

IN THE GRAND COURT OF THE CAYMAN ISLANDS



S I O N

Cause No. of 2024

BE T W E E N:

MADELEINE CLARK

Plaintiff

-and-

**(1) HARNEY WESTWOOD & RIEGELS (A FIRM)
(2) HARNEYS GILL (A FIRM)**

Defendants

WRIT OF SUMMONS

TO: Harney Westwood & Riegels (A Firm)
Craigmuir Chambers
PO Box 71
Road Town
Tortola VG1110
British Virgin Islands

AND TO: Harneys Gill (A Firm)
4th Floor
Harbour Place
Church Street
PO Box 10240
Grand Cayman KY1-1002

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 Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to 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 judgment may be entered against you forthwith without further notice.

Issued this 19th day of January 2024

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 Acknowledgement of Service are given within the accompanying form.

Concise statement of the nature of the claim

The Plaintiff is a London barrister and former employee of the First Defendant under a fixed 2-year contract of employment dated 1 May 2017 (“the Contract”). The Contract was entered into by the Plaintiff in good faith and is governed by Cayman Islands law. The courts of the Cayman Islands have exclusive jurisdiction. Unbeknown to the Plaintiff, her Cayman Islands Work Permit was applied for by the Second Defendant as the Plaintiff’s employer. The Contract was terminated by the First Defendant without cause and without notice on 29 January 2018, whereupon the Plaintiff was required immediately to return to the UK. At all material times, the Plaintiff was resident for tax purposes in the UK. Contrary to s. 29 (2)(a) of the Cayman Islands Labour Law (2011 Revision) (“the Law”), the First Defendant, which is within the UK tax net by virtue of its London office, gave an oral assurance to the Plaintiff at interview and again upon termination of the Contract, that they would pay the UK tax on her employment, have not done so, and have allowed another person, namely UK HMRC, to require payment from the Plaintiff in respect of the cost of something required to be done by the First Defendant as the employer under the Law, namely the payment to HMRC of UK tax on employment income under the Contract. In order to avoid their liability to pay UK tax on the Plaintiff’s employment in the Cayman Islands, the equity partners of the Defendants conspired to cause the Plaintiff loss by unlawful means claiming, contrary to the fact, that the Second Defendant was the Plaintiff’s employer. On 21 December 2020, the UK Employment Appeal Tribunal held, contrary to the Defendants’ case

before it, that the First Defendant was the Plaintiff's employer under the Contract. The equity partners in the First Defendant have nevertheless failed to pay the UK tax, leaving the Plaintiff to pay the UK tax in breach of the Contract and in breach of s.29 (2)(a) of the Law.

GENERAL ENDORSEMENT

AND THE PLAINTIFF CLAIMS:

1. A declaration under s.29 (2) (a) of the Law that the First Defendant is liable to pay UK tax on the Plaintiff's employment to HMRC.
2. An order that the Defendants shall pay all UK tax and interest accrued on the Plaintiff's employment to HMRC within 14 days.
3. Unpaid wages under the Contract in the sum of USD 370,000 plus interest.
4. Damages for conspiracy to cause loss by unlawful means.
5. Interest pursuant to s.74 of the Judicature Law (2007 Revision) alternatively pursuant to the equitable jurisdiction of the Court at such rate and for such period as the court considers appropriate.
6. Costs.
7. Further or other relief.

Dated this 19th day of January 2024



Madeleine Clark

To the Clerk of the Court and to the Defendants

This WRIT OF SUMMONS was issued by Madeleine Clark whose address for service is Madeleine Clark, 10 Market Street, Box No. 359, Camana Bay, Grand Cayman, KY1-9006, email: madeleineclark01@aol.com.

Acknowledgement of service of writ of summons**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE OF WRIT OF SUMMONS**

1. The accompanying form of Acknowledgement of Service should be completed by an Attorney acting on behalf of the Defendants or by the defendants 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 Acknowledgement 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 endorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendants.

If the Defendants fail to serve their defence within the appropriate time, the Plaintiff may enter judgment against them 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 Acknowledgement of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgement, 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.

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

CIVIL DIVISION

Cause No. of 2024

B E T W E E N:

MADELEINE CLARK

Plaintiff

-and-

(1) HARNEY WESTWOOD & RIEGELS (A FIRM)

(2) HARNEYS GILL (A FIRM)

Defendants

**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 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 the appropriate option).
 - 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 option)

- Yes
- No

Service of the Writ is acknowledged accordingly

(Signed).....
Attorney for

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, below:

Madeleine Clark
10 Market Street, Box No. 359
Camana Bay
Grand Cayman, KY1-9006, Cayman Islands
email: madeleineclark@aol.com

Indorsement by the Defendant’s Attorney (or the Defendant if suing in person) of his name, address and reference if any, below: