

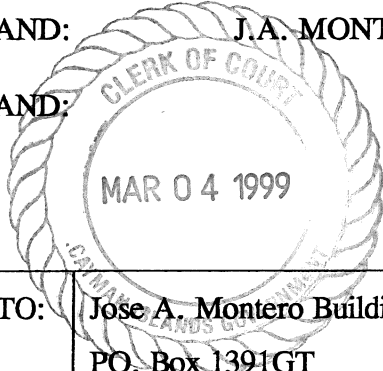
IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE No. 149 of 1999

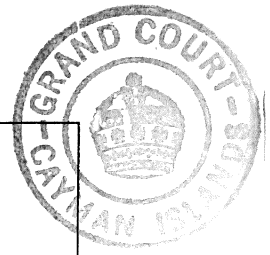
BETWEEN: COX LUMBER CO. PLAINTIFF

AND: J.A. MONTERO BUILDING & REPAIRS LTD. FIRST DEFENDANT

AND: JOSE A. MONTERO SR. SECOND DEFENDANT



**WRIT OF SUMMONS**



TO:	Jose A. Montero Building & Repairs Ltd. PO. Box 1391GT Grand Cayman Cayman Islands	Jose A. Montero Sr. PO. Box 1391GT Grand Cayman Cayman Islands
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THIS WRIT OF SUMMONS 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 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 3<sup>rd</sup> March 1999

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. By a credit application form made by the First Defendant to the Plaintiff, the First Defendant applied to the Plaintiff for credit to purchase goods from the Plaintiff.
2. In consideration of the Plaintiff entering into an agreement to allow the First Defendant to purchase its goods on credit, the Second Defendant agreed to guarantee payment to the Plaintiff of the price of all goods the First Defendant purchased from the Plaintiff on credit plus the Plaintiff's costs of collection.
3. Between the 10<sup>th</sup> May 1998 and the 31<sup>st</sup> December 1998 the First Defendant purchased goods from the Plaintiff on credit for a total price of CI\$ 12,548.95 and has failed to pay for them.
4. Neither the First Defendant, nor the Second Defendant has paid the said sum or any part thereof.

#### AND THE PLAINTIFF CLAIMS:

1. AN ORDER for the payment by the Defendant of the sum of CI\$12,548.95
2. INTEREST at the rate of 7 7/8% per annum pursuant to section 34 of the Judicature Law to 3<sup>rd</sup> March 1999, equal to CI\$167.40 and continuing.
3. FURTHER and/or other relief.
4. COSTS of the Prescribed Filing Fee and Bailiff Service Fees of CI\$155.48 and Fixed Costs CI\$500.00, alternatively costs to be assessed.

Total Amount as of 3<sup>rd</sup> March 1999:

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CI\$13,371.83

#### STATEMENT REGARDING INTEREST:

1. The rate of interest claimed is 7 7/8% per annum.
2. The date(s) from which interest is calculated is 1<sup>st</sup> January 1999.
3. The total amount of interest claimed as at 3<sup>rd</sup> March 1999 is CI\$167.40.
4. The amount of interest accruing each day thereafter is CI\$2.70 per day.

If, within the time for returning the Acknowledgment of Service, the Defendant(s) pays the total amount claimed of CI\$13,371.83 (including interest and costs) further proceedings will be stayed. The money must be paid to the Plaintiff's Attorney.

*Orren Merren & Company.*

ORREN MERREN & COMPANY

Attorneys-at-Law for the Plaintiff

*This Writ was issued by Messrs. Orren Merren & Company, the attorneys-at-law for the Plaintiff, whose address for service is Kirk House, Third Floor, Albert Panton Street, P.O. Box 481G, Grand Cayman, Cayman Islands, British West Indies.*

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 endorsed 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 endorsed 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 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 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.



**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.

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

Orren Merren & Company Attorneys-at-Law P.O. Box 481G Kirk House 3rd Floor Albert Panton Street Grand Cayman, B.W.I.
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**Endorsement by defendant's Attorney (or by defendant if suing in person)** of his name, address and reference, if any, in the box below.

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