

Cause No 108 of 2006

IN THE GRAND COURTS OF JUSTICE
GRAND CAYMAN
ADMIRALTY COURT

ADMIRALTY ACTION IN REM AGAINST:
THE SPOIL DECK BARGE KNOWN AS "DC17"

BETWEEN:

SALT CREEK VENTURES LIMITED

Plaintiffs

AND

THE OWNERS OF THE SPOIL DECK BARGE KNOWN AS "DC17"

Defendants

WRIT OF SUMMONS

To the Defendants and other persons interested in Ship known as "Spoil Deck Barge DC17".

THIS WRIT OF SUMMONS has been issued by the Plaintiffs against the property described above in respect of the claim set out in the Statement of Claim.

Within 14 days after the service of this Writ, counting the day of service, you must either satisfy the claim or lodge in the Court Office mentioned below an Acknowledgement of Service.

If you fail to satisfy the claim or lodge an Acknowledgement of Service within the time stated, the Plaintiffs may proceed with the claim and judgement may be given without further notice to you and if the property described in this Writ is under arrest of the Court it may be sold by Order of the Court.

Issued from the Admiralty Registry of the Grand Court of the Cayman Islands.

Dated the 21st day of March 2006

NOTE – This Writ may not be served later than 4 months beginning with that date unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgement of Service are given with the accompanying form. If necessary, a form of Acknowledgement of Service may be obtained from the Admiralty Registry of the Grand Court of the Cayman Islands. An application by post must be accompanied by an addressed envelope for the return of the form.

This Writ was issued by Ritch & Conolly, Attorneys for the Plaintiffs whose address for service is 4th Floor, Queensgate House, 113 South Church Street, P.O. Box 1994GT, Grand Cayman, Cayman Islands, B.W.I.



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STATEMENT OF CLAIM

1. The Plaintiffs are the Owners of the sea wall at Block 10E Parcel 29. This land adjoined the North Sound. The Plaintiffs have suffered damage by reason of the negligence of the Defendants.
2. The ship is a Spoil Deck Barge which was 120 feet long with a beam of 30 feet and a depth of 7 feet.
3. At all material times the Owners of the ship had been contracted by Quarry Products Limited (in liquidation) to carry out dredging works to enable the excavation of an access canal in the North Sound which would adjoin the Plaintiffs' sea wall at Block 10E Parcel 29.
4. On the evening of 11th September 2004 the ship was lying in or near the Plaintiffs' property. On 11th/12th September 2004 the Cayman Islands was subject to hurricane force winds reaching speeds of 220 m.p.h.
5. On the evening of 11th September 2004 or the early morning of 12th September 2004 the ship broke from its moorings and was pushed by the hurricane force winds onto the Plaintiffs' sea wall causing damage.

PARTICULARS OF NEGLIGENCE

6. The Owners of the vessel were negligent in that:-
 - (a) they failed to ensure that the ship had adequate moorings;

- (b) they failed to take heed of the hurricane weather warnings in that they neglected to adequately secure the vessel in anticipation of the coming hurricane;
 - (c) in the alternative they failed to remove the vessel to a safer mooring position or berth.
7. In the premises the Plaintiffs have suffered damage and have been put to expense.

PARTICULARS OF LOSS

8. The following loss and damage was suffered:-
- (i) the cost for replacing 130 feet of sea wall that was damaged is in the amount of US\$65,000.00;
 - (ii) the cost of the supervision of the removal of the barge including relevant insurance amounts to US\$25,000.00;
 - (iii) the cost to fix the holes in the bottom of the barge in order to remove the vessel is US\$4,000.00;
 - (iv) the cost to relaunch the barge amounts to US\$7,000.00.
9. Further, pursuant to Section 35 of the Judicature Law (2004 Revision) the Plaintiffs are entitled to claim the recovery of interest in the amount found to be due to it at such rate for such period as the Court thinks fit.

AND THE PLAINTIFFS claim:-

- 1. Damages;
- 2. Interest pursuant to Section 35 of the Judicature Law (2004 Revision).

Dated the 21st day of March 2006.


RITCH & CONOLLY
Attorneys for the Plaintiffs

Acknowledgement of Service of Writ of Summons

DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE OF WRIT OF SUMMONS

1. The accompanying form of *Acknowledgement 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, PO Box 495 GT, 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 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 Acknowledgement of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgement, 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

Notes for Guidance

1. Each Defendant (if there is more than one) is required to complete an Acknowledgement 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.

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ACKNOWLEDGEMENT 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 judgement 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 of Summons 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 debt, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgement entered by the Plaintiff (*tick box*).

Service of the Writ of Summons 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 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.

Ritch & Conolly
PO Box 1994 GT
Queensgate House
113 South Church Street
Grand Cayman

Ref: AHP/9922

Indorsement by Defendant's Attorney (or by Defendant if suing in person) of his name, address and reference, if any, in the box below.