

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 216 OF 2004

BETWEEN:

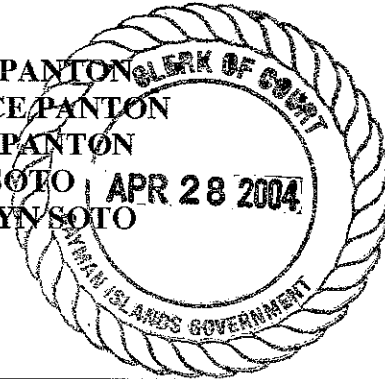
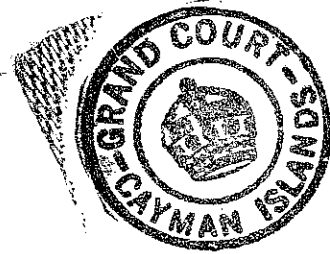
JOELLE McCRAE

Plaintiff

AND:

- (1) GOLDIE PANTON
- (2) PRENTICE PANTON
- (3) STANLY PANTON
- (4) DANNY SOTO
- (5) SHERRLYN SOTO

Defendants



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WRIT OF SUMMONS

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TO: GOLDIE PANTON  
P.O. Box 2176 SMB  
Grand Cayman.

PRENTICE PANTON  
P.O. Box 2176 SMB  
Grand Cayman.

STANLY PANTON  
P.O. Box 2176 SMB  
Grand Cayman.

DANNY SOTO  
P.O. Box 2176 SMB  
Grand Cayman.

SHERRLYN SOTO  
P.O. Box 2176 SMB  
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 28<sup>th</sup> day of April 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 issued unless renewed by order of the Court.

**IMPORTANT**

Directions for Acknowledgement of Services are given with the accompanying form.

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## STATEMENT OF CLAIM

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1. The Plaintiff's address is 31707 SMB Grand Cayman, Cayman Islands.
2. The Defendants' address is P.O. Box 2176 SMB, Grand Cayman.
3. At all material times the Plaintiff was the tenant of the premises described as Block 14 BG Parcel 68 (hereinafter the "Premises"). The Defendants are the owners of the Premises. The Plaintiff ran a restaurant on the Premises which was known as "Joe's Downtown". The reversion which was immediately expectant on the determination of the Plaintiff's tenancy was vested in the Defendants.
4. On 31<sup>st</sup> December 2003, the Defendants, purported to terminate the Plaintiff's tenancy of the Premises by unlawfully taking possession of the premises by changing the locks and security codes to the Premises and thereafter refusing to allow the Plaintiff access to the Premises. The Defendants further took possession of all the goods and chattels on the Premises and refused to allow the Plaintiff to collect any or all of these items. By taking possession of the goods and chattels in the premises the Defendants have wrongfully converted them to their own use and benefit.

### Particulars of the Goods

The goods and chattels in the restaurants constitute a full working kitchen, bar, and restaurant dining room. This includes everything from kitchen equipment (i.e. ovens, dishwashers etc.), glasses and cutlery, a bar, booths, tables, chairs, removable partition, glass and mirrors, wood shelving, Haitian Doors, exterior Brazilian Plywood and a multitude of other items. In addition, this also includes food and beverages.

As the Defendants have taken possession of the goods and chattels and have not provided an inventory of the goods taken, and will not allow the Plaintiff access to the goods, the Plaintiff cannot provide full particulars of the goods and chattels. The Plaintiff is however compiling a list from what information he has available and this will be provided in due course. As the Defendants have possession of the goods and chattels the particulars of the goods and chattels are within their own knowledge.

5. In light of the above acts of the Defendants, the Plaintiff claims damages for the unlawful forfeiture and termination of the Plaintiff's tenancy.

### Particulars

While the Plaintiff was in occupation of the premises the Defendants without court order evicted the Plaintiff from the premises. Further, the Defendants failed to provide proper notice pursuant to Section 56 of the Registered Land Law (1999 Revision). The Plaintiff accordingly lost his right to proper protection under the law. As a result of the wrongful eviction the Plaintiff business was terminated and he claims losses as a result of his wrongful eviction and unlawful termination of his business.

6. The Plaintiff after taking possession of the premises made approximately CI\$ 87,000.00 worth of repairs renovations and improvements to the premises.

### Particulars

The particulars of the repairs, renovations and improvements include repairing the air conditioning, electrical and plumbing (including installing new plumbing fixtures including sinks, toilets and urinals) as well as other completing other general works including the installation of sheetrock & studs, tiles, concrete and brickwork.

7. Due to the unlawful eviction of the Plaintiff the Defendants have been unjustly enriched as a result of these improvements to the premises which they have now converted to their own use. Accordingly, the Plaintiff claims as damages the value of the improvements.
8. As a result of the unlawful eviction the food stocks in the premises were either converted to the use of the Defendants or spoiled. In any event, the Plaintiff claims damages for these food stocks which is estimated to be CI\$ 12,000.00.
9. The said acts of the Plaintiff constitute an illegal distress as the Defendants had wrongfully terminated the Plaintiff's tenancy and accordingly lost any right they may have had to exercise the remedy of distress.
10. By refusing to return the assets of the Plaintiff the Defendants have wrongfully converted the goods to their own use and benefit
11. As a result of the illegal distress and/or unlawful conversion the Plaintiff has been deprived of the use and enjoyment of the said goods and has suffered loss and damage.

### Particulars

The Plaintiff estimates the value of the goods and chattels to be approximately CI\$ 110,000.00.

12. Despite the request of the Plaintiff the Defendant have refused to return the goods and chattels to the Plaintiff. Accordingly, the Plaintiffs claim is for the value of the goods improvements, and food stocks or the return of such items that can be returned accompanied with damages for their unlawful seizure.
13. Alternatively, the said acts of the Defendants constitute an irregular and/or excessive distress in that:
  - (1) No inventory of the goods and chattels destrained upon was provided to the Plaintiff contrary to section 21 of the Landlord and Tenants Law (1998 Revision);
  - (2) No notice of distraint was provided;
  - (3) No appraisals of the goods and chattels has been done;
  - (4) The value of the goods were far in excess of any rental arrears that may have been due to the Defendant.

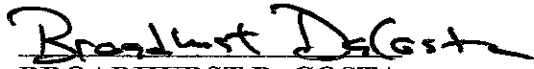
As a result of the irregular and/or excessive distress the Plaintiff has suffered loss and damage.

- 13 In addition, the Plaintiff also claims pre-judgment and post-judgment interest on the above damages pursuant to the Judicature Law (1995 Revision) and the Judgment Debts (Rates of Interest) Rules.

AND THE PLAINTIFF claims:

1. Damages;
2. Pre-judgment and post judgment interest upon the said damages pursuant to the Judicature Law (1995 Revision) and the Judgment Debts (Rates of Interest) Rules; and
3. An order for the return of the said goods or their value;
4. Costs

Dated the 28<sup>th</sup> day of April 2004



**BROADHURST DaCOSTA**

Attorney-at-law for the Plaintiff

This Writ of Summons and Statement of Claim is filed by Broadhurst DaCosta, Attorneys-at-Law for the Plaintiff, whose address for service is 40 Linwood Street, P.O. Box 2503 GT, Grand Cayman, Cayman Islands.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 216 OF 2004

BETWEEN:

JOELLE McCRAE

Plaintiff

AND:

- (1) GOLDIE PANTON
- (2) PRENTICE PANTON
- (3) STANLY PANTON
- (4) DANNY SOTO
- (5) SHERRLYN SOTO

Defendants

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ACKNOWLEDGEMENT OF SERVICE  
OF WRIT OF SUMMONS

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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.*

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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 [ ]

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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.