



IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: GC OF 2022

B E T W E E N:

CAYMAN PREMIX LIMITED T/A SUPERMIX

Plaintiff

-V-

RONALD WILSON

Defendant

WRIT OF SUMMONS

TO:

**Ronald Wilson
P.O. Box 1625
Grand Cayman KY1-1109
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 495, Grand Cayman, KY1-1106, Cayman Islands, 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 28th day of June 2022

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 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, George Town, P.O. Box 31726, Grand Cayman, KY1-1207, Cayman Islands. At all material time, the Plaintiff was engaged in the supply and delivery of concrete, mortar, cement and other similar products.
2. The Defendant is an individual who resides in the Cayman Islands with a mailing address of P.O. Box 1625, Grand Cayman, KY1-1109, Cayman Islands.
3. During the period from 23 November 2020 to 21 May 2021, the Defendant requested to purchase, and the Plaintiff agreed to supply, concrete to the Defendant to be repaid in accordance with invoices rendered from time to time.
4. The Defendant would place an order for concrete to be delivered to a certain site location, following which the Plaintiff would dispatch concrete in the required amount to the site. Upon delivery of the concrete, the Plaintiff would provide a Delivery Ticket contemporaneously, which was signed by the Defendant, or the Defendant's agent, at the point of delivery. An invoice based upon the Delivery Ticket would then be rendered and sent to the Defendant.
5. There was no formal written contract drawn between the parties to govern the facility by which credit was so advanced, however the terms and conditions of payment were known to the Defendant at all material times, and were clarified in writing on the front and back of each Delivery Ticket. Each Delivery Ticket had a signature box to be signed by the Defendant or their agent, above which was written:

"SUBJECT TO THE TERMS, CONDITIONS AND "CAUTION" WARNING LISTED ON THE FRONT AND BACK OF THIS TICKET..."

I acknowledge that I have received and accepted the materials listed on this ticket. I understand and agree to the terms on both the front and back of this ticket."

6. The terms as clarified on the back of the Delivery Tickets included, *inter alia*, as follows:

"UNLOADING DRIVERS ARE PROHIBITED FROM DELIVERING CONCRETE EXCEPT UNDER THE TRUCK'S OWN POWER, AND WHERE SITE CONDITIONS PERMIT THE SAFE AND PROPER OPERATION OF HIS EQUIPMENT. DRIVERS ARE NOT PERMITTED TO ADD WATER TO THE MIX NOR TO GO BEYOND THE CURB LINE, EXCEPT UPON THE AUTHORIZATION OF THE PURCHASER/PURCHASER'S AGENT AND HIS ACCEPTANCE OF RISK FOR ANY LOSS OR DAMAGE.

BUYER, OR HIS AGENT, AGREES TO ASSUME RESPONSIBILITY FOR CONCRETE, AND ANY PROPOERTY DAMAGE RESULTING FROM TRUCK MAKING DELIVERY BEYOND CURB LINE. ALL CLAIMS MUST BE MADE AT TIME OF DELIVERY.

IF IT BECOMES NECESSARY TO BRING ANY ACTION TO COLLECT AMOUNTS DUE ON THIS INVOICE, PURCHASER SHALL BE RESPONSIBLE FOR REASONABLE ATTORNEYS FEES AND COURT COSTS INCURRED BY VENDOR IN SECURING COLLECTION. INTEREST SHALL ACCRUE AT 2% PER MONTH ON OUTSTANDING BALANCES"

7. In performance of the agreement, the Plaintiff supplied the concrete to the Defendant and rendered numerous invoices for the period of 23 November 2020 to 21 May 202.
8. As of today's date, the Defendant has failed to pay the invoices as and when due and the Plaintiff has suffered loss and damage as a result. The Defendant owes to the Plaintiff the total principal sum of CI\$102,612.00.
9. On 1 June 2022, a formal demand letter was served upon the Defendant by sending the same via registered mail his mailing address. A copy of the demand letter was also sent to the Defendant via email. Notwithstanding the written demands for payment, and in breach of the agreement, the Defendant has failed to make payment to the Plaintiff.

10. Accordingly, the Plaintiff claims the principal sum of CI\$102,612.00. In addition, the Plaintiff claims interest thereon at the rate of 2% per month pursuant to the terms and conditions of the invoices, from the day after which the Invoices each became due continuing at the rate of CI\$67.47 per day until the principal sum is repaid in full,
11. Alternatively, the Plaintiff claims pre- and post-judgment interest in accordance with s.34 and of the *Judicature Law (2021 Revision)* and the Judgment Debts (Rates of Interest) Rules, 2012 at the rate of 2.375% for such period as the Court deems fit.
12. The Plaintiff is entitled to, and claims, all court fees and costs to, the enforcement of its rights under the terms and condition of the invoices.

AND THE PLAINTIFF claims:

- a) Principal in the sum of CI\$102,612.00;
- b) Pre- and post-judgment interest in the sum of CI\$25,166.65 calculated from 21 June 2021 to 28 June 2022 at the rate of 2% per month in accordance with the terms of the invoices and continuing at the rate of CI\$64.47 per diem until the Principal is discharged in full;
- c) Alternatively, pre- and post-judgment interest in accordance with s.34 of the *Judicature Law (2021 Revision)* and the Judgment Debts (Rates of Interest) Rules, 2012 at the rate of 2.375% for such period as the Court deems fit;
- d) Costs to be taxed if not agreed; and
- e) Such further and other relief as this Court may deem just.

HSM chambers

HSM CHAMBERS
Attorneys-at-Law for the Plaintiff

INDORSEMENT

The principal amount claimed in respect of the debt is CI\$102,612.00 as of the date of filing. The amount of the filing fees to commence the proceeding is CI\$200.00, plus ad valorem fees of CI\$913.06. If, within the time for returning the acknowledgement of service, the First and Second Defendants pay the plaintiff or its attorneys-at-law the total amount claimed in principal, interest and the costs of issuing the Writ of Summons, further proceedings will be stayed. The money must be paid to the plaintiff or to its attorneys-at-law.

INDORSEMENT REGARDING INTEREST

1. The terms and conditions of the invoices upon which interest is claimed;
2. The prescribed rate of interest is 2% per month;
3. The date from which interest is payable is 21 June 2021; and
4. The amount of interest accruing due each day is CI\$67.47.

This WRIT OF SUMMONS was filed by HSM Chambers, Attorneys-at-law for the Plaintiff whose address for service is 68 Fort Street, George Town, P.O. Box 31726, Grand Cayman, KY1-1207, Cayman Islands (Ref: 418890.0059)

No.8

Acknowledgment of service of writ of summons (O.12, r.3)

**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, PO Box 495 GT, 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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CAYMAN PREMIX LIMITED T/A SUPERMIX

Plaintiff

-v-

RONALD WILSON

Defendant

ACKNOWLEDGMENT OF SERVICE OF WRIT OF SUMMONS

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.

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 no

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.

HSM Chambers Attorneys-at-Law 68 Fort Street P.O. Box 31726 George Town Grand Cayman KY1-1207 CAYMAN ISLANDS Ref: 418890.0052
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Indorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.

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