

IN THE GRAND COURT OF THE CAYMAN ISLANDS

650
CAUSE NO. OF 2000

BETWEEN: PRO ELECRIC LIMITED

PLAINTIFF

AND: GKF ENTERPRISES LTD.

DEFENDANT

TO:

GKF Enterprises, Ltd.
C/o Solomon-Harris Co.
Barclays House
P. O. Box 1990GT
Grand Cayman
Cayman Islands, B.W.I.



THIS WRIT OF SUMMONS has been issued against you by the abovenamed 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 495, George Town, Grand Cayman B.W.I., 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 10th day of August, 2000.

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 and was at all material times carrying on the business of a licensed electrical contractor in the Cayman Islands.
2. At all material times the Defendant carried on business in the Cayman Islands and was authorised to negotiate and enter into agreements for the construction of Grand Caymanian Beach Club and Resort located at West Bay Beach North 17A Parcels 4 and 14 (“the Property”).
3. By an agreement in writing in a letter dated the 8th September 1998 (“the Agreement”) from the Plaintiff to the Defendant, the Defendant agreed to appoint the Plaintiff as electrical contractor to supply labour only to carry out the electrical works to the Property. The Plaintiff will refer to the Agreement at the trial of this action for its full terms and legal effect.
4. The Agreement was varied by an exchange of correspondence passed between the Plaintiff and Defendant and their respective attorneys-at-law from the 6th January 2000 to the 21st January 2000 and the Plaintiff will refer to the said correspondence at the trial of this action for its full terms and legal effect. The Defendant agreed *inter alia* with the Plaintiff to the following:
 1. *On the 14th January, 2000 we will pay to you by 12 noon, the sum of CI\$11,250.00.*
 2. *On the 18th January, 2000 we will pay to you the sum of CI\$24,027.53 provided the final electrical inspection has been concluded by the government inspector for buildings A, B, C and the administration building. In the event the approval is not granted on or before the 18th January, 2000 the payment will be made on such date as the approval referred to above is granted.*
 3. *On the 21st January, 2000 we will pay to you a further sum of CI\$14,342.50 provided that the final electrical inspection has been carried out by the government inspector and final approval obtained for the bar/restaurant and the external lighting works.*
 4. *On the 28th January, 2000 we will pay you the further sum of CI\$14,342.50 provided that the payment referred to in paragraphs 2 and 3 above have been made. In the event that the conditions set out in paragraphs 2 and 3 have not been satisfied such that the payments have not been made on the dates specified above, then the payment required by this paragraph will be made seven days after the date the condition set out in paragraph 3 has been met.*

5. *90 days after the relevant governmental departments grant final approval of the electrical works contracted to you for the Grand Caymanian Beach Club we will pay to you the sum of CI\$23,900.00, less the cost of repairing or replacing defects that occur in the electrical works and which arise during the 90 day period.*
5. The Defendant's attorneys-at-law gave an undertaking to make payments on behalf of the Defendant as set out in paragraph 4 herein.
6. The Plaintiff completed the works pursuant to the Agreement as varied on the 2nd February 2000 and such works were confirmed by the Electrical Inspector of the Cayman Islands on the 2nd February 2000.
7. By letter dated the 16th February 2000 the Plaintiff requested immediate payment in the sum of CI\$28,685.00 pursuant to the terms as set out in paragraphs 4(3) and 4(4) above.
8. On the 15th and 24th March 2000 the Plaintiff demanded that the Defendant make full payments of the overdue amounts due to Defendant in the sum of CI\$28,685.00.
9. On the 2nd May 2000 the sum of CI\$23,900.00 was owed by the Defendant to the Plaintiff as set out in paragraph 4(5) herein.
10. The Defendant has failed and/or refused to make the payments pursuant to the Agreement as varied and by reason of the Defendant's breaches, the Defendant is indebted to the Plaintiff.

PARTICULARS

02/01/2000	Invoice No. 1214	CI\$14,342.50
02/01/2000	Invoice No. 1215	CI\$14,342.50
05/02/2000	Sum due 90 days from the 2 nd February 2000	<u>CI\$23,900.00</u>
	TOTAL DUE:	CI\$52,585.00

11. Further, the Plaintiff claims interest pursuant to Section 34 of the Judicature Law (1995 Revision) at the statutory rate of 8% per annum of the amount due to the Plaintiff.

AND THE PLAINTIFF claims:

1. The sum of CI\$52,585.00 or alternatively, damages.

2. The aforesaid interest pursuant to Section 34 of the Judicature Law (1995 Revision) at the statutory rate of 8% per annum from the 2nd May 2000 to the 10th August 2000 in the sum of CI\$1,164.53 and further interest at the aforesaid rate (i.e. CI\$11.53 per day) to judgment or sooner.
3. Interest at the statutory rate of 8% per annum from the date of judgment until payment and the judgment sum.
4. Such further and other relief as this Honourable Court deems just in the circumstances.
5. Costs to be awarded against the Defendant.

If within the time for returning the Acknowledgment of Service the Defendant pays the total amount claimed of CI\$54,925.38 (including interest (CI\$1,164.53) and costs (CI\$1,175.85)), further proceedings will be stayed. The money must be paid to the Plaintiff or its Attorneys-at-Law.

Dated this 10th day of August 2000.



MYERS & ALBERGA
Attorneys-at-Law for and on behalf
of the Plaintiff

TO: The Clerk of the Courts

AND TO: The Defendant
C/o Solomon-Harris Co.
Barclays House
P. O. Box 1990GT
Grand Cayman
Cayman Islands, B.W.I.

This Writ of Summons and Statement of Claim are filed by Myers & Alberga, Attorneys-at-Law for and on behalf of the Plaintiff herein whose address for service is care of One Regis Place, P. O. Box 472, George Town, Grand Cayman, B.W.I.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

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CAUSE NO. OF 2000

BETWEEN: PRO ELECRIK LIMITED

PLAINTIFF

AND: GKF ENTERPRISES LTD.

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.

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.

MYERS & ALBERGA
ONE REGIS PLACE
2ND FLOOR
P. O. BOX 472
GEORGE TOWN
GRAND CAYMAN, B.W.I.

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

[Empty box for Defendant's Attorney indorsement]

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 instalments 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 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.