

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE N<sup>o</sup>: *350* OF 2005

BETWEEN: COX LUMBER CO

PLAINTIFF

AND: SCOTT NOVAK

DEFENDANT

WRIT OF SUMMONS

TO: Scott Novak of PO Box 11911APO 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 overleaf.

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, P.O. Box 495GT, 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 Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 5<sup>th</sup> day of August 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.

**STATEMENT OF CLAIM**

1. In September and October 2004, the Plaintiff and the Defendant entered into various contracts ("the Contracts") pursuant to which the Defendant purchased from the Plaintiff and the Plaintiff sold to the Defendant various items of merchandise as set out on the invoices delivered to the Defendant by the Plaintiff ("the Goods") at the time of the purchase.
2. The following was an express term incorporated into each of the Contracts, as evidenced and set out on the reverse of each of the Defendant's invoices:  

*'.... Buyer [the Defendant] agrees full payment is due on the 10<sup>th</sup> day of the month following the month of purchase... Past due accounts shall pay interest at 1.5% per month (18% per annum) or the maximum allowed by law, whichever is more..'*
3. The sums due from the Defendant to the Plaintiff, including interest to 5 August 2005, pursuant to the Contracts are as follows:  

Invoices due by 10 October 04	C1\$ 1,063.23
Invoices due by 10 November 04	<u>2,123.39</u>
Total principal sum	<b>C1\$3,186.62</b>
Interest @ 18% per annum as follows:	
On 1,063.23 from 10 Oct 04 – 5 Aug 05	
On 2,123.39 from 10 Nov 04 – 5 Aug 05	
Total interest	<b><u>C1\$437.42</u></b>
Total due as at 5 August 2005	<b>C1\$3,624.04</b>
4. Further, the Plaintiff is entitled to and does claim continuing interest on the sum of C1\$3,624.04 at the contractual rate of 18% per annum pursuant to the Contracts from 5 August 2005 until judgment or sooner payment at the daily rate of C1\$1.57.
5. In the alternative to paragraph 4 above, the Plaintiff is entitled to and claims interest pursuant to Section 34 of the Judicature Law (2002 Revision), at such rates and on such sums and for such periods as the Court shall think just.
6. Despite demands, the Defendant has failed to pay the sums now due to the Plaintiff or any part thereof.

**AND THE PLAINTIFF CLAIMS AGAINST THE DEFENDANT:**

- (1) The sum of CI\$3,624.04.
- (2) Interest as claimed in paragraph 3 above to 5 August 2005 at the contractual rate of 18% per annum pursuant to the Contracts, in the sum of CI\$437.42.
- (3) Continuing interest pursuant to the Contracts from 18 October 2004 until judgment or sooner payment at the rate of 18% per annum at the daily rate of CI\$1.57.
- (4) In the alternative to (2) and (3) above, interest pursuant to Section 34 of the Judicature Law (2002 Revision) at such rates and on such sums and for such periods as to the Court shall seem just.
- (5) Further or other relief.
- (6) Fixed costs of CI\$250 plus prescribed Court fees of CI\$150.

**INDORSEMENT REGARDING INTEREST PURSUANT TO GCR ORDER 6 RULE 2(e)**

- (i) The relevant contractual term pursuant to which the Plaintiff and the Defendant agreed that the Defendant would pay interest at 18% per annum is set out in paragraph 2 of the Statement of Claim herein.
- (ii) The agreed rate of interest is 18% per annum.
- (iii) The dates from which interest is payable are 10 October 2004 and 10 November 2004 as set out in paragraph 3 of the Statement of Claim herein.
- (iv) The total amount of interest claimed in these proceedings up to 5 August 2005 is CI\$437.42.
- (v) The total amount of interest accruing each day from 5 August 2004 on the principal sums claimed in these proceedings is CI\$1.57.

If within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed of CI\$4,461.46 (including interest and costs) further proceedings will be stayed. The money must be paid to the Plaintiff or its Attorneys.

*Truman Bodden v L*  
Truman Bodden & Company  
Attorneys-at-law for the Plaintiff

**THIS WRIT AND STATEMENT OF CLAIM** was issued by Truman Bodden & Company, Attorneys-at-Law, whose address for service is 5<sup>th</sup> Floor, Anderson Square Building, PO Box 866GT, George Town, Grand Cayman, British West Indies (reference PWJ), Attorneys for the Plaintiff, Cox Lumber Co of PO Box 244GT, Grand Cayman, Cayman Islands, BWI.