

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 340 OF 1999

BETWEEN: CARIBBEAN AUTOMOBILES & COMMODITIES TRADING CO. LTD. Plaintiff

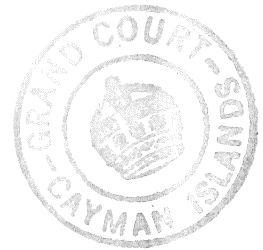
AND: (1) KINGSLEY DONALDS (trading as) DONALDS & SONS First Defendant

(2) DONALDS & SONS (a firm) Second Defendant

WRIT OF SUMMONS

TO: Kingsley Donalds
Manse Road
Bodden Town
Grand Cayman.

AND TO: Donalds & Sons
P.O. Box 97
Bodden Town
Grand Cayman.



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 day of , 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. The Plaintiff is an ordinary company, incorporated and trading in the Cayman Islands, carrying out the business of wholesale importer and also providing purchasing services.
2. At all material times either the First Defendant operated a business by the trade name of Donalds & Sons or, in the alternative, the Second Defendant was a partnership and Kingsley Donalds was a person with express or implied authority to contract on behalf of the firm. References to the Defendant(s) shall mean the First or Second Defendant in the alternative.
3. By a written contract dated 15th December 1997, the Plaintiff and the Defendant agreed that the Plaintiff would supply to the Defendant, and that the Defendant would purchase from the Plaintiff, certain building materials ("materials"), ordered by the Defendant, at the cost of CI\$68,000.00.
4. It was a term of the agreement that the Defendant would provide a down payment of CI\$34,000.00 by way of deposit, representing 50% of the value of the contract ["Payment 1"]. Further, it was a term that the Defendant pay a further deposit representing 40% of the value of the contract once the buildings materials were ready to be shipped from the factory ["Payment 2"]. Furthermore it was an express term of the agreement that the Defendant would pay the remaining 10% owing when the materials arrived in Grand Cayman ["Payment 3"].
5. On 15th December 1997 the Defendant paid to the Plaintiff an amount of CI\$34,000.00 by cheque drawn on the Bank of Butterfield, # 301701, representing the Payment 1.

6. On or about the 23rd February, 1998 the Defendant paid to the Plaintiff CI\$27,200.00 by cheque #302005, representing Payment 2.
7. On or about the 13th March, 1998 the materials arrived in Grand Cayman.
8. The Plaintiff informed the Defendant that the materials had arrived but in the breach of the contract the Defendant refused to pay the Plaintiff the balance unless the materials were delivered to the site of a customer of the Defendant. On or about the 15th March, 1998 the Plaintiff delivered the materials to the site of the Defendant's customer, as a gesture of good faith.
9. The Defendant has defaulted in making Payment 3 to the Plaintiff, that is CI\$6,800.00 as required in the agreement.

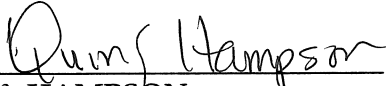
AND the Plaintiff claims:

- (1) The sum of CI\$6,800.00;
- (2) Interest pursuant to Section 34 (1) of the Judicature Law (1995 Revision) on the sum of CI\$6,800.00 from the 13th March, 1998 at the rate of $7 \frac{3}{8}$ % per anum amounting to CI\$585.08 as of 14th May, 1999 and hereafter continuing until judgment or sooner payment at the daily rate of CI\$1.39 per day.
- (3)

Attorneys fees	CI\$700.00
Writ	CI\$100.00
Service	CI\$ 50.00
Filing	<u>CI\$ 15.00</u>
Total	CI\$865.00

If within the time for returning the Acknowledgment of Service the Defendant pays the total amount claimed of CI\$8,250.08 (in addition to interest and costs accruing to the date payment) further proceedings will be stayed. The money must be paid to the offices of the Plaintiff's Attorneys-at-Law.

DATED this 26th day of May 1999.



QUIN & HAMPSON
Attorneys-at-Law for the Plaintiff

THIS WRIT OF SUMMONS was issued by Quin & Hampson, Attorneys-at-Law for and on behalf of the Plaintiff herein, whose address for service is Harbour Centre, Third Floor, P.O. Box 1348, George Town, Grand Cayman, B.W.I.

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 495, 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

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.

BETWEEN: CARIBBEAN AUTOMOBILES & COMMODITIES TRADING CO. LTD. Plaintiff

AND: (1) KINGSLEY DONALDS (trading as) DONALDS & SONS First Defendant

(2) DONALDS & SONS (a firm) Second 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 the Defendants whereby they 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 Writ is being acknowledged.

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

Yes

No

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

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.

Messrs. Quin & Hampson
Attorneys-at-Law
Third Floor, Harbour Centre
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.