



IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 0190 OF 2009

BETWEEN: BOLIVAR DURAN(VIVE COMPANIA LTD) 1ST PLAINTIFF
AND: SIMON BOLIVAR DURAN DURAN 2ND PLAINTIFF
AND: XANADU DISTRIBUTING CO.(1998) LTD 1ST DEFENDANT
AND: ELSIE MYLES 2ND DEFENDANT

TO: Xanadu Distributing Co.(1998) Ltd AND Elsie Myles
69B Barnes Drive, Units 1,2 &3 P.O.Box 10069APO
Cayman Islands Grand Cayman



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 495 G T, George Town, 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 at George Town, this 21 day of April, 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, (six (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 1st Plaintiff is a corporation registered in Ecuador and doing business, inter alia, as a manufacturer, supplier and exporter of various types of clothing apparels.
2. The 2nd Plaintiff is the owner and managing director of the 1st Plaintiff.
3. The Plaintiffs' address for service for purposes of this proceeding is in care of their attorney-at-law, Morris Garcia, Suite #2, Nevlaw Building, George Town, Grand Cayman.
4. The 1st Defendant is a local company registered pursuant to the laws of the Cayman Islands and is and was at all material times a customer of the Plaintiffs.
5. The 2nd Defendant is an individual who resides in the Cayman Islands. She was at all material times the main contact between the 1st Defendant and the Plaintiffs and to the best of the Plaintiffs' knowledge she was a director, officer and the directing mind of the 1st Defendant.
6. The Plaintiffs and the Defendant entered into a contractual relationship whereby the Defendants placed orders with the Plaintiffs for various types of retail clothing apparels. The Plaintiffs would consign the clothing apparels to the Defendants in container loads to the Cayman Islands. In consideration, the Defendants would pay the amounts demanded by the Plaintiffs in invoices sent to the Defendants. Payments were made by the Defendants by depositing funds, as per terms of the invoices, into a US account held in the name of the Plaintiffs at a local bank.
7. In or around April 2005, the Plaintiffs consigned a container load of retail clothing apparels to the Defendants in the manner described above by way of purchase orders # 1824 and #1825 amounting to a total of US\$95,457.00.
8. The 2nd Defendant received the container load of clothing apparels and is alleged to have cleared same at C.I. Customs. Details of the various types of clothing apparels are well known to the Defendants.
9. Pursuant to the invoices for the purchase Orders, payment terms were "120 days weekly payment of US\$5,238.17 for 4 months".
10. The Plaintiffs will rely on the said agreement between the parties as well as the terms of the said invoices for their legal effect at the hearing of this matter.

11. That in breach of the said agreement and the terms of the invoices, the Defendants did not commence payments of the invoices until July 4, 2006. To date, the following amounts ,with dates, have been deposited by the Defendants into the Plaintiffs' bank account by way of payments towards the said amounts of US\$95,457.00 owing to the Plaintiffs on the above invoices/purchase orders.

DATE OF PAYMENT	AMOUNT OF DEPOSIT/ PAYMENT MADE IN US/CI\$
July 4, 2006	US\$10,000.00
August1, 2006	US\$3,500.00
August 15, 2006	CI\$2,050.00 or US\$2,500.00
October 17, 2006	US\$7,718.43
November 20, 2006	US\$1,000.00
March 9, 2007	CI\$4,100.00 or US\$5,000.00
Total sum paid in US Dollars	US\$29,718.43

12. That to the best of the Plaintiffs' knowledge no other sum or sums , other than the above sums, were deposited or have been deposited into the said account or otherwise paid to the Plaintiffs.
13. That the Defendants are in breach of the agreement having not made payments to the Plaintiff towards the full settlement of these invoices and as at the date of commencing this proceeding, the Defendants owed to the Plaintiffs the sum of US\$65,738.57 exclusive of interest and costs.
14. The Plaintiffs and the Defendants have made several attempts to resolve the matter between themselves, with the Defendants at one time promising to make installment payments towards settling the debt but the Defendants later reneged on their promises.
15. That notwithstanding demands made by the Plaintiffs and their attorney for payment, the Defendants have either failed, neglected or refused to make the balance of the remaining payments to the Plaintiffs.
16. That in breach of the terms of the said agreement between the parties, and of the invoiced terms whereby the Defendants must pay off the respective invoices, within four months of receipt of the invoices, the Defendants last made a payment on March 9, 2007 and have not made any further payment since then.
17. That as a result of the Defendants' said breach of the said agreement, and of the invoiced terms, the Plaintiffs have suffered loss and damage and are entitled to the relief sought in this proceeding.
18. Further, the Plaintiffs are entitled to and claim interest on the US\$65,738.57 (CI\$53,905.63) owing to them by the Defendants pursuant to Section 34 of the Judicature Law and the Judgment Debts (Rates of Interest) Rules at the rate of 7.25% from April 1, 2007 to date of issue in the sum of US\$9,809.96(CI\$8,044.17) or under the equitable jurisdiction of the Court on

the amount due and at such rate and for such period as the Court shall deem fit.

19. Further the Plaintiffs are entitled to and hereby claim interest on the said sum of US\$65,738.43 (CI\$53,905.63) at the said rate of 7.25% from the date of commencement of proceeding to judgment or sooner payment at the rate of US\$13.23 (CI\$10.85) per diem.
20. Additionally, the Plaintiffs also claim legal fees and expenses in relation to the collection of this debt

AND THE PLAINTIFFS CLAIM:-

1. Payment of the principal sum of US\$65,738.439 (CI\$53,905.63)
2. Pre- and Post Judgment Interest in accordance with the Judicature Law and the Judgment Debt(Rates of Interest) Rules amounting to US\$9,809.96 (CI\$8,044.17) as of today's date and increasing thereafter at the rate of US\$ 13.23 (CI\$10.85) per day.
3. Costs, disbursements and legal fees.
4. Such further and/or other relief.

INDORSEMENT

If within the time for returning the Acknowledgement of Service, the Defendants pay the total amount claimed of US\$65,738.57 (CI\$ 53,905.63) plus interest, costs, disbursements and legal expenses) further proceedings will be stayed. The money must be paid to the Plaintiff or its attorneys.

INDORSEMENT REGARDING INTEREST

1. The prescribed rate of interest throughout the relevant period is 7.25% per annum.
2. The date from which interest is calculated is April 1, 2007.
3. The total amount of interest claimed as at the date of the issue of the Writ of Summons is US\$9,809.96 (CI\$8,044.17)
4. The amount of interest accruing thereafter is US\$13.23 (CI\$10.85) per day.

DATED this 21st day of April, 2009.

Morris M Garcia
Attorney-at-law for the Plaintiffs

This Writ was issued by Morris M Garcia, Suite #2, Nevlaw Building,
George Town, Grand Cayman, attorney-at-law for the Plaintiffs.

Service of the Writ is acknowledged accordingly

(Signed) _____

(Attorney) for:

(Defendant in person)

Address for service:

Note 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 the 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.

Indorsement by the Plaintiff's attorney (or by the Plaintiff if acting in person) of his name and address in the box below.

Morris M Garcia P.O.Box 253,Grand Cayman KY1-1501 Cayman Islands
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Indorsement by the Defendant's ' attorney (or by the Defendant if suing in person) of his name and address in the box below.

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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 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 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 acting in person).

If a Statement of Claim is endorsed on the Writ (ie. 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 a Statement of Claim is not endorsed 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 affidavit of his means. The affidavit should state any offer which the defendant desires to make for the payment of the money by installments 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 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 a 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.