

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 292 of 2002



BETWEEN:

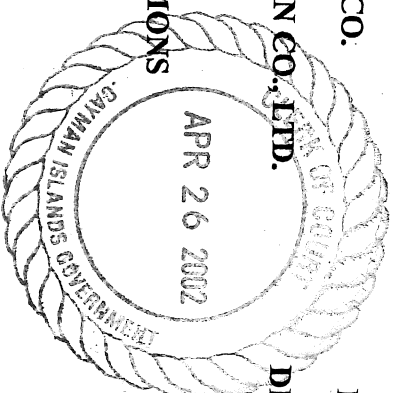
COX LUMBER CO.

PLAINTIFF

AND:

ALLIED CONSTRUCTION CO., LTD.

DEFENDANT



WRIT OF SUMMONS

TO: ALLIED CONSTRUCTION CO., LTD.

P. O. Box 32111 SMB

The Arcco Centre

Grand Cayman, Cayman Island

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 4 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's claim is against the Defendant for the sum of C1\$75,330.12, being the amount due and owing to the Plaintiff by the Defendant for goods sold to the Defendant by the Plaintiff for which the Defendant, wrongfully and in breach of contract, has not paid. The numbers of the unpaid invoices are as follows:

641839	621151	622454	622457	623149
623531	623535	642009	622481	622484
622610	622628	642086	620871	642179
642188	622667B	622594	622596	622695
639014	639034	639035	639041	63955B
639070	622753	639080	622773	641448
641479	641493	641284	641494	641507
639402	641555	642302	642304	641319
641329	639174	641643	641646	639468
639210	639214	641389	641740	639231
639494	641753B	639455	639515	641769
641791	639250	639256	639528	642323
639534	639536	642517	1009140	3000008
3000009	30000083	3000102	3000009	1010246
3000309	3000360	3001634	3000009	1010246
1011134	3000454	3000465	1011101	3000443
1011677	3000564	3000598	3000490	1011595
1012161	3000703	3000731	3000635	1011987
1034856	3000757	3000790	1012528	1013091
1013621	3000979	3001073	1013407	3000876
3001218	1014961	1014992	3001149	1014689
1015155	1015169	1015278	1015132	3001311
3001391	3001481	1016050	3001351	3001376
3001523	3001524	1016383	1016089	1016233
1016892	3001642	3001650	3001554	3001642
3001697	1017498	3001724	3001659	1017356
1017790	3001791	3001812	1017696	1017790
1018283	3001972	1018855	1018104	1018121
1019691	3002142	3002155	1018859	1019244
1020687	3002337	3002339	1020497	1020537
1021790	3002627	3002659	3002354	1021126
3002750	1023095	1023181	3002666	1022428
1023724	1023727	1024160	1023724	1023291
3003182	3003186	1024904	3003118	1024667
1026302	3003445	1026834	1026293	1026293
1027661	3003733	1028198	3003663	1027661
1028637	3004026	1034143	1028446	3003889
3005053	3005150	1038269	3004744	3005008
3005567	3005603	3005680	1039418	1040397
1042503	1042692	1042697	1041757	1041792
3005896	1043292	3005952	3005854	1042972
1044112	1044268	1044679	1043310	1043878
1047606	3006063		1045646	1047606

2. It was an express term of the contract for the sale of goods to the Defendant that interest would be charged on overdue amounts at the rate of 18% per annum.

**AND THE PLAINTIFF CLAIMS:-**

1. An Order for the sum of CI\$75,330.12.
2. Interest/Finance charges accrued to the 4 April 2002 of CI\$10,286.19 and continuing.
3. Interest accruing each day hereafter at the rate of CI\$37.15 per day until judgment or sooner payment.
4. Further and/or other relief.
5. Fixed costs of CI\$500.00 plus the prescribed filing fees of CI\$803.30.


Total amount as of 4 April 2002:

CI\$86,919.61

**STATEMENT REGARDING INTEREST:**

1. The rate of interest claimed is 18% per annum.
2. The date from which interest/finance charges are calculated is 28 June 2001.
3. The total amount of interest/finance charges claimed as at 4 April 2002 is CI\$10,286.19.
4. The amount of interest accruing each day thereafter is CI\$37.15 per day.

If within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed of CI\$86,919.61 (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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BETWEEN:

COX LUMBER CO.

PLAINTIFF

AND:

ALLIED CONSTRUCTION CO., 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.*

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.*

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