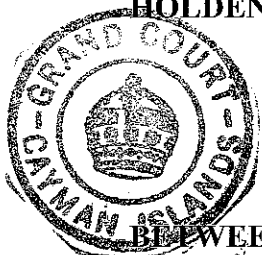




**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
HOLDEN IN GEORGE TOWN, GRAND CAYMAN**

CAUSE NO. *365* OF 2001



**BETWEEN:**

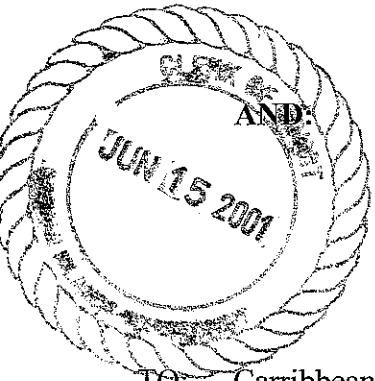
**THE ATTORNEY GENERAL  
OF THE CAYMAN ISLANDS**

**PLAINTIFF**

**AND:**

**CARIBBEAN HOME INSURANCE  
COMPANY LIMITED**

**DEFENDANT**



**WRIT OF SUMMONS**

TO: Caribbean Home Insurance Company Limited of Commerce House, 7 Genesis Close,  
PO Box 931, #81 Mary Street, George Town, 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 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 495GT, George Town, Grand Cayman, the accompanying Acknowledgement of Service stating therein whether you intend to contest the proceedings.

If you fail to satisfy the claim or fail to return the Acknowledgement of Service 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 judgment may be entered against you forthwith without further notice.

Issued this 15<sup>th</sup> day of June 2001.

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 Acknowledgement of Service are given with the accompanying form.

## STATEMENT OF CLAIM

1. The Plaintiff, the Attorney General of the Cayman Islands, sues on behalf of the Governor of the Cayman Islands in Council (hereinafter described as the “Government”).
2. The Defendant is and was at all material times a company carrying on (*inter alia*) the business of providing health and medical care insurance policies to employers for the benefit of their employees. The Defendant is a company incorporated under the laws of Trinidad and Tobago whose head office is situated at 63 Park Street, Port of Spain, Trinidad, West Indies.
3. At all material times the Defendant carried on business (*inter alia*) from, and had a place of business in the Cayman Islands at, Commerce House, 7 Genesis Close, P.O. Box 931, George Town, Grand Cayman, Cayman Islands.
4. By an agreement in writing made between the Government and the Defendant dated the 1<sup>st</sup> March 2000, and identified as policy numbers CC GIN 277597, CC GIN 277598 and CC GIN 277600 and described as a Group Insurance Policy (hereinafter referred to as the “Policy” or the “Contract” as the context permits) and in consideration of the payment by the Government to the Defendant of the premiums as provided in the Policy, the Defendant agreed to pay certain benefits in accordance with and subject to the terms of the Policy.

### **Claim for Liquidated Debts**

5. By Clause 12 of the Policy the Government and the Defendants expressly agreed as follows:

*“Payment of claims shall be no later than 31 days from the date of submission of claim unless the Insurance Company has notified the Provider of the services in writing of a request for further information or notification of any dispute on the claim. Once the information requested has been satisfied the payment of the claim shall then be within an additional 31 days.*

*Legal Proceedings: No action at law or in equity shall be brought to recover under this Policy prior to the expiration of ninety (90) days after proof of claim has been furnished in accordance with the requirements of the Policy, nor shall any such action be brought at all unless commenced within six years from the expiration of the time within which proof of claim is required hereby.”*

6. Claims have been properly submitted in accordance with the Policy to the Defendant for payment but as at the date of the issue of the Writ herein 44,699 claims in number have been submitted to the Defendant in the aggregate amount of CI\$ 5,032,824.23 (five million and thirty two thousand eight hundred and twenty four Cayman Islands dollars and twenty three cents) which claims the Defendant has, unlawfully and in breach of the said Clause 12 of the Policy, failed to pay.
7. Attached as Schedule 1 to this Statement of Claim is a spreadsheet showing the details of each claim, the amount of each claim, the due date for payment of each claim, and claims in respect of which the period of ninety days referred to in the said Clause 12 has expired and thus enforceable by action.
8. Schedule 1 sets out the amounts outstanding and enforceable by this action. The Plaintiff will serve the Defendant and the Court on a regular basis and from time to time with an amended Schedule 1 showing the additions if any to the number and amount of claims falling due and enforceable under the Policy until such time

as all claims which are due and outstanding under the Policy will have become enforceable according to the terms of Clause 12. That final aggregate total will be the final amount of all claims outstanding under the Policy as at the trial of this action or application for summary judgment as the case may be.

9. By reason of the aforesaid breaches of Clause 12 of the Policy the Government has suffered injury loss and damage full particulars of which will be set out in the final amended Schedule 1 being the final amount of all claims due and payable but unpaid as at the date of judgment herein.

### **Claim for unliquidated damages**

#### ***Repudiatory Breach***

10. As at the 15<sup>th</sup> March 2001, the Defendant evinced a clear and settled intention not to be bound by the express and/or implied terms of the said Policy (hereinafter that intention is referred to as the “repudiatory breach”).

#### PARTICULARS OF THE DEFENDANT’S REPUDIATORY BREACH

1. On the 23<sup>rd</sup> February 2001 the Defendant wrote a letter to Government in which contained (inter alia) the following:

*“We write to advise that pursuant to Clause 1 of the General Provisions of the above Policy we have amended the said policy by amending the coverage provided under the Schedule of Benefits and all Riders for Employees and any other person insured under the Policy with effect from 12:01 a.m. on 1 March, 2001 Standard Time in the Cayman Islands.*

*The amendments are as set out in the Endorsements on the Policy which have been duly signed by the General Manager, Secretary and the Manager of the Life and Health Department of Caribbean Home Insurance Company Limited.*

*The Providers of the various services will be notified accordingly.”*

2. On the 1<sup>st</sup> March 2001 the Government wrote to the Defendant rejecting the Defendant's alleged right to be able to vary, unilaterally, the terms of the Policy and requiring the Defendant to reply to that letter by the close of business on 2 March 2001. No such reply had been received by the Government as at the 15<sup>th</sup> March 2001.
3. The volume and number of claims unpaid by the Defendant in breach of the provisions of Clause 12 of the Policy.
4. On the 15 March 2001, the Defendant wrote to each service provider submitting claims for payment under the terms of the Policy in the following terms:  
*“ Re: The Caribbean Home Insurance Company Limited (“Company”) -  
The Government of the Cayman Islands Group Insurance Policies:  
Policy No. CCGIN 277597 (Green Card)  
Policy No. CCGIN 277598 (Silver Card)  
Policy No. CCGIN 277600 (Gold Card)*

*Further to our letter to you of February 28<sup>th</sup>, 2001 PLEASE BE ADVISED THAT THE ABOVE MENTIONED POLICIES HAVE BEEN TERMINATED WITH EFFECT FROM MARCH 15<sup>TH</sup>, 2001.*

*In the circumstances no claim bearing a date of service after March 15<sup>th</sup>, 2001 will be entertained by the Company.*

*Please be guided accordingly.”*

11. The facts and matters pleaded in paragraph 10 hereof amount to a repudiation by the Defendant of the terms of the Policy.
12. By a letter dated the 15<sup>th</sup> March 2001, the Government wrote to the Defendant a clear and unequivocal acceptance of the Defendant’s repudiation of the Policy.

***Renunciation***

13. Further, or in the alternative, the Defendant has, unlawfully and in breach of contract, evinced an intention not to perform, or alternatively has expressly declared that it refuses to perform, its obligations under the Policy whereby the Defendant has renounced the Policy.
14. Further, or in the further alternative, the Plaintiff has by the said letter to the Defendant dated the 15<sup>th</sup> March 2001, treated the Policy as discharged by the said renunciation of the Policy by the Defendant as of that date.
15. By reason of the matters pleaded in paragraphs 10 to 14 of this Statement of Claim the Government has suffered injury, loss and damage:

PARTICULARS OF INJURY, LOSS AND DAMAGE BY REASON OF  
THE DEFENDANT’S REPUDIATION/RENUNCIATION OF THE  
POLICY

1. By Clause 10 of the Policy the Government and the Defendant expressly agreed as follows:

*“This Policy has been issued for a period of three years from inception of coverage with the premium being guaranteed for a period of two years.”*

2. In the premises, the Plaintiff's loss and damage will be the difference between (A) the premiums which would have been payable from the 15<sup>th</sup> March 2001 until the 1st March 2002 to the Defendant under the Policy and (B) either (i) the premiums which will be payable to another insurance provider for identical benefits as those provided under the Policy with the Defendant for a like period or (ii) the cost to the Government itself of providing the same benefits to the Insured Persons as they would have obtained under the said Policy for the period from the 15<sup>th</sup> March 2001 to the 1<sup>st</sup> March 2002.
  3. To that figure shall be added all incidental costs incurred by Government in providing the said benefits to the Insured Persons including the costs of processing claims for such benefits and, if any, the costs incurred in seeking alternative insurers to provide the said benefits including the costs of engaging professional consultants to prepare the bid process and selection program.
  4. The Plaintiff will provide full details of the amount of damages recoverable under this head in the course of Discovery herein.
16. Further, the Plaintiff is entitled to and claims interest pursuant to s.34 of the Judicature Law (1995 Revision) at such rate and for such period as the Court thinks fit.

**AND** the Plaintiff claims:

1. Under paragraph 9 CI\$5,032,824. 23
2. Interest thereon at 8% as shown in Schedule 1  
and continuing CI\$143,387.07
3. Damages
4. Interest on such damages
5. A declaration that the Plaintiff was entitled to treat the contract as  
discharged by reason of the Defendant's repudiatory breach alternatively  
renunciation.
6. Alternatively rescission.
7. Costs



~~Stephen D. Hall-Jones~~  
Senior Crown Counsel (Civil)  
For the Attorney-General

Dated the 15<sup>th</sup> June 2001

Filed and Issued the 15<sup>th</sup> June 2001

THIS WRIT was issued by the Cayman Islands Government Legal Department whose address for service is P.O. Box 907,  
4<sup>th</sup> Floor, Tower Building, George Town, Grand Cayman.

BETWEEN: THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS

PLAINTIFF

AND: CARIBBEAN HOME INSURANCE COMPANY 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 is required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

1. State the full name of the Defendant by whom or on whose behalf the service of the Writ of Summons 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: .....  
.....  
.....

**Notes on address for service: -**

Attorney: where the Defendant is represented by an attorney, state 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 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: -*

The Government Legal Department, P.O. Pox 907 George Town, 4<sup>th</sup> Floor, Tower Building, 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: -*