

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 173 OF 2002

BETWEEN:

**RICHARD E. FRIEND**

Plaintiff

-and-

**CONDOCO GRAND CAYMAN RESORT LTD.**

Defendant

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**WRIT OF SUMMONS**

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TO: Condoco Grand Cayman Resorts Ltd.  
C/O Huntlaw Corporate Services  
75 Fort Street  
PO Box 1350 GT  
George Town, Grand Cayman  
Cayman Islands, BWI

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 fourteen (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, PO Box 495 GT, Grand Cayman, Cayman Islands, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

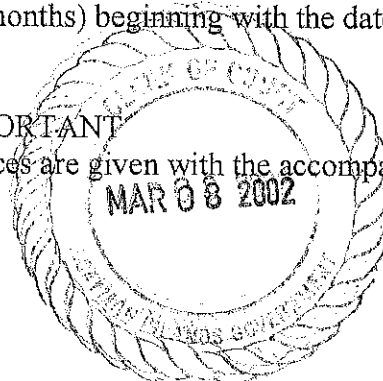
If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgement may be entered against you forthwith without further notice.

Issued this      day of March, 2002

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 issued unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgement of Services are given with the accompanying form.



The Plaintiff's claim is for:

1. A Declaration in relation to the written agreement entered into by both Parties which is contained in a contract executed by both parties on the 2<sup>nd</sup> of November 1998 and a letter executed by both parties on the 18<sup>th</sup> of February 2000 and an Addendum to Agreement of Purchase and Sale executed by both parties on the 20<sup>th</sup> of February 2000 (The "Agreement").
2. In the Agreement the Plaintiff agreed to buy and the Defendant agreed to build and sell to the Plaintiff an apartment numbered 312 to be contained in a building to be constructed by the Defendant on a portion of land described as Registration Section West Bay Beach South, Block 12C, Parcel 11 (the "Apartment").
3. It was an express clause of the Agreement that the Plaintiff would purchase the Apartment at a purchase price subject to any "reduction at of after the Completion Date to the lowest square foot net cash price (i.e., less brokerage commissions, brokerage override fees and marketing fees) and inclusive of any other economic incentives or inducements given with respect to any comparable (or better) PIP unit sold or offered for sale at any time by Vendor [Defendant] on an arms-length basis" (the "Clause").
4. The Plaintiff seeks the following declarations:
  - i) That as a result of the above mentioned Clause the provisions of Paragraph 3 of Schedule A of the aforementioned 2<sup>nd</sup> of November 1998 Agreement (the "Non-speculation Clause") is no longer binding upon the Plaintiff as the Defendant has subsequently contracted with a third party on an arms-length basis for an apartment comparable to the Apartment under terms whereby the Non-speculation Clause would no longer apply.
  - ii) That as a result of above mentioned Clause the purchase price of the Apartment has been reduced due to the Defendant subsequently contracting with a third party on an arms-length basis at a lower price.
5. The Plaintiff seeks the costs of this action.

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**BROADHURST DaCOSTA**

**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE**  
**OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgement 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, PO Box 495, George Town, Grand Cayman.
2. A Defendant who states in his Acknowledgement 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 fourteen (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 fourteen (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 judgement 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 fourteen (14) days after his Acknowledgement, 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.

**Notes for Guidance**

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement of Service and return it to the Courts Office.
2. For the purpose of calculating the period of fourteen (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 authorized to act on behalf of the Company, but the Company can take no further steps in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL HEALTH 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.

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Plaintiff

-and-

CONDOCO GRAND CAYMAN RESORT LTD.

Defendant

ACKNOWLEDGEMENT 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 judgement being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.*

- 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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- State whether the Defendant intends to contest the proceedings (*tick appropriate box*)  
Yes [ ] No [ ]

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- 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 judgement 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 see 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 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.*

**BROADHURST DaCOSTA**  
ATTORNEYS-AT-LAW  
40 LINWOOD STREET  
PO BOX 2503 GT  
GEORGE TOWN, GRAND CAYMAN  
CAYMAN ISLANDS, BRITISH WEST INDIES

*Endorsement 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 endorsement]