

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 778 OF 2002

BETWEEN: DENNIS SANDUSKY

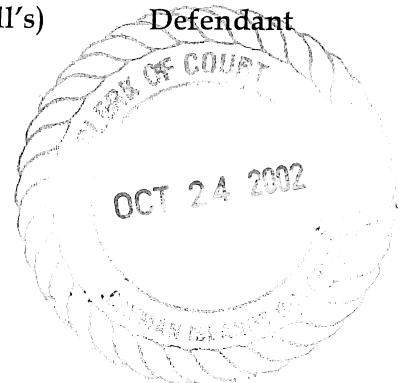
Plaintiff

AND: W.H. MCTAGGART & SON LTD. (trading as "Uncle Bill's)

Defendant

WRIT OF SUMMONS

To: W.H. McTaggart & Son Ltd.
P.O. Box 1708
Grand Cayman, Cayman Islands
B.W.I.



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 495G, 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 23rd day of October, 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 re-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 was a resident of the Cayman Islands employed by the Defendant.
2. The Defendant is a company trading as a home center providing hardware, building supplies and home improvement goods in the Cayman Islands.
3. The Plaintiff was employed by the Defendant from on or about the 17th February, 1997 until on or about the 24th June 2002 as a sales and marketing officer.
4. Pursuant to a written agreement dated 18th February, 1997 the Plaintiff's starting wage was CI\$450.00 per week (CI\$23,400.00 per annum). This remuneration was increased throughout the Plaintiff's term of employment with the Defendant.
5. It was an expressed term of the contract that the working hours per week would be Monday to Friday 8:30 a.m. to 5:30 p.m. and Saturday 8:30 a.m. to 5:00 p.m. with one hour break for lunch and a rest day every other week.
6. Section 24 of the Labour Law states that the standard work week shall not exceed 45 hours and pursuant to Section 25 of the Labour Law any employee who works an excess of the standard work week shall be paid overtime. Overtime shall be paid, pursuant to Section 27(1), at the rate of at least 1½ times an employees basic hourly wage per hour.
7. In breach of the Labour Law 2001 Revision the Defendant did not receive his overtime entitlement.

Particulars

1997	106.46 hrs @ CI\$15.00 per hr	CI\$1,596.90
1998	509.22 hrs @ CI\$19.75 per hr	CI\$10,057.10

1999	445.39 hrs @ CI\$19.75 per hr	CI\$8,796.45
2000	623.12 hrs @ CI\$21.36 per hr	CI\$13,309.84
2001	581.11 hrs @ CI\$21.36 per hr	CI\$12,412.51
2002	397.09 hrs @ CI\$27.045 per hr	CI\$10,739.30

Total claim for overtime worked CI\$56,912.10.

AND THE PLAINTIFF CLAIMS:

- (i) The sum of CI\$56,912.10.
- (ii) The Plaintiff further claims interest pursuant to Section 34 of the Judicature Law on the sum of CI\$56,912.10 at the rate of 4.5% from June 24, 2002 to the date hereof amounting to CI\$846.57 and then continuing until the date of Judgment or sooner payment at the rate of CI\$7.02 per day.
- (iii) Costs to be taxed or agreed.

If, within the time for returning the Acknowledgment of Service, the Defendants pay the total amount claimed including interest and costs of CI\$58,687.79 all further proceedings will be stayed. The money must be paid to the Plaintiff's Attorney.



QUIN & HAMPSON

Attorneys-at-Law for the Plaintiffs

THIS WRIT was issued by Messrs. Quin & Hampson, Attorneys-at-Law for the Plaintiff whose address for service and correspondence is P.O. Box 1348, Third Floor, Harbour Centre, George Town, Grand Cayman, B.W.I.

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.

BETWEEN: DENNIS SANDUSKY

Plaintiff

AND: W.H. MCTAGGART & SON LTD. (trading as "Uncle Bill's)

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.