

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 269 of 2002

BETWEEN: KIRK CONNELL BROTHERS LTD. PLAINTIFF

AND: CECIL WALTON DEFENDANT



**WRIT OF SUMMONS**

TO: Cecil Walton  
P.O. Box 352 GT  
Grand Cayman, Cayman Islands

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 12<sup>th</sup> day of April 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 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 a company organized and carrying on business under the laws of the Cayman Islands and has its registered office at P.O. Box 72 GT.
2. The Defendant is an individual residing on Grand Cayman, Cayman Islands and has a mailing address of P.O. Box 352 GT, Grand Cayman, Cayman Islands.
3. The Plaintiff supplied goods to the Defendant on credit from time to time. The Defendant has agreed to pay for the goods and also to pay a service charge of 2% per month in the event his account with the Plaintiff was overdue for more than 30 days from the date of the latest statement ("the Agreement").
4. Despite several demands, including a final demand dated 23<sup>rd</sup> January 2002, the Defendant has refused to pay and has breached the Agreement.
5. The total amount outstanding as of 12<sup>th</sup> April 2002 is CI\$25,901.34.

**AND THE PLAINTIFF CLAIMS: -**

1. An Order for the sum of CI\$25,901.34.
2. Interest accrued to the 12<sup>th</sup> April 2002 of CI\$4,397.41 and continuing. Interest accruing each day hereafter at the rate of CI\$14.14 per day until judgment or sooner payment.
3. Post-judgment interest in accordance with the Agreement at 2% per month from the date of judgment;
4. Plaintiff's attorneys costs and filing fees;
5. FURTHER and/or other relief.

**Total amount as of 12<sup>th</sup> April 2002**


**CI\$25,901.34**

**STATEMENT REGARDING INTEREST:**

1. The rate of interest claimed is 2% per month.
2. The date from which interest is calculated is 30 April 2001.
3. The total amount of interest claimed as at 12<sup>th</sup> April 2002 is CI\$4,397.41.

4. The amount of interest accruing each day thereafter is CI\$14.14.

If, within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed of **CI\$25,901.34** (including interest and fixed costs) further proceedings will be stayed. The money must be paid to the Plaintiff's Attorney.

  
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, 3rd Floor, Albert Panton Street, George Town, 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 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*

*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.

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CAUSE NO. of 2002

BETWEEN: KIRKCONNELL BROTHER LTD. PLAINTIFF

AND: CECIL WALTON 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)
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)

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.*

Orren Merren & Company  
Attorneys-at-Law  
P.O. Box 481G  
Kirk House Third Floor  
Albert Panton Street  
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.*