

IN THE COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Common Law and Equity Division

Claim No 2023/CLE/gen/00986

BETWEEN

D&T SHIPPING LINES LIMITED

Claimant

AND

HOSE SOURCE, LLC

First Defendant

AND

POLYHOSE INDIA (RUBBER) PVT LTD

Second Defendant

Before: The Honourable Chief Justice Sir Ian R. Winder

**Appearances: Giahna Soles-Hunt with Palincia Hunter for the Claimant
 Samuel Brown for the First Defendant**

27 October 2025

WINDER, CJ

This is the Claimant's application to set aside service of the Standard Claim Form and Statement of Claim on the basis that all of the appropriate Forms did not accompany the pleadings, as required for a defendant served outside The Bahamas.

[1.] This action was commenced by the Claimant against the First Defendant (Hose) and the Second Defendant (Polyhose). Hose describes itself as a company incorporated in Louisiana, USA, with no presence, assets, or operations in The Bahamas. Polyhose has not participated in the application.

[2.] The Claimant alleges that it has sustained injury and damage as a result of alleged defective hoses sold by Hose and manufactured by Polyhose.

[3.] Hose says that on or about 22 May 2022, a first-time customer, Mr. Ronnie Ledet (Ledet), a resident of Houma, Louisiana, entered the Hose storefront located in Gray, Louisiana and ordered five (5) red fuel-discharged hose assemblies with stainless steel fittings (Hose Assemblies). On 27 May 2022, Ledet collected the Hose Assemblies from the Hose storefront. On or about 19 July 2022, while in the vicinity of Exuma, a vessel owned by the Claimant was transporting fuel, when a fuel spill occurred.

[4.] The Claimant commenced this action on 3 November 2023 by a Standard Claim Form and Statement of Claim. On 9 January 2024, Hose was served with the Standard Claim Form; and Statement of Claim. No other documents accompanied the Standard Claim Form and the Statement of Claim.

[5.] An Acknowledgement of Service was filed on 21 February 2024 indicating that Hose intended to defend the claim. On the same date, Hose also filed a Notice of Application seeking, inter alia, a Declaration that this Court has no jurisdiction to try the said Claim Form and an Order setting aside service of the Claim Form and Statement of Claim and/or staying and/or dismissing these proceedings as against the Hose.

[6.] When the matter came on for hearing on 27 October 2025 it was determined that the Court would first consider the application for the Order setting aside service of the Claim Form and Statement of Claim.

[7.] Hose says that where a Claimant serves a Claim Form on a Defendant but fails to serve, concurrently, the Jurisdictional Notice in the prescribed Form G7 of the Supreme Court (Civil

Procedure) Rules, 2022 (CPR), together with the Acknowledgement of Service and Defence forms, such service is fundamentally defective. It says that in such circumstances, the Claim Form and its accompanying documents cannot be deemed to have been properly served, as the mandatory requirements for valid service have not been met. Finally the Claimant says that the court lacks jurisdiction to hear the action.

[8.] Rules 7.7 and 8.14(1) of the CPR provide:

7.7 If a defendant is to be served out of The Bahamas with a claim form, the Claimant must attach a notice to the claim form, which may be in Form G7 informing the defendant of —

- (a) the scope of the jurisdiction of the Court in respect of claims against persons who are not resident in The Bahamas; and**
- (b) the grounds alleged by the claimant in relying on that jurisdiction; and**
- (c) the defendant's right to enter an acknowledgement of service and objection to the jurisdiction of the Court under Part 9. Per Part 7 Rule 7.11 of the CPR.**

8.14 Defence form, etc., must be served with claim form.

(1) When a claim form is served on a defendant, it must be accompanied by —

- (a) a copy of any order made under rules 8.2 or 8.13;**
- (b) a defence form in Form G10;**
- (c) a form of acknowledgement of service in Form G8)**
- (d) if the claim is for money, an application to pay by instalments in Form G13; and**
- (e) the prescribed notes for defendant.**

[9.] It is fairly well settled that Rules 7.7 and 8.14 of the CPR are mandatory in nature. In **Chelfat v Hutchinson 3G UK Ltd.** [2022] EWCA Civ 455 the English Court of Appeal had cause to consider this issue in relation to Form N510, the English equivalent of the Form G7. According to Coulson LJ, at paragraphs 22-24 of the decision:

22. In Heraeus Medical GmbH and Anr v Biomet UK Healthcare Limited and others [2016] EWHC 1369 (Ch), Mann J described the purpose of the N510 form in these terms:

55. ... service out should not be allowed even if grounds for suing in this jurisdiction could otherwise have been made out. The purpose of the notice which has to be provided under CPR 6.34 is probably twofold. First, it provides some sort of mechanism to police service of proceedings without permission under the Regulation so as to try to ensure that only proper cases make use of the opportunity to serve out of the jurisdiction without permission. It obviously requires and expects the claimant (or its solicitor) to consider the point, and to that extent is intended to act as a sort of filter. Second, it provides an indication to the recipient of the notice that the claimant considers that there are no equivalent proceedings on foot so that the recipient can decide whether to challenge service (and jurisdiction) if it disagrees (though the recipient is less likely to be interested in that because it will form its own view on the matter anyway)...

23. **BDI-Bioenergy International AG v Argent Energy Limited**, 19 December 2017, unreported (Judge Hacon), concerned the failure to file Form N510. That meant that the claim form had not been properly served. The judge regarded that failure as a non-trivial breach, but granted relief from sanctions because Form N510 had been served on the defendant, so the breach of the rules had not caused prejudice...

24. In **Athena Capital Fund SICAV-FIS S.C.A. and others v Secretariat of State for the Holy See** [2021] EWHC 316 (Comm); [2022] 1 WLR 1389, the claimants originally obtained permission to serve the claim form out of the jurisdiction. There was a challenge... They applied for retrospective permission to serve the claim form without having filed a copy of Form N510. The deputy judge said that the words of r.6.34(2) provided a sanction for failing to file a copy of N510, namely that the claim form could not be served. He then went through the **Denton v TH White** ([2014] EWCA 906; [2014] 1 WLR 3926) exercise, and concluded that relief from sanctions was appropriate. Of potential relevance to this case is paragraph 118 where the deputy judge said:

“118. To my mind, the words of CPR 6.34(2) plainly provide a sanction for failing to file the notice contained in form N510 or to obtain the Court's permission, namely that the claim form may not be served. In context, that means that it will not be treated as having been served formally, so as to initiate the procedures that follow service of the claim form...

[10.] In the case of **Dorothy Vendryes v Dr. Richard Keane et al** [2011] JMCA Civ 15 a decision of the Jamaican Court of Appeal, Harris JA stated that “*the service of the requisite documents accompanying the claim form is a mandatory requirement.*”

[11.] The Claimant accepts that it did not provide the Form G7, the Form G8 or the Form G10 as required by the CPR but says Hose's application is at best, a technical procedural objection. The Claimant refers to the Court's mandate under the 'Overriding Objective' of the CPR.

[12.] The Claimant says that the technical procedural objection ignores Rules 26.9 (3) and (4) which provides:

(3) If there has been an error of procedure or failure to comply with a rule, practice direction, court order or direction, the Court may make an order to put matters right.

(4) The Court may make such an order on or without an application by a party."

[13.] The Claimant also relies on the dicta of Lord Collins in the Privy Council case of **Texan Management Limited et al and Pacific Electric Wire & Cable Company Limited** [2009] UKPC 46

"It has often been said that, in the pursuit of justice, procedure is a servant and not a master. This is a case, if the Court of Appeal for the Eastern Caribbean is right, where the law of procedure prevents the appellants from invoking a power which is designed to ensure that the litigation is centred in the court "in which the case may be tried more suitably...for the ends of justice,"

The Claimant asks that the Court validates the service of the Standard Claim Form and Statement of Claim on Hose.

[14.] The Form G7 is a vital document as it should inform a defendant of: (a) the scope of the jurisdiction of the Court in respect of claims against persons who are not resident in The Bahamas; (b) The grounds alleged by the claimant in relying on that jurisdiction; and (c) The defendant's right to enter an acknowledgment of service and objection to the jurisdiction of the Court under Part 9. As provided for in the authorities identified above, failing to serve the accompanying documents cannot be ignored or parsed over.

[15.] The Court to perform a balancing act of ensuring that mandatory rules of Court are complied with and not abused against the overriding objective of saving expenses and ensuring that cases are dealt with expeditiously and fairly.

[16.] In the circumstances, I will set aside the service of the Claim Form and the Statement of Claim.

[17.] The Court noted the Claimant's complaint that Hose's filing of the Notice of Application hindered its ability to serve the remaining documents properly (which I did not wholly accept as accurate). The Court also noted that Hose has already mounted its jurisdictional challenge, in the absence of the Form G7 and filed the Form G8 Acknowledgement of Service. Finally, I took note

that Hose did not advance its application filed on 21 February 2024 and in fact it was the Claimant that moved the process for the setting down of this application. I will, under the circumstances, extend the validity of the Standard Claim Form to 31 December 2025. This, not only provides an appropriate window for the proper service of the Claim Form and the necessary accompanying documents but fulfils the overriding objective of saving expenses and ensuring that cases are dealt with expeditiously and fairly.

[18.] I am minded to make the usual order for costs, following the event, in favor of Hose. Should the parties wish for some other order to be made they may lodge written submissions within 21 days.

Dated this 5th day of November 2025

A handwritten signature in black ink, appearing to be 'I. R. Winder', written in a cursive style.

Sir Ian R. Winder

Chief Justice