

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 636 OF 2002

BETWEEN:

HISMAR LIMITED
(trading as SAVANNAH TEXACO AND STAR MART)

Plaintiff

- and -

THOMAS HUBBELL

Defendant

WRIT OF SUMMONS

TO: Thomas Hubbell
P.O. Box 474 GT
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 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, P.O. Box 495GT, 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 judgment may be entered against you forthwith without further notice.

Issued this 22nd day of August, 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.

STATEMENT OF CLAIM

1. Pursuant to a contract (the "Agreement") dated June 8, 1997 between the Plaintiff and the Defendant, the Plaintiff's claim is for CI\$8240.77 being the price of diesel fuel among other goods sold and delivered to the Defendant by the Plaintiff between February 4, 1998 and March 31, 2001 for which the Defendant has failed and refused to pay the Plaintiff.
2. Under the Agreement the Plaintiff is also entitled 2% interest per month compounded upon unpaid invoices.

PARTICULARS

Full particulars of the diesel fuel among other goods purchased were invoiced to the Defendant.

3. In addition to the principal sum, the Plaintiff claims interest pursuant to the Agreement, on the overdue sum at a rate of 2% per month on a compounding basis. The total interest as at July 31, 2002 is CI\$226.16.
4. The Plaintiff alternatively claims interest as prescribed by the Judicature Law (1995 Revision) and the Judgment Debts (Rates of Interest) Rules. The calculation of the yearly interest was prescribed at a rate of 8% from March 31, 2001 to May 31, 2001 and then at a rate of 6.25% from June 1, 2001 to November 30, 2001 and then at a rate of 4.5% from December 1, 2001 to the present. The total interest as of August 13, 2002 amounts to CI\$505.55 increasing at a per diem rate of CI\$1.01.

5. Alternatively, the Plaintiff claims interest at such rate and for such period as the Court thinks fit;

AND THE PLAINTIFF claims:

1. CI\$8240.77 due under the Agreement;
2. Compounding interest under the Agreement at a rate of 2% per month amounting to a total interest of CI\$226.16 as of July 31, 2002;
3. Alternatively, pre-judgment and post judgment interest upon the said damages pursuant to the Judicature Law (1995 Revision) amounting to CI\$505.55 as at August 22, 2002 and increasing at a per diem rate of CI\$1.01.
4. Alternatively, interest at such rate and for such period as the Court thinks fit;
5. Costs to be taxed if not agreed; and
6. Such further or other relief as the Court feels just.

Dated the 22nd day of August 2002

Filed the 22nd of August 2002



BROADHURST DACOSTA
Attorney-at-law for the Plaintiff

This Statement of Claim was filed by Broadhurst DaCosta Attorneys-at-law for the Plaintiff whose address for service is 40 Linwood Street, P.O. Box 2503, George Town, Grand Cayman, Cayman Islands, B.W.I.

INDORSEMENT

The amount claimed in respect of the debt is CI\$2812.72 as principle and CI\$226.16 as interest as of July 31, 2002 for a total amount of CI\$11,524.07. This amount is increasing at a monthly compounding rate of 2% per month. The amount of the fixed costs is CI\$250.00 and the costs of issuing the Writ of Summons is CI\$150.00. If within the time for returning the acknowledgement of service, the Defendant pays the Plaintiff or its Attorneys-at-Law the total amount claimed in principal and interest, the fixed costs and the costs of issuing the Writ of Summons, further proceedings will be stayed. The money must be paid to the Plaintiff or to its Attorneys-at-Law.

STATEMENT REGARDING INTEREST

1. The rate of interest claimed under the Agreement is compounding at a rate of 2% per month;
2. The date from which the interest became payable was March 31, 2001;
3. The total interest claimed at the date of issue of the Writ of Summons is CI\$226.16 as of July 31, 2001; and
4. The interest is compounding and thus the amount of interest accruing increases each day.
5. Alternatively, the prescribed rate of interest during the period of June 1, 2001 to November 30, 2001 is 6.25% and then from December 1, 2001 to the present is 4.5% for a total of CI\$505.55 increasing at CI\$1.01 per diem.

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HISMAR LIMITED
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Plaintiff

- and -

THOMAS HUBBELL

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 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 see over leaf...

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, BWI

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

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 requires 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 is 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.