

Writ of Summons (O.6, r.1)

IN THE GRAND COURT OF THE CAYMAN ISLAND
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CASE NO. 580 OF 2008

BETWEEN

JASON SEABROOK MARTIN

PLAINTIFF

AND:

CAYMAN ISLANDS GOVERNMENT

- DEPARTMENT OF YOUTH, SPORTS AND COMMUNITY DEVELOPMENT

THE ATTORNEY GENERAL

1st DEFENDANT

FLOYD BUSH

2nd DEFENDANT

SPECIALLY ENDORSED WRIT OF SUMMONS

TO: THE DEFENDANTS:

1ST DEFENDANT -CAYMAN ISLANDS GOVERNMENT -DEPARTMENT OF
YOUTH, SPORTS AND COMMUNITY DEVELOPMENT, Grand Cayman, Cayman
Islands. THE ATTORNEY GENERAL, c/o Campbells, Attorneys-At-Law, Grand
Cayman, Cayman Islands.
2ND DEFENDANT - FLOYD BUSH, 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 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 11 day of December 2008.

Re-issued this 4 day of March 2009

NOTE - This Writ may not be served later than 4 calendar 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. On 12 February 2004 the Plaintiff entered into a Contract of Employment with the Cayman Islands Government. At all material times the Plaintiff was an employee of the Defendant, the Government, in the Department of Youth, Sports and Community Development. His job title was Ground's man
2. On 20 December 2005, the Plaintiff attended his place of work at or about 7.20 a.m. The Plaintiff and his work colleagues departed from the Truman Bodden Complex in a box-truck hitched to which was a trailer at about 8.00 a.m. to go and do a job in East End. In the box-truck and trailer were various pieces of equipment.
3. The box-truck was driven by the 2nd Defendant, Mr. Floyd Bush, who is an employee and servant or agent of the 1st Defendant.
4. The 2nd Defendant stopped at Bodden Town Texaco Station where they collected water and snacks. After about five minutes they continued to William Allen McLaughlin Civic Centre (also known as East End Civic Centre). They arrived at the Civic Centre at around 8.55 a.m. The Plaintiff and his work colleagues attended the Civic Centre in East End to where they carried out their duties which involved cutting the grass around the football field and removing rubbish. After re-loading the equipment in the truck and trailer they left the job site at about 9.15 a.m. In the trailer, amongst other things, was a weed whacker, a standing lawn mower and other pieces of equipment. The Plaintiff was seated in the rear of the box truck whilst it was being driven along the Civic Centre Road towards John Mc Lean Drive in East End. The 2nd Defendant approached the junction to turn right onto John McLean Drive.
5. The Plaintiff was seated at the rear of the box-truck as there was no space in the cabin. In the box-truck were the 2nd Defendant, Lewis Wendy - who was a front seat passenger in the cabin - and Donald Campbell who was also seated with the Plaintiff at the rear of the box-truck.
6. The Plaintiff had previously complained that the box-truck was not adequate in that the cabin, and thus the box truck, was too small. As a result, some of the workmen had to sit in the rear of the box-truck along with the rubbish and on some occasions there was not enough room at the rear of the box truck due to the amount of rubbish. Their employer owned other vehicles which were larger and would permit all four workmen to travel safely inside the cabin. The employer did not permit the workmen to travel in the larger trucks.
7. As the box-truck entered John McLean Drive and without any warning to the men at the rear of the box-truck it drove over a speed bump which caused the Plaintiff, who was seated at the back of the box-truck, to be thrown from it. He ended up on the ground between the box-truck and trailer. The trailer ran over the Plaintiff and dragged him along the ground for some distance, before releasing him. The driver

and box-truck were caused to stop by a pedestrian who overheard the screams for help made by the Plaintiff and who ran towards the truck and notified the driver of the accident. At the same time Donald Campbell was beating his hand against the side of the truck and shouting at the driver to stop in an attempt to alert him to what had taken place. The driver did not hear Donald Campbell shouting or the cries of the Plaintiff to stop the truck because he had the radio playing in the cabin.

8. The 1st Defendant as employer owed a duty of care to its employees. There has been a breach of duty of care as a result of the negligence of the 1st Defendant to the Plaintiff, in short, as a result of a failure to ensure a safe place of work, proper equipment is used and there was in place a safe system of work. The vehicle used in the circumstances was not safe, and notwithstanding complaints by the Plaintiff that other more secure vehicles should be used, which would permit the employees to sit in a cabin and thus could avail themselves of the use of seat belts such complaints were ignored to the detriment of the health and safety of the employees.

PARTICULARS OF NEGLIGENCE OF THE 1ST DEFENDANT

- (a) Failing to provide safe equipment for the workmen.
- (b) Failing to provide a safe system of work.
- (c) Failing to ensure that the employees were safe.
- (d) Failing to ensure that if such equipment were used that the driver drove at a speed which was safe in the circumstances.
- (e) Failing to ensure that the driver did not drive at an excessive speed in the circumstances or at all.
- (f) Failing in the circumstances to ensure that a safe system of work was in place.

9. The 2nd Defendant as employee, servant or agent of the 1st Defendant as a result of his breach of duty of care so negligently drove the box-truck as to cause the Plaintiff to be thrown from it and which resulted in injuries to the Plaintiff.

PARTICULARS OF NEGLIGENCE OF THE 2ND DEFENDANT

- (a) Failing to keep any proper lookout or to have any or any sufficient regard for the passengers in the box-truck.
- (b) Failing to keep any or any proper lookout or to have any or any sufficient regard for the speed bump in the road.
- (c) Driving over the speed bump at an excessive speed in the circumstances.
- (d) Loosing control of the motor vehicle and thus causing the Plaintiff to be thrown from the box truck or permitting the motor vehicle to travel at such a speed as to loose control and/or failing to take any or any adequate measures to correct the speed of the motor vehicle.
- (e) Causing the Plaintiff to become trapped under the trailer hitched to the rear of the box-truck.
- (f) Failing to stop, to slow down, or in any other way so to manage or control the motor vehicle so as to avoid the Plaintiff falling from the trailer.

10. Such breach of duty of care of the 1st and/or 2nd Defendant has caused the Plaintiff to suffer personal injuries. By reason of the matters aforesaid, the Plaintiff sustained personal injuries and has suffered loss and damage.

PARTICULARS OF INJURIES

11. The Plaintiff whose date of birth is 8 July 1978 suffered serious personal injuries which have all been documented by the treating physicians at George Town Hospital, to include multiple lacerations, a fracture of his pelvis, broken ribs and internal injuries. The scarring on his back and knee exposed his vertebrae in the lumbar region and the patella of his right knee. Those injuries alone took a substantial period of time to heal. Presently the Plaintiff is experiencing pain in his pelvis, as well as the lumbar region. He is unable to completely control some of the toes on his right foot. The Plaintiff requires further medical examinations to include an MRI of his spine and to be seen by a neurologist and an orthopaedic surgeon.

12. The Plaintiff was summoned back to work on various occasions notwithstanding his protest that he is still in pain and thus unable to do his job and when asked to do certain tasks cannot do so. As a result of further discomfort brought on by the task itself the Plaintiff has been permitted leave by his healthcare practitioner.

13. Such breach of duty of care of the 1st and/or 2nd Defendant has resulted in loss and damage to the Plaintiff which loss and damage will be further particularised in due course.

PARTICULARS OF SPECIAL DAMAGE

Date	Description	Costs (CIS)
3 September 2008	to date medical expenses	CIS\$ (to be particularised)
Loss of income		CIS\$1,200.00

AND the Plaintiff claims

(i) Damages

(ii) Further, pursuant to The Judicature Law (1995 Revision), the Plaintiff is entitled to and claims interest on such sums as are found to be due at such rate and for such period as the Court shall think fit.

(iii) Costs



Clyde H. Allen, Chambers

THIS AMENDED WRIT was issued by Clyde Allen of Clyde H. Allen, Chambers on behalf of the Plaintiff whose address for service is P.O. Box 31076 SMB, 2nd Floor, Suite 10, Jack & Jill Building, 19 Fort Street, KY1-1205, George Town, Grand Cayman, Cayman Islands.

IN THE GRAND COURT OF THE CAYMAN ISLAND
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. 580 OF 2008

BETWEEN

JASON SEABROOK MARTIN

PLAINTIFF

AND:

~~CAYMAN ISLANDS GOVERNMENT~~

~~DEPARTMENT OF YOUTH, SPORTS AND COMMUNITY DEVELOPMENT~~

~~THE ATTORNEY GENERAL~~

1st DEFENDANT

FLOYD BUSH

2nd 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. 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 a 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

Address for service: (please see overleaf)

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.

Clyde Allen
Clyde H. Allen, Chambers,
Attorneys-At-Law
PO Box 31076SMB
Jack & Jill Bldg, KY1-1205
Grand Cayman
Cayman Islands

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

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Writ of Summons (O.6, r.1)

IN THE GRAND COURT OF THE CAYMAN ISLAND
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. ^{CS80} OF 2008

BETWEEN

JASON SEABROOK MARTIN

PLAINTIFF

AND:

CAYMAN ISLANDS GOVERNMENT

- DEPARTMENT OF YOUTH, SPORTS AND COMMUNITY DEVELOPMENT

1st DEFENDANT

FLOYD BUSH

2nd DEFENDANT

SPECIALLY ENDORSED WRIT OF SUMMONS

TO: THE DEFENDANTS:

1st DEFENDANT - CAYMAN ISLANDS GOVERNMENT - DEPARTMENT OF
YOUTH, SPORTS AND COMMUNITY DEVELOPMENT, Grand Cayman, Cayman
Islands.

2nd DEFENDANT - FLOYD BUSH, Grand Cayman, Cayman Islands.

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3. The box-truck was driven by the 2nd Defendant, Mr. Floyd Bush, who is an employee and servant or agent of the 1st Defendant.
4. The 2nd Defendant stopped at Bodden Town Texaco Station where they collected water and snacks. After about five minutes they continued to William Allen McLaughlin Civic Centre (also known as East End Civic Centre). They arrived at the Civic Centre at around 8.55 a.m. The Plaintiff and his work colleagues attended the Civic Centre in East End to where they carried out their duties which involved cutting the grass around the football field and removing rubbish. After re-loading the equipment in the truck and trailer they left the job site at about 9.15 a.m. In the trailer, amongst other things, was a weed whacker, a standing lawn mower and other pieces of equipment. The Plaintiff was seated in the rear of the box truck whilst it was being driven along the Civic Centre Road towards John Mc Lean Drive in East End. The 2nd Defendant approached the junction to turn right onto John McLean Drive.
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dragged him along the ground for some distance, before releasing him. The driver and box-truck were caused to stop by a pedestrian who overheard the screams for help made by the Plaintiff and who ran towards the truck and notified the driver of the accident. At the same time Donald Campbell was beating his hand against the side of the truck and shouting at the driver to stop in an attempt to alert him to what had taken place. The driver did not hear Donald Campbell shouting or the cries of the Plaintiff to stop the truck because he had the radio playing in the cabin.

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Clyde H. Allen, Chambers

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IN THE GRAND COURT OF THE CAYMAN ISLAND
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. OF 2008

BETWEEN JASON SEABROOK MARTIN PLAINTIFF

AND:

CAYMAN ISLANDS GOVERNMENT
- DEPARTMENT OF YOUTH, SPORTS AND COMMUNITY DEVELOPMENT
FLOYD BUSH
1st DEFENDANT

2nd DEFENDANT
ACKNOWLEDGMENT OF SERVICE
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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ 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 a 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

Address for service: (please see overleaf)

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.

Clyde Allen
Clyde H. Allen, Chambers,
Attorneys-At-Law
PO Box 31076SMB
Jack & Jill Bldg, KY1-1205
Grand Cayman
Cayman Islands

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

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