

IN THE GRAND COURT OF THE CAYMAN ISLANDS

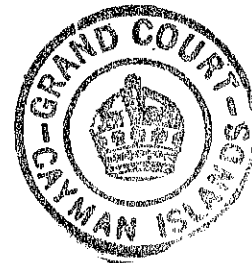
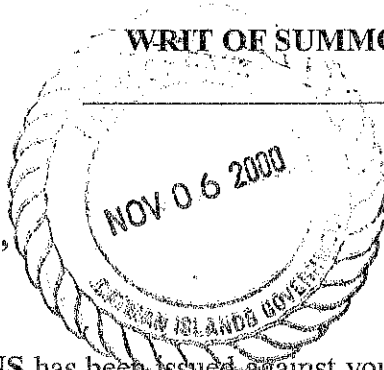
CAUSE NO. 836 OF 2000

BETWEEN: NEIL SMITH PLAINTIFF

AND: ELBERT McLEAN DEFENDANT  
(T/A B & E CONSTRUCTION)

WRIT OF SUMMONS

TO: Elbert McLean  
P.O. Box 10893 APO,  
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 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, PO 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 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 6<sup>th</sup> day of November, 2000.

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.

## INDORSEMENT

1. Pursuant to an agreement made between March 1998 and April 1999 between the Plaintiff and the Defendant the Plaintiff agreed to loan to the Defendant and the Defendant agreed to repay to the Plaintiff the total sum of CI\$8,963.10 ("the agreement").

<u>Date</u>	<u>Amount</u>	<u>Interest to 28 January 2000</u>
24 March 1998	CI\$ 464.00	CI\$ 85.80
10 May 1998	CI\$ 300.00	CI\$ 51.61
15 May 1998	CI\$3,450.00	CI\$ 588.86
5 June 1998	CI\$1,000.00	CI\$ 164.90
7 July 1998	CI\$2,000.00	CI\$ 312.35
7 July 1998	CI\$ 260.00	CI\$ 40.60
20 November 1998	CI\$ 164.00	CI\$ 19.50
27 November 1998	CI\$ 359.50	CI\$ 42.05
27 November 1998	CI\$ 350.00	CI\$ 40.94
23 December 1998	CI\$ 500.00	CI\$ 54.93
28 April 1999	<u>CI\$ 115.60</u>	<u>CI\$ 8.71</u>
	<b>CI\$8,963.10</b>	<b>CI\$1,410.24</b>

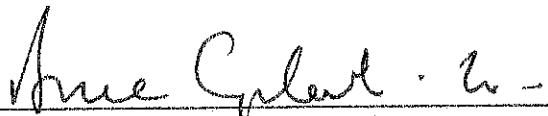
The total amount lent to the Defendant by the Plaintiff is CI\$8,963.10.

2. On 28<sup>th</sup> January, 2000 the Defendant repaid to the Plaintiff the sum of CI\$2,000.00 leaving an outstanding principal balance of CI\$7,859.10. On 4<sup>th</sup> February, 2000 the Defendant repaid the sum of CI\$1,000.00 leaving an outstanding principal balance of CI\$6,859.10.
3. Despite demand the Defendant has failed to make any further repayments and the balance of the sums lent of being CI\$6,859.10 is remains due and outstanding.
4. Interest accrued on this principal sum is CI\$1,917.66 at today's date, and continues to accrue at the daily rate of \$1.88.

5. The Plaintiff is therefore entitled to interest pursuant to the interest rate as referred to above, or alternatively, interest pursuant to Section 34 (1) of the Judicature Law (1995 Revision).

**AND THE PLAINTIFF CLAIMS:-**

1. The sum of CI\$6,859.10.
2. Pre and post judgement interest pursuant to the terms of the as aforesaid agreement and/or alternatively interest pursuant to Section 34 (1) of the Judicature Law
3. Costs.
4. Such further or other relief.

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**BRUCE CAMPBELL & CO.**  
**Attorneys-at-Law for the Plaintiff**

If within the time for returning the acknowledgement of service the Defendant pays the total amount claimed of CI\$6,859.10 interest in the sum of CI\$1,917.66, plus the further sum of CI\$400.00 in respect of fixed costs and fees, further proceedings will be stayed. The funds must be paid to the Plaintiff or its attorney.

**This Writ of Summons** is filed by Messrs. Bruce Campbell & Co., attorneys-at-law for the Plaintiff whose address for service is 4th Floor, Bank of Nova Scotia Building, George Town, Grand Cayman (Our Ref. AJW/ble/8902).

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 495, 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.

BETWEEN: NEIL SMITH PLAINTIFF

AND: ELBERT McLEAN DEFENDANT  
(T/A B & E CONSTRUCTION)

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 the Defendants whereby they may have to pay the costs of applying to set it aside.

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

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2. State whether the Defendant intends to contest the proceedings (*tick appropriate box*)  
 yes  no

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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

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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. Bruce Campbell & Co.  
Attorneys-at-Law  
Fourth Floor,  
Bank of Nova Scotia Building,  
P.O. Box 884,  
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.*