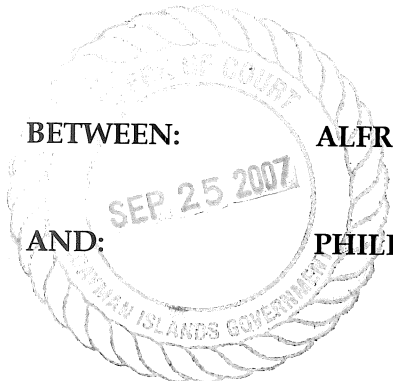


IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 436 OF 2007

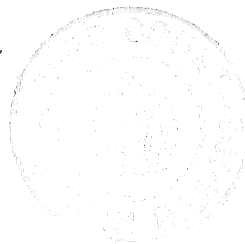


BETWEEN: ALFRED BERRY

Plaintiff

AND: PHILIP DIXON

Defendant



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WRIT OF SUMMONS

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To: Philip Dixon  
T/A Island Smart Construction & Repairs  
East End, Kipling Street  
Bodden Town  
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 Fourteen days [14] 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 Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 25 day of September 2007

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

1. The Defendant is a building contractor who trades in the name and style of Island Smart Construction and Repairs.
2. The Plaintiff owns a house on Will T Drive in Lower Valley Block 37A, Parcel 123 and engaged the services of the Defendant to complete the construction of his house.
3. On 2 June 2007, the Defendant issued the Plaintiff a one page contract document which provided the detailed cost breakdown of material and labour.
4. The Defendant's quoted consideration of CI\$150,000.00 and the specified modes of payments stipulated in the contract document were accepted by the Plaintiff.
5. Further to the contract, the Plaintiff made a payment of CI\$38,000.00 on 19 January 2007 and CI\$37,000.00 on 26 January 2007. This CI\$75,000.00 payment represented 50% of the contract sum as required by the Defendant.
6. On 5 March 2007, the Plaintiff's bank (Royal Bank of Canada Ltd) released a further CI\$37,600.00 which was to represent the half-way point of the project completion. This payment represented 25% of the contract sum.
7. After receiving this latest payment of CI\$37,600.00, the Defendant, in breach of contract, abandoned the construction works in March 2007.
8. The Defendant also removed various material and items belonging to the Plaintiff from the construction site. The Plaintiff had to repurchase these material and items at a cost of CI\$14,000.00.
9. As a result of the Defendant's breach of contract, the cost to engage the services of another building contractor to complete the abandoned construction works is CI\$81,820.00. Under the terms of the contract, the Plaintiff would have had to pay only the remaining CI\$37,600.00.
11. And the Plaintiff claims:

- (1) Damages;
- (2) Costs;
- (3) Interest; and
- (4) Further relief which the Court deems fit.

DATED this 25<sup>th</sup> day of September, 2007

*Mourant du Feu Juene*  

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MOURANT DU FEU & JUENE  
Attorneys-at-Law for the Plaintiff

To: The Clerk of the Court

And to: The Defendant  
Philip Dixon  
T/A Island Smart Construction & Repairs  
East End, Kipling Street  
Bodden Town  
George Town  
Grand Cayman

Filed by Mourant du Feu & Juene, Attorneys-at-Law for and on behalf of the Plaintiff herein, whose address for service is Harbour Centre, Third Floor, P.O. Box 1348, Grand Cayman KY1-1108, 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 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 installments or otherwise.

*See over for notes for guidance*

## 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 his 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 436 OF 2007

BETWEEN: ALFRED BERRY

Plaintiff

AND: PHILIP DIXON

Defendant

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.

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 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.*

Mourant du Fue & Juene  
Attorneys-at-Law  
Third Floor, Harbour Centre  
P.O. Box 1348  
George Town,  
GRAND CAYMAN (ref: MR/3694-0000)

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