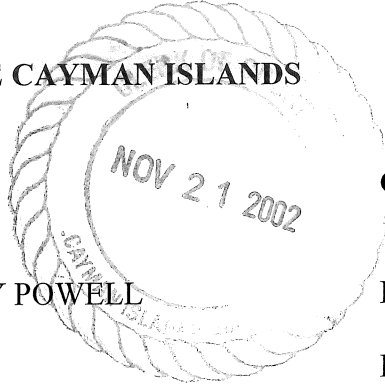




IN THE GRAND COURT OF THE CAYMAN ISLANDS



868

CAUSE NO: OF 2002

BETWEEN: GEORGE ANTHONY POWELL

PLAINTIFF

AND: BRENT GREENE

DEFENDANT

WRIT OF SUMMONS

TO: Brent Greene, P.O. Box 199, North Side, Grand Cayman, Cayman Islands

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

If you fail to satisfy the claim or 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 \_\_\_\_\_ day of November 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 Acknowledgment of Service are given with the accompanying form.

## STATEMENT OF CLAIM

1. The Plaintiff is the proprietor of a one-quarter portion of property situated at Breakers Block 55A Parcel 52 Rem 2 (“the property”).
  
2. By an agreement in writing dated 7 January 2002 (“the first agreement”) made between the Plaintiff and the Defendant, to which the Plaintiff will refer, it was expressly agreed (inter alia) as follows:
  - (a) The Defendant would clear that part of the property being developed by the Plaintiff, stockpile topsoil and prepare designated areas, as shown on attached site plan, where 2 lakes were to be established, arranging and paying for the blasting to create such lakes.
  
  - (b) The Defendant would excavate the fill from the sites of the proposed lakes, stockpile it and remove it, in a timely fashion and in a manner which would not hinder the development.
  
  - (c) The amounts of fill required to be left on site for filling 3 proposed lots and the heights to which they were to be filled and other detail were also specified, and the Defendant was required to excavate and level 3 proposed lots in accordance with certain defined specifications.
  
  - (d) The Defendant would pay to the Plaintiff the sum of CI \$4.00 per cubic yard of marl removed by him from this development site at the property.

And it was an implied term of the first agreement that:

  - (e) The Defendant would carry out and complete the agreed works within a reasonable time.
  
3. In about March 2002, the Defendant entered into an oral agreement with the Plaintiff (“the second agreement”), whereby the Defendant undertook to remove topsoil from this development site for processing at his compound at Frank Sound and that he would return 60% of the processed soil to the Plaintiff for spreading and completion of the proposed development lots.

4. Pursuant to the first agreement, the Defendant excavated the first proposed lake and filled and cleared Lot 1 at the development site; he carried out partial excavation for the second proposed lake; and he did some de-mucking for Lot 2 and removed certain quantities of marl. In breach of the terms of the first agreement referred to in paragraph 2 above, the Defendant failed to carry out all the work required to complete the agreed works or promptly to pay for all the marl removed by him from the property. Particular of the work outstanding which the Defendant has wrongfully failed to complete and of the costs of carrying out such work are set out in the Schedule served herewith.
  
  5. Pursuant to the second agreement, the Defendant removed a total of 1,234.04 cubic yards of topsoil from the development site at the property, but has wrongfully refused or neglected to return 60% thereof (745.82 cubic yards) as processed soil, for spreading on the 3 lots. The value of 745.82 cubic yards of processed topsoil, at CI \$26 per cubic yard, is CI \$18,625.00.
  
  6. The Defendant has paid the sum of CI\$ 16,044.00 to the Plaintiff in respect of marl purchased and removed by him from the property, but he has ignored the Plaintiffs demands for payment of the other sums due to the Plaintiff, which were made during the period February-August 2002 or to complete the outstanding works which he is contractually bound to perform.
  
  7. By reason of the Defendant's breaches of the first and second agreements, the Plaintiff has suffered loss and damage, as follows:
    - (a) The value of 60% of 745.82 cubic yards of processed topsoil at CI\$ 26 per cubic yard CI\$ 18,624
  
    - (b) Cost of completing outstanding work as set out in the Schedule served herewith CI\$ 105,300
- |       |              |
|-------|--------------|
| Total | CI\$ 123,925 |
|-------|--------------|

8. Moreover, as a consequence of the Defendant's breaches of the first and second agreements and, in particular, of his obligations to carry out the agreed works in the manner contemplated by the terms referred to in paras. 2(b) and (e) above, the Plaintiff has suffered and will continue to suffer substantial and unnecessary delay in completing the development of Lots 1, 2 and 3 at his property, he will be put to unnecessary trouble and expense and he will suffer loss and damage accordingly. Particulars of losses under this head will be served separately.

**AND THE PLAINTIFF claims:**

1. Damages.
2. Interest pursuant to the Judicature Law .
3. Costs.
4. Further or other relief.

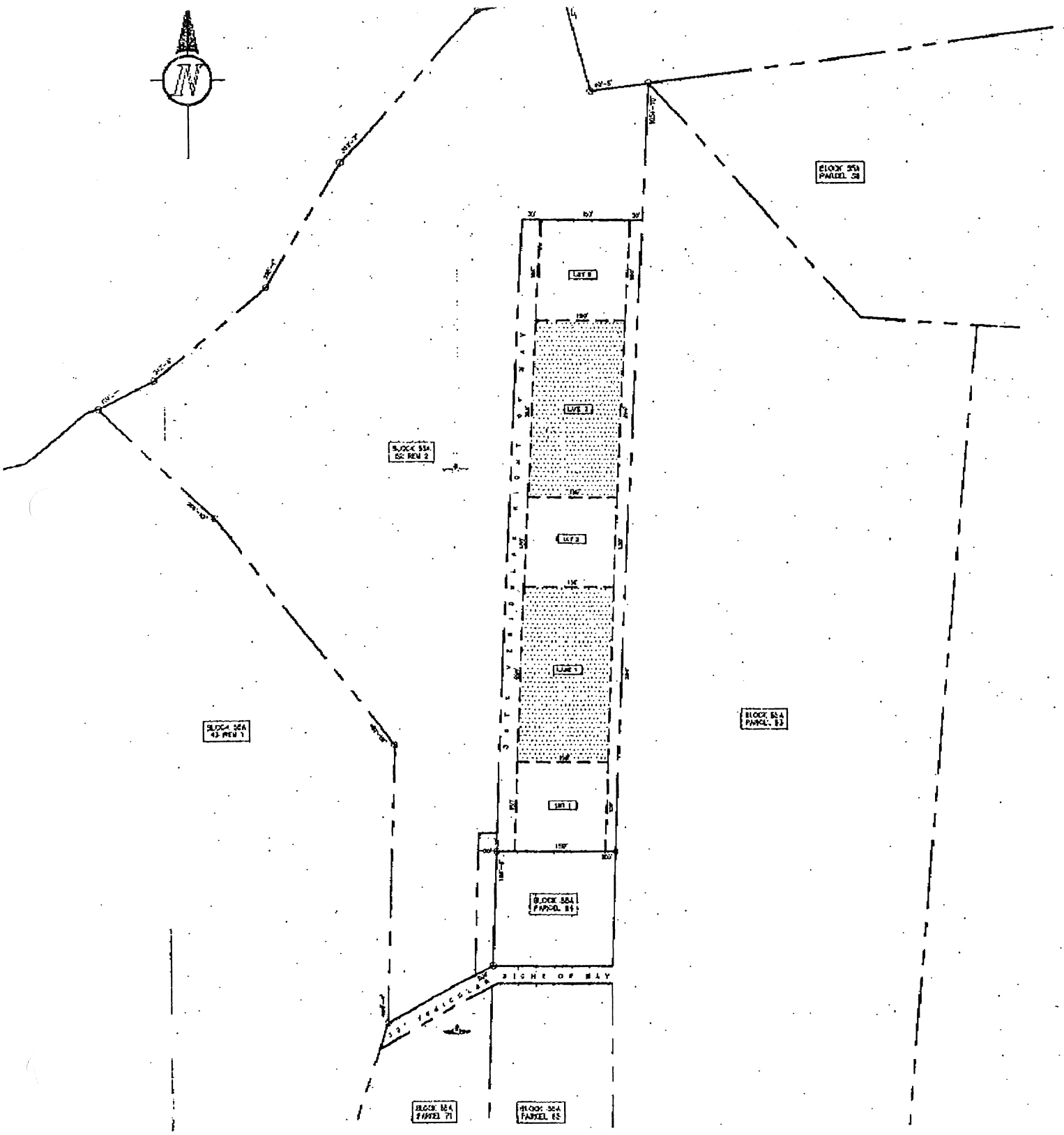
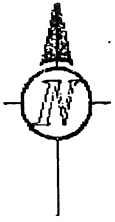
Dated this 20<sup>th</sup> day of November 2002.

  
POLACK & CO.

**THIS WRIT of SUMMONS** was issued by POLACK & CO. whose address for service is No. 4 Windward Centre, 93 Smith Road, George Town, Grand Cayman. Attorney for the Plaintiff.

**SCHEDULE OF WORKS**

1) Land Clearing 16 hrs. Excavator @ CI\$ 100.00 per hr	CI\$ 1,600.00
2) Removal of trees scrubs and topsoil 26 hrs. Excavator @ CI\$ 100.00 per hr 26 hrs Truck @ CI\$ 50.00 per hr	CI\$ 3,900.00
3) 3 Shots of Dynamite Blast @ CI\$ 20,000.00 per shot	CI\$ 60,000.00
4) Excavate marl 360 hrs. Excavator @ CI\$ 100.00 per hr.	CI\$ 36,000.00
5) 40 hrs Bulldozer @ CI\$ 80.00 per hr.	CI\$ 3,200.00
6) Transportation cost for equipment	CI\$ 600.00
<b>Total Cost</b>	<hr/> CI\$ 105,300.00 <hr/>



BLOCK 55A  
PARCEL 58

BLOCK 55A  
PARCEL 59

BLOCK 55A  
PARCEL 60

BLOCK 55A  
PARCEL 61

BLOCK 55A  
PARCEL 62

BLOCK 55A  
PARCEL 63

BLOCK 55A  
PARCEL 64

SOUTH BAY

SOUTH OF BAY

50' PARALLEL

30' 67' 30'

150'

150'

150'

150'

150'

100'

100'

**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**

**Please complete overleaf**

## 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 its 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 Court Office.

THE GRAND COURT OF THE CAYMAN ISLANDS

868

CAUSE NO: OF 2002

BETWEEN: GEORGE ANTHONY POWELL

PLAINTIFF

AND: BRENT GREENE

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 I 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 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.*

**POLACK & CO.  
P.O. Box 10906 APO  
No. 4 WINDWARD CENTRE  
93 SMITH ROAD  
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]