

IN THE GRAND COURT OF THE CAYMAN ISLANDS

HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO 344 OF 1998

BETWEEN: CAYMAN PAVING LTD PLAINTIFF
AND: FIRST CAYMAN BANK FIRST DEFENDANT
(In liquidation)
AND: IAN WIGHT SECOND DEFENDANT
(In the capacity of Official Liquidator of First Cayman Bank Ltd)
AND: M.W. PILLING THIRD DEFENDANT
(In the capacity of Official Liquidator of First Cayman Bank Ltd)
AND: DAVID M WHEATON FOURTH DEFENDANT
AND: OLIVER JORDAN FIFTH DEFENDANT
(Receiver of Carribean paving Ltd.)

WRIT OF SUMMONS

TO: FIRST CAYMAN BANK, IAN WRIGHT, M.W. PILLING, DAVID M WHEATON & OLIVER JORDAN of GEORGE TOWN, GRAND CAYMAN.

THIS WRIT OF SUMMONS has been issued against you by the above named Plaintiffs in respect of the claim set out on the next page.

Within Fourteen days [14] 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 Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgement may be entered against you forthwith without further notice.

ISSUED this 28th day of May 1998.

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 re-issue unless renewed by order of the Court.

IMPORTANT

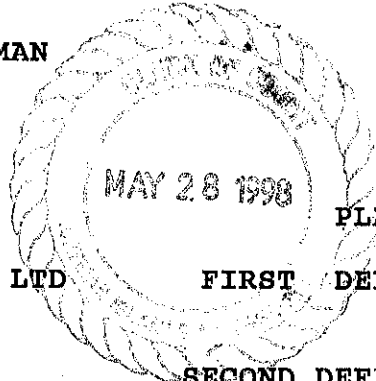
Directions for Acknowledgement of Service are given with the accompanying form.

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(receiver of Caribbean Paving Ltd)



STATEMENT OF CLAIM

1. The Plaintiff is and was at all material times a Company duly incorporated under the Laws of the Cayman Islands.
2. The First Defendant is a Caymanian Company in liquidation.
3. The Second and Third Defendants are joint official liquidators of the First Defendant.
4. The Fourth Defendant at all material times acted as or held himself out as the agent and or servants of the First and or the Second and Third Defendants.
5. The fifth Defendant is the receiver of Caribbean Paving Ltd a Caymanian Company in liquidation and at all material times acted as the agent and or sevant of the First, Second and Third Defendants.
6. The Plaintiff by letter dated 19th February 1998 made a n offer to the Defendants for the purchase of a certain Paving plant and equipment owned and or in possession of the Defendants that the Defendent had for sale by way of a fixed charge and or other charge or order over the assets of Caribbean Paving Ltd for the purchase price of CI\$ 303,000.00.



7. By letter dated 27th march 1998 the Fourth Defendant, for and on behalf of the First, Second, Third and Fifth Defendants wrote to the Plaintiff requesting the Plaintiff, inter alia, to sustain their offer for a further month.
8. By letter dated 2nd April 1998 the Plaintiff conformed to the Defendants that their offer to purchase the Paving Plant and equipment for the sum of CI\$ 303,000.00 was sustained for a further month.
9. By letter dated 29th April 1998 the Fourth Defendant for and on behalf of the First, Second, Third and the Fifth Defendant wrote to the Plaintiff informing them that their offer to purchase the Paving Plant and equipment for the sum of CI\$ 303,000.00 was accepted and, inter alia, that "a sale and purchase agreement is presently being prepared by our Attorneys and will be forwarded to you as soon as possible."
10. By letter dated 1st May 1998 the Plaintiff wrote to the defendants thanking them for informing the Plaintiff that the offer to purchase the Paving Plant and equipment for the sum of CI\$ 303,000.00 was accepted by the Defendants and, inter alia, that "we await the sale and purchase agreement indicated by you."
11. By letter dated 11th may 1998 the Plaintiff wrote to the Fifth Defendant confirming receipt of the said letter of 29th April 1998 from the Defendants, and, inter alia, confirming and enclosing the deposit cheque of CI\$ 10,000.00 to show Good Faith.
12. By letter dated 12th May 1998 from Messrs W.S.Walker & Company to the Plaintiff, the Plaintiff, inter alia, was informed that the Defendants were entertaining a higher bid for the said Paving Plant and equipment.
13. By letter dated 12th May 1998 from the Fifth Defendant to the Plaintiff the Fifth Defendant, inter alia, informed the Plaintiff "that your bid has not been formally accepted."
14. By letter dated 19th May 1998 from the Fifth Defendant to the Plaintiff, the Plaintiff, inter alia, was informed that another offer to purchase the said Paving Plant and equipment for the sum of " CI\$ 501,000.00 has now completed to the satisfaction of the Receiver". The said letter also invited the Plaintiff to "match" the said bid of CI\$ 501,000.00 by friday 22 May 1998.

15. By letter dated 15th May 1998 to W.S. Walker & Company from the Plaintiff's Attorneys Messrs Woodrow Terry & Company. Mr Terry, inter alia, stated that the correspondence between the Plaintiff and the Defendants constituted an offer by the Plaintiff and an acceptance by the Defendants for the sale and purchase of the Paving Plant and equipment by the Defendants to the Plaintiff for the sum of CI\$ 303,000.00. Further, Mr Terry stated that "in the event an agreement not being received by noon friday, May 22nd 1998 an action is to be brought in this matter."
16. By letter dated 15th May 1998 Messrs W.S. Walker & Company wrote to Messrs Woodrow Terry & Company, inter alia, informing Mr Terry that "the receiver does not accept that a concluded contract of sale exist between Caribbean Paving Ltd and your client". The deposit of CI\$ 10,000.00 was returned.
17. Further by letter dated 20th May 1998 W.S.Walker & Company wrote to Messrs Woodrow Terry & Company, inter alia, inquiring as to whether an action would be forthcoming in this matter.
18. The offer by the Plaintiff to purchase the Paving Plant and equipment for the sum of CI\$ 303,000.00 and the acceptance by the Defendants to accept the Plaintiffs said offer are contained in writing in the letters dated 16th February 1998, 27th March 1998, 2nd April 1998, 29th April 1998, 1st May 1998 and 11th May 1998.
19. The said letters and correspondence contained an agreement in writing between the Plaintiff and the Defendants.
20. By letter dated 21st May 1998 Mr Woodrow Terry of Messrs Woodrow Terry & Company wrote to Messrs W.S. Walker & Company informing them, inter alia, that Cayman Paving Ltd "continue to unqualifiedly emphasise their position that a binding agreement has been reached with the bank and or the receiver for the purchase of the equipment in accordance with their offer of March 27th 1998 and the Banks acceptance of that offer in its letter of April 29th 1998." He also enclosed a deposit cheque for the sum of CI\$ 10,000.00.
21. The Defendants in breach of the said agreement by accepting a further or other offers after they had accepted the Plaintiff's said offer are in breach of their agreement to sell the Paving Plant and equipment to the Plaintiff for the sum of CI\$ 303,000.00.

22. The Defendants have failed to complete the said agreement of sale of the said Paving Plant and equipment to the Plaintiff for the sum of CI\$ 303,000.00.
23. The Defendants intend unless restrained from doing so to sell the said Paving Plant and equipment to some one other than the Plaintiff in breach of the said agreement.

AND THE PLAINTIFF CLAIMS:-

1. specific performance by the Defendants of their agreement to sell the Paving Plant and equipment to the Plaintiff for the sum of CI\$ 303,000.00.
2. An injunction to restrain the Defendants by themselves their servants or agents or otherwise from selling disposing or offering for sale the said Paving Plant and equipment until the determination of this suit.
3. Cost and Attorneys Fees

Dated this 27th day of May 1998



**A STEVE McFIELD & ASSOCIATES
Attorneys-at-Law
For the Plaintiff**

To: THE CLERK OF COURTS

AND: THE DEFENDANTS

THIS was filed by A Steve McField & associates, Attorneys-at-Law for and on behalf of the Plaintiff, whose address for service is that of their said attorney, P O Box 680, Mary Street, George Town, Grand Cayman, Cayman Islands

DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE OF ORIGINATING SUMMONS

The accompanying form of Acknowledgement of Service should be completed by an Attorney acting on behalf of the Defendants or by the Defendants if acting in person. After completion it must be delivered or sent by post to the Law Courts, P O Box 495, George Town, Grand Cayman.

Notes for Guidance

1. The Defendants are required to complete an Acknowledgement of Service and return it to the Courts Office.
2. If you wish to defend claims made in the Originating Summons, or intend to attend the proceedings and to participate in them so far as necessary (although not necessarily in an adversarial manner), you should tick the "yes" box in paragraph 2 of the Acknowledgement of Service.
3. For the purpose of calculating the period of 14 days for acknowledging service, an originating summons served on the Defendants personally is treated as having been served on the day it was delivered to them.
4. Where the Defendants are sued in a name different from their own, the form must be completed by them with the addition in paragraph 1 of the words "sued as (the name stated on the Originating Summons)"
5. Where the Defendant is a FIRM and an attorney is 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.
6. Where the Defendants are 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.
7. Where the Defendants are 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.
8. Where the Defendants are a MINOR or a MENTAL PATIENT, the form must be completed by an attorney acting for a guardian ad litem.
9. A Defendant acting in person may obtain help in completing the form at the Court's Office.

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HOLDEN AT GEORGE TOWN, GRAND CAYMAN

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ACKNOWLEDGEMENT 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 Originating Summons is being acknowledged.

2. State whether the Defendant intends to contest the proceedings (tick appropriate option).

Yes _____ No _____

Service of the Endorsed Writ of Summons is acknowledged accordingly

(Signed).....

(Attorney) for

(Defendant in person)

Address for service:

Notes on address for service

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 principle office.

**A STEVE McFIELD & ASSOCIATES
Attorneys-at-Law for the
Plaintiff/Applicant**

**Attorneys-at-Law for the
Respondent**

FILED BY: A Steve McField & Associates, Attorneys-at-Law for and on behalf of the Plaintiff, whose address for service is that of their said attorney, P O Box 680, Mary Street, George Town, Grand Cayman, Cayman Islands, B.W.I.