

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
HOLDEN AT GEORGE TOWN

CAUSE No. <sup>455</sup> of 2006

BETWEEN

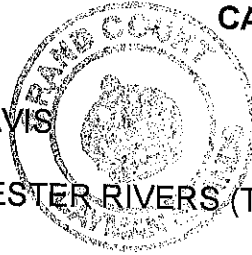
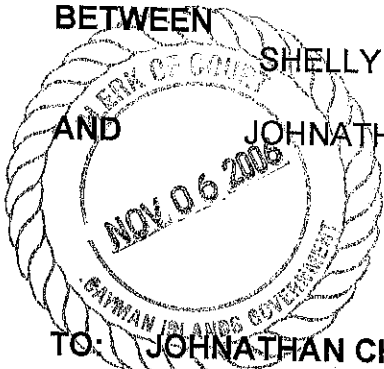
SHELLY ANN DAVIS

PLAINTIFF

AND

JOHNATHAN CHESTER RIVERS (T/A J. C. RIVERS & SON)

DEFENDANT



WRIT OF SUMMONS

TO: JOHNATHAN CHESTER RIVERS  
T/A J. C. RIVERS & SON  
Northside  
Grand Cayman  
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 attached 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 495 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 without stating that you intend to contest these proceedings, the Plaintiff may proceed with the action and Judgment may be entered against you forthwith without further notice.

Issued this <sup>6<sup>th</sup></sup> day of November, 2006

**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 herein, unless renewed by the order of the Court.

**IMPORTANT:** Directions for Acknowledgment of Service are given with this form.

## STATEMENT OF CLAIM

1. That the Plaintiff resides Lower Valley, Grand Cayman and at the material time was the owner of property located at Block 38E Parcel 120 as known as Berry Drive, Lower alley, Grand Cayman.
2. That the Defendant has at all material times carried on the business of a building and civil engineering contractor and resides at Northside, Grand Cayman and was engaged to do the relevant works on the Plaintiff's property.
3. On or about the 11<sup>th</sup> July 2005 the Plaintiff entered into agreement with the Defendant whereby the Defendant agreed to carry out the building and construction of a dwelling house on the property owned by the Plaintiff described at the Land Registry as Registration Section Lower Valley Block 38E Parcel 120 for the total price of CI\$211,900.00 including labour and materials as specified therein.
4. That a term of the contract between the Parties was that the dwelling was to be completed 4 to 6 months after the commencement of works on the property. The Defendant started work in or around August 2005.
5. That there were implied terms of the contract as follows;
  - (a) That the materials supplied would be of a good and merchantable quality;
  - (b) That the work would be carried out in a good and workmanlike manner;
  - (c) That the Defendant would carry out the work with reasonable care and skill;
  - (d) That the works as completed would be fit for human habitation;
  - (e) That the Defendant owed a duty of care to the Plaintiff in carrying out the works;

(f) And that time was of the essence.

6. That in breach of the contract, namely on or about March 2006 the Defendant abandoned the work and has since failed to complete the same having been paid sums totaling CI\$175,500.00 by the Plaintiff and leaving a substantial amount of works incomplete and some works not started despite having receive funds for such.
7. That on the 29<sup>th</sup> August 2006 the Plaintiff wrote to the Defendant through her attorneys, demanding that within 14 days he rectify the breach of contract but the Defendant has failed or neglected to do so.
8. That by reason of the Defendant breach and/or repudiation of the contract the Plaintiff has suffered additional financial loss having to pay rent for an extended period in addition to paying interest on total amount drawn.
9. That by reason of the Defendant breach and/or repudiation of the contract the Plaintiff has been compelled to employ another contractor to complete the house at a greatly increased cost and has been deprived of the use of the house thereby causing great inconvenience and expense to the Plaintiff who has suffered loss and damage.

#### **PARTICULARS OF LOSS AND DAMAGE**

(I) The cost of the Plaintiff completing the house left unfinished by the Defendant is the sum of CI\$ 106,615.40 the particulars whereof are as follows:

(a) External finishes	12,787.28
(b) Internal Finishes – Walls	17,030.33
(c) Internal finishes – ceilings	9,881.08
(d) Internal finishes – floors	10,568.00
(e) Appliances – Sanitary/ Fixtures	1,500.00
(f) Fixtures & Fittings –Kitchen, bathroom & Closets	14,795.00
(g) Services – Plumbing Installation	3,500.00
(h) Services – Electrical Installation	10,000.00
(i) Services – Air-conditioning	10,500.00
(j) Services – Drainage	5000.00

(k) External Works – Concrete Driveway	10,803.71
(l) General Cleaning	250.00
<b>TOTAL</b>	<b>106,615.40</b>

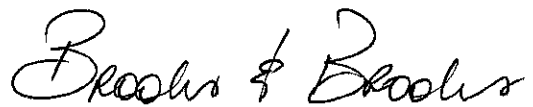
(II) Loss of the use of the house and additional rent Plaintiff had to incur from March 2006 to present.

(III) The Special Damages of the Plaintiff are continuing. In particular the Plaintiff has to pay interest on the amount drawn to-date to her bankers which extends her entire loan period. Also the Plaintiff continues to incur and claim the lost of all future expenses and /or loss.

**AND THE PLAINTIFF** claims;

- 1) Special Damages in the sum of CI\$106,615.40
- 2) General Damages resulting from the breach of contract
- 3) Interest at the statutory rate of 7 1/4% from the date hereof to the date of final judgment
- 4) Legal fees and cost
- 5) And further or other relief as this Honourable Court deems just.

Dated this 6<sup>th</sup> day of November, 2006



**BROOKS & BROOKS**  
Attorneys at Law for the Plaintiff

**NOTE: PLEASE NOTE** that if within the time for returning the Acknowledgment of Service (i.e. 14 days) the Defendant pays the total amount claimed of CI\$106,615.40 plus interest and cost further proceedings will be stayed. The money must be paid to her Attorneys at Law offices.

**THIS WRIT OF SUMMONS** was filed by Brooks & Brooks Attorneys at law for and on behalf of the Plaintiff herein whose address for service is that of his said Attorneys One Artillery Court, Shedden Road, George Town, Grand Cayman, Cayman Islands, PO Box 1355 George Town, GRAND CAYMAN

FORM 8

Acknowledgement of Service of Writ of Summons Rule (O.12 r.3)

DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE  
OF WRIT OF SUMMONS

**IF YOU INTEND TO INSTRUCT AN ATTORNEY TO ACT FOR YOU GIVE  
HIM THIS FORM IMMEDIATELY**

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 signed by the Defendant and his Attorney (if any) and must be delivered or sent by post to the Law Courts, P.O Box 495 GT, 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 acknowledgment of 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 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 money by instalments or otherwise.

*See over notes for guidance*

*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.

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

**Brooks & Brooks  
Attorneys-at-Law  
One Artillery Court  
Shedden Road  
George Town  
Grand Cayman**

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

[Empty box for Defendant's Attorney indorsement]