

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO: SC ⁴⁵ OF 2020

BETWEEN:

CAYMAN PREMIX LIMITED

Plaintiff

AND

ROGER SMALL

Defendant



PLAINT

TO:

Roger Small
P.O. Box 644
Grand Cayman, KY1-1007
Cayman Islands



THIS PLAINT 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 service of this Complaint on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495 GT, George Town, Grand Cayman, the accompanying Acknowledgement of Service stating therein whether you intend to contest this action. If you intend to defend the action, in whole or in part, you must set out full particulars of your defence in the space provided in the Acknowledgment of Service form.

If you fail to satisfy the claim or to return the Acknowledgment of Service form containing full particulars of your defence, the Plaintiff may apply for a default judgment without any further notice to you.

Issued this 17th day of March 2020

See overleaf for particulars of the Plaintiff's claim

PARTICULARS OF CLAIM

1. The Plaintiff is and was at all material times a company organised and carrying on business pursuant to the laws of the Cayman Islands. The Plaintiff's address for service is care of its attorneys, HSM Chambers, 68 Fort Street, P.O. Box 31726, Grand Cayman, KY1-1207, Cayman Islands.
2. The Defendant is an individual who resides in the Cayman Islands with a mailing address of P.O. Box 644, Grand Cayman KY1-1107, Cayman Islands.
3. The Plaintiff's business involves the supply and delivery of concrete, mortar, cement and other similar products. At all material times, the Plaintiff would deliver concrete to a location at the request of the Defendant, and upon delivery provide a delivery slip and then submit an invoice subsequently for the payment for the goods and services rendered. There was no formal contract drawn between the parties to govern the facility by which credit was so advanced.
4. In December 2017, the Defendant, purchased concrete from the Plaintiff for which the Plaintiff produced sales receipts as follows (collectively "the invoices"):
 - i. On 22 December 2017 – Invoice Number CPL20172212 for CI\$7,774.00; and
 - ii. On 29 December 2017 – Invoice Number CPL20172912 for CI\$649.50.

The total amount due under the Invoices was CI\$8,423.50. The Statement detailing the invoices from these transactions are exhibited at "POC1".

4. The Defendant presented the following cheques in consideration for the purchased goods at point of sale (collectively "the Cheques"):
 - i. a Butterfield Bank (Cayman) Limited Cheque No. 236 for CI\$7,730.00 dated 20 December 2017 in his name, which was applied to Invoice Number CPL20172212 for CI\$7,730.00 ("Cheque No. 236"); and
 - ii. a CIBC First Caribbean International Bank Cheque No. 56 for CI\$649.50 dated 21 December 2017 in his name, which was applied to Invoice Number CPL20172912 for CI\$649.50 ("Cheque No. 56").

Exhibited as "POC2" are copies of the Cheques and payment receipts.

5. The aforementioned Cheques were subsequently dishonoured by the Defendant's bank which, in accordance with section 47 of the *Bills of Exchange Law (1997 Revision)* ("the Law"), also provides an immediate right of recourse against the drawer in addition to damages for breach of contract.
6. Further, the Plaintiff suffered loss and damage when it incurred a bank return fee of CI\$45.00 for the dishonoured Cheque.
7. The total amount due under the Invoices was CI\$8,423.50.
8. The delivery slips contained, *inter alia*, the following terms on the reverse:

"If it becomes necessary to bring any action to collect amounts due on this invoice, Purchaser shall be responsible for reasonable attorney fees and court costs incurred by vendor in securing collections. Interest shall accrue at 2% per month on outstanding balances".

9. The Defendant has failed or neglected to make full payment of the sums due in respect of the Invoices notwithstanding being sent a demand letter on 4 December 2018, via email.
10. As at the date of this Plaintiff, the Defendant owes to the Plaintiff the principal sum of CI\$8,423.50 together with interest at the rate of 2% per month from 1 January 2019 to date in the sum of CI\$2,420.43 and continuing at the rate of CI\$5.54 per diem.
11. Alternatively statutory interest pursuant to Section 34 of the *Judicature Law (2017 Revision)* and the *Judgment Debts (Rates of Interest) Rules, 2012* at the rate of 2.375% and continuing at the rate of CI\$0.55 per diem for such a period as the Court deems fit.
12. As a result of the above, the Plaintiff is entitled to the relief claimed in these proceedings.

AND THE PLAINTIFF claims:

- a) CI\$8,423.50 being the principal sum due;
- b) Pre and post judgment interest from 1 January 2019 to date in the sum of CI\$2,420.43 and continuing at the rate of CI\$5.54 per diem, at the rate of 2% per month in accordance with the terms of the invoices;

- c) Alternatively, Pre- and post-judgment interest pursuant to Section 34 *Judicature Law (2017 Revision)* and the *Judgment Debts (Rates of Interest) Rules, 2012* at the rate of 2.375% and continuing at the rate of CI\$0.55 per diem;
- d) CI\$175.00 fixed costs pursuant to Section 11 of the *Summary Court Rules, 2004*; and
- e) Such further and other relief as this Court may deem just.

HSM Chambers

**HSM Chambers
Attorneys for the Plaintiff**

INDORSEMENT

The principal amount claimed in respect of the debt is CI\$8,423.50 as of the date of filing. The amount of the filing fees to commence the proceeding is CI\$25.00 together with a claim for fixed cost of CI\$150.00 upon commencement of a claim. If, within the time for returning the acknowledgement of service, the defendants pay the plaintiff or its attorneys-at-law the total amount claimed in principal and the costs of issuing the Plaintiff, further proceedings will be stayed. The money must be paid to the plaintiff or to its attorneys-at-law.

INDORSEMENT REGARDING INTEREST

1. The contractual term upon which interest is claimed is as set out in paragraph 8 above.
2. The prescribed rate of interest is 2% per month.
3. The date from which interest is payable is from 1 January 2019.
4. The amount of interest accruing due each day is CI\$5.54.
5. Alternatively, pre- and post-judgment interest in accordance with Section 34 *Judicature Law (2017 Revision)* and the *Judgment Debts (Rates of Interest) Rules, 2012* at the rate of 2.375% and continuing at the rate of CI\$0.55 per diem

This Plaintiff was filed by HSM Chambers, Attorneys-at-Law for the Plaintiff whose address for service is 68 Fort Street, George Town, PO Box 31726, Grand Cayman, KY1-1207, Cayman Islands (ref:418890.0034)

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO: SC OF 2020

B E T W E E N:

CAYMAN PREMIX LIMITED

Plaintiff

AND

ROGER SMALL

Defendant

ACKNOWLEDGMENT OF SERVICE

1. State Defendant's name and address:-

2. State whether the Defendant intends to contest the action.

Yes

No

3. If you do not intend to contest the action, do you want time in which to pay the claim?

Yes

No

4. If you do intend to contest the action, in whole or in part, you must set out full particulars of your defence overleaf.

Service of the Plaintiff is acknowledged accordingly.

Defendant's Signature

Dated this day of 2020.

See overleaf

PARTICULARS OF DEFENCE

1. *[Here set out in numbered paragraphs the grounds upon which the Plaintiff claims that the Defendant is indebted to him or is liable to pay damages to him]*

Defendant's Signature

REMINDER -This form must be taken or sent to the Court Office, P.O. Box 495, Grand Cayman KY1-1106 within 14 days of receipt otherwise a default judgment may be entered against you.

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO: SC OF 2020

B E T W E E N:

CAYMAN PREMIX LIMITED

Plaintiff

AND

ROGER SMALL

Defendant

EXHIBIT POC-1

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO: SC OF 2020

B E T W E E N:

CAYMAN PREMIX LIMITED

Plaintiff

AND

ROGER SMALL

Defendant

EXHIBIT POC-2

Payment Receipt

Cayman Premix Limited
179 Seymour Road
Grand Cayman

Received From:
ROGER SMALL
Roger Small

Date Received	21/12/2017	Payment Amount	\$649.50
Payment Method	Check		
Check/Ref. No.	CIBC#56		

Invoices Paid

Date	Number	Amount Applied
20/12/2017	22590	-\$30.00
21/12/2017	22599	-\$619.50

Progen Small



Butterfield

CAYMAN PREMIX LIMITED T/A SUPERMIX
P.O. Box 10236
GRAND CAYMAN
KY1-1002

29th December, 2017

RE: DEBIT ADVICE

Please be advised that your account below has been debited because a cheque you deposited has been returned unpaid.

Your Account	Returned Cheque #	Currency	Amount	Return Reason
1361468350011	000056	KYD	649.50	Signature required

Butterfield Bank.

This confirmation requires no signature.

Enclosure
Cc:

Information Classification: Secret | Confidential | Internal | Public

Butterfield Bank (Cayman) Limited | www.butterfieldgroup.com
P.O. Box 705 | Grand Cayman KY1-1107 | Cayman Islands | Tel (345) 949 7055 | Fax (345) 949 7004

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FROM  **FirstCaribbean**
International Bank

P.O. Box 68, George Town
Grand Cayman KY1-1102 Cayman Islands 17-08-11
(DATE)

PAYABLE TO _____

DRAWN ON SBS

ACCOUNT NO. 10-11-10-11

DATE OF ITEM 01/17/11

DATE NEGOTIATED 17-08-11

BANK
RETURN TO 10078

COMMON REASONS FOR RETURN		
CANNOT TRACE	INCORRECTLY LISTED/ ENCODED AS	\$
POST/STALE DATED		
PAYMENT STOPPED	BANK STAMP REQUIRED	
ACCOUNT CLOSED	FUNDS NOT CLEAR	
BODY FIGURES DIFFER	REQUIRE/ GUARANTEE, ENDORSEMENT	
SIGNATURE(S) IRREGULAR / REQUIRED/ ILLEGIBLE/ UNAUTHORIZED		
CHANGE NOT INITIALLED	NOT ELIGIBLE FOR CLEARING	
DRAWER DECEASED	NO CHEQUING PRIVILEGE	
FORGED ENDORSEMENT/ COUNTERFEIT ITEM	DOMICILE INCORRECT/ REQUIRED	
	CLEARING BANK UNIDENTIFIED	
FUNDS FROZEN	ACCOUNT TRANSFERRED TO YOU	

ADDITIONAL INFORMATION IF REQUIRED

INITIALS
[Signature]

AMOUNT
649.50

ITEMS LISTED IN WRONG CURRENCY
ITEM IN _____ LISTED AS _____

VOID VOID
JBS Property Group Ltd.
P.O. Box 12409
Grand Cayman KY1-1011
Ph: 345-949-8040

000056

PAY TO THE ORDER OF SUPERMIX DATE 21/12/2010
CIS 649.50
SIX HUNDRED FORTY NINE & 50 cts DOLLARS



FirstCaribbean International Bank (Cayman) Limited
Main St., Grand Cayman, Cayman Islands



FOR _____
⑈000056⑈ ⑆24690⑆0⑆0⑆ 10⑈146404⑈ 1⑆0000064950⑆

Payment Receipt

Cayman Premix Limited
179 Seymour Road
Grand Cayman

Received From:
ROGER SMALL
Roger Small

Date Received	16/12/2017	Payment Amount	\$7,730.00
Payment Method	Cash		
Check/Ref. No.	BOB#236		

Invoices Paid

<u>Date</u>	<u>Number</u>	<u>Amount Applied</u>
21/12/2017	22599	-\$7,730.00

Roger Small



Butterfield

Cayman Premix Limited T/A Supermix
P.O. BOX 10236
GRAND CAYMAN
KY1-1002

22th December, 2017

RE: DEBIT ADVICE

Please be advised that your account below has been debited because a cheque you deposited has been returned unpaid.

Your Account	Returned Cheque #	Currency	Amount	Return Reason
1361468350011	000236	KYD	\$7,730.00	Account Closed

Butterfield Bank.

This confirmation requires no signature.

Enclosure

Cc:

Information Classification: Secret | Confidential | Internal | Public

Butterfield Bank (Cayman) Limited | www.butterfieldgroup.com
P.O. Box 705 | Grand Cayman KY1-1107 | Cayman Islands | Tel (345) 949 7055 | Fax (345) 949 7004

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THE FACE OF THIS DOCUMENT HAS COLORED VOID PANTOGRAPH. BACK HAS ARTIFICIAL WATERMARK AND LISTED SECURITY FEATURES.

JBS PROPERTY GROUP LIMITED
PO BOX 12409
GRAND CAYMAN, KY1-1011
345-9388040

000236

Date 20/12/17

Pay to the
Order of

Supermix

CIS 7730.00/100

Seven thousand Seven hundred and thirty - 00/100 dollars



Butterfield

MIDTOWN PLAZA BRANCH
P.O. BOX 705, GRAND CAYMAN KY1-1107
CAYMAN ISLANDS

For

[Handwritten signature]

000236 000000 250 1361561290012