

IN THE GRAND COURT OF THE CAYMAN ISLANDS

496 ✓

CAUSE NO: OF 2003

BETWEEN:

DOLPHIN SUPPLY LTD.



AND

KIRK MCTAGGART



Plaintiff

Defendant

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WRIT OF SUMMONS

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TO: Kirk McTaggart  
PO Box 2254 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, PO Box 495GT, 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 judgment may be entered against you forthwith without further notice.

Issued this 25 July 2003

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 Acknowledgement of Service are given with the accompanying form.

STATEMENT OF CLAIM

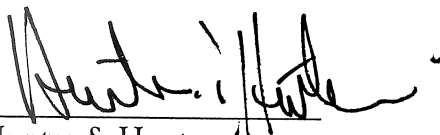
1. The Plaintiff is a company organized and carrying on business under the laws of the Cayman Islands and has its registered office at PO Box 190 GT. The Plaintiff's address for service in connection with this proceeding is in care of its attorneys, Hunter & Hunter.
2. The Defendant is an individual residing in the Cayman Islands. The Defendant at the time of entering into the agreement pleaded herein used a local mailing address of PO Box 2254 GT Grand Cayman, Cayman Islands.
3. The Defendant signed a Promissory Note on 1 October 2002 in favour of the Plaintiff in consideration of the Plaintiff deferring payment of invoices 157 & 158 and providing terms of payment. The Promissory Note terms were as follows:
  - a. The Defendant would pay the Plaintiff the sum of CI\$5,609;
  - b. Interest would accrue on unpaid balances at the rate of 10% per annum.
  - c. Full payment of the sum of CI\$5,609 plus accrued interest would be paid on or before 31 December 2002;
  - d. Upon default of payment, the Defendant would be liable for the legal costs of the Plaintiff on an indemnity basis arising from or relating to steps required to obtain repayment.
4. The Defendant rendered a cheque for the sum of CI\$2500 dated 15 April 2003 to the Plaintiff as part payment of the debt but the said cheque was not honoured by the Defendant's bank and the Plaintiff incurred bank charges of CI\$25.00. Accordingly, the Defendant has made no payments on the sum due in accordance with the Promissory Note.
5. In addition to the sums due pursuant to the Promissory Note, further goods were supplied to the Defendant for which invoice 351 was rendered in the sum of CI\$500.00. The Defendant has also defaulted on payment of that invoice.
6. As a result of the above the Defendant owes the following liquidated sums:

a.	Principal due on the Promissory Note:	CI\$5,609.00
b.	Bank charges for returned cheque	CI\$ 25.00
c.	Sum due on Invoice 351	<u>CI\$ 500.00</u>
		CI\$6,134.00

7. Notwithstanding the demand for payment, the Defendant was either unable or unwilling to make payment to the Plaintiff.
8. The Plaintiff is also entitled to costs on an indemnity basis pursuant to the contract pleaded herein.
9. The Plaintiff is also entitled to interest on the sums due pursuant to the Promissory Note to date of commencement of this proceeding (25 July 2003) of CI\$544.45 and thereafter at a daily rate of CI\$1.5367.
10. As a result of the above, the Plaintiff is entitled to the relief claimed in this proceeding.

**AND THE PLAINTIFF CLAIMS:**

- a) CI\$6,134.00 being the principal sum owing pursuant to the Promissory Note, Invoice and Bank Charge.
- b) CI\$544.45 in pre judgment interest to 25 July 2003 at the rate of 10 % in accordance with the Agreement to the commencement of this proceeding.
- c) Pre and Post judgment interest from 26 July 2003 at the rate of 10% in accordance with the Promissory Note.
- d) Alternatively, Pre- and post-judgment interest in accordance with the Judicature Law (2002 Revision) and the Judgment Debt (Rates of Interest) Rules as amended from time to time;
- e) Costs on a contractual basis, in accordance with 3(d), above, and following the issuance of the Writ of Summons to be taxed if not agreed.
- f) Alternatively, costs on an indemnity basis or standard basis in accordance with the Court Costs Rules 2001.
- g) Such further and other relief as this Court may deem just.

  
Hunter & Hunter  
Attorneys for the Plaintiff

This Writ was issued by Hunter & Hunter, Attorneys-at-Law for and on behalf of the Plaintiff herein whose address for service is 75 Fort Street, PO Box 190 George Town, Grand Cayman. (Ref: WAS/08983.002)

## INDORSEMENT

The amount claimed in respect of the debt CI\$7,259.15 (principal, interest and costs). The amount of the filing fees to commence the proceeding 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, interest, contractual 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.

### INDORSEMENT REGARDING INTEREST (Order 6 (2) (e) of the Grand Court Rules)

- i. The contractual term upon which interest is claimed is as set out in paragraph 3 (b)..
- ii. The date from which interest is calculated is 1 October 2002.
- iii. The interest rate claimed is 10% per year.
- iv. The total interest claimed as at the date of the issue of the writ of summons is CI\$544.56.
- v. The amount of interest accruing each day following the issue of the writ of summons is CI\$1.5367.

This Writ of Summons was issued by Hunter & Hunter, the attorneys-at-law for the Plaintiff, whose address for service is PO Box 190GT, George Town, Grand Cayman, Cayman Islands, British West Indies. (WAS/08983.002)

**Acknowledgment of service of writ of summons (O.12, r.3)**

**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 each Defendant or by each 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 instalments 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 Acknowledgement 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:

DOLPHIN SUPPLY (CAYMAN) LTD.

Plaintiff

AND

KIRK MCTAGGART

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.

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2. State whether the Defendant intends to contest the proceedings (*tick appropriate box*)  
 yes                       no

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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 communication 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.

Hunter & Hunter Attorneys-at-Law 75 Fort Street P.O. Box 190 George Town Grand Cayman  Ref: WAS/08983.002
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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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