

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: ²⁴⁰ OF 2004

BETWEEN:

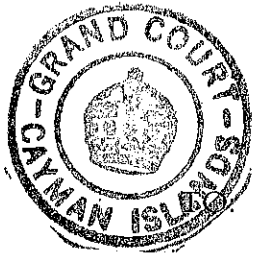
APPLEBY SPURLING HUNTER, A FIRM

Plaintiff

AND

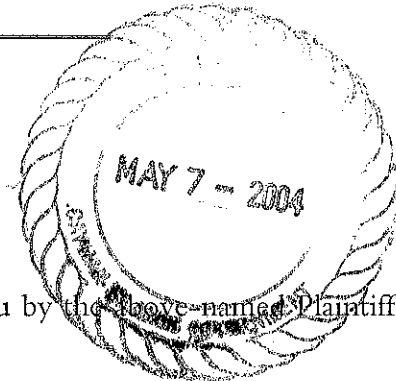
EUSTACE NOLAN SPENCE

Defendant



WRIT OF SUMMONS

Eustace Nolan Spence
c/o Turtle Beach Villas
P.O. Box 1756 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 7th day of May 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 firm of attorneys, whose principal place of business is located at PO Box 190 GT, Clifton House, 75 Fort Street, George Town, Grand Cayman.
2. The Defendant is an individual who resides in Grand Cayman, Cayman Islands.
3. On or about July 2002, the Defendant engaged the services of the Plaintiff to represent him in a divorce proceeding relating to D 123 of 2002. The Plaintiff firm and the Defendant expressly agreed in a retainer letter signed by the Defendant on 6 August 2003 that the engagement was on the following terms:
 - a. The Plaintiff would provide legal services to the Defendant in the stated proceeding;
 - b. The Plaintiff would render invoices for such services based on the time expended on the matter at the billable rates of the attorneys engaged on the file;
 - c. The Defendant would promptly pay invoices upon rendering;
 - d. Interest would accrue on unpaid balances.

The Plaintiff did provide legal services and incurred expenses on the behalf of the Defendant.

4. The Plaintiff rendered the following invoices:

Date Invoice Rendered	Amount	Invoice Number
30 May 2003	US\$5,286.41	#41712
18 September 2003	US\$3,152.33	# 44697
28 November 2003	US\$1,935.50	#46449
31 December 2003	US\$454.00	#47019
30 January 2004	US\$4,044.25	#47569
15 April 2004	US\$723.86	#49595
Total	US\$15,596.35	

Invoices were not paid in a timely manner and the Plaintiff was eventually forced to apply to come off the record. The total amount invoiced for services rendered, together with disbursements and the costs associated with coming off the record was **US\$15,596.35**.

5. The Defendant paid the following toward the amounts due and owing:

Date	Amount
5 August 2003	US\$1,500.00
10 October 2003	US\$700.00

27 February 2004	US\$500.00
31 March 2004	US\$595.24
5 May 2004	US\$500.00
6 May 2004	US\$119.04
Total	US\$3,914.28

Accordingly, the total amount paid to date is **US\$3,914.28**.

6. Therefore, the Defendant is indebted to the Plaintiff for legal services and disbursements in the amount of **US\$11,682.06 (CI\$9,579.29)**. In addition, the Plaintiff claims its costs of these proceedings and interest at the rate of interest in accordance with the Judicature Law (2002 Revision).
7. As a result of the above, the Plaintiff is entitled to the relief claimed.

AND THE PLAINTIFF CLAIMS:

1. Principal in the amounts of US\$11,682.06 (CI\$9,579.29) in respect of the above-pleaded unpaid account;
2. US\$185.44 (CI\$152.06) in pre judgment interest from the date upon which each of the subject invoices respectively became due for payment.
3. Pre and post Judgment interest from 30 June 2003 (the date on which the unpaid portions of the respective invoices fell due for payment) in accordance with the Judicature Law (2002 Revision).
4. Costs.
5. Such further or other relief as the court deems fit.

Appleby Spurling Hunter

Appleby Spurling Hunter
Attorneys-at-Law for the Plaintiff

Plaintiff's address for service:

Appleby Spurling Hunter Attorneys-at-Law The Clifton House, 75 Fort Street P.O. Box 190 GT, Grand Cayman Tel: 949-4900 Fax: 949-4901 Ref: NJ/08259.666
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INDORSEMENT

The amount claimed in respect of the debt is US\$11,682.06 (CI\$9,579.29) as principal and US\$185.44 (CI\$152.06) interest and costs to be assessed. 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 and the costs of issuing the writ of summons (CI\$150.00), further proceedings will be stayed. The money must be paid to the plaintiff or to its attorneys-at-law. If no payment is made, the Plaintiff elects to have costs taxed.

INDORSEMENT REGARDING INTEREST

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

- i. The rate of interest during the entire relevant period from 30 June 2003 (30 days after the rendering of the first invoice) is 3% in accordance with the Judicature Law (2002 Revision) and the Judgment Debts (Rates of Interest) Rules as amended).
- ii. The total interest claimed, as at the date of the issue of the writ of summons is US\$185.44 (CI\$152.06).
- iii. The amount of interest accruing each day following the issue of the writ of summons is US\$0.96 per day.

**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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B E T W E E N :

APPLEBY SPURLING HUNTER, A FIRM

Plaintiff

AND

EUSTACE NOLAN SPENCE

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.

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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.
-
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 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.

Appleby Spurling Hunter
Attorneys-at-Law
75 Fort Street, P.O. Box 190 GT
Grand Cayman
Tel: 949-4900
Fax: 949-4901
Ref: NJ/08259.666

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

