



**STATEMENT OF CLAIM**

1 The Plaintiff is a resident of the Cayman Islands who at the material time was self employed in vehicle welding and repair work. At the material time the Plaintiff rented a Warehouse and a house initially from the Second Defendant, and subsequently from the First Defendant, which warehouse and surrounding grounds were used by the Plaintiff for his welding and repair work.

2 The First Defendant, as a result of a Deed of Family Arrangement dated 13th December, 1999, was appointed as Trustee on behalf of his three brothers, and at the material time and at present he is the registered proprietor of the property known as George Town Central Block 13D Parcel 121 on which property both the house and the warehouse referred to in paragraph 1 hereof, are located.

3 The Second Defendant is the father of the First Defendant, and he previously owned the property known as George Town Central Block 13D Parcel 121 on which property both the house and the warehouse referred to in paragraph 1 are located. The Second Defendant transferred the said property to the First Defendant as a result of the Deed of Family Arrangement referred to in paragraph 2, above.

4 On or about 15th April, 1994 the Second Defendant entered into two undated written agreements with the Plaintiff to rent a warehouse and a structure to him which structures were and continue to be located at George Town Central Block 13D Parcel 121. At the time the Second Defendant was the owner and registered proprietor of the said parcel of property.

5 The written Agreement relating to the rent of the warehouse consisted of a lease expressedly for a period of 2 years from 15th April, 1994 to 15th April, 1996 at a rent of CI\$1,000.00 per month which rental amount was to be paid directly into the account of the Second Defendant at the Bank of Nova Scotia, account No. 913878. It was an expressed term of the said written agreement that the warehouse was to be used for "industrial welding and body work only". The Plaintiff continued to rent the said warehouse under the same terms and conditions until on or about 17th August, 2000 when, in breach of the said agreement, the First Defendant arranged to have the Plaintiff's tools of his trade and other items located in the said warehouse and on the surrounding grounds, destroyed by having one of his heavy equipment dump the said items into a swamp area located on the said property. The Plaintiff will rely on the terms of the said written agreement for their full terms and legal effect. The value of the tools, equipment and other items destroyed by the First Defendant is estimated at CI\$27,300.00.

6 After the stipulated 2 years referred to in the said written agreement had expired on 15th April, 1996 the Second Defendant continued to accept the rent and honour the other terms and conditions of the said written agreement until the property was transferred to the First Defendant. After the First Defendant had the property transferred to him as Trustee he also continued to collect the rent from the Plaintiff and to honour the other terms and conditions of the said written agreement relating to the warehouse. The Plaintiff therefore avers that he had a legitimate expectation that the said agreement would continue and that the First and the Second Defendants are estopped from denying the validity of the said Agreement. At the time of transfer of the property to the First Defendant by the Second Defendant, the Plaintiff was in occupation of the said property and as such he claims an overriding interest in the property.

The First Defendant is not a bona fide purchaser for value of the said property and the Plaintiff will rely on the terms and conditions of the Deed of Family Arrangement for their full terms and legal effect. Paragraph 4 of the Deed of Family Arrangement refers to the collection of rents on the property by the First Defendant.

7 The Second Defendant also entered into an undated written agreement with the Plaintiff for the rent of another "structure" which was located on the said property. The said written agreement described the structure as a "dwelling 25' x 25' ..... with a flat roof" and stipulated that the "second party (Plaintiff) will pay the cost of renovation and all other necessary incidentals in order for the accommodation to become habitable (conditions at present lacks all necessary elements. i.e. Bath facility, plumbing, electrical, sewage, windows, doors, kitchen, tile floor)". The lease was expressed to "commence on the fifteen day of April, 1994" and was to continue "as long as the second party (Plaintiff) may desire". The rent was expressed to be CI\$200.00 per month. In reliance on the terms of the said lease the Plaintiff converted and renovated the structure into a two bedroom house at considerable expense to himself providing both labour and materials for the work carried out. On or about September, 2000 the Plaintiff obtained a valuation from BCQS Property Professionals which firm valued the work carried out by him at CI\$29,000.00, excluding furniture. The Plaintiff will rely on the said valuation for its full terms and legal effect. The Plaintiff estimates that the cost of the furniture supplied by him for the premises at CI\$10,000.00.

8 In breach of the said written agreement on or about 4th September, 2000 the First Defendant had the Plaintiff served with an eviction notice for him to vacate the said house. The Plaintiff however, refused to vacate in view of the terms of his written agreement with the Second Defendant and the subsequent acquiescence of the First Defendant after he obtained title to the property. In or about the end of September, 2000 the First Defendant had the electrical supply to the said house discontinued so as to forcefully evict the Plaintiff. The Plaintiff, however, continued to reside at the home for a few months after the said electrical supply was discontinued but on or about February, 2001 the Plaintiff moved out of the home as he found it unbearable living there without an electrical supply. The Plaintiff was unable to remove the improvements which he made to the structure in converting it to a two bedroom house and he has not been compensated for the renovations and improvements despite many demands to the First and the Second Defendants for compensation for same.

9 In addition to the above as a result of a verbal agreement between the Plaintiff and the First Defendant, the Plaintiff carried out certain vehicle repairs to the First Defendant's heavy equipment. It was a term of the verbal agreement between the parties that the First Defendant would compensate the Plaintiff for the work carried out on the heavy equipment. In breach of the said verbal agreement the First Defendant paid only a portion of the amount outstanding for the work completed so that a sum of CI\$4,500.00 continues outstanding. On or about 16th June, 2000 the First Defendant signed an Invoice which was presented to him by the Plaintiff acknowledging the CI\$4,500.00 as outstanding. The Plaintiff will rely on the terms of the said invoice for its full terms and legal effect.

#### **WHEREFORE THE PLAINTIFF CLAIMS**

(a) compensation for the equipment, tools and other items destroyed by the First Defendant

CI\$27,300.00

(b) Compensation for the improvements and renovations made to the convert the structure to a two bedroom house	CI\$29,000.00
(c) Furniture for the two bedroom house	CI\$10,000.00
(d) Amount outstanding for work carried out on the heavy equipment	CI\$ 4,500.00
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Total	CI\$70,800.00

(e) Damages for breach of Contract

(f) Interest pursuant to statute

(g) Costs

Dated this 8<sup>th</sup> day of May, 2002.

*Brooks & Brooks*  


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**BROOKS & BROOKS**  
Attorneys At Law for the Plaintiff

To: The Clerk of the Courts

And To: The First Defendant

And To: The Second Defendant

**THIS WRIT OF SUMMONS** was filed by Brooks & Brooks Attorneys At Law for and on behalf of the Plaintiff herein whose address for service is that of his said Attorneys At Law One, Artillery Court, P O Box 1355GT GRAND CAYMAN

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 336 of 2002

BETWEEN: ERNESTO MYLES PLAINTIFF

AND; RAUL GONZALEZ, JR FIRST DEFENDANT

AND; RAUL GONZALEZ, SR SECOND 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.

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

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( Please tick box)

Yes No

Service of Writ is acknowledged accordingly

Signed \_\_\_\_\_

Please complete oveleaf

(Attorney) for

(Defendant in Person)

Address for service:

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 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 the Plaintiff's Attorney (or by the plaintiff if suing in person) of his name, address and residence, if any in the box below

**Brooks & Brooks  
Attorneys At Law  
P O Box 1355 GT  
GRAND CAYMAN**

**(One, Artillery Court, George Town, Grand Cayman)**

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

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Signed \_\_\_\_\_

Please complete oveleaf

(Attorney) for

(Defendant in Person)

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Indorsement by the Plaintiff's Attorney (or by the plaintiff if suing in person) of his name, address and residence, if any in the box below

**Brooks & Brooks  
Attorneys At Law  
P O Box 1355 GT  
GRAND CAYMAN**

**(One, Artillery Court, George Town, Grand Cayman)**

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

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Indorsement by the Plaintiff's Attorney (or by the plaintiff if suing in person) of his name, address and residence, if any in the box below

**Brooks & Brooks  
Attorneys At Law  
P O Box 1355 GT  
GRAND CAYMAN**

**(One, Artillery Court, George Town, Grand Cayman)**

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