

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 60144 of 2009

BETWEEN:

**HERITAGE HOLDINGS LTD.**

Plaintiff

and

**(1) MONSTER ENTERTAINMENT LTD.**

**(2) ANDRE ALEXANDER**

Defendants

**WRIT OF SUMMONS**

TO: The First Defendant  
Registered Office Address  
c/o Turner & Roulstone Management Ltd.  
PO Box 2636  
Grand Cayman

AND TO: The Second Defendant  
Andre Alexander  
PO Box 31441  
Grand Cayman  
KY1-1206



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 the Court Office, P.O. Box 495 Grand Cayman KY1-1106, Cayman Islands, 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 26<sup>th</sup> day of March, 2009**

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 the freehold owner entitled to possession of the retail unit premises situated at Units 3 and 4, Building B, Countryside Shopping Village, Savannah, Block 28D Parcel 319, H5 & H6, Grand Cayman, Cayman Islands (“the Premises”).
2. By a lease made on 12<sup>th</sup> June 2008 between the Plaintiff and the First Defendant the premises were demised to the First Defendant for a term of 1 year commencing 1<sup>st</sup> September 2008, at a rent of CI\$60,118.87 for the first year of the lease payable to the Plaintiff by monthly installments of CI\$5,009.87 (Clause 2.1.3.1 of the said lease). Further, the First Defendant agreed to pay to the Plaintiff an additional Service Charge of CI\$13,300 per annum (Clause 2.1.3.3 of the lease) payable in monthly installments of CI\$1,108 making a total of CI\$6,118 due in rent on the 1<sup>st</sup> day of every month. From this amount the Plaintiffs agreed to a rent rebate of CI\$594.00 per month which was applied to the rent due in the material period of time. Taking this rent rebate into account the amount payable monthly by the First Defendant amounted to **CI\$5,524.00** (CI\$6,118 – CI\$594) such amount hereinafter being referred to as “rent”.
3. By an agreement dated 15<sup>th</sup> February 2009 (“the Promissory Note”) the First Defendant agreed to pay the Plaintiff the principal sum of **CI\$43,243.00** plus interest at 8% per annum compounded monthly, such sum being rent arrears accrued by the First Defendant under its previous lease agreement for the Premises in respect of which the Plaintiff and First Defendant executed the promissory note
4. An Event of Default under the Promissory Note (Clause 7.0(d)) occurs when the First Defendant fails to pay its debts as they fall due.

5. Further, the Second Defendant is the guarantor of the First Defendant's obligations under the said Lease and Promissory Note, under a Deed of Guarantee executed between the parties on or about 15<sup>th</sup> February 2008.
6. The Plaintiff gave notice of forfeiture ("the Notice") of the said Lease by Notice dated 10<sup>th</sup> February 2009 that was delivered to the Defendants by registered mail and received, such Notice being pursuant to Section 56 of the Registered Land Law.
7. The Notice gave the Defendant(s) 7 days from the date of receipt thereof to remedy breaches of the Lease in that Monster has failed to pay rent due on 1 December 2008, 1 January 2009, and on 1 February 2009 amounting to CI\$16,572.00. Since the date of the Notice the Defendant(s) have failed to pay the rent on 1<sup>st</sup> March 2009 thereby bringing the current rent arrears to **CI\$22,096.00**.
8. The Lease includes at Clause 4.1.1 a proviso for re-entry entitling the Plaintiff to forfeit the lease in the event that the rent is unpaid.
9. Accordingly the Plaintiff is entitled to forfeit the lease and by the service of these proceedings the lease is forfeited to the Plaintiff.
10. Further, the First Defendant by failing to pay the rent as it fell due committed an Event of Default under Clause 7.0(d) of the Promissory Note and the Plaintiff claims the balance outstanding on that loan together with interest accrued which as at 31<sup>st</sup> January 2009 amounted to **CI\$38,212.89**.
11. The Plaintiff relies upon the terms and conditions of the Lease, Deed of Guarantee, and Promissory Note to their full effect.
12. The Plaintiff is entitled to interest and a CI\$75 administrative charge under Clause 3.2 of the Lease such interest being at a rate of 18% per annum calculated on a

daily basis and compounded monthly. The current outstanding administrative charges and interest incurred by the Defendant(s) in respect of the rent arrears set out at paragraph 7 above, is **CI\$579.00**, the particulars of which are as follows.

PARTICULARS

December 2008:	CI\$93
January 2009 :	CI\$93
February 2009 :	CI\$84
March 2009 :	CI\$93
Plus 4 months of CI\$75 administrative charges (CI\$300)	
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	<b>CI\$579.00</b>

13. The Plaintiff is entitled to interest at an annual rate of 8% upon the outstanding sum of CI\$38,212,89 due under the promissory note set out at paragraphs 3 and 10 above. Interest is due upon this sum from 1<sup>st</sup> February onwards at a daily rate of CI\$8. Interest due at the date of issue herein amounts to **CI\$432** (54 days).
  
14. Further or alternatively the Plaintiff seeks interest pursuant to Section 34 of The Judicature Law (2004 Revision), on all sums found to be due to it at the rate of 5% per annum prescribed by the Judgment Debts (Rates if Interest) Rules 2008 from the date of issue herein until Judgment or payment in full.

**AND the Plaintiff claims:**

- (1) Possession of the Premises.
- (2) **CI\$22,096.00** arrears of rent under the lease agreement
- (3) **CI\$38,212.89** due under the Promissory Note
- (4) Further or alternatively, damages for breach of contract.

- (5) Mesne profits at the rate of **CIS195.29** a day from the date of service of this Writ until possession is given up.
- (6) Interest and charges due pursuant to clause 3.2 of the lease agreement at the rates and for the periods specified in the schedule attached to this Statement of Claim totaling **CIS579** and continuing at the rate of approximately CIS3.00 per day until judgment or sooner payment.
- (7) Interest due under the Promissory Note as set out in paragraph 13 above in the sum of **CIS432** and continuing at the rate of approximately CIS8.00 per day until judgment or sooner payment.
- (8) Further or alternatively interest pursuant to the Judicature Law.

Dated this 26<sup>th</sup> day of March 2009

*Priestleys.*

**PRIESTLEYS**

Attorneys-at-Law for the Plaintiffs

TO: The Clerk of the Court

AND TO: The First Defendant  
Monster Entertainment Ltd.  
c/o Turner & Roulstone Management Ltd.  
Strathvale House  
90 North Church Street  
PO Box 2636  
KY1-1102

AND TO: The Second Defendant  
Andre Alexander  
PO Box 31441  
KY1-1206

This Writ and Statement of Claim is issued by Priestleys Attorneys-at-Law for the Plaintiff herein whose address for service is Unit 11 Galleria Plaza, 638 West Bay Road, P.O. Box 30310, Grand Cayman, KY1-1202

**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE  
OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgement 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, PO Box 495, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement 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 endorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2). The defence must be served within fourteen (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 endorsed on the Writ, the defence need not be served until fourteen (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 fourteen (14) days after his Acknowledgement, 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.

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 fourteen (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 authorized to act on behalf of the Company, but the Company can take no further steps in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL HEALTH 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. \_\_\_\_\_ of 2009

BETWEEN:

**HERITAGE HOLDINGS LTD.**

Plaintiff

and

**(1) MONSTER ENTERTAINMENT LTD**

**(2) ANDRE ALEXANDER**

Defendants

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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.*

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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) \_\_\_\_\_

Address for service:

*Please see 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 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.

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

**PRIESTLEYS**  
ATTORNEYS-AT-LAW  
UNIT 11 GALLERIA PLAZA  
638 West Bay Road  
PO BOX 30310  
GEORGE TOWN, GRAND CAYMAN  
CAYMAN ISLANDS, KY1-1202

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