

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. <sup>59</sup> of 1997

BETWEEN: W.H. McTAGGART & SON LTD. PLAINTIFF

AND: CAYMAN CONSTRUCTION CO. LTD DEFENDANT

WRIT OF SUMMONS

TO: Cayman Construction Co. Ltd.,  
P.O. Box 1190 GT.,  
Grand Cayman  
Cayman Islands

JAN 31 1997



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 31st day of January, 1997.

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.



**STATEMENT OF CLAIM**

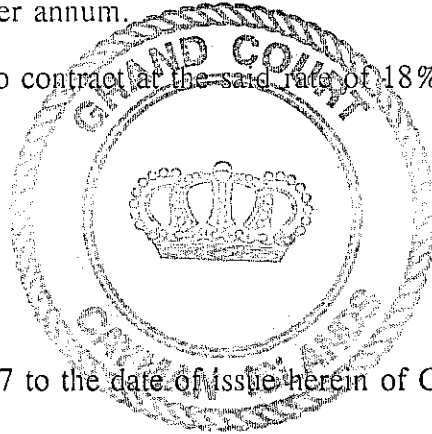
1. The Plaintiff's claim is against the Defendant for the sum of CI\$3,490.97, being the principal amount due and owing to the Plaintiff by the Defendant for goods sold to the Defendant by the Plaintiff under the following invoices:

DATE	INVOICE NO.	AMOUNT (CI\$)
11.10.94	61007	79.50
12.10.94	61022	91.70
19.10.94	61313	158.52
27.10.94	61596	54.60
27.10.94	61599	42.40
28.10.94	61636	9.45
31.10.94	61676	102.50
01.11.94	61708	164.95
02.11.94	61737	371.23
08.11.94	61966	480.85
09.11.94	61985	1,273.80
09.11.94	61987	134.50
15.11.94	62084	21.00
16.11.94	62136	45.95
21.11.94	62267	460.02
<b>TOTAL</b>		<b>3,490.97</b>

2. It was an express term of each contract for the sale of the above goods that if invoices was not paid by the 20th day of the month following the month of purchase interest would be charged at the rate of 18% per annum.
3. The Plaintiff claims interest pursuant to contract at the said rate of 18% per annum.

**AND THE PLAINTIFF CLAIMS:-**

1. the sum of CI\$3,490.97;
2. interest on the said sum of CI\$3,490.97 to the date of issue herein of CI\$1,338.73;
3. interest accruing each day hereafter at the rate of CI\$1.72 per day until judgment or sooner payment;





4. fixed costs of CI\$250.00 plus the prescribed filing fee of CI\$100.00.

Total amount as of 31 January 1997:

CI\$5,179.70

**STATEMENT REGARDING INTEREST:**

1. The rate of interest claimed is 18% per annum
2. The date from which interest is calculated is 20 November 1994 as to CI\$538.67 and 20 December, 1994 as to CI\$2,952.30.
3. The total amount of interest claimed as at 31 January 1997 is CI\$1,338.73 as to CI\$3,490.97.
4. The amount of interest accruing each day thereafter is CI\$1.72.

If, within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed of CI\$5,179.70 (including interest and costs) further proceedings will be stayed. The money must be paid to the Plaintiff's Attorney.

JAN 31 1997

Orren Merren & Company  
ORREN MERREN & COMPANY  
Attorneys-at-Law for the Plaintiff



*This Writ was issued by Messrs. Orren Merren & Company, the attorneys-at-law for the Plaintiff, whose address for service is Kirk House, 3rd Floor, Albert Panton Street, George Town, P.O. Box 481G, Grand Cayman, Cayman Islands, British West Indies.*



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 authorized 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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CAUSE NO. 59 OF 1997

BETWEEN: W.H. McTAGGART & SON LTD PLAINTIFF

AND: CAYMAN CONSTRUCTION CO. LTD. 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 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

[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 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.*

Orren Merren & Company  
Attorneys-at-Law  
P.O. Box 481G  
Kirk House Third Floor,  
Albert Panton Street  
Grand Cayman, B.W.I.

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

[Empty box for defendant's attorney indorsement]