

IN THE GRAND COURT OF THE CAYMAN ISLANDS

0320  
CAUSE NO: OF 2009

**BETWEEN:** HARBOUR HOUSE MARINA &  
YACHT CLUB LTD.  
(A CORPORATION FORMED  
UNDER THE LAWS OF  
THE CAYMAN ISLANDS) **PLAINTIFF**

**AND:** ROBERT (G.R.) WOITZIK **DEFENDANT**



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**WRIT OF SUMMONS**

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**TO:** The Defendant  
9000 Gulf Shore Drive  
Naples Florida 34108  
U.S.A.

**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 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 3<sup>rd</sup> day of July 2009.

**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.

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## STATEMENT OF CLAIM

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1. The Plaintiff, at all material times, carried on (*inter alia*) the business in Cayman Islands as a Boatyard, Chandlers & Marina.
2. The Defendant is a Florida resident being the registered owner of a 48 ft. Sea Ray, Serial # SERP6870C606, registration FL#D01198569 (the "Vessel").

### PARTICULARS OF WORK

3. In or about September 2008, the Vessel was allegedly stolen from the Defendant's residence. As a result of Hurricane Paloma in November 2008, the Vessel was washed up on the shores of Little Cayman, Cayman Islands. The Plaintiff made efforts to locate the legal owner of the Vessel and accordingly contacted the Defendant in November 2008.
4. By authorization in writing dated 11 November 2008 (the "Authorization"), the Defendant gave instructions to the Plaintiff to attend to Little Cayman, salvage and tow the Vessel to Grand Cayman, and secure in the Plaintiff's Boatyard.
5. On 11 November 2008 (the date the Authorization was given) and at the time that the work was executed by the Plaintiff referred to below, the Plaintiff had an interest in the Vessel and other items to the extent of the amounts that the Defendant owed to the Plaintiff.

### PARTICULARS OF LOSS AND DAMAGE

6. As a result of the Authorization the Plaintiff attended Little Cayman and proceeded to salvage and tow the Vessel. The Vessel was successfully salvaged and taken to Harbour House Marina Boatyard in Grand Cayman where the Vessel remains to date.
7. On 18 December 2008 an invoice was issued by the Plaintiff to the Defendant in the amount of US\$90,048.78. Further to discussion between Mr. Cuff and the Defendant the invoice was reduced by an agreed US\$9,756.10, leaving the outstanding invoiced amount of US\$80,292.68. Although payments have been promised and wire transfer receipts produced by the Defendant, no monies have been received and this amount remains outstanding.
8. A reward of US\$10,000 was offered and agreed to be paid by the Defendant to the Plaintiff. Although promises have been made to both the Plaintiff and the Plaintiff's attorney that this money was forthcoming, no monies have been received to date.
9. A Letter Before Action was served on the Defendant on 3 June 2009. This resulted in further acknowledgement of the debt by the Defendant and promises of payment none of which have transpired to date.
10. Notwithstanding the receipt by the Defendant of the Plaintiff's Letter Before Action the Defendant has not paid the Plaintiff the sum of US\$90,292.68 or any part of that sum.

11. The Plaintiff also claims storage fees from 1 December 2008 at a rate of US\$468.29 per month.
12. The Plaintiff also claims interest pursuant to section 35 of the Judicature Law (2007 Revision) on the said sum at such rate as the Court shall think fit or for the period from December 12, 2008 until judgment herein or sooner payment.

**AND THE PLAINTIFF CLAIMS**

1. The sum of US\$90,292.68;
2. Storage fees at a rate of US\$468.29 per month from 1 December 2008;
3. Interest pursuant to section 35 of the Judicature Law (2007 Revision) on the said sum or damages at such rate as the Court shall think fit for the period from 12 December 2008 until judgment herein or sooner payment;
4. Costs to be taxed if not agreed.

  
DIAMOND LAW ASSOCIATES

**Acknowledgement of service of writ of summons (0.12, 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 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 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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PLAINTIFF

AND: ROBERT (G.R.) WOITZIK

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)
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)

Service of the Writ 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 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.

DIAMOND LAW ASSOCIATES 4 <sup>th</sup> Floor, Cardinal Plaza Cardinal Avenue P.O. Box 2887 George Town KY1-1112 CAYMAN ISLANDS
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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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