

IN THE GRAND COURT OF THE CAYMAN ISLANDS

57
CAUSE NO: OF 2004

BETWEEN:

THE ATTIC LTD.

Plaintiff



AND
DESIGNCRAFT (CAYMAN) LTD.



Defendant

WRIT OF SUMMONS

TO: The Defendant
In Care of its Registered Office
P.O. Box 307 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 27 January 2004.

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 incorporated pursuant to the laws of the Cayman Islands and has a mailing address of PO Box 31910 SMB, Grand Cayman, Cayman Islands. For the purposes of this proceeding the address for service of the Plaintiff is in care of its attorneys, Hunter and Hunter, Attorneys-at-Law, PO Box 190 GT, 75 Fort Street, George Town, Grand Cayman.
2. The Plaintiff operates a billiards, club and lounge facility located on the 2nd Floor of the Queen Court Plaza at Seven Mile Shops on West Bay Road occupying units identified as XB2 and XB5.
3. The Defendant is a company incorporated pursuant to the laws of the Cayman Islands with a registered address of 307 GT, Grand Cayman, Cayman Islands.
4. In or about March 2002 the Plaintiff entered into a verbal agreement with the Defendant for the manufacture and installation of canopies to be placed on over the exterior windows of the Plaintiff's premises. The terms of the agreement were as follows:
 1. The Defendant would manufacture and install six green awnings or window canopies on the six windows facing West Bay Road.
 2. The Plaintiff would pay the Defendant the sum of \$900 for each of the six awnings for a total of \$5,400.
 3. The Plaintiff would pay the sum of \$5,400 by payment of a deposit of \$2,700 being half of the contract price at the commencement of work and the balance to be paid upon completion of work.
5. The Plaintiff did pay to the Defendant the sum of \$2,700 in accordance with the verbal agreement.
6. On or about May of 2003 the Plaintiff and Defendant amended the agreement as pleaded above due to the Plaintiff requiring two additional awnings to those ordered and also due to a change in colour of the awnings as originally selected. The amendments were as follows:
 - a. The Defendant would provide an additional two awnings.

- b. The Defendant would manufacture the awnings in a new colour as provided by the Plaintiff.
 - c. The Defendant would apply lettering to the awnings as directed by the Plaintiff;
 - d. The additional costs for the change in colour, additional awnings, lettering and related labour brought the total cost of the awnings, as delivered and installed to CI\$9,597.24
 - e. The Plaintiff would immediately a further \$2,200 and would pay the Defendant the balance due upon completion of delivery and installation of the awnings.
7. On 29 July 2002 the Plaintiff paid to the Defendant the sum of CI\$2,021.12 being half of the then due balance of CI\$4024.24. This was done in order to expedite the completion of the contract.
8. The Plaintiff has made payments totaling CI\$7,576.12 as follows:

DATE	PAYMENT
27 March 2002	\$2,700.00
31 May 2002	\$ 655.00
5 June 2002	\$2,200.00
29 July 2002	\$2,021.12

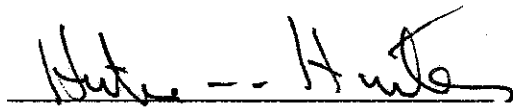
9. The Defendant has refused to complete the project notwithstanding;
- a. having received the sum of \$7,576.12 and
 - b. the Plaintiff was ready, willing and able to pay the balance of the price upon completion of the delivery and installation of the awnings in accordance with the agreement.
10. The Plaintiff Defendant's refusal to provide and install the awnings is a repudiation of its contractual obligations and, accordingly, is a breach of the pleaded agreement. The Plaintiff accepted the Defendants refusal as a repudiation of its contractual obligations on 23 January 2004.
11. As a result of the stated breach, the Plaintiff is entitled to the return of all monies paid to the Defendant for the awnings.

AND THE PLAINTIFF CLAIMS

1. Damages as result of said breach CI\$7,576.12.

2. Interest on the sums paid to the Defendant in accordance with the Judicature Law (2002 Revision) and the Judgment Debts (Rates of Interest) Rules as amended from time to time.
3. Costs.
4. Such further and other relief as this Honourable Court deems just.

Dated: 27 January 2004

A handwritten signature in black ink, appearing to read "Hunter & Hunter", written over a horizontal line.

Hunter & Hunter
Attorneys-at-Law for the Plaintiff

FILED by Hunter & Hunter Attorneys-at-Law for the Plaintiff whose address for service is The Huntlaw Building, 75 Fort Street, P.O. Box 190 GT, George Town, Grand Cayman (Ref: WAS/09839.001)

INDORSEMENT

The principal amount claimed in respect of the debt is CI\$7,576.12. Interest as of the date of the commencement of this proceeding is CI\$1.86. The Plaintiff also claims costs of the issuance of the Claim of CI\$150.00 and other costs to which it is entitled pursuant to the Grand Court Rules. 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.

INDORSEMENT REGARDING INTEREST

(Order 6 (2) (f) of the Grand Court Rules)

- i. The prescribed rate of interest is 3% per annum as prescribed by the Judgment Debt (Rates of Interest) Rules;
- ii. Interest is calculated from 23 January 2004 at which time the Plaintiff accepted the Defendants conduct as a breach of contract;
- iii. The total interest claimed to the date of issuance of the proceeding is CI\$1.86
- iv. Interest thereafter accrues as the rate of CI\$0.62 per day.

Notes on address for service

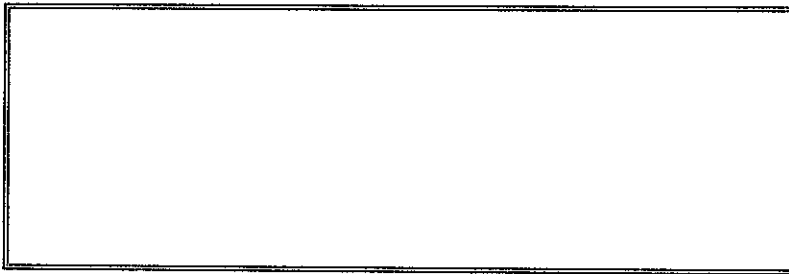
Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

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.

Hunter & Hunter
The Huntlaw Building
75 Fort Street
PO Box 190 GT
Grand Cayman
Telephone: (345)949-4900
Telefax: (345)949-4901
(REF: WS/09839.001)

Indorsement 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 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 instalments or otherwise.

See over for notes for guidance