

IN THE GRAND COURT OF THE CAYMAN ISLANDS

**CAUSE NO. 258 OF 2008
LEGAL AID CERTIFICATE #44/06**

BETWEEN RICHARD DAVIS

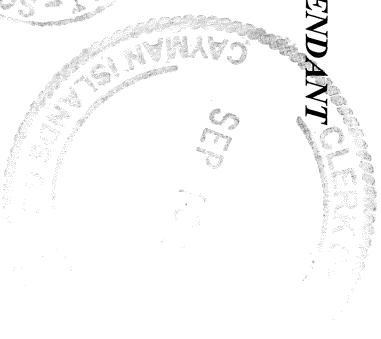
PLAINTIFF

AND

***RICHARD OREL OLIVER PRENDEGAST
t/a PRENDEGAST CABINETS & FURNITURE DEFENDANT***

AMENDED WRIT OF SUMMONS

**TO: RICHARD OREL OLIVER PRENDEGAST
C/o Prendegast Cabinets & Furniture
Seymour Drive
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 14 days after 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 Acknowledgement of Service, stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or return the Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein an intention to contest the proceedings the Plaintiff may proceed with the action and judgement may be entered against you forthwith without further notice.

Issued this day of 2008
Reissued this day of September 2009

NOTE - This Amended 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 Acknowledgement of Service are given with the accompanying form.

ENDORSEMENT

The Plaintiff claims against the Defendant to recover damages for personal injuries in that on or about the 5th day of December 2004 the Plaintiff, whilst in the employ of the Defendant and in the course of his said employment, sustained serious bodily injury due to the negligence of the Defendant in not providing a safe system of work at the Plaintiff's place of employ at Prendegast Cabinets and Furniture on Seymour Drive, George Town, Grand Cayman.

AND THE PLAINTIFF CLAIMS:

1. Damages;
2. Interest pursuant to the Judicature Law;
3. Costs.

Dated this 24th day of May 2008

Amended this 16th day of September 2009



Murray & Westerborg
Plaintiff's Attorneys-at-Law

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2008
LEGAL AID CERTIFICATE #44/06

BETWEEN RICHARD DAVIS

PLAINTIFF

AND

RICHARD OREL OLIVER PRENDEGAST
v/a PRENDEGAST CABINETS & FURNITURE DEFENDANT

AND

RANDY EBANKS

DEFENDANT

AMENDED STATEMENT OF CLAIM

1. The Plaintiff was at all material times employed by the Defendant as a furniture maker at the Defendant's place of business at Seymour Drive, George Town, Grand Cayman.
2. The Defendant was at all material times the owner and operator of the business known as Prendegast Cabinets and Furniture, engaged in the business of making cabinets and furniture, and was the employer of the Plaintiff.
3. The Plaintiff was employed by the Defendant as a furniture maker at the Defendant's business premises located at Seymour Drive, George Town, Grand Cayman.
4. On the 5th December 2004, the Plaintiff in the course of his said employment was holding a piece of wood against an electric saw with his bare hands when the said piece of wood slipped and caused a severe laceration of his right hand.
5. The said accident was occasioned by reason of negligence on the part of the Defendant, his servants or agents.

Particulars of Negligence

- (a) Failing to take any or any adequate or effective precautions for the safety of the Plaintiff while he was engaged upon the said work;
- (b) Failing to provide any or any suitable or industrial gloves for the Plaintiff to wear while carrying out the said work;
- (c) Failing to provide a safe place for the Plaintiff to carry out the said work, in that the electric saw with which the Plaintiff was required to work had no guard to prevent the Plaintiff's hand from coming in contact with the saw as it was in operation and by reason whereof

- there was a grave risk of severe injury to the Plaintiff's hand from the sharp blades of the saw.
- (d) Allowing the practice to be adopted of cutting the wood with the electric saw without the blades being guarded or without providing protective gloves or other protective material which he knew or ought to have known to be unsafe.
 - (e) In the premises providing an unsafe system of work.
6. By reason of the matters aforesaid, the Plaintiff sustained severe injuries and has suffered loss and damage.

Particulars of Injuries

- (a) Laceration to the palmar side of the right thumb;
- (b) Loss of mobility of right thumb;
- (c) Deep laceration to the base of the right index finger;
- (d) Reduced flexion in right index finger;
- (e) Laceration to the back of the right middle finger;
- (f) Severed extensor tendon of the right middle finger;
- (g) Partial amputation of the right ring finger;
- (h) Deformities of the right middle and ring fingers;
- (i) Extensive bone destruction and sclerosis of the right thumb;
- (j) Loss of joint space;
- (k) Osteoarthritic changes of the middle finger.

Particulars of Special Damages

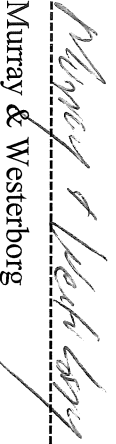
7. The Plaintiff will provide details of Special Damages at the trial hereof.

AND THE PLAINTIFF CLAIMS:

- 1. Damages
- 2. Interest pursuant to the Judicature Law
- 3. Costs.

Dated the 24th day of May 2008

Amended the 16th day of September 2009



Murray & Westerborg
Plaintiff's Attorneys-at-Law

Acknowledgment of service of writ of summons (O.12, r.3)

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 4956G, 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 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 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 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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LEGAL AID CERTIFICATE #44/06

BETWEEN RICHARD DAVIS PLAINTIFF
AND RICHARD OREL OLIVER PRENDEGAST
v/a PRENDEGAST CABINETS & FURNITURE DEFENDANT

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 Delay may result in judgement being
directions and notes for guidance entered against a Defendant whereby he
carefully before completing this form. May have to pay the costs of applying to
If any information required is omitted set it aside.
Or given wrongly, **THIS FORM MAY
HAVE TO BE RETURNED.**

1. State the name of the Defendant by whom or on whose behalf the service of this Writ
is being acknowledged.

2. State whether the Defendant intends to contest the proceedings (tick the 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 judgement 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 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 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:

MURRAY & WESTERBORG
Attorneys-at-Law
Second Floor (East Wing)
FIS Building
196 Shedden Road
George Town
Grand Cayman

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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