

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 321 OF 2005

**BETWEEN:** THE PROPRIETORS OF STRATA PLAN 368 Plaintiff

**AND:** TELOS HOLDINGS LTD First Defendant  
PATRICK MURPHY Second Defendant  
SCOTT PERKINS Third Defendant

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WRIT OF SUMMONS

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**To:** Telios Holdings Ltd.  
Patrick Murphy  
Scott Perkins  
c/o Appleby Spurling Hunter  
Clifton House  
George Town  
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 days [14] 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, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 21<sup>st</sup> day of July 2005

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.

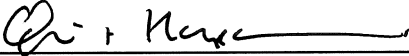
**IMPORTANT**

Directions for Acknowledgment of Service are given with the accompanying form

**AND THE PLAINTIFF CLAIMS:**

1. An Order that the Defendants do forthwith pull down and remove the said balconies;
2. Damages;
3. Interest pursuant to paragraph 7 hereof.
4. Costs

Dated the 21<sup>st</sup> day of July 2005

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**QUIN & HAMPSON**  
Attorneys-at-Law for the Plaintiff

To: The Clerk of the Court

And To: Telios Holdings Ltd.  
Patrick Murphy  
Scott Perkins  
c/o Appleby Spurling Hunter  
Clifton House  
George Town  
Grand Cayman

**THIS WRIT** was filed by Messrs. Quin & Hampson, Attorneys-at-Law for the Plaintiff whose address for service is Harbour Centre, 3<sup>rd</sup> Floor, P.O. Box 1348, George Town, Grand Cayman.

**STATEMENT OF CLAIM**

1. The Plaintiff is and was at all material times, the Proprietor of Strata Plan No.368 and owner of so much of the land for the time being comprised in Strata Plan 368 that is not comprised in any strata lot, hereinafter referred to as the "common property".
2. The First Defendant is and was at all material times a property development company and vendors of units B and D of blocks 1 and 8 of Strata Plan No 368. The Second and Third Defendants are directors of the said property development company.
3. On or about the 8<sup>th</sup> December 2004 the Defendants, their servants or agents wrongfully commenced construction of a two storey balcony stretching west from the centre line of the floor and/or ceiling of blocks 1B and D towards the sea wall. The balcony is being built on the Plaintiff's land.
4. On or about the 8<sup>th</sup> December 2004 the Defendants, their servants or agents wrongfully commenced construction of a two storey balcony stretching west from the centre line of the floor and/or ceiling of blocks 8B and D towards the sea wall. The balcony is being built on the Plaintiff's land.
5. By reason of matters aforesaid the Plaintiff has suffered loss and damage:

**PARTICULARS OF SPECIAL DAMAGE**

A full schedule of special damages will be served prior to trial

6. By letter from the Plaintiff's Attorneys dated 28<sup>th</sup> April 2005, the Plaintiff by his Attorneys requested the Defendants to cease construction of the said balconies but the Defendants have failed or refused to do so.
7. Further the Plaintiff is entitled to and claims interest pursuant to s34(1) of the Judicature Law (1995 Revision) at the prescribed rate and for such periods as the Court thinks fit.

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 installments or otherwise.

*See over for notes for guidance*

## Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment 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 his 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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CAUSE NO. <sup>321</sup> OF 2005

BETWEEN: THE PROPRIETORS OF STRATA PLAN 368 Plaintiff

AND: TELOS HOLDINGS LTD First Defendant  
 PATRICK MURPHY Second Defendant  
 SCOTT PERKINS Third 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.

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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 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 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.*

Messrs. Quin & Hampson  
Attorneys-at-Law  
Third Floor, Harbour Centre  
P.O. Box 1348  
George Town,  
GRAND CAYMAN

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