



**SUMMARY COURT AT GEORGE TOWN**

**CAUSE NO: SC OF 2022**

**B E T W E E N:**

**COX LUMBER LTD**

**PLAINTIFF**

**AND**

**JBS PROPERTY GROUP LIMITED (1)**

**FIRST DEFENDANT**

**ROGER SMALL (2)**

**SECOND DEFENDANT**

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**PLAINT**

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TO:

First Defendant  
JBS Property Group Limited  
18 McField Lane, George Town  
P.O. Box 644  
Grand Cayman, KY1-1107  
Cayman Islands

AND

Second Defendant  
Roger Small.  
P.O. Box 644  
Grand Cayman, KY1-1107  
Cayman Islands

**THIS PLAINT** 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 service of this Complaint on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495 GT, George Town, Grand Cayman, the accompanying Acknowledgement of Service stating therein whether you intend to contest this action. If you intend to defend the action, in whole or in part, you must set out full particulars of your defence in the space provided in the Acknowledgment of Service form.

If you fail to satisfy the claim or to return the Acknowledgment of Service form containing full particulars of your defence, the Plaintiff may apply for a default judgment without any further notice to you.

**Issued this 18<sup>th</sup> day of October 2022**

**See overleaf for particulars of the Plaintiff's claim**

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**PARTICULARS OF CLAIM**

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1. The Plaintiff is and was at all material times a company organised and carrying on business pursuant to the laws of the Cayman Islands. The Plaintiff's address for service is care of its Attorneys, HSM Chambers, 68 Fort Street, PO Box 31726, George Town, Grand Cayman, KY1-1207, Cayman Islands.
2. The First Defendant is a Cayman Islands incorporated company (Company No. 230707) with a registered office address of 18 McField Lane, P.O. Box 644, Grand Cayman, KY1-1107, Cayman Islands.
3. The Second Defendant is an individual who resides in the Cayman Islands with a mailing address P.O. Box 644, Grand Cayman, KY1-1107, Cayman Islands. The Second Defendant is a shareholder/director of the First Defendant.
4. Pursuant to a Credit Agreement dated on or around 15 July 2015, it was agreed between the parties that the Plaintiff would extend credit to the First Defendant in respect of goods ordered to be repaid by the Defendant in accordance with invoices rendered by the Plaintiff from time to time ("the Credit Agreement").
5. It was a term of the invoice, *inter alia*, that past due amounts would accrue interest at the rate of 1.5% per month.
6. In breach of the Credit Agreement, the First Defendant failed to pay invoices as and when due leaving a balance of CI\$18,726.70 outstanding. As a result, the Plaintiff has suffered loss and damage.
7. On or around 15 July 2015, the Second Defendant also signed the aforementioned Credit Agreement in which he personally guaranteed all debts due to the Plaintiff by the First Defendant ("Personal Guarantee").
8. It was an express term of the Personal Guarantee that the Second Defendant agreed, *inter alia*, to the following:

*“I/We hereby agree to assume personal responsibility (jointly and severally) for full and prompt payment of all goods ordered by the above applicant.”*

9. Pursuant to demand letters dated 2 August 2017, the Plaintiff demanded from the First and Second Defendant, the sum of CI\$18,726.70 pursuant to the terms of the Credit Agreement and Personal Guarantee respectively. The Demand letter was personally served upon the Second Defendant on or around 3 August 2017.
10. Pursuant to a Promissory Note dated 20 October 2017, the Second Defendant agreed to repay the principal sum of CI\$18,726.70 together with interest thereon at the rate of 1.5% per month by instalments of CI\$5000 per month along with the legal fees commencing on 20 October 2017 and by the 23<sup>rd</sup> day of each subsequent month thereafter until discharged in full (the “Promissory Note”).
11. The First and/or Second Defendant have made 8 payments towards the outstanding invoices and interest for the period of 20 October 2017 to 25 February 2021 totalling CI\$22,002.00 leaving the a balance of CI\$7,841.37 for interest and CI\$1000.00 for legal fees, (the, “Debt”)
12. Accordingly, the Plaintiff claims from the First and Second Defendant, the total sum of the Debt being CI\$8,841.37 due under the terms of the Promissory Note.
13. The Plaintiff claims pre- and post-judgment interest in accordance with s.34 of the the *Judicature Law (2021 Revision)* and the *Judgment Debts (Rates of Interest) Rules, 2021* at the rate of 8.38% for such period as the Court deems fit.
14. The Plaintiff is entitled to, and claims, its contractual fees and all costs of, and incidental to, the enforcement of its rights under the Promissory Note.

**AND THE PLAINTIFF CLAIMS:**

- a) The Debt of CI\$8,841.37 being the interest and legal fees under the terms of the Promissory Note.
- b) Pre- and post-judgment interest in accordance with s.34 of the the *Judicature Law (2021 Revision)* and the *Judgment Debts (Rates of Interest) Rules, 2021* at the rate of 8.38% for such period as the Court deems fit;

- c) Fixed costs of C\$175 pursuant to the Summary Court Rules 2004, alternatively costs to be assessed; and
- d) Such further and other relief as this Court may deem just.

*HSM Chambers*

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**HSM Chambers**  
Attorneys for the Plaintiff

**INDORSEMENT**

The principal amount claimed in respect of the debt is CI\$8,841.37 as of the date of filing. The amount of the filing fees to commence the proceeding is CI\$25.00. The fixed costs applicable upon entry of Judgment are CI\$150 pursuant to the *Summary Court Rules 2004*.

If, within the time for returning the acknowledgement of service, the defendants pay the plaintiff or its attorneys-at-law the total amount claimed in principal and the costs of issuing the Plaintiff, further proceedings will be stayed. The money must be paid to the plaintiff or to its attorneys-at-law.

**INDORSEMENT REGARDING INTEREST**

1. The contractual term upon which interest is claimed is as set out in paragraphs 5 and 10 above.
2. The date from which interest is payable in respect of the Promissory Note is from 10 March 2016.

This Plaintiff was filed by HSM Chambers, Attorneys-at-Law for the Plaintiff whose address for service is 68 Fort Street, George Town, PO Box 31726, Grand Cayman, KY1-1207, Cayman Islands (ref: 309642.0117)

IN THE SUMMARY COURT AT GEORGE TOWN

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**ACKNOWLEDGMENT OF SERVICE**

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1. State Defendant name and address:—

2. State whether the Defendant intends to contest the action.

Yes

No

3. If you do not intend to contest the action, do you want time in which to pay the claim?

Yes

No

4. If you do intend to contest the action, in whole or in part, you must set out full particulars of your defence overleaf.

Service of the Plaint is acknowledged accordingly.

Dated this      day of                      2022

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Defendant's Signature

**See overleaf**

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**PARTICULARS OF DEFENCE**

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*[Here set out in numbered paragraphs the grounds upon which the Plaintiff claims that the Defendant is indebted to him or is liable to pay damages to him]*

1.

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Defendant's Signature

**REMINDER** - This form must be taken or sent to the Court Office, P.O. Box 495, Grand Cayman KY1-1106 within 14 days of receipt otherwise a default judgment may be entered against you.