

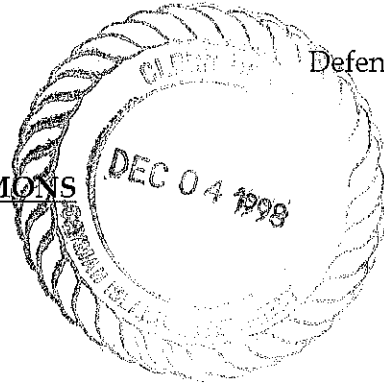
IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 762 OF 1998

BETWEEN: SIMON PASCOE Plaintiff

AND: MRS. UMMI KAPOOR Defendant

WRIT OF SUMMONS



TO: MRS. UMMI KAPOOR  
P.O. Box 567 GT  
Grand Cayman, Cayman Islands

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out on the second page following.

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 4th day of December, 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 issue unless renewed by order of the Court.

**IMPORTANT**

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

## STATEMENT OF CLAIM

1. The Plaintiff resides at Selkirk Drive, Red Bay, Grand Cayman.
2. The Defendant's address is P.O. Box 567, George Town, Grand Cayman.
3. On or about the month of February 1998 the Plaintiff entered into negotiations with the Defendant to purchase property at Prospect Block 22D Parcels 38 and 39 known as 330 Selkirk Drive, Red Bay, Grand Cayman ("the property") from the Defendant.
4. The Plaintiff sent the Defendant a list of enquiries before contract regarding the property. In relation to the question of water the Defendant indicated that there was some flaking paint in the rear bedroom which she first noticed when the house was vacated by the tenants. The Defendant stated that the assumption was that the windows were left open during the rainy season. The Defendant also alluded to possible problems with seepage from adjoining cistern tanks. The Defendant did not indicate that there was any further serious leakage of city water at the property nor that she was aware of such leakage, and had been so aware of the leakage for many months.
5. It was an implied term of the contract that the Defendant would make full and frank disclosure of all faults in relation to the property. Accordingly and consequent upon the Defendant's replies, the Plaintiff entered into an agreement to purchase the property from the Defendant on 6<sup>th</sup> March 1998 and completed the purchase of the said property on 15<sup>th</sup> May 1998.
6. On 29<sup>th</sup> May 1998 the Plaintiff moved his family into the property and soon after discovered a serious leakage of water at the premises which had not been disclosed by the Defendant. Accordingly the Plaintiff wrote to the Defendant on 2<sup>nd</sup> June 1998 complaining about this serious leakage on the property and consequential loss and damage sustained to the property. The Defendant's response, dated 5<sup>th</sup> June 1998, failed to address the issue of her knowledge of

the water leak at the time of the sale of the property to the Plaintiff, and instead simply referred back to the Defendant's response to the pre-contract enquiries.

7. The Plaintiff subsequently made enquiries from previous tenants of the property and they have confirmed that as far back as September 1997 the Defendant was made fully aware of the serious problem regarding a water leak somewhere in the house which the previous tenants had been unable to locate and which the Defendant failed to repair.
8. On 7<sup>th</sup> October 1998 the Plaintiff's attorneys wrote to the Defendant with regard to this serious leakage of water at the property, to which letter the Defendant has failed to respond.
9. The Defendant was at all material times fully aware of this serious leakage of water at the property and failed to disclose the existence of this leakage when the Plaintiff made his enquiries before contract, or at any time before the Plaintiff purchased the property from the Defendant. Accordingly the Plaintiff submits that the Defendant's omission to make proper and full disclosure was a breach of contract and further the representations made by the Defendant to the Plaintiff were false and untrue.
10. The Plaintiff made additional specific enquiries concerning the cistern water pump and leaks to the roof. Although the Defendant had full knowledge of both problems with the cistern pump and a continuing leak to the master bedroom roof, full disclosure was not made to the Plaintiff in response to pre-contract enquiries.
11. In consequence of the Defendant's failure to disclose the serious leakage at the property, the damaged cistern pump, the leak in the roof, and the Defendant's false and untrue representations, the Plaintiff has suffered loss and damage.


#### PARTICULARS

- |     |  |                             |
|-----|--|-----------------------------|
| (1) | Plumbing expenses in attempting to locate and rectify the leak | approximately CI\$ 1,000.00 |
| (2) | Excess water bills from May 1998                               | approximately CI\$ 500.00   |

- (3) Estimated cost of replumbing the house CI\$15,000.00
- (4) Cost of replacement cistern pump CI\$ 350.00
- (5) Cost of repairing roof - to be evaluated by a specialist builder
- (6) In the event of any structural damage to the property is identified as a result of this serious water leakage, the Plaintiff holds the Defendant responsible for the cost of remedying such damage.

AND the Plaintiff claims:

- 1. Damages for all loss and damage sustained by the Plaintiff by reason of the Defendant's breach of contract and the Defendant's failure to disclose to the Plaintiff the serious water leakage, damaged cistern pump and leak in the roof to the Plaintiff and by reason of the Defendant's false and untrue representations that there was no serious water leakage or that the cistern pump was damaged or that the roof continued to leak.
- 2. Such further and other directions as this Honourable Court deems fit to impose.
- 3. Interest.
- 4. Costs of and incidental to this action.

  
QUIN & HAMPSON  
Attorneys-at-Law for the Plaintiff

**THIS WRIT OF SUMMONS** is filed by Quin & Hampson, Attorneys-at-Law for and on behalf of the Plaintiff herein, whose address for service is that of his said Attorneys-at-Law, Harbour Centre, Third Floor, P.O. Box 1348, George Town, Grand Cayman, Cayman Islands.

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 installments 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 his 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 762 OF 1998

BETWEEN: SIMON PASCOE Plaintiff

AND: MRS. UMMI KAPOOR Defendant

ACKNOWLEDGMENT 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.

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

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2. State whether the Defendant intends to contest the proceedings (*tick appropriate box*)  
 yes  no

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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

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Service of the Writ 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 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.*

Quin & Hampson  
Attorneys-at-Law  
Harbour Centre, Third Floor  
P.O. Box 1348  
George Town,  
GRAND CAYMAN

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