

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: ⁷⁸⁰ OF 1999

BETWEEN:

MARK MILLER

Plaintiff

-and-

BRENDON LYONS carrying on business as ABM GROUP

Defendant

WRIT OF SUMMONS

TO: Brendon Lyons
Carrying on business as "ABM Group"
P.O. Box 30458 SMB
Grand Cayman, Cayman Islands
British West Indies



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 Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement 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 th 14 day of Dec 1999

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 is an individual residing in the Cayman Islands.
2. The Defendant is a local resident who at all material times held himself out to be a professional builder of swimming pools.
3. The Plaintiff owns a residence on Patrick Island, Prospect, Grand Cayman. Prior to the Plaintiff's involvement with the Defendant he had contracted a individual to construct an in ground pool at the residence. In or about August of 1998 it became apparent that the original builder of the pool was unable to complete the pool.
4. The Plaintiff and the Defendant entered into an agreement on the following terms:
 - a. The Defendant would complete the pool within 14 days of August 5th, 1998;
 - b. The Defendant would supply all material and labour for the completion of the pool;
 - c. The labour and material supplied by the Defendant would be of a professional quality and in any event suitable for the nature of the project;
 - d. The Defendant would not be responsible for damages that may occur as a result of defects in the foundation;
 - e. The Defendant would receive in lieu of a money payment a transfer of ownership of the Plaintiff's 1995 Dodge Truck;
 - f. Upon or around the time of the said transfer, the Defendant would pay to the Plaintiff the sum of CI\$7,000.00 being the agreed upon difference between the value of the truck and the value of the materials and labour required to finish the pool.
5. The Plaintiff did transfer the truck as agreed.
6. The Defendant did pay the Plaintiff CI\$7000.00 as agreed.
7. The Defendant commenced work on the pool but failed to complete the pool in a professional manner or at all. Within weeks of the Defendant purporting to complete the pool plaster began to crumble off the pool rendering the pool useless to the Plaintiff.
8. The Plaintiff made numerous requests over many months and, notwithstanding assurances from the Defendant that the pool deficiencies would be corrected, the Defendant refused or was unable to complete the pool in accordance with the agreement.

9. In May of 1999 the Plaintiff retained a third party to complete the pool which work was completed in a timely and acceptable manner. The Plaintiff paid to the third party completing the work or paid for the material required to complete the pool as follows:

a.	Diamond Brite Compound	CIS 730.80
b.	Labour to install Diamond Brite	CIS2,617.50
c.	Water required to be replaced	CIS 558.70
d.	Treatment to Balance pool	CIS 240.00
e.	Moutalic acid	CIS 60.00
f.	Colouring/tinting compound	<u>CIS 450.00</u>

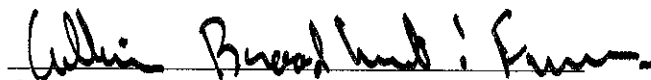
CIS4,657.00 Total

10. The Plaintiff's expenditure of CIS4,657.00 arose solely as a result of the Defendants breach of the contractual obligations as set out above.
11. The Defendant owes the Plaintiff the principal sum of CIS4657.00 exclusive of interest and costs. The Defendant also owes the Plaintiff interest on the stated principal sum from May 31, 1999 being the date of the Plaintiffs expenditure of the sums set out above.
12. In addition to the above, the Plaintiff was deprived of the use of the pool for a period of 9 months as a result of the Defendant failing to comply with his contractual obligations. The Plaintiff states that the value of the loss of use is CIS2500.00 for which the Defendant is also liable.

AND THE PLAINTIFF CLAIMS AGAINST THE DEFENDANT:

- A. The sum of CIS4657.00 for expenditures for the completion of the pool;
- B. The sum of CIS2500.00 for loss of use of the pool;
- C. Pre-judgment interest upon the said sum of CIS4657.00 pursuant to The Judicature Law (1995 Revision);
- D. Post-judgment interest pursuant to The Judicature Law (1995 Revision);
- E. Such further and other relief that this Honourable Court may deem just or appropriate.
- F. Costs as taxed.

Dated the 13th day of December, 1999



COLLINS BROADHURST & FURNISS
Attorneys-at-Law for the Plaintiff

INDORSEMENT

The amount claimed in respect of the debt or demand is CI\$4657.00 as principal and CI\$174.44 as interest until the issue of the writ of summons for a total amount of CI\$4831.44. The amount of the fixed costs is CI\$500.00 and the costs of issuing the writ of summons is CI\$150.00. If, within the time for returning the acknowledgement of service, the defendant pays the plaintiff or its attorneys-at-law the total amount claimed in principal and interest, the fixed costs and the costs of issuing the writ of summons, further proceedings will be stayed. The money must be paid to the plaintiff or to its attorneys-at-law.

STATEMENT REGARDING INTEREST

- i. The prescribed rate of interest, throughout the relevant period, was 7 per cent per annum;
- ii. The total interest claimed as at the date of the issue of the writ of summons is CI\$174.44;
- iii. The amount of interest accruing each day following the issue of the writ is CI\$0.89.

THIS WRIT OF SUMMONS was issued by Collins Broadhurst & Furniss, the attorneys-at-law for the plaintiff, whose address for service is P.O. Box 2503 GT, 40 Linwood Street, George Town, Grand Cayman, Cayman Islands, British West Indies.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 780 OF 1999

BETWEEN:

MARK MILLER

Plaintiff

-and-

BRENDON LYONS carrying on business as ABM GROUP

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 or otherwise participate in 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.

Yes

Service of the Originating Summons is acknowledged accordingly

(Signed) _____

[Attorney] for

[Defendant in Person]

Address for Service:

Notes on address for service

Attorney: when 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 Island, 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 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 Street
P.O. Box 2503 GT
Grand Cayman, Cayman Islands

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]

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. 495GT, 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 Acknowledgement 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 next page for notes for guidance.

Please complete next page

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. If you wish to defend claims made in the originating summons, or intend to attend the proceedings and to participate in them so far as necessarily (although not necessarily in an adversarial manner) you should tick the "Yes " box in paragraph 2 of the acknowledgment of service.
3. 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.
4. Where the Defendant is used 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 sated on the Originating Summons)".
5. 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.
6. 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.
7. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorized to act on behalf for the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
8. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
9. A Defendant acting in person may obtain help in completing the form at the Courts Office