

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 324 OF 2006

B E T W E E N:

KIRKCONNELL BROTHERS LTD.



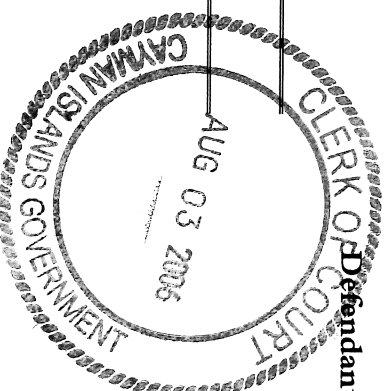
Plaintiff

AND

RALPH WRIGHT T/A PRO-ACTIVE CONSTRUCTION

Defendant

WRIT OF SUMMONS



TO: **Ralph Wright t/a Pro-Active Construction**  
PO Box 428 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 2<sup>nd</sup> day of August 2006

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.

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**STATEMENT OF CLAIM**

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1. The Plaintiff is and was at all material times a company organised and carrying on business pursuant to the laws of the Cayman Islands. The Plaintiff's registered office is PO Box 72 George Town, Grand Cayman, Cayman Islands.
2. The Defendant is an individual residing in the Cayman Islands with a mailing address of PO Box 428 GT, Grand Cayman, Cayman Islands. The Defendant, at all material times, carried on business as "Pro-Active Construction" which has a mailing address of PO Box 428 GT, Grand Cayman, Cayman Islands.

3. The Defendant wrote six cheques to the Plaintiff totalling the amount of CI\$4,600.29 drawn from an account maintained by the Defendant at the First Caribbean International Bank (Cayman) Limited (the "**Cheques**"). The details of the Cheques are as follows:

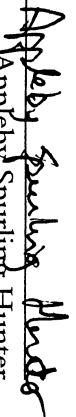
Date	Payee	Cheque Number	Amount
20 July 2005	Kirk Home Centre	0018	\$263.76
20 July 2005	Kirkconnell Brothers Ltd.	0019	\$89.00
23 July 2005	Kirkconnell Brothers Ltd.	0020	\$472.77
30 July 2005	Kirk Home Centre	0021	\$1,701.13
30 July 2005	Kirks	0022	\$1,929.43
12 August 2005	Kirkconnell Brothers Ltd.	0033	\$144.20

4. "Kirk Home Centre" is a trade name of the Plaintiff.
5. The Plaintiff presented the Cheques for payment to First Caribbean International Bank (Cayman) Limited and they were dishonoured and returned marked "refer to drawer".
6. The Plaintiff incurred CI\$72.00 in bank charges in relation to the returned Cheques, as the bank charges CI\$12.00 for each returned cheque.

7. The Plaintiff's attorneys sent a letter on 30 May 2006 to the Defendant by personal service to advise him of the returned Cheques and request re-payment. To date, no payments have been made by the Defendant to honour the returned Cheques.
8. The total amount outstanding owed to the Plaintiff by the Defendant as of 2 August 2006 is principal of CI\$4,600.29 plus bank charges of CI\$72.00 plus interest to 2 August 2006 of CI\$139.58 calculated at the rate of 3 percent in accordance with the *Judicature Law (2004 Revision)* and the Judgment Debt (Rates of Interest) Rules, exclusive of costs for a total of CI\$4,811.87.
9. As a result of the above, the Plaintiff is entitled to the relief claimed in this proceeding.

AND THE PLAINTIFF claims:

- a) CI\$4,600.29 being the principal sum due to 2 August 2006;
- b) CI\$72.00 bank charges;
- c) CI\$139.58 Pre-judgment interest calculated to 2 August 2006 at 3 percent in accordance with the *Judicature Law (2004 Revision)* and the Judgment Debt (Rates of Interest) Rules;
- d) Pre and post judgment interest in accordance with the *Judicature Law (2004 Revision)* and the Judgment Debt (Rates of Interest) Rules as amended from time to time;
- e) 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\$4,600.29 plus bank charges of CI\$72.00 plus interest of CI\$139.58 as of 2 August 2006. The amount of the filing fees to commence the proceeding is CI\$150.00. 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, further proceedings will be stayed. The money must be paid to the plaintiff or to its attorneys-at-law.

### INDORSEMENT REGARDING INTEREST

1. The term upon which interest is claimed is in accordance with the *Judicature Law (2004 Revision)* and the Judgment Debt (Rates of Interest) Rules as amended from time to time;
2. The prescribed rate of interest at the relevant time in accordance with the *Judicature Law (2004 Revision)* and the Judgment Debt (Rates of Interest) Rules to the is 3% per annum;
3. The date from which interest is payable is the date of the Cheques;
4. The total interest claimed as at 2 August 2006 is CI\$139.58; and
5. The amount of interest accruing due each day is CI\$0.84.

This WRIT OF SUMMONS was filed by Appleby Spurling Hunter, Attorneys-at-Law, for and on behalf of the Plaintiff whose address for service is Clifton House, 75 Fort Street, PO Box 190 GT, Grand Cayman (ref: CJJ/09431.089)

**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.

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Defendant

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**ACKNOWLEDGMENT 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.

**HAVE TO BE RETURNED.**

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                       no  

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Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for  
[Defendant in person]

Address for service:

*Please complete overlap*

**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 plaintiffs 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: CJJ/09431.089
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Indorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.

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