

SIN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 464 of 2003

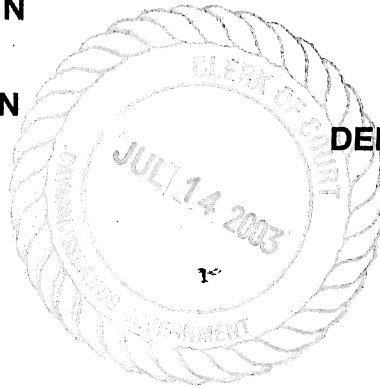
BETWEEN: (1) JUDY BELLAFONTE
(2) WAYNE BELLAFONTE **PLAINTIFFS**

AND; (1) ALMA SMITH T/A
A & C CONSTRUCTION

AND; (2) CLIVE SMITH T/A
A & C CONSTRUCTION **DEFENDANTS**

TO; Alma Smith T/A
A & C Construction
P O Box 10 236 APO
George Town
Grand Cayman

AND TO: Clive Smith T/A
A & C Construction
P O Box 10 236 APO
GRAND CAYMAN



WRIT OF SUMMONS

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiffs 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 495 G, George Town, Grand Cayman, 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 July, 2003

NOTE: This Writ may not be served later than 4 calender months beginning with the date of the issue unless renewed by Order of the Court.

IMPORTANT

Directions for Acknowledgement of Service are given with the accompanying form

STATEMENT OF CLAIM

1 The Plaintiffs are husband and wife who reside in the Cayman Islands. At the material time they were and remain owners of property located at Savannah Block 28C Parcel 446 on which they contracted with the Defendants to build a single storey dwelling house.

2 The Defendants are husband and wife who conduct a business known as A & C Construction which business at the material time was involved in the business of inter alia construction of dwelling homes.

3 On 15th October, 2001 the Plaintiffs entered into an Agreement with the Defendants to construct and complete a dwelling house on property known as Savannah Block 28C Parcel 446 for a set price of CI\$216,427.00, which price was stated as including both labour and materials. It was a further term of the said written agreement that the construction of the said dwelling house was to be completed no later than 31st March, 2002. Time was specifically made of the essence to the said contract.

4 Paragraph 3.3 of the said written agreement allowed the Plaintiffs to grant an extension of time for the completion of the works to the Defendants if notified by the Defendants that additional time was required. Any extension granted was to be in writing and at the sole discretion of the Plaintiffs. The Plaintiffs will rely on the said written agreement for its full terms and legal effect.

5 In compliance with the terms of the said written agreement the Plaintiffs paid the entire contract amount to the Defendants who, in breach of the said written agreement and, despite demands to do so, failed to complete the said work on time or at all indicating that they "had run out of money". As a result of the said breach the Defendants were notified on 29th May, 2002 that the Plaintiffs would be treating the breach as a termination of the contract and in accordance with the terms of the said contract they would employ other contractors to complete the project.

6 Despite correspondence to the Defendants requesting that they either complete the work, or return enough of the funds paid to them to have someone else complete the work, they have neglected and or refused to complete the work or to reimburse the funds. The Plaintiffs will rely on the content of the said correspondence for its full terms and legal effect.

7 As a result of the Defendants' breach, the Plaintiffs have suffered damages. The Plaintiffs have had to employ other contractors to complete the work at the following additional costs to them to complete the work indicated:

(a) Completion of exterior finish	CI\$690.00
(b) Supply and install garage window	CI\$450.00
(c) Interior Painting	CI\$1,600.00
(d) Supply and install bathroom wall tiles	CI\$2,000.00
(e) Installation of cabinets and vanities	CI\$1,600.00
(f) Installation of door locks and hardware	CI\$750.00

(g) completion of Plumbing including installation of plumbing fixtures	CI\$2,000.00
(h) electrical work including installation of electrical fixtures	CI\$4,000.00
(i) Airconditioning	CI\$3,900.00
(j) Supply and install metal roof covering	CI\$7,900.00
(k) Installation of closet doors	CI\$450.00
(l) Installation of baseboard and crown moulding to dining area only	CI\$620.00
(m) Reinforced concrete steps	CI\$750.00
(n) Site clean up	CI\$500.00
(o) Plastic closet shelving	CI\$525.00
total	<u>CI\$27,735.00</u>

8 In addition whilst the said work was being completed the Plaintiffs had to store their furniture in a container at a cost of CI\$6,000.00 and rental income of CI\$3,750.00 was lost.

WHEREFORE THE PLAINTIFFS CLAIM

- (a) Compensation for items listed above totalling CI\$37,485.00.
- (b) Interest of 4 1/2 % pursuant to the Judicature Law, from 31st March, 2002 to the date of full payment.
- (g) Costs

Dated this 14th day of July, 2003.

Brooks & Brooks
BROOKS & BROOKS
 Attorneys At Law for the Plaintiffs

To: The Clerk of the Courts

And To: The Defendants

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

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(2) WAYNE BELLAFONTE PLAINTIFFS

AND; (1) ALMA SMITH T/A
A & S CONSTRUCTION
(2) CLIVE SMITH T/A
A & S CONSTRUCTION DEFENDANTS

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

2

(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