

IN THE GRAND COURT OF THE CAYMAN ISLANDS

478

CAUSE NO: OF 2006

BETWEEN:

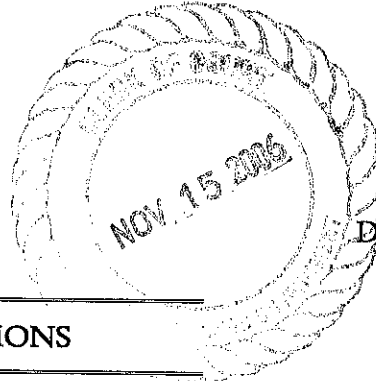
APPLEBY HUNTER BAILHACHE, A FIRM

Plaintiff

AND

TONY FRASER

Defendant



WRIT OF SUMMONS

To the Defendant:

Tony Fraser  
#54 Yard Street, Belford Estates  
P.O. Box 139  
Grand Cayman, KY1-1501  
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 495GT, 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 14<sup>th</sup> 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 Acknowledgement of Service are given with the accompanying form.

## STATEMENT OF CLAIM

1. The Plaintiff is a law firm, whose principal place of business is located at 75 Fort Street, George Town, Grand Cayman.
2. The Defendant is a resident of the Cayman Islands.
3. In or about August 2003, the Defendant engaged the services of the Plaintiff to represent him in respect of matrimonial law matters.
4. The Plaintiff firm and the Defendant agreed, and the Defendant signed an Engagement letter (hereinafter called the "Engagement Letter") on 9 March 2004, expressly stating *inter alia* the following terms:
  - a. The Plaintiff would provide legal services to the Defendant in the stated proceeding;
  - b. The Plaintiff would render invoices for such services based on the time expended on the matter at the billable rates of the attorneys engaged on the file;
  - c. The Defendant would promptly pay invoices upon rendering;
  - d. The Defendant would pay 15% interest on all unpaid invoices and the Plaintiff's legal costs for any enforcement proceedings on a full indemnity basis.
5. The following chart exhibits the invoices rendered by the Plaintiff to the Defendant (the "Invoices") and the amount owing as of today's date:

<u>Date</u>	<u>Invoice</u>	<u>Amount in US\$</u>	<u>Still Owing</u>
26 Aug 2003	44129	\$1,401.65	Paid
28 Nov 2003	46544	\$5,666.14	Paid
23 Mar 2004	48819	\$5,003.21	\$1,545.79
7 Jul 2004	51022	\$12,059.69	\$12,059.69
24 Dec 2004	54481	\$2,804.00	\$899.24
29 Mar 2005	56435	\$612.75	\$17.52
			<b>\$14,522.24</b>

6. To this date, and despite executing a Promissory Note on 20 January 2006 specifically acknowledging the debt in relation to the Invoices, agreeing to pay all legal fees on a full indemnity basis for collections efforts on default, and agreeing to pay interest on the declining balance at 15% and at the rate of 15% per annum on any default (the "Promissory Note"), the Defendant has not settled the outstanding Invoices or contacted the Plaintiff with an alternate proposal, and the debt remains outstanding.
7. The Defendant has ignored subsequent demands to pay and has failed to pay the amount due and owing to the Plaintiff and is presently in arrears in the amount of US\$14,522.24.
8. Therefore, the Defendant is indebted to the Plaintiff pursuant to the terms of the Engagement Letter and the Promissory Note for legal services and disbursements in the amount of the unpaid Invoices totalling US\$14,522.24, plus interest, legal fees and costs.

#### AND THE PLAINTIFF CLAIMS

1. Principal in the amount of US\$14,522.24 in respect of the above-pleaded unpaid Invoices pursuant to the terms of the Engagement Letter and the Promissory Note;
2. Interest pursuant to the terms of the Promissory Note at the rate of 15% per annum;
3. In the alternative, pre and post Judgment Interest from 23 April 2004 in accordance with the *Judicature Law (2004 Revision)* and the Judgment Debt (Rates of Interest) Rules as amended from time to time; and
4. Costs as agreed or taxed.

INDORSEMENT

The amount claimed in respect of the debt is US\$14,522.24 as principal and US\$3,342.99 interest with costs to be assessed. 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 US\$243.90 (CI\$200.00) proceedings will be stayed. The money must be paid to the Plaintiff. If no payment is made, the Plaintiff elects to have costs taxed.

INDORSEMENT REGARDING INTEREST

(Order 6 (2)(e) of the Grand Court Rules)

- i. The prescribed rate of interest pursuant to the terms of the Promissory Note from 23 April 2004 is 15%;
- ii. In the alternative, the prescribed rate of interest during the relevant period from 23 April 2004 (30 days past the issuance of the invoice) to 1 July 2006 is 3.0% and thereafter is 7.25%;
- iii. The total interest claimed as at the date of the issue of the Writ of Summons is US\$3,342.99; and
- iv. The amount of interest accruing each day following the issue of the Writ of Summons is US\$4.12 per day.

Appleby Hunter Bailhache  
Appleby Hunter Bailhache  
Attorneys-at-Law for the Plaintiff

Plaintiff's address for service

Appleby Hunter Bailhache, Attorneys-at-Law The Clifton House 75 Fort Street P.O. Box 190 GT, George Town, Grand Cayman Ref: CJJ/SH/09707.666
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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, P.O. Box 495G, 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 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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APPLEBY HUNTER BAILHACHE, A FIRM

Plaintiff

AND

TONY FRASER

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

- 
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
- 
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
- 

Service of the Writ is acknowledged accordingly

(Signed) \_\_\_\_\_  
[Attorney] for  
[Defendant in person]  
Address for service:

*Please complete overleaf*

**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 Hunter Bailhache  
Attorneys-at-Law  
75 Fort Street, P.O. Box 190 GT  
Grand Cayman  
Tel: 949-4900  
Fax: 949-4901  
Ref: CJJ/SH/09707.666

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

[Empty box for defendant's attorney indorsement]