

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO 358 OF 2006

BETWEEN: TROPICAL L'ATTITUDE LTD

PLAINTIFF

AND: (1) MARK JOHNSON

(2) KENITA JOHNSON

DEFENDANTS



WRIT OF SUMMONS

**TO: Mark Johnson and Kenita Johnson
Both of D1 Poinsettia,
West Bay Road,
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, P.O. Box 495G, 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 27th 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 Acknowledgment of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiff, Tropical L'Attitude, is a company incorporated as an ordinary resident company pursuant to the Companies Law (2005 Revision) (the "Company").
2. The Company carries on the business of selling gifts and memorabilia to tourists and visitors to the Cayman Islands from premises at Butterfield Place, Edward Street, George Town, Grand Cayman.
3. The Company was established in April 1998. The sole director of the Company is Ms Harriett Lott. Until 19 August 2006, the shareholders of the Company were Campbell Nominees Ltd, holding 60% of the issued share capital of the Company on behalf of Harriett Lott and Campbells Directors Ltd holding 40% of the issued share capital of the Company on behalf of Mark and Kenita Johnson, the First and Second Defendants herein. By way of a written instrument dated 19 August 2006 the First and Second Defendants surrendered their beneficial interest in the shares in the Company held on their behalf by Campbells Directors Ltd. Those shares have since been treated as returned to the Company and the relevant share certificate has been cancelled.
4. Until their resignation without notice on 19 August 2006, the First and Second Defendants were employees of the Company. The Second Defendant was the office coordinator of the Company's trading premises and also responsible for ordering and accounting for stock and the input of sales and stock information into the Company's computer system. The First Defendant was employed as a warehouse attendant. The position of the Company in relation to the conduct of the First and Second Defendant is reserved generally and in particular whether in connection with the Company and its assets the First and Second Defendant acted

in good faith and in accordance with the duties that they owed to the Company as employees.

5. The First and Second Defendants are registered proprietors of two warehouses situated at North Sound Road, registered at the Land Registry as Block 20B Parcels 357H 2 and 357H 3 (“Warehouse 2” and “Warehouse 3” collectively the “Warehouses”). The Company reserves its position in relation to the circumstances in which Warehouse 2 was purchased and the extent to which assets of the Company may have been used by the First and Second Defendants without the authority of the Company to fund that purchase and the on going maintenance expenses of that Warehouse.

6. Various stock belonging to the Company was stored in Warehouse 2. In their letter of resignation dated 19 August 2006 the First and Second Defendants stated “Please arrange to transfer all Tropical L’ Attitude merchandise from our personal warehouse no later than 31 August, 2006 or we will dispose of it as we see fit. You may call 547.3631 to arrange for a time when the warehouse will be opened for you.”


7. On 25 August 2006 Ms Harriett Lott attended at the relevant warehouse (Warehouse 2) and was met by the First Defendant. The warehouse was opened and contained stock belonging to the Company. Arrangements were made by Ms Lott to take an inventory of the contents of the warehouse and to remove its contents to an alternative location. Whilst at the warehouse, Ms Lott asked Mr Johnson what was stored in Warehouse 3. He informed Ms Lott that a silk screen printing machine (the “Machine”) owned by the Company was in that warehouse but that he and the Second Defendant had recently sold it to a third party. Ms Lott advised Mr Johnson that the Machine was the property of the Company and was shown on its balance sheet. Despite repeated requests to Mr Johnson to open the warehouse and in the presence of an officer of the Royal Cayman Islands Police Force he refused to do so.

8. Despite demand, Mr Johnson has wrongfully refused to return the Machine to the Company, and is wrongfully detaining the same, causing the Company loss and damage.
9. Further, Mr Johnson refused to confirm what other property of the Company, if any, was stored in Warehouse 3 and at any other location.
10. Further, the Plaintiff seeks and is entitled to interest, pursuant to section 34 of the Judicature Law (2004 Revision) on any sum that may be found to be due to the Company at such rate from such date and on such amount as the Court thinks fit

AND THE PLAINTIFF CLAIMS:

- (1) The return of the Machine or its value, and damages.
- (2) All necessary and proper accounts and enquiries in connection with any property of the Company which is detained by the First and Second Defendants in Warehouse 3 and other location and the return of any such property of its value, and damages.
- (3) Costs
- (4) Further and other relief as the Honourable Court deems just.

DATED this *28* day of August 2006.


CAMPBELLS
Attorneys-at-Law for the Plaintiff

THIS WRIT was issued by Campbells, Attorneys-at-Law for the Plaintiff whose address for service is PO Box 884GT, 4th Floor, Scotia Centre, George Town, Grand Cayman Tel: 949-2648 Fax: 949-8613 (Ref: AJW/BJH/sm/13480)

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 495, 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

1. 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.

BETWEEN: TROPICAL L'ATTITUDE LTD

PLAINTIFF

AND: (1) MARK JOHNSON

(2) KENITA JOHNSON

DEFENDANTS

ACKNOWLEDGEMENT 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.

2. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged –

3. State whether the Defendant intends to contest the proceedings (tick appropriate box)

yes

no

4. 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

Service of the Writ is acknowledged accordingly

(Signed) _____

[Attorney] for
[Defendant in person]
Address for service:

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.

Campbells Attorneys-at-Law
P. O. Box 884 GT
Scotiabank Building
George Town
Grand Cayman

Tel: 949 2648
Fax: 949 8613
Ref: AJW/07068

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