

IN THE GRAND COURT OF THE CAYMAN ISLANDS

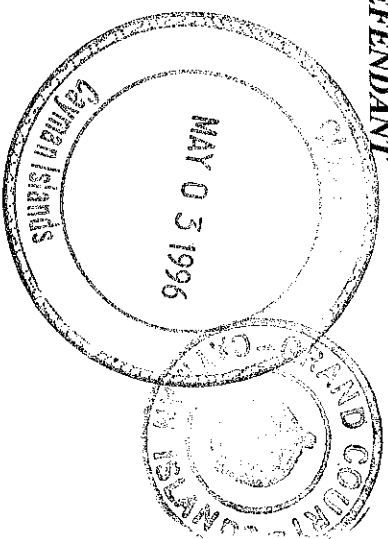
CAUSE NO: 242 OF 19

BETWEEN: FRANKIE'S FRESH FRUIT & JUICES PLAINTIFF

AND: FRANKLIN ALLEN BLAIR SMITH JR. DEFENDANT

WRIT OF SUMMONS

TO: Franklin Allen Blair Smith Jr.
c/o Frankie's Fresh Fruit & Juices #2
opp. Aall Trust Bldg.
North Church Street, George 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 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 day of *May* 19*96*

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.

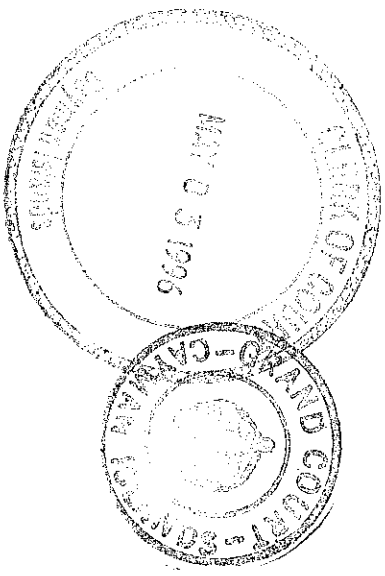
ENDORSEMENT OF CLAIM

The Plaintiff's claim is to recover from the Defendant damages and such other appropriate awards that the Court may make, (a) for detinue and conversion in respect of the failure by the Defendant to return and deliver up to the Plaintiff one Beverage Air chiller; (b) trespass to goods and property in that on or about the 26th and 27th days of February 1996 the Defendant entered unto the Plaintiff's business premises and wrongfully destroyed goods belonging to the Plaintiff and assaulted and beat the Plaintiff's Manager thereby resulting in damage and loss to the Plaintiff; (c) passing off in that the Defendant continues to trade in a name that is closely and deliberately similar to that of the Plaintiff with the intention of misleading the public into believing that the Defendant is associated with the Plaintiff.

AND THE PLAINTIFF claims:

1. Damages for detinue and conversion.
2. Loss of Profits
3. An injunction against the Defendant
4. Costs.

Dated this 3rd day of May 1996.



L.A. Samson

Signature of Plaintiff or his Attorney

THIS WRIT was issued by L.A. Samson & Co. Attorneys-at-Law for and on behalf of the Plaintiff whose address for service is that of his said Attorneys-at-Law, Suite D1 Cayman Business Park, Thomas Russell Way, George Town, Grand Cayman.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 19

BETWEEN: FRANKIE'S FRESH FRUIT & JUICES PLAINTIFF
AND: FRANKLIN ALLEN BLAIR SMITH 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 Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside. **carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.**



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 the 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.



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

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 19

BETWEEN: FRANKIE'S FRESH FRUIT & JUICES PLAINTIFF

AND: FRANKLIN ALLEN BLAIR SMITH JR. DEFENDANT

STATEMENT OF CLAIM

1. The Plaintiff is a local registered Company with registered office situate in George Town Grand Cayman and was at all material times engaged in the business of producing fresh fruits and juices for sale to members of the Public.

2. The Defendant is a resident of Savannah, Grand Cayman and was at all material times a former employee of Frankie's Fresh Fruit and Juices and the operator of a business endeavor formerly known as "Frankie's Fresh Fruit & Juices #2" and now called "Frankie Jr. Fresh Fruits & Juices."

3. The Plaintiff was at all material times the owner and entitled to the possession of a Beverage Air chiller.

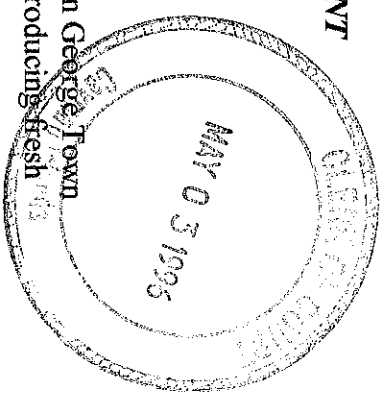
4. The Defendant is and has been since on or about the 21st day of February 1996, wrongfully in possession of the said chiller.

5. By letters dated the 5th day of March 1996 and 12th March 1996 the Plaintiff has demanded the return of the said chiller, but the Defendant has wrongfully failed and refused to deliver the said chiller up to the Plaintiff and has thereby converted the same to his own use and wrongfully deprived the Plaintiff thereof by reason whereof the Plaintiff has suffered loss and damage.

Particulars of Special Damages

(a) Value of the said chiller CIS\$ 2,835.60

6. On or about the 26th and 27th days of February 1996 Defendant entered unto the Plaintiff's business premises located on West Bay Road, George Town, Grand Cayman and proceeded to destroy goods belonging to the Plaintiff on the 26th day of February 1996 and assaulting and beating the Plaintiff's Manager on the 27th day of February 1996.



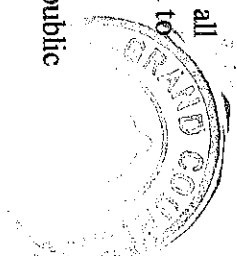
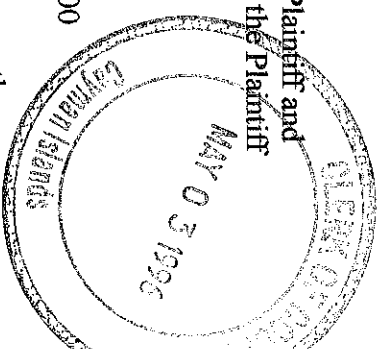
7. The Defendant did the acts aforesaid maliciously and out of spite towards the Plaintiff and by reason of the matters aforesaid the Plaintiff has suffered loss and damage as the Plaintiff had to close their said business place earlier than normal on both days.

Particulars of Special Damages

- | | |
|--|---------------|
| (a) Loss of 2 days profit @CIS\$1,000.00 per day | CIS\$2,000.00 |
|--|---------------|
8. The Plaintiff carries on the business of producing fresh fruit and fresh fruit juices on the Grand Cayman island under the business name of "Frankie's Fresh Fruit & Juices".
9. At all material times, the said name has been widely advertised and promoted through all the known media of publicity throughout the Cayman Islands and the Plaintiff has had to pay for the said publicity from their own coffers.
10. By reason of the matters aforesaid, the said name has become known to the general public as signifying the high quality products of the Plaintiff, and the Plaintiff acquired a substantial reputation in and by the use of the same name.
11. The Defendant was at all material times the operator of a fresh fruit and juices business carried on at the D&G Building on North Church Street, George Town, Grand Cayman.
12. At a date which the Plaintiff cannot specify but which they believe to be the 28th day of February 1996 and before the issue of the writ herein, the Defendant has wrongfully and purposefully advertised his said business in the name of "Frankie's Fresh Fruit and Juices #2" and latterly as "Frankie Jr. Fresh Fruit & Juices".
13. That the said acts and conduct of the Defendant were at all material times and are calculated to mislead and cause confusion to the general public in believing that the Defendant's products are the same as the Plaintiff's.
14. By reason of the matters aforesaid, the Plaintiff's have been greatly injured in their reputation and have suffered and will continue to suffer loss and damage. The Plaintiffs at the trial herein will seek to recover in respect of all wrongful acts of the Defendant, although unable at present to give particulars thereof.

And the Plaintiff claims:

- (a) The Value of the Chiller;
- (b) Loss of CIS\$2,000.00 in profits;
- (c) An injunction to restrain the Defendant, his servants, agents or otherwise howsoever from selling or offering to sell fresh fruits and juices under any name similar to that of the Plaintiff's and which is likely to cause confusion or mislead the public into believing that the Defendant's business is in any way associated with that of the Plaintiff's

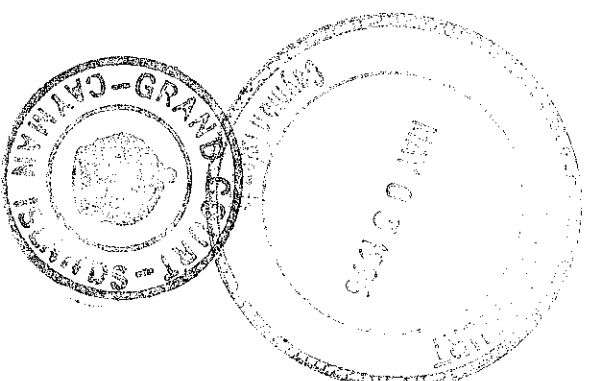


- (d) Such further remedial order as this Honourable Court shall think fit;
- (e) Damages
- (f) Costs.

Dated this 3rd day of May 1996.

L.A. Samson & Co.

L.A. Samson & Co.
Plaintiff's Attorneys-at-Law



This Statement of Claim is filed by L.A. Samson & Co., Attorneys-at-Law, for and on behalf of the Plaintiff whose address for service is that of his said Attorneys-at-Law, Suite D1 Cayman Business Park, Thomas Russell Way, George Town, Grand Cayman.