

No. 1

Writ of Summons (O.6, r.1)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 254 of 1997

BETWEEN: COX LUMBER CO. PLAINTIFF
 AND: HAROLD POWELL FIRST DEFENDANT
 AND: SONIA POWELL SECOND DEFENDANT

WRIT OF SUMMONS

TO: Harold Powell
 Apartment No. 38
 Randyke Gardens
 P.O. Box 155 GT.,
 Grand Cayman

TO: Sonia Powell
 Apartment No. 38
 Randyke Gardens
 P.O. Box 155 GT.,
 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 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 16th day of April 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. By a contract in writing dated 6 June 1996 the Plaintiff sold goods on credit to the Defendants.
2. The goods sold to the Defendants on credit were under the following invoices:

DATE	INVOICE NO.	AMOUNT (CI\$)
15.08.96	172286	17.79
15.08.96	174686	26.04
15.08.96	278160	51.07
15.08.96	278268	146.00
15.08.96	278319	17.99
15.08.96	278325	146.00
15.08.96	278355	113.00
15.08.96	278373	35.20
15.08.96	278381	31.35
15.08.96	278537	18.71
15.08.96	278958	20.47
15.08.96	279163	76.44
15.08.96	279169	40.68
15.08.96	279182	49.80
15.08.96	279385	73.22
15.08.96	279617	41.95
15.08.96	281954	17.60
15.08.96	281599	32.33
15.09.96	176809	10.65
15.09.96	176831	73.93
15.09.96	281492	690.21
15.09.96	281716	73.00
15.09.96	282046	50.15
15.09.96	282378	17.37
15.09.96	282391	80.59
15.09.96	282421	50.37
15.09.96	282570	192.11
15.09.96	282619	66.76
15.09.96	282680	64.69
15.09.96	282817	35.95
15.10.96	172326	17.60
15.10.96	176910	22.45
15.10.96	176937	196.98
15.10.96	176992	107.97
15.10.96	325477	35.42
15.10.96	326159	231.27
15.10.96	326165	36.24
15.11.96	327546	45.14
15.01.97	172443	45.82
15.03.97	331379	45.82
TOTAL		<u>3146.13</u>



3. Neither of the Defendants have paid the said sum of CI\$3,146.13 or any part thereof.
4. The Plaintiff also claims as against the Defendants interest pursuant to contract at the rate of 18% per annum.

AND THE PLAINTIFF CLAIMS AS AGAINST THE FIRST AND SECOND DEFENDANT:-

1. The above principal sum of CI\$3,146.13.
2. Interest thereon accrued to 14 April 1997 of CI\$91.53.
3. Further and/or other relief.
4. Fixed costs of CI\$250.00 plus the prescribed filing fees of CI\$100.00 and prescribed bailiff service fees of CI\$60.00.

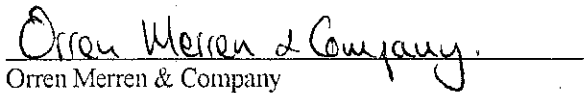
Total amount as of 14 April 1997:

CI\$3,647.66.

STATEMENT REGARDING INTEREST:

1. The rate of interest claimed is 18% per annum.
2. The date from which interest is calculated is 15 February 1997.
3. The total amount of interest claimed as at 14 April 1997 is CI\$91.53 as to CI\$3,146.13.
4. The amount of interest accruing each day thereafter is CI\$1.55.

If, within the time for returning the Acknowledgment of Service, the First Defendant pays the total amount claimed of CI\$3,647.66 (including interest and fixed costs) further proceedings will be stayed. The money must be paid to the Plaintiff's Attorney.


Orren Merren & Company

THIS WRIT was issued by Orren Merren & Company whose address for service is Kirk House, Third Floor, Albert Panton Street, P.O. Box 481, George Town, Grand Cayman, Cayman Islands, B.W.I.

Acknowledgment of service of writ of summons (O.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.

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 and Company
Kirk House, 3rd Floor
Albert Panton Street
P.O. Box 481
Grand Cayman
Cayman Islands, B. W. I.

Ref: AJT,wes

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]