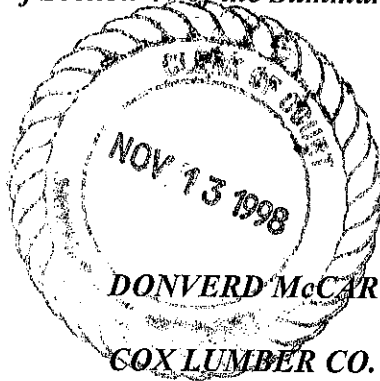


**IN THE GRAND COURT OF THE CAYMAN ISLANDS**  
**In the Matter of Section 47 of the Summary Jurisdiction Law 1975**



**CAUSE NO. 714 OF 1998**  
**(SC CHARGE NO. 2263 OF 1996)**

**BETWEEN:**

**DONVERD McCARTY KELLY**

**APPLICANT**

**AND:**

**COX LUMBER CO. LTD.**

**RESPONDENT**

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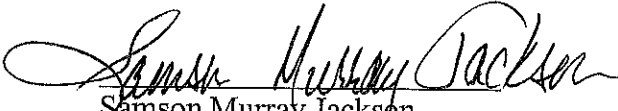
**EX-PARTE ORIGINATING SUMMONS**

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LET ALL PARTIES CONCERNED, attend before a Judge of the Grand Court in Chambers at the Court House, George Town, Grand Cayman on the 23 day of November 1998 at 9-30 o'clock in the Fore noon on the hearing of an application on behalf of the Applicant for an Order in the following terms:-

- 1) That the Order made by the Magistrate on the 17<sup>th</sup> November 1997 whereby the Respondent was ordered to return all construction materials not forming part of Summary Court Charge No. 2263 of 1996 be removed to the Grand Court for enforcement.
- 2) That any proceedings in the Summary Court in SC Charge No. 2263 of 1996 in relation to enforcement of the Order or recovery of the goods be stayed.
- 3) That leave be granted to issue a Writ of Specific Delivery to recover the the goods or their assessed value from the Respondent,
- 4) That there be such further and/or other Order(s) as this Court shall deem fit.

Dated this 12<sup>th</sup> day of November 1998.

  
Samson Murray Jackson  
Attorneys-at-Law for the Applicant

TO:                      The Clerk of the Court

TIME ESTIMATE:    The estimated length of the hearing of this Summons is 30  
minutes.

***THIS SUMMONS*** is filed by Samson Murray Jackson, Attorneys-at-Law, for and on behalf of the Applicant herein whose address for service is that of his said Attorneys-at-Law, The Ground Floor, Sigma Building, Smith/Hospital Roads, George Town, Grand Cayman.

***IN THE GRAND COURT OF THE CAYMAN ISLANDS  
HOLDEN AT GEORGE TOWN, GRAND CAYMAN***

***CAUSE NO. OF 1998  
(SC CHARGE NO. 2263 OF 1996***

***BETWEEN: DONVERD McCARTY KELLY APPLICANT***

***AND: COX LUMBER CO. LTD. RESPONDENT***

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***AFFIDAVIT***

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I, DONVERD McCARTY KELLY, of West Bay , Grand Cayman, Cayman Islands, duly sworn MAKE OATH and say as follows:-

1. That on the 23<sup>rd</sup> of March 1996 I was questioned by the Royal Cayman Islands Police regarding an allegation of theft of property from Cox Lumber Co Ltd.
2. That as a result of said allegation the Royal Cayman Islands Police did confiscate construction material exhibited hereto and labelled "***DMK 1***".
3. That I have been charged with theft contrary to Section 229 of Penal Code 1995 Revision in relation to fifty (50) 2 x 6 pressure treated 16' lengths of lumber, which charge has not yet come to trial.
4. That the other construction materials confiscated by the RCIP are legally and rightfully owned by me.
5. That on 17<sup>th</sup> November 1997 His Honour Magistrate Peter B. Jackson did Order Cox Lumber Co. Ltd. to return all construction materials taken from my

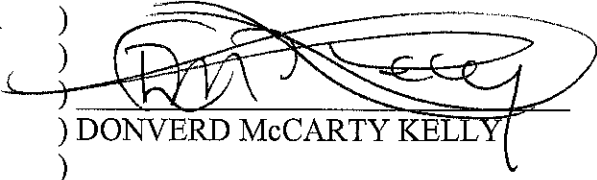
Home, save the fifty (50) pieces that are subject of the criminal allegation.  
A copy of said Order is exhibited hereto as "DMK 2".

6. That I have not been able to obtain the other construction materials held by Cox Lumber Co. Ltd. that were taken despite numerous demands through my attorneys to return the said construction materials.
7. That I crave enforcement of the said Order made by the Summary Court on 17<sup>th</sup> November 1997 in the terms of the Ex-Parte Summons herein.
8. That I make this Affidavit in support of the relief sought and conscientiously believing in the truth of the same.

SWORN to at George Town, Grand Cayman )

this day of 1998 )

Before me, )

  
DONVERD McCARTY KELLY

\_\_\_\_\_  
JUSTICE OF THE PEACE/CLERK OF THE COURT

FILED BY Samson Murray Jackson, Attorneys-at-Law, for and on behalf of the  
Petitioner herein whose address for service is the Sigma Building, Ground Floor,  
Hospital/Smith Roads, George Town, Grand Cayman.

**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
HOLDEN AT GEORGE TOWN GRAND CAYMAN**

**CAUSE NO. OF 1998  
(SC CHARGE NO. 2263 OF 1996)**

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**EXHIBIT 'DMK 1'**

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***This is the document referred to in Paragraph 2 of the Affidavit attached hereto and marked as "DMK 1"***

SWORN to at George Town, Grand Cayman)

this day of

1998 )

Before me,

)   
) DONVERD McCARTY KELLY  
)

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JUSTICE OF THE PEACE/CLERK OF THE COURTS

**INVENTORY OF MATERIAL TAKEN BY RCIP FROM DONVERD KELLY**

2 x 6 Pt. 114/16

34 ¼ 4x8 Hordi Board

24 2x6" 16'  
2x6" 61/20'  
2x6" 36/18  
2x6" 11/10'  
2x6" 21/12'

4 12" Sona Tubes

432 Glass Blocks (includes ends) + 56 more that were located in closet

3 Sheets 8" T.1-11 4x8  
8 Sheets 5/8 CDX  
1 Sheet 12" R.B. & B.

Misc. Items include

2x10 ¼'  
2x6 1/14'  
2x8 1/20'  
2x10 6/14'  
2"x6" 5/20' 28/16'  
2"x6" 24/14' 32/16'  
2"x6" 97/16'  
2"x6" 119/16'  
2"x6" 32/16'

2 Hordi Board

**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
HOLDEN AT GEORGE TOWN GRAND CAYMAN**

**CAUSE NO.        OF 1998  
(SC CHARGE NO. 2263 OF 1996)**

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**EXHIBIT 'DMK 2'**

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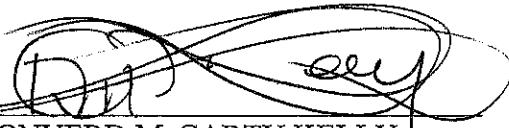
*This is the document referred to in Paragraph 5 of the Affidavit attached hereto and marked as "DMK 1"*

SWORN to at George Town, Grand Cayman)

this        day of

1998 )

Before me,

)   
) DONVERD McCARTY KELLY  
)

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JUSTICE OF THE PEACE/CLERK OF THE COURTS

SUMMARY COURT

REGINA VS DONVERD MCCARTY KELLY

2263/96 THEFT

F.M.

9.7.96

9/7/96 A/R (JK) MOT CST/PNG T 1/10/96 Rucb JK  
On 11/10/96 A/R JK

Trial date vacated on application of Crown  
M. 29.10.96 BIE JK

29/10/96 A/R (JK) T 1/5/97 10am BE PO Jansen

1/5/97 A/R (JK - who comes off record - not properly retained)

T 17.11.97. BE M for Review 5/6/97 BE PO Jansen

NB alleged that substantial amount of timber not forming part  
of this charge was removed from D's premises w/o his authority  
by police & Cox Lumber. Ct advised D to seek the advice of  
his counsel in that regard. The matter was not yet properly  
litigated. PO Jansen

On 5/6/97 A/R

T. 17.11.97 BIE JK

17.11.97 A/R (LH) M

ORDER: That all timber, <sup>and other property</sup> seized from the defendant by the RCI  
... has timber not forming all or part of the ... other property