

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO 202 OF 2002

BETWEEN

JEFFERSON BODDEN

PLAINTIFF

AND

DAVID PEYNADO
(D.B.A. DAVID PEYNADO & COMPANY)

DEFENDANT

WRIT OF SUMMONS

TO:

David Peynado,
d.b.a. David Peynado & Company,
c/o Delworth's Esso,
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 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 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 15th day of March 2002.

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.

STATEMENT OF CLAIM

1. At all material times the Defendant carried on business as the operator of a gasoline station popularly known as "Delworth's Esso" and the Plaintiff was employed by the Defendant in the capacity of cashier/pump attendant during the period of July 16th 1996 to August 9th 1999 on which latter date his said employment was summarily terminated by the Defendant.
2. During his employment at the said gasoline station the Plaintiff was regularly required to work hours in excess of the standard work week of forty five hours as prescribed by the Labour Law.
3. In contravention of the provisions of the said Labour Law, the Defendant failed to pay the Plaintiff for any hours which the Plaintiff worked in excess of the standard work week at the rate specified by the said Labour Law of one-and-one half (1 ½) times the basic hourly wage of the Plaintiff for divers days during the period of July 16th 1996 to June 3rd, 1999 which totalled CI\$12, 325.71.
4. Subsequent to the Defendant's termination of the Plaintiff's employment on the 9th August 1999, the Plaintiff has on a number of occasions demanded from the Defendant payment of the said sum of CI\$12,325.71 but to date the Defendant has failed to pay the said sum save and except for a partial payment of CI\$3,755.13 made on the 10th February 2000, leaving a balance of CI\$8,570.58 which remains unpaid and outstanding.
5. That consequently the Plaintiff has suffered loss and damage.
6. By reason of the said debt on the part of the Defendant the Plaintiff is entitled to interest .

PARTICULARS OF INTEREST

1. Interest from 09/08/99 to 10/02/00 = \$12,325.71 x .07000 x 185/365 = \$437.30
2. Interest from 11/02/00 to 31/03/00 = \$8,570.58 x .07000 x 10/365 = \$16.78
2. Interest from 01/04/00 to 31/05/01 = \$8,570.58 x .08000 x 426/365 = \$817.04
3. Interest from 01/06/01 to 30/11/01 = \$8,570.58 x .06250 x 183/365 = \$268.56
4. Interest from 01/12/01 to 15/03/02 = \$8,570.58 x .04500 x 105/365 = \$110.94

TOTAL = \$1,650.62

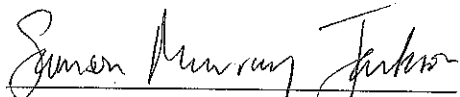
The amount of interest accruing each day following the issue of this Writ is \$2.54

AND THE PLAINTIFF CLAIMS:

1. The said sum of CI\$8,570.58 by way of damages;
2. Interest at the prescribed rate of 4.5% pursuant to Section 34 of the Judicature (1995 Revision) and Rules 4 & 5 of the Judgment Debts (Rates of Interest) Rules 1995 calculated from the 9th day of August 1999 in the amount of CI\$1,650.62 as at the date of issue of the Writ herein and accruing at the rate of CI\$2.54 per day thereafter;
3. Costs.

If, within the time for returning the Acknowledgement of Service, the Defendant pays the total amount claimed of CI\$11,221.20 including interest and costs, further proceedings will be stayed. The money must be paid to the Plaintiff or his Attorneys-at-Law.

Dated this 15th day of March 2002.



Samson Murray Jackson
Attorneys-at-Law for the Plaintiff

THIS WRIT and STATEMENT OF CLAIM was issued by Samson Murray Jackson, Attorneys-at-Law, for and on behalf of the Plaintiff herein, whose address for service is that of their said Attorneys-at-Law, Ground Floor (West Wing), Sigma Building, Smith/Hospital Roads, George Town Grand Cayman.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO 202 OF 2002

BETWEEN JEFFERSON BODDEN PLAINTIFF

AND DAVID PEYNADO
(DAVID PEYNADO & COMPANY) DEFENDANT

ACKNOWLEDGEMENT 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 Delay may result in judgement being
directions and notes for guidance entered against a Defendant whereby
carefully before completing this form he may have to pay the costs of
If any information required is omitted applying to set it aside.
or given wrongly, **THIS FORM MAY HAVE TO BE RETURNED.**

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

2. State whether the Defendant intends to contest the proceedings (tick the 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 judgement 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 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 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:

| |
|---|
| SAMSON MURRAY JACKSON Attorneys-at-Law for the Plaintiff P.O. Box 10067 APO Sigma Building, Smith/Hospital Roads, 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:

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DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS

1. The accompanying form of *Acknowledgement 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 Acknowledgement 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 endorsed 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 judgement is served on the Defendant.

If the defendant fails to serve his defence within 9the appropriate time, the Plaintiff may enter judgement 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 judgement 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 Acknowledgement, 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.

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement of Service and return it to the Courts Office.

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 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 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:

SAMSON MURRAY JACKSON
Attorneys-at-Law for the Plaintiff
P.O. Box 10067 APO
Sigma Building,
Smith/Hospital Roads,
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:

[Empty box for Defendant's Attorney indorsement]