior to the accident the sole owner and operator of a business known as Carter's Painting which he had operated in the Cayman Islands for over 20 years. The Plaintiff at all material times was the owner of a Ford Econline motor vehicle registration number 58733 ("the Vehicle")
2. The Defendant is an "ordinary resident" Cayman Islands corporation duly incorporated in the Cayman Islands and was at all material times the owner and operator of a business specialising *inter alia* in exhaust repairs. It has its principal place of business at North Sound Road, George Town and its registered office is located at Trident Trust Company (Cayman) Limited, P.O. Box 847 George Town.
3. On Thursday, 8th October 1998 in the afternoon, the Plaintiff went to the Defendant's said place of business in George Town, Grand Cayman for the purpose of having his exhaust fixed or replaced as may be necessary on the Vehicle. On arrival at the Defendant's place of business an employee of the Defendant signalled to the Plaintiff and directed the Plaintiff to drive onto the ramp leading to the inspection pit at the Defendant's place of business. At all times under the direction of the Defendant's employee, the Plaintiff drove carefully up the ramp and onto the platform over the said inspection pit. After directing the Plaintiff, the employee then went into the inspection pit to inspect the underneath of the Vehicle. At all material times the Plaintiff was a lawful visitor at the premises occupied by the Defendant's business.

4. The Plaintiff then alighted from the Vehicle and on stepping out, fell into the said inspection pit some distance below. As a result of the fall the Plaintiff suffered permanent physical injury and has suffered loss and damage. The Plaintiff's injury and loss was caused by the negligence of the Defendant, their servant or agents.

PARTICULARS OF NEGLIGENCE

- (a) Failing to provide safe premises for the Plaintiff to lawfully bring his vehicle to be fixed.
- (b) Failing to provide a safe or any sufficient platform for the Plaintiff to safely disembark upon whilst the Vehicle was positioned above the said inspection pit.
- (c) Failing to warn the Plaintiff, prior to his departure from the vehicle, or at all, of the fact that there was no safe place for him to disembark on the driver's (left hand side) of the Vehicle.
- (d) Failing to place any warning signs in the vicinity of the inspection pit warning drivers not to disembark on the left side of their vehicle where it was unsafe and failing to otherwise warn the Plaintiff of any danger or the need to take any particular precautions.
- (e) Failing to adequately light the inspection pit either from above or below so as to alert the Plaintiff to any danger.
- (f) Failing to assist the Plaintiff to disembark safely from his vehicle.
- (g) Inviting, causing and/or permitting the Plaintiff to disembark from his Vehicle well-knowing that no or no sufficient precautions whatsoever had been taken to protect their lawful visitors from falling into the said inspection pit.
- (h) Failing to make the premises (and particularly the inspection pit area) used for the inspection of the Plaintiff's vehicle as safe as it could have been made by the exercise of reasonable care and skill.

- (i) Failing to take any or any adequate precautions to ensure that the service provided to the Plaintiff was safe and would not cause any damage or injury to anyone driving over the inspection pit or disembarking from any vehicle thereon when they knew or ought to have known that the said disembarking from the vehicle was potentially dangerous and/or constituted a hazard.
- (j) Failing to direct the Plaintiff's Vehicle to some other part of the premises where it was safe for the Plaintiff to disembark.
- (k) The Plaintiff will further rely upon the fact, as evidence of negligence on the part of the Defendant, their servants or agents, that the Defendant fell into the inspection pit and will also rely on the fact that the Defendant after this accident altered its premises and its procedures so as not to allow any member of the public to drive its vehicles over the inspection pit.

PARTICULARS OF THE PLAINTIFF'S INJURIES

- (a) The Plaintiff primarily suffered severe injuries to his right knee. Following initial treatment he was eventually admitted to hospital on 15th October, 1998 and underwent an operation to repair a fracture. The Plaintiff was discharged from hospital the following day. He thereafter required crutches and wore a knee immobiliser.
- (b) He then underwent outpatient treatment at the orthopedic clinic and had continuing physical therapy to attempt rehabilitation of the knee.
- (c) The knee however continues to give tremendous problems to the Plaintiff. The Plaintiff underwent a further procedure under general anaesthetic in February of 1999 in order to manipulate the knee in order to attempt to improve its range of motion. Following this the Plaintiff underwent therapy at least twice a week. The Plaintiff for a long time required crutches to walk outside, however he now walks with the aid of a walking stick. The knee is

still sore. He has to take expensive regular medication for pain. The knee swells up on a regular basis and this causes difficulty with sleeping and with general comfort. Bad weather intensifies the pain. The Plaintiff finds driving an impossible task. The Plaintiff's wife has to drive him to physiotherapy and to his appointments. There is a scar where the surgery took place.

- (d) The medical diagnosis is that the knee fracture involved the "posterior tibial spine and posterior tibial plateau". The knee has gone on to develop significant postoperative stiffness. The maximum degree of flexion has been 65°. The doctors do not expect the Plaintiff to regain full motion and the doctors do not expect the Plaintiff to return to his previous occupation as a house and building painter. The doctors do not expect that he will be able to climb ladders or scaffolding because of the stiff knee. It is feared that the knee has reached the maximum degree of recovery that is possible.
- (e) Prior to the accident the Plaintiff was in excellent health and had no history of any family illnesses or neurological or mobility problems.

PARTICULARS OF SPECIAL DAMAGES

1. Medical expenses.

The Plaintiff is entitled to free treatment at the George Town Hospital. He has however incurred the cost of an expert medical report which has totalled \$425.00. The cost of pain medication to date can be quantified upon discovery.

2. Loss of income.

The Plaintiff has not been able to work since the accident. The Plaintiff's average income for four years 1994-1997 is CI\$39,375.00 per annum (\$3,281.25 per month). Accordingly the loss of income claimed from 8th October 1998 to 8th December 1999 is CI\$45,937.50.

Special damages are continuing. In particular the Plaintiff continues to suffer and claims loss of income and future earnings at the rate of \$3,281.25 per month. Also the Plaintiff continues to incur

and claims the cost of all future medical expenses and/or care and/or reports. In the premises the Plaintiff claims against the Defendant:

1. Damages;
2. Interest pursuant to the Judicature Law and the Grand Court Rules;
3. Costs;
4. Such further and/or other relief as may be just.

DATED this 9th day of December 1999

Quin & Hampson
QUIN & HAMPSON
Attorneys at Law for the Plaintiff

To: The Clerk of Court

And to: The Defendant

And to: The Defendant's insurers:
Cayman Insurance Centre Ltd.,
P.O. Box 10056 APO,
Grand Cayman.

THIS STATEMENT OF CLAIM was filed by Messrs. Quin & Hampson, Attorneys-at-Law for the Plaintiff whose address for service is P.O. Box 1348 G, Third Floor, Harbour Centre, George Town, Grand Cayman.

GWH/mf/1795N251

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 installments or otherwise.

See over for notes for guidance

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 his 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. 768 OF 1999

BETWEEN: WILLIAM LORENZO CARTER

Plaintiff

AND: SCOTT'S INDUSTRIES LIMITED

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.

Messrs. Quin & Hampson
Attorneys-at-Law
Third Floor, Harbour Centre
P.O. Box 1348
George Town,
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.