

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: ⁸⁹ OF 2005



BETWEEN: GEORGE NICKELS
and
LAURA NICKELS



PLAINTIFFS

AND: ANDRE YATES
and
CHARLIE YATES

DEFENDANTS

WRIT OF SUMMONS

TO: Andre Yates and Charlie Yates

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 25 day of Feb 2005

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.

INDORSEMENTS

A. The Plaintiffs' claim against the First Defendant the following relief:-

[1] A Declaration that the agreement made between the Plaintiffs and the First Defendant around the middle of the month October 2004 for the Plaintiffs to buy a Grapple Truck, Registration Number 99966, and send it to the Island to be put in the name of a company to be formed by the First Defendant and in which the shares were to be held by the Plaintiffs' and the Defendant for use in the post Hurricane Ivan clean-up was lawfully terminated by the Plaintiffs' by reason of breaches committed by the First Defendant.

[2] Damages for breach of the said agreement;

[3] Damages for assaulting and threatening the Plaintiffs';

[4] An injunction restraining the First Defendant from threatening and or assaulting the Plaintiffs' or attending at the Plaintiffs' residence.

[5] Interest

[6] All necessary accounts or enquiries;

B. The Plaintiffs' claim against the Defendants the following relief; -

[1] An Order directing the Defendants to deliver up possession of the International Grapple Truck, Registration No. 99966, to the Plaintiffs' which the First Defendant unlawfully transferred and registered in the name of Second Defendant and which the Defendants have refused to deliver up possession to the Plaintiffs' despite repeated requests to do so.

[2] An injunction restraining the Defendants whether by themselves or by their servants or agents from selling, operating, driving or using or retaining possession of the said truck to the exclusion of the Plaintiffs' their servants or agents.

[3] An Order directing the Second Defendant to transfer the said truck to the Second Plaintiff or a nominee of the Plaintiffs'.

[4] Further or alternatively, damages for conversion

[5] Interest

C. That the Defendants be ordered to pay the Plaintiffs' costs.

D. Such further and/or other relief as this Honorable Court deems fit and proper.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Dated this 22nd day of February 2005

L.A. Samson & Co.
ATTORNEYS-AT-LAW
For the Plaintiffs' herein

TO: The Clerk of Courts

AND TO: The First Defendant
C/o Department of Environment
Georgetown, Grand Cayman
The Second Defendant
P.O. Box 820 G.T.
Grand Cayman.

This Writ of Summons is filed by L.A. Samson & Co. Attorneys-At-Law for the Plaintiffs' Whose address for service is that of his Attorneys, P.O. Box 10084 APO. #19 Fort Street, Suite no. 9, Jack and Jill Building, George Town, Grand Cayman.

Acknowledgment of service of writ of summons (O.12, r.3)

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 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 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 Courts Office.