

Writ of Summons (O.6, r.1)

IN THE GRAND COURT OF THE CAYMAN ISLAND
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

LEGAL AID

CAUSE NO. 428 OF 1996

BETWEEN

ROBERT LEON EBANKS

- PLAINTIFF

AND:

HADSPHALTIC INTERNATIONAL LIMITED

- DEFENDANTS

AUG 21 1996

WRIT OF SUMMONS

TO: To the Company Secretary, Hadsphaltic International Limited C/O Coutts & Co., PO Box 707 GT, Grand Cayman, Cayman Islands, BWI.

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 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 ^{21st} day of August 1996.

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

(Please see Statement of Claim attached hereto)



THIS WRIT was issued by Clyde H. Allen BSc whose address for service is Brooks & Brooks, Attorneys-At-Law, PO Box 1355, Grand Cayman, British West Indies

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CAUSE NO. 428 OF 1996

BETWEEN ROBERT LEON EBANKS - PLAINTIFF
AND: HADSPHALTIC INTERNATIONAL LIMITED - DEFENDANTS

STATEMENT OF CLAIM

1. At all material times the Plaintiff was employed as a labourer by the Defendants at Cayman National Corporation Head Quarters. The Plaintiff commenced working with the Defendants on 25 August 1995.
2. Between 25 August 1995 and 1 November 1995 the Plaintiff, in the course of his employment, was engaged, inter alia, in loading and unloading bags of cement, tipping the loaded cement bags into a mechanical hopper which in turn lifted and placed the cement into a mixer.
3. In the course of carrying out his work the Plaintiff was exposed to a considerable concentration of cement dust and to inhaling such dust, and in consequence of the dust settling on his skin and the Plaintiff inhaling such cement dust, he has sustained injuries to those parts of his body exposed to the dust.

4. The injuries were caused through the negligence and/or breach of statutory duty of your servants or agents.

Particulars Of Negligence

- a) Failing to take any or adequate precautions for the safety of the Plaintiff while he was engaged upon his work.
- b) Exposing the Plaintiff to a risk of damage or injury of which they knew or ought to have known
- c) Failing to provide any suitable or adequate appliances to enable the work to be carried out safely.
- d) Failing to take any or practicable measures to protect the Plaintiff against either inhalation or accumulation of the dust on his skin.
- e) Causing or permitting the Plaintiff to be exposed to substantial quantities of the cement dust on his skin which caused it to blister and to inhalation of the same when they knew or ought to have known that such exposure and inhalation were likely to be injurious to him.
- f) In the circumstances, failing to provide or maintain any or any proper or safe system of work.

Particulars Of Breach Of Statutory Duty

- (i) The Plaintiff's place of employment is a work place within the meaning of the Labour Law 1987 (Law 30 of 1987) and the matter complained of constitutes a breach of S.51 & 60.

5. On or about 27 October 1995, in the course of his employment the Plaintiff was carrying out his duties working on the batching plant when he experienced pain in his lower back, swelling in the left groin and pain in the scrotum.
6. Immediately the Plaintiff experienced the pain he notified his supervisor. The Plaintiff attended hospital where he was diagnosed as suffering a lower back strain and a left inguinal nerve injury. As a result of his injuries the Plaintiff ceased work on 1 November 1995. The Plaintiff required an operation which was carried out on 21 November 1995. The Plaintiff was hospitalised for one night and was discharged on 22 November 1995.
7. The accident was caused through the negligence and/or breach of statutory duty of your servants or agents.

Particulars Of Negligence

- a) Failing to take any or adequate precautions for the safety of the Plaintiff while he was engaged upon his work.
- b) Exposing the Plaintiff to a risk of damage or injury of which they knew or ought to have known
- c) Failing to provide any suitable or adequate mechanical lifting appliances to enable the work to be carried out safely.
- d) Employing the plaintiff to lift and carry a load so heavy as to be likely to cause injury to him.
- e) Failing to have any or any adequate regard to the weight of the unit and the obvious risk of injury to the Plaintiff.
- f) Operating an unsafe system of work

Particulars Of Breach Of Statutory Duty

- (i) The Plaintiff's place of employment is a work place within the meaning of the Labour Law 1987 (Law 30 of 1987) and the matter complained of constitutes a breach of S/51.

8. By reason of these matters the Plaintiff, who was born on 12 November 19947, suffered injury, loss and damage.

Particulars Of Injury

- (i) Irritation of bronchial tubes.
- (ii) Dry cough
- (iii) Irritation to the skin primarily of the arms and legs causing blistering and lacerations.
- (iv) Strained back muscles and Left inguinal hernia. The Back injury was treated with anti-inflammatory drugs, analgesia and referral for physiotherapy. The Hernia was treated by way of surgery. The back and groin are weak and vulnerable and the Plaintiff will always be unfit for heavy manual work. There is substantial loss of earning capacity in the open labour market.

Particulars Of Special Damage

1. Loss of earnings from 1 November 1996 to date employment terminated.

9. Further, pursuant to The Judicature Law (1995 Revision), the Plaintiff is entitled to and claims interest on such sums as are found to be due at such rate and for such period as the Court shall think fit.

AND THE PLAINTIFF claims:

1. Damages.
2. Interest thereon pursuant to The Judicature Law (1995 Revision).
3. Costs.



BROOKS & BROOKS



IN THE GRAND COURT OF THE CAYMAN ISLAND
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CAUSE NO. 428 OF 1996

BETWEEN ROBERT LEON EBANKS - PLAINTIFF

AND: HADSPHALTIC INTERNATIONAL LIMITED - DEFENDANTS

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 a 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

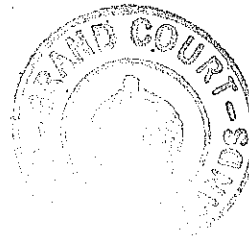
Service of the Writ is acknowledged accordingly

(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.

C. H. Allen BSc
Brooks & Brooks
Attorneys-At-Law
PO Box 1355 GT
Grand Cayman
Cayman Islands
BWI



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]