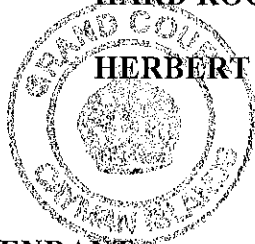


IN THE GRAND COURT OF THE CAYMAN ISLANDS

456  
CAUSE NO: of 2006

BETWEEN: **HARD ROCK CONSTRUCTION LIMITED** PLAINTIFF

AND: **HERBERT PEINTNER** DEFENDANT



**WRIT OF SUMMONS**



**TO THE DEFENDANT:**

HERBERT PEINTNER  
of  
Moonbay Condominium  
PO Box 114  
Grand Cayman KY1 – 1601  
and  
PO Box 10615  
Grand Cayman KY1 -1006

CAYMAN ISLANDS

**THIS WRIT OF SUMMONS** has been issued against you by the above-named Plaintiffs 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 495, George Town, Grand Cayman KY1-1106, 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 [ ]th day of November 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.

**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

**CAUSE NO: of 2006**

**BETWEEN: HARD ROCK CONSTRUCTION LIMITED PLAINTIFF**

**AND: HERBERT PEINTNER DEFENDANT**

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**STATEMENT OF CLAIM**

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1. The Plaintiff is a Cayman Islands Registered Company which carries on the business of general building contractors in the Cayman Islands.
2. Pursuant to an agreement in writing dated 12<sup>th</sup> December 2004 (“the Contract”):
  - (a) The Plaintiff agreed:
    - (i) to repair and refurbish a condominium development called “Coconut Harbour”, which had been badly damaged as a result of Hurricane Ivan, into 32 self contained units for a price of CI\$15,000 per unit (CI\$480,000 in total) and
    - (ii) To re-construct the roof over the units for CI\$50,000
    - (iii) To start constructions on 20<sup>th</sup> February 2005
  - (b) The Defendant agreed to pay the Plaintiff the sum of CI\$480,000 in respect of the 32 units as follows:
    - (i) Transfer of title of units 27, 28 and 29 Moonbay Condominiums to the Plaintiff, for an agreed value of CI\$400,000, at the commencement of works

- (ii) Payment of the balance in 4 equal instalments of CI\$20,000 during the period of construction and
  - (iii) CI\$50,000 for the roof, at the commencement of works.
3. In accordance with the terms of the Contract, the Plaintiff commenced works on or about 20<sup>th</sup> February 2005, and completed them in about early 2006.
  4. Wrongfully, and in breach of the express term pleaded in Paragraph 2(b)(i) above, the Defendant failed to transfer title in Units 27,28 and 29 Moonbay Condominiums to the Plaintiff, either at the start of construction or at all, whereby the Plaintiff has suffered loss and damage.

**PARTICULARS OF LOSS AND DAMAGE**

<b>Item</b>	<b>Paid</b>	<b>Outstanding Balance</b>
	<b>CIS</b>	<b>CIS</b>
(a) Contract sum		530,000
(b) 18 <sup>th</sup> October 2005	41,000	489,000
(c) 16 <sup>th</sup> November 2005	9,000	480,000
(d) 23 <sup>rd</sup> November 2005	101,000	379,000
(e) Roof	50,000	329,000
(f) Instalments	80,000	<b>CI\$249,000</b>

The Plaintiff reserves the right to claim the profit which it have made had the title in the Units 27,28 and 29 Moonbay been transferred to it, and then sold by them.

5. Further, pursuant to the Defendant's oral instructions, given to Mr. Gary Mullings on behalf of the Plaintiff shortly before the works were carried out, the Plaintiff carried out further works for the Defendant at Units 20 and 24 Moonbay Condominiums ("the Moonbay Works"), for which the Plaintiff is entitled to be paid a reasonable sum.
6. By an invoice dated 12<sup>th</sup> April 2006, the Plaintiff claimed CI\$10,300 for the Moonbay Works, which invoice remains unpaid, whereby the Plaintiff has

suffered loss and damage. The Plaintiff will say that a reasonable sum for the Moonbay Works is not less than CI\$10,300.

7. Further, pursuant to the Defendant's oral instructions, given to Mr. Gary Mullings on behalf of the Plaintiff shortly before the works were carried out, the Plaintiff carried out further works for the Defendant at the Miniature Golf Course on West Bay Road ("the Golf Course Works"), for which the Plaintiff is entitled to be paid a reasonable sum.
8. By an invoice dated 12<sup>th</sup> December 2005, the Plaintiff claimed CI\$2,755 for the Golf Course Works, which invoice remains unpaid, whereby the Plaintiff has suffered loss and damage. The Plaintiff will say that a reasonable sum for the Moonbay Works is not less than CI\$2,755.
9. Further, pursuant to the Defendant's oral instructions, given to Mr. Gary Mullings on behalf of the Plaintiff shortly before the works were carried out, the Plaintiff carried out further works for the Defendant at Coconut Harbour ("the Additional Works"), for which the Plaintiff is entitled to be paid a reasonable sum.
10. By an invoice dated 7<sup>th</sup> September 2006, the Plaintiff claimed CI\$43,947 for the Additional Works, which invoice remains unpaid, whereby the Plaintiff has suffered loss and damage. The Plaintiff will say that a reasonable sum for the Additional Works is not less than CI\$43,947,
11. Further, the Plaintiffs are entitled to interest pursuant to s.34(1) of the Judicature Law (2004 Revision) to 6<sup>th</sup> November 2006 as follows:


<b>Sum outstanding</b>	<b>Interest starts</b>	<b>Rate</b>	<b>Total</b>
<b>CI\$</b>		<b>%</b>	<b>CI\$</b>
249,000	23/11/2005	3	4482.00
	01/07/2006	7.25	6330.74
10,300	12/05/2005	3	350.48
	01/07/2006	7.25	261.87
2,755	12/01/2006	3	38.27
	01/07/2006	7.25	70.04

<b>Sum outstanding</b>	<b>Interest starts</b>	<b>Rate</b>	<b>Total</b>
<b>CIS</b>		<b>%</b>	<b>CIS</b>
43,947	07/10/2006	7.25	261.88
			<b>CIS11,795.28</b>

and continuing at a daily rate of CI\$30.27 until judgment or sooner payment, alternatively at such rate from such date and on such amount as this honourable Court thinks fit.

**AND THE PLAINTIFF CLAIMS:**

- (1) CI\$306,002 alternatively
- (2) CI\$249,000 together with payment of a reasonable sum in respect of the Moonbay Works, the Golf Course Works and the Additional Works alternatively
- (3) Damages to be assessed
- (4) Interest pursuant to contract alternatively pursuant to s. 34(1) of the Judicature Law as set out in Paragraph 11 above alternatively, to be assessed.
- (5) Costs; and
- (6) Such further and/or other relief as this honourable Court thinks fit.

  
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**CAMPBELLS**  
**Attorneys-at-Law for the Plaintiffs**

**THIS WRIT OF SUMMONS AND STATEMENT OF CLAIM** is issued by Campbells, Attorneys-at-Law for and on behalf of the Plaintiff, whose address for service is 4<sup>th</sup> Floor, Scotia Centre, PO Box 884 GT, George Town, Grand Cayman (Ref: STM/KAH/13348).