

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 0601 OF 2007

BETWEEN:

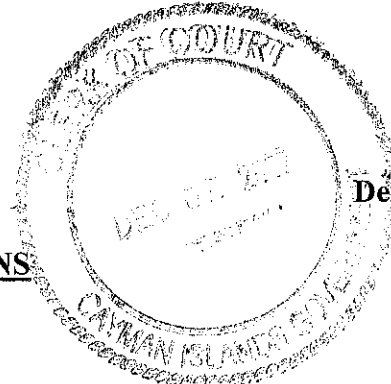


S T BODDEN CONSTRUCTION LIMITED

Plaintiff

AND

DEAN HEYNE



Defendant

WRIT OF SUMMONS

TO: Dean Heyne, 330 Selkirk Drive, PO Box 10785 APO, KY1-1107, Grand Cayman, Cayman Islands.

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 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 5th day of December 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 Plaintiff is a construction company which has carried on business in the Cayman Islands since 1978.
2. The Defendant is an American citizen. At all material times the Defendant carried on business as a contractor specializing in tennis court construction.
3. By an oral agreement reached in or about November 1992 between (1) Mr Thomas Bodden for the Plaintiff and (2) the Defendant it was agreed between the Plaintiff and the Defendant that the Defendant would carry out tennis court construction projects in the Cayman Islands in association with the Plaintiff. The Plaintiff agreed to provide to the Defendant all necessary administration and storage facilities and to obtain any necessary permits and the Defendant agreed to pay to the Plaintiff 10% of the price of each completed project.
4. Pursuant to the agreement set out at paragraph 3 above, between 1992 and 2005 the Defendant carried out tennis court construction projects in the Cayman Islands and the Plaintiff provided to the Defendant storage and administration facilities. In addition, to assist the Defendant the Plaintiff agreed to and did arrange for various utility accounts to be opened on behalf of the Defendant including electricity, water and telephone accounts. The Plaintiff made regular payments on the said utility accounts on behalf of the Defendant and, at the Defendant's request, met numerous other personal expenses of the Defendant including rent and credit card payments. The Plaintiff also made regular cash advances to the Defendant at the Defendant's oral request.
5. The Plaintiff maintained a running account between itself and the Defendant whereby the payments received for tennis court construction projects were treated as credits

and the expenses incurred in connection with such projects together with the Defendant's personal expenses and cash advances were treated as debits.

6. At the beginning of 2005 it was agreed between the Defendant and the Plaintiff that they could no longer work together.
7. At the Plaintiff's offices in July 2006 Mr Thomas Bodden for the Plaintiff invited the Defendant to agree to the joint appointment of an independent accountant to determine the ultimate balance due on the running account referred to at paragraph 5 above. The Defendant agreed orally that this appointment should be made but said that he did not have funds to pay one half of the accountant's fee at that time.
8. Pursuant to the agreement referred to at paragraph 7 above the Plaintiff instructed Ms Gina Ebanks, a partner in the firm of certified public accountants Anglin, Ebanks and Associates, to review the records relating to the running account between the Plaintiff and the Defendant with a view to striking a balance on the account by setting against one another the various debits and credits on the account.
9. At a cost of CI \$1,500, paid for by the Plaintiff on its own behalf and on behalf of the Defendant, between July and September 2006 Ms Ebanks reviewed the records concerning the running account. In September 2006, and consequent upon the items brought into account on both sides, Mrs Ebanks struck a balance on the account and found that the Defendant was indebted to the Plaintiff in the sum of CI \$152,471. The balance was made known to the Defendant in September 2006 at the offices of the Plaintiff.
10. In March or April 2007 the Defendant met with Ms Gina Ebanks and Mr Thomas Bodden of the Plaintiff to review the account. At that meeting in the presence of Mrs Ebanks the Defendant admitted that money was due to the Plaintiff.

11. Notwithstanding the admission at paragraph 10 above the Defendant has failed to pay to the Plaintiff the sum due, namely CI \$152,471, or any part thereof. The Defendant was sent an invoice dated 27th August 2007, a letter before action dated 18th September 2007 by email, post and courier, together with a draft of this Statement of Claim herein, yet still no payment has been made.
12. In the premises, the Defendant is indebted to the Plaintiff in the sum of CI \$152,471 but has wrongfully failed to pay the said sum or any part thereof.
13. The Defendant is further indebted to the Plaintiff in the sum of CI \$750, being the Defendant's share of the aforesaid fee of Ms Gina Anglin.
14. The Plaintiff further claims interest pursuant to s 34 of the Judicature Law (2007 Revision) at the rate of 7.25% from 30 September 2006 on the sum of CI \$153,221 being CI \$13,115.33 to the date hereof and continuing at the rate of CI \$30.43 per day alternatively at such rate and for such period as to this Honourable Court shall seem just.

AND the Plaintiff claims

- (1) The sum of CI \$153,221
- (2) Interest pursuant to the Judicature Law (2007 Revision) at the rate of 7.25% per annum, being CI \$13,115.33 for the period from 30 September 2006 and the date hereof and continuing at the rate of CI \$30.43 per day until payment
- (3) Court filing fee of CI \$200 and ad valorem fee of CI \$766.11
- (4) Costs
- (5) Further or other relief

If within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed of CI \$ 153,221 together with the claimed interest, court fees and fixed costs of CI \$500 proceedings will be stayed. The said sums must be paid by the Defendant to the Plaintiff or its attorneys.


Truman Bodden & Company

THIS WRIT was issued by Truman Bodden & Company, Attorneys at Law for the Plaintiff, whose address for service is P.O. Box 866, Anderson Square Building, Shedden Road, George Town, Grand Cayman, KY1-1103, Cayman Islands.

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE
OR 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, PO 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 the Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear at 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 Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter a 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 Acknowledgement of Service and return it to the Courts Office.
3. 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.
4. 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 named stated on the Writ of Summons*)".
5. 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.
6. 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.
7. 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.
8. Where the Defendant is a **MINOR** or a **MENTAL PATIENT**, the form must be completed by an Attorney acting for a guardian *ad litem*.
9. 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: 601 OF 2007

B E T W E E N:

S T BODDEN CONSTRUCTION LIMITED

Plaintiff

AND

DEAN HEYNE

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 of Summons is being acknowledged.

2. State whether the Defendant intends to contest or otherwise participate in 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 No

Service of the Writ of Summons is acknowledged accordingly

(Signed).....

[Attorney] for

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.

Truman Bodden & Company
PO Box 866
Anderson Square Building
George Town KY1-1103
Grand Cayman
Ref: CW/zcs/1473-0001

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

