

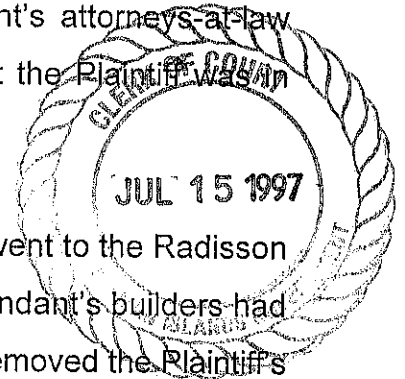
STATEMENT OF CLAIM

1. The Plaintiff is a company incorporated pursuant to the laws of the Cayman Islands and has its registered office at P.O. Box 268, George Town, Grand Cayman. The Plaintiff inter alia owns and operates a beauty salon in Grand Cayman called "Spa Esprit".
2. The Defendant is a company incorporated pursuant to the laws of the Cayman Islands and has its registered office at P.O. Box 709, George Town, Grand Cayman.
3. The Plaintiff owned and operated a beauty salon at the Radisson Resort Hotel (which Hotel is now called "The Marriott"). Spa Esprit is a beauty salon which specialises in hair design, skin care and day spa.
4. On or about 8 June 1994 the Plaintiff entered into a Lease with the Defendant of a shop ("the shop") located at the Radisson Resort Hotel (now called "The Marriott") the legal description of which is Registration Section West Bay Beach South, Block 13B, Parcel 2 for a period of three years commencing on 1 August 1994 at the monthly rental of CI\$1,666.66. The Lease will be referred to at the trial as to its full meaning and effect.
5. The Lease contains the usual landlords covenants and in particular the Second Schedule (the Landlords covenants with the Tenant) provides as follows:

(THE LANDLORD'S COVENANTS WITH THE TENANT)

"The Tenant paying the rent hereby reserved and observing and performing the several terms, covenants and stipulations herein on his part contained shall peaceably hold and enjoy the Premises during the currency of the Lease hereby granted without any interruption by the Landlord or any person rightfully claiming under or in trust for it."

6. In or around December 1996 the Plaintiff received a telephone call from Mr Timothy Bouley of the Defendant Company indicating that the Defendant would not be renewing the Lease. The Landlord requested that the Plaintiff vacate the premises on 1 May 1997 owing to the fact that the hotel in which the shop was located was going to be renovated and that the shop would thereafter become part of the hotel lobby. The Plaintiff was left with the impression that the Lease would expire at the end of April 1997. In fact the expiry date pursuant to the Lease is 31 July 1997.
7. On the 16 January 1997 the Plaintiff met with Mr Bouley and discussed the Defendant's plan for the renovation of the Hotel. At some point after this meeting the Plaintiff obtained a copy of the Lease and reviewed it and noted that it did not expire until 31 July 1997. The Plaintiff then wrote to the Defendant on 21 March 1997 confirming this fact to the Defendant. The Defendant's attorneys-at-law replied by letter dated 26 March 1997 stating inter alia that the Plaintiff was in breach of an undertaking.
8. On 1 May 1997 Mrs Francis Griffin of the Plaintiff Company went to the Radisson Hotel to open the shop as usual and discovered that the Defendant's builders had dismantled and removed the shop. The Defendant had also removed the Plaintiff's fixtures and fittings from the premises and had stored them but refused to divulge details of where they had been stored. Further the Defendant's action in dismantling and removing the shop occurred at a time when the parties were negotiating the terms of a surrender of the Plaintiff's Lease. Mrs Griffin was shocked and distressed by the destruction of the shop.
9. The Plaintiff's goodwill has been affected by the sudden destruction and closure of its shop at the Radisson. Further Mrs Griffin suffered mental shock and seeks damages for the emotional distress and inconvenience caused to her by the

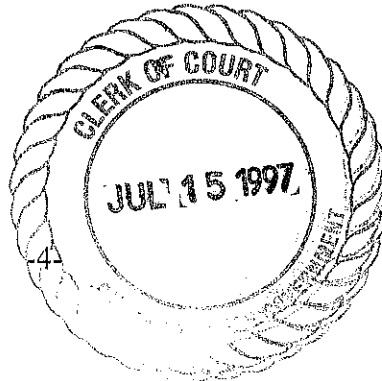
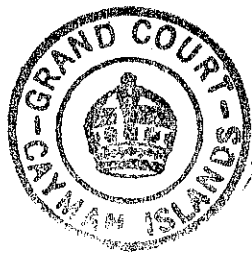


Defendant's action.

10. The Plaintiff will further seek exemplary damages because the Defendant's conduct in destroying the shop is in breach of the covenant for quiet enjoyment in the lease was calculated to make it a profit by improving the lobby of the Hotel and such profit will exceed the compensation payable to the Plaintiff.
11. The Plaintiff after 1 May 1997 on numerous occasions through its lawyers and directly sought to ascertain the whereabouts of its property from the Defendant and its lawyers.
12. On the 14 June 1997 the Plaintiff belongings were returned to it and upon examination were found to have been damaged.
13. By reason of the foregoing the Defendant has derogated from its grant to the Plaintiff and is in breach of the covenant for quiet enjoyment and the Plaintiff has thereby suffered loss and damage.

PARTICULARS OF SPECIAL DAMAGE

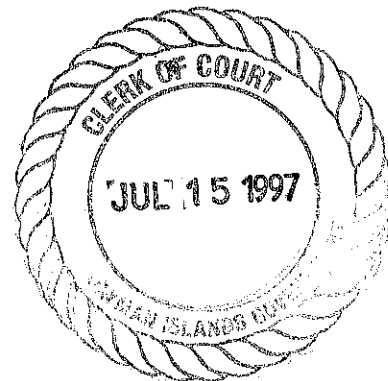
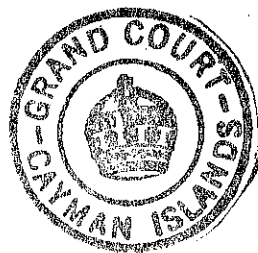
Loss of the value of the term demised to the Plaintiff	CI\$ 5,512.50
Loss of profit	CI\$18,000.00
Trespass to goods and the damage caused thereby	CI\$ 3,607.25
Costs of removal of business, warehousing and other costs associated therewith	<u>CI\$ 4,320.00</u>
	<u>CI\$31,439.75</u>



AND THE PLAINTIFF claims:

1. Under paragraph 9, damages for loss of goodwill.
2. Under paragraph 10, exemplary damages.
3. Under paragraph 13, damages.
4. Interest pursuant to section 34 of the Judicature Law (1995 Revision) or as the Court may think fit.
5. Further or other relief.
6. Costs.

Truman Bodden & Company
TRUMAN BODDEN & COMPANY



THIS WRIT was issued by Truman Bodden & Company, Attorneys-at-Law, whose address for service is Anderson Square, P.O. Box 866, George Town, Grand Cayman, British West Indies.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 577 OF 1997

BETWEEN: SUMMIT HOLDINGS LTD Plaintiff

AND: WIMAR LTD Defendant

ACKNOWLEDGMENT OF SERVICE
OF ORIGINATING 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 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 of Summons is being acknowledged.

2. State whether the Defendant intends to contest or otherwise participate in 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 of Summons 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.

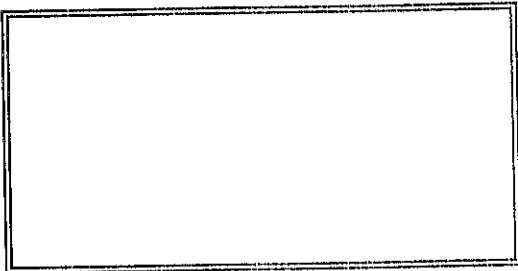
Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered 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.

Truman Bodden & Company
Attorneys-at-Law
P.O. Box 866
Grand Cayman

Ref: PSB

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



**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 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 named 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.