

IN THE GRAND COURT OF THE CAYMAN ISLANDS

383

CAUSE NO: OF 2005

BETWEEN:

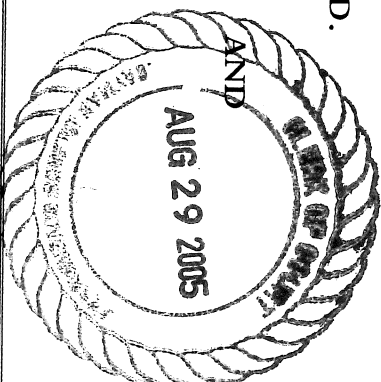
ISLAND SUPPLY CO. LTD.

Plaintiff



1 ERROL SIMMS  
2 ERROL GAYLE

Defendants



---

WRIT OF SUMMONS

---

TO: Errol Simms & Errol Gayle  
c/o PO Box 347 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 495 GT, 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 26<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 Acknowledgement of Service are given with the accompanying form.

---

---

STATEMENT OF CLAIM

---

---

1. The Plaintiff is a company organised and carrying on business under the laws of the Cayman Islands and has its registered office at PO Box 488 GT.
2. The First and Second Defendants (the “**Defendants**”) are individuals both with a mailing address of PO Box 347 GT, Grand Cayman. At all material times the Defendants were residing in Grand Cayman, Cayman Islands.
3. The Defendants were partners, at all material times, in a business known as Lillian’s Restaurant which carries on business at Christian Plaza, North Sound Way, Grand Cayman, Cayman Islands.
4. The Plaintiff and the Defendants entered into a credit agreement whereby by the Plaintiff agreed to supply goods to the Defendants trading as Lillian’s Restaurant on credit as may be granted from time to time (the “**Credit Agreement**”). The express or implied terms of the Credit Agreement were, *inter alia*, as follows:
  - a. The Plaintiff at its discretion would extend credit to the Defendants for the supply of various goods sold by the Plaintiff;
  - b. The Defendants would pay for goods received on credit within 15 days after receiving the Plaintiff’s statement of account, made up as of the last day of each month;
  - c. The Defendants would pay a service charge or interest of 1.5% per month on all sums unpaid by the next billing date;
  - d. Court costs plus attorney’s fees may be added to the Defendants’ account if referred to an attorney for collection.
5. Pursuant to the terms of the Credit Agreement, the Plaintiff extended credit by supplying goods to the Defendants from time to time and rendered accounts for the amount of the credit extended.

6. The Defendants are unable or unwilling to make payments on the accounts rendered in breach of the Credit Agreement pleaded herein.
7. Despite several demands, the Defendants have failed or neglected to pay the sums outstanding.
8. The amount outstanding and owed by the Defendants to the Plaintiff as of the date of issuance of this proceeding is CI\$2,618.41, plus interest of CI\$642.05, plus legal fees of CI\$1,038.22 for a total of CI\$4,298.68. Interest on that sum continues to accrue at the rate of CI\$2.12 per day.
9. The Plaintiff pleads and relies on the terms of the Credit Agreement in this proceeding.
10. As a result of the above, the Plaintiff is entitled to the relief claimed in this proceeding.

AND THE PLAINTIFF claims:

- a) CI\$4,298.68 being the total sum due to 26 August 2005;
- b) Pre and post judgment interest at the rate of 18% per annum in accordance with the Credit Agreement;
- c) Alternatively, pre and post judgment interest in accordance with the *Judicature Law (2002 Revision)* and the Judgment Debt (Rates of Interest) Rules as amended from time to time;
- d) Costs pursuant to the Credit Agreement on an indemnity basis as pleaded above in paragraph 4 (d);
- e) Alternatively, costs on an indemnity basis or standard basis in accordance with the Court Costs Rules 2001; and
- f) Such further and other relief as this Court may deem just.

  
Appleby Spurling Hunter  
Attorneys for the Plaintiff

**INDORSEMENT**

The principal amount claimed in respect of the debt is CI\$2,618.41 plus interest of CI\$642.05 as of the date of filing as advanced and contractually due fees and costs of enforcement. The amount of the filing fees to commence the proceeding is US\$182.93 (CI\$150.00). If, within the time for returning the acknowledgement of service, the defendants pay the plaintiff or its attorneys-at-law the total amount claimed in principal, interest, contractual costs, and the costs of issuing the Writ of Summons and Statement of Claim, further proceedings will be stayed. The money must be paid to the plaintiff or to its attorneys-at-law.

**INDORSEMENT REGARDING INTEREST**

1. The contractual term upon which interest is claimed is as set out in paragraph 4(c) above;
2. The prescribed rate of interest is 18% per annum;
3. The date from which interest is payable is 27 August 2005;
4. The total interest claimed as at 26 August 2005 is CI\$642.05; and
5. The amount of interest accruing due each day is CI\$2.12.

This WRIT OF SUMMONS and STATEMENT OF CLAIM was issued by Appleby Spurling Hunter, attorneys-at-law for the Plaintiff, whose address for service is PO Box 190 GT, Grand Cayman, Cayman Islands (CJJ/00004.059)

Acknowledgment of service of writ of summons (O.12, r.3)

**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, PO Box 495 GT, 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.



**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  
PO Box 190  
George Town  
Grand Cayman  
  
Ref: CJI/00004.059

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