

IN THE GRAND COURT OF THE CAYMAN ISLANDS.

CIVIL DIVISION

60485
CAUSE NO. OF 2011

BETWEEN:

ESSO CAYMAN LIMITED

PLAINTIFF

v.

PETER SOUTH

DEFENDANT



WRIT OF SUMMONS

TO: The Defendant
Peter South
PO Box 856
KY1-1103
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 the service of this Writ on you, counting the day of service, you must either satisfy the claim or return the Court Office, P.O. Box 495 Grand Cayman KY1-1106, Cayman Islands, 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 day of December 2011

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 with the accompanying form.

GENERAL ENDORSEMENT

The Plaintiff's claim is for declarations, injunctive relief and/or damages and arising by reason of the following:

1. The breach by the Defendant of the implied terms of a contract made in 2007 between the Plaintiff and Defendant by which the Plaintiff consented to and arranged for and the Defendant agreed to accept the transfer of a Package Liquor Licence #P20-62 applying to premises being all that parcel of land together with all of the buildings and other structures on it known as Delworth's Esso situated at 334 North Church Street, George Town Central Block 13E Parcel 16, Grand Cayman, Cayman Islands ("the Premises").
2. Further or alternatively, the breach by the Defendant of the terms of a Deed described as a Lease and Service Station Operating Agreement executed by the parties in or about July 2010 (the "2010 Deed") governing the terms upon which the Defendant held the said Liquor Licence.
3. Further or alternatively, that the Defendant is estopped from denying that he holds the said Liquor Licence (1) on terms set out in a Lease and Service Station Operating Agreement dated made on 3rd November 2006 between the Plaintiff and PSB Ltd and purportedly made by Barry Smith as the holder of the liquor licence applying to the Premises and/or (2) as set out in the 2010 Deed and/or (3) at the direction and will of the Plaintiff, subject to the requirements of the Liquor Licensing Board.
4. The Defendant, without the consent of the Plaintiff, wrongfully and in breach of the said terms applied by letter of 17 October 2011, to transfer of the said Liquor Licence from the Premises to another premises.

AND THE PLAINTIFF CLAIMS:

(1) A Declaration that the Defendant holds the Package Liquor Licence #P20-62:

- a. upon terms as described in Lease and Operating Agreements dated 3rd November 2006 and July 2010 ;
- b. at the direction and will of the Plaintiff; and
- c. upon terms that, at the direction of the Plaintiff, he shall apply to transfer and/ or consent to the transfer of the said Licence to a person nominated by the Plaintiff.

(2) Injunctions:

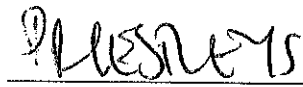
- a. restraining the Defendant from dealing with the said Licence save at the direction of the Plaintiff;
- b. making or pursuing any application for variation or alteration of said Licence save at the direction of the Plaintiff;
- c. requiring the Defendant to consent in writing to the transfer of the said Licence to a person nominated by the Plaintiff or as otherwise directed by the Plaintiff and/or to apply for transfer of the same as directed by it.

(3) Damages for breach of contract;

(4) Interest on the said damages pursuant to section 34 of the Judicature Law (2007 Revision); and

(5) Costs

DATED THIS 5th December 2011



PRIESTLEYS

This Generally Endorsed Writ of Summons is issued by Priestleys Attorneys-at-Law for the Plaintiff herein whose address for service is Units 11 & 12 Galleria Plaza, 638 West Bay Road, P.O. Box 30310, Grand Cayman, KY1-1202

**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 Defendant or by the Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, PO Box 495, 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 endorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2). The defence must be served within fourteen (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 fourteen (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 Acknowledgement of Service, that he intends to apply for a stay, execution will be stayed for fourteen (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 installments or otherwise.

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement of Service and return it to the Courts Office.
2. For the purpose of calculating the period of fourteen (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 steps in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL HEALTH 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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v.

PETER SOUTH

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.

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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 [] No []

Service of the Writ is acknowledged accordingly

(Signed) _____

Address for service:

Please see 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 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.

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

PRIESTLEYS
ATTORNEYS-AT-LAW
UNITS 11 & 12, GALLERIA PLAZA
638 West Bay Road
PO BOX 30310
GEORGE TOWN, GRAND CAYMAN
CAYMAN ISLANDS, KY1-1202

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