

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. <sup>520</sup> OF 2003

BETWEEN: HARDIE WELCOME PLAINTIFF  
AND: LEROY CLARKE DEFENDANT  
T/A Auto Specialist Garage )



**WRIT OF SUMMONS**



To: The Defendant, Leroy Clarke t/a Auto Specialist Garage  
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 Courts Office, P.O.Box 495,G.T., 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 fail to 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 at George Town this                      day of August, 2003.

NOTE: This Writ may not be served later than four (4) calendar months ( or if leave is required to effect service out of the jurisdiction, six (6) months ) beginning with the day of issue unless renewed by order of the Court.

**IMPORTANT**

Directions for Acknowledgment of Service are given with the accompanying form.

### STATEMENT OF CLAIM

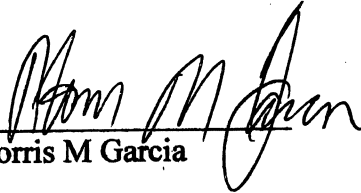
1. The Plaintiff resides in Savannah, Grand Cayman and operates his own landscaping & gardening business .
2. The Defendant is owner/manager of a garage business trading as Auto Specialist Garage in George Town, Grand Cayman.
3. In or around summer of 2000 the Plaintiff took his 150-Ford to the Defendant's garage for transmission repairs.
4. The Plaintiff also carried a new cab which he requested the Plaintiff to install in the said truck.
5. The Defendant requested and received from the Plaintiff the sum of CI\$700.00 in order to commence the job.
6. The Defendant agreed to effect the repairs to the truck and install the cab within a reasonable time
7. That notwithstanding the agreement, the Defendant has to date failed and/or refused to carry out or complete the repairs to the said truck.
8. That subsequently the Defendant took out the truck's transmission and pulled the truck to pieces. The glass in the truck's cab has also since been smashed.
9. That as a result the truck has so deteriorated that it is no longer of any use to the Plaintiff or to his business.
10. Despite repeated demands from the Plaintiff for the Defendant to complete the repairs to the truck and to install the cab, or return both the truck and the cab to the Plaintiff in their original state and condition, the Defendant has refused to so do.
11. That accordingly, the Plaintiff has suffered loss and damage as his business has being deprived of the use and benefit of the said truck which at the time it was handed to the Defendant for repairs had an estimated value of CI\$5,500.00 while the new cab purchased by the Plaintiff to have installed in the truck costs the Plaintiff CI\$3,500.00.

#### WHEREFORE THE PLAINTIFF CLAIMS FROM THE DEFENDANT

- a) The sum of CI\$9,000.00

- b) Pre-and post-Judgment interest pursuant to statute.
- c) Costs
- a) Such further and/or other relief as the Honourable Court deems fit and proper.

Dated this 5<sup>th</sup> day of AUGUST, 2003.

  
Morris M Garcia

To: The Clerk of the Court

And To: The Defendant, Auto Specialist Garage, George Town, Grand Cayman

Filed by Morris M Garcia, Suite #2, Nevlaw Building, George Town, Grand Cayman,  
attorney-at-law for the Plaintiff.

### **STATEMENT REGARDING INTEREST**

- (i) The prescribed rate of interest throughout the relevant period is 8% per annum from August 1, 2000 to May 31, 2001, 6 ¼% per annum from June 1, 2001 to November 30, 2001 and 4 1/2% per annum from December 1, 2001 to August 5, 2003.
- (ii) The date from which interest is calculated is August 1, 2000.
- (iii) The total amount of interest claimed as at the date of the issue of the writ of summons is CI\$1, 639.53
- (iv) The amount of interest accruing thereafter is CI\$7.12 per day.

The amount claimed is CI\$9,000.00 as principal and CI\$1,639.53 as interest to the date of issue of the writ of summons for a total of CI\$10, 639.53. The amount of the fixed costs is CI\$500.00 and the cost of filing and serving the Writ is CI\$200.00. If, within the time fixed for returning the Acknowledgment of Service, the Defendant pays to the Plaintiff or his attorney-at-law the total amount claimed of CI\$11, 339.53 in principal and interest, the fixed costs and the costs of filing and serving the Writ of Summons, further proceedings will be stayed. The money must be paid to the Plaintiff or her attorney-at-law.

THIS WRIT was issued by Morris M Garcia, attorney-at-law for the Plaintiff whose address for service is that of her said attorney, Suite #2, Nevlaw Building P.O.Box 253 Sav., Grand Cayman, Cayman Islands.

**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 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 acting in person).

If a Statement of Claim is endorsed on the Writ ( ie. 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 a Statement of Claim is not endorsed 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 affidavit of his means. The affidavit should state any offer which the defendant desires to make for the payment of the money by installments or otherwise.

**See over for notes for guidance**

**Please complete overleaf**



Service of the Writ is acknowledged accordingly.

(Signed) \_\_\_\_\_

[ Attorney ] for:

[ Defendant in person ]

Address for service:

**Notes on address for service**

**Attorneys:** 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 Plaintiffs' Attorney ( or by Plaintiff if acting in person ) of his name, address and reference, if any, in the box below:**

Morris M Garcia  
Attorney-at-law  
P.O.Box 1185GT  
Grand Cayman

**Indorsement by defendant's attorney ( or by defendant if acting in person ) of his name, address and reference, if any, in the box below.**

Filed by Morris M Garcia, Suite #2, Nevlaw Building, Grand Cayman, attorney-at-law for the Plaintiffs.

## 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 a 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 Courts Office.