



SUMMARY COURT AT GEORGE TOWN

CAUSE NO: SC OF 2024

B E T W E E N:

CAYMAN PREMIX LIMITED T/A SUPERMIX

Plaintiff

AND

(1)A & C CONSTRUCTION LTD  
(2)CLIVE WESLEY SMITH

Defendants

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**PLAINT**

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TO:

**A & C Construction Ltd**  
**46 Belford Estate, Bodden Town**  
P.O. Box 2549, Grand Cayman,  
Cayman Islands

**Clive Wesley Smith**  
**46 Nash Street, Bodden Town**  
P.O. Box 2549  
Grand Cayman KY1-1104  
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 de fault judgment without any further notice to you.

**Issued this 27<sup>th</sup> day of June 2024**

**See overleaf for particulars of the Plaintiff's claim**

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**PARTICULARS OF CLAIM**

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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, PO Box 31726, George Town, Grand Cayman, KY1-1207, Cayman Islands.
2. The First Defendant is and was at all material times a company organised and carrying on business pursuant to the laws of the Cayman Islands (Company No.129128). The First Defendant's registered address is Block 43E, Parcel 88, 46 Belford Estate, Bodden Town, PO Box 2549, Grand Cayman, Cayman Islands.
3. The Second Defendant is an individual who resides in the Cayman Islands with a physical address of 46 Nash Street, Bodden Town, P.O Box 2549, Grand Cayman KY1-1104, Cayman Islands. The second Defendant is a Director of the first Defendant company which provides building and civil engineering services to clients on a contractual basis. The Second Defendant also executed a personal guarantee for the debts of the first Defendant Company.
4. 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 Defendants, and upon delivery, provide a delivery ticket which was signed by the Defendants acknowledging receipt of the goods. Thereafter, an invoice based on the delivery ticket would be sent to the Defendants for payment of goods and services rendered.
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 Defendants 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 Defendants or their agent, above which was written:

*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” (the “Agreement”).*

- 6. The delivery tickets 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 attorneys fees and court costs incurred by vendor in securing collections. Interest shall accrue at 2% per month on outstanding balances”.*

- 7. In performance of the Agreement, the Plaintiff supplied the goods to the Defendants and rendered the following invoices from time to time (collectively the “Invoices”):

| Item | Invoice No. | Date of Invoice | Due Date         | Invoice Amount (C\$) | Amount Paid (C\$) | Balance (C\$) |
|------|-------------|-----------------|------------------|----------------------|-------------------|---------------|
| 1.   | 24697       | 20 July 2018    | 19 August 2018   | \$477.00             | \$0.00            | \$477.00      |
| 2.   | 24859       | 4 August 2018   | 3 September 2018 | \$4,680.00           | \$0.00            | \$4,680.00    |
| 3.   | 24902       | 8 August 2018   | 7 September 2018 | \$1,404.00           | \$0.00            | \$1,404.00    |
| 4.   | 24916       | 9 August 2018   | 8 September 2018 | \$1,471.00           | \$0.00            | \$1,471.00    |

|     |             |                       |                      |            |                        |                    |
|-----|-------------|-----------------------|----------------------|------------|------------------------|--------------------|
| 5.  | CPL20180912 | 12 Septemeber<br>2018 | 12 September<br>2018 | \$2,086.00 | \$0.00                 | \$2,086.00         |
| 6.  | 25537       | 4 October 2018        | 3 November 2018      | \$1,332.00 | \$57.00                | \$1,275.00         |
| 7.  | 28231       | 5 June 2019           | 5 July 2019          | \$1,078.50 | \$0.00                 | \$1,078.50         |
| 8.  | 33200       | 10 August 2020        | 9 September 2020     | \$5,043.00 | \$1,300.00             | \$3,743.00         |
| 9.  | 34447       | 24 October 2020       | 24 October 2020      | \$830.00   | \$760.00               | \$70.00            |
| 10. | 34681       | 13 November<br>2020   | 13 December<br>2020  | \$1,074.00 | \$0.00                 | \$1,074.00         |
| 11. | 39694       | 22 December<br>2021   | 21 January 2022      | \$3,300.00 | \$3,240.00             | \$60.00            |
| 12. | 39896       | 28 January 2022       | 27 February 2022     | \$716.00   | \$648.00               | \$68.00            |
| 13. | 40001       | 8 February 2022       | 10 March 2022        | \$1,227.00 | \$972.00               | \$255.00           |
|     |             |                       |                      |            | <b>Balance<br/>Due</b> | <b>\$17,741.50</b> |

8. Pursuant to the said invoices, payment was due within 30 days of the date of the invoice.

9. The Defendants have failed to make payments towards the invoices since they have been issued, they have failed to repay the full amounts as and when due, in breach of the Agreement. The Plaintiff has suffered loss and damages as a result.
10. Pursuant to a Demand letter dated 28 November 2023, the Plaintiff demanded from the Defendants all the outstanding sums. The demand letter was served at the First Defendant's registered office on 28 November 2023 and on 30 November 2023 it was personally served on the Second Defendant.
11. Since receipt of the Demand letter the Defendants have failed to settle the outstanding invoices, Accordingly, the plaintiff claims the principal sum of CI\$17,741.50.
12. The Plaintiff seeks pre- and post-judgment interest on the principal sum pursuant to the terms and conditions of the invoices at the rate of 2% per month commencing on 11 March 2022 to 27 June 2024 in the sum of CI\$9,775.81 and continuing thereafter at the rate of CI\$11.67 per diem until the principal is fully settled.
13. Alternatively, the Plaintiff claims pre- and post-judgment interest in accordance with s.34 of the *Judicature Act (2021 Revision)* and the Judgment Debts (Rates of interest) Rules, 2021 at the rate of 2.375% for such period as the Court deems fit.
14. As a result of the above, the Plaintiff is entitled to the relief claimed in these proceedings.

**AND THE PLAINTIFF CLAIMS:**

- a) CI\$17,741.50 being the principal sum due;
- b) CI\$9,775.81 pre- and post-judgment interest from 11 March 2022 to 27 June 2024 at the contractual rate of 24% per annum and continuing at the rate of CI\$11.67 per diem in accordance with the terms of the Agreement;

- c) Alternatively, pre- and post-judgment interest in accordance with s.34 of the *Judicature Act (2021 Revision)* and the *Judgment Debts (Rates of Interest) Rules, 2021* at the rate of 2.375% for such period as the Court deems fit;
- d) Fixed costs of CI\$175 pursuant to the *Summary Court Rules 2004*, alternatively costs to be assessed; and
- e) Such further and other relief as this Court may deem just.

*Hsm chambers*

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**HSM Chambers**  
**Attorneys-at-Law for the Plaintiff**

**INDORSEMENT**

The principal amount claimed in respect of the debt is CI\$17,741.50 as of the date of filing. The amount of the filing fees to commence the proceeding is CI\$25.00. The fixed costs applicable upon entry of Judgment are CI\$150 pursuant to the *Summary Court Rules 2004*.

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 Plaint, 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 6 above.
2. The prescribed rate of interest is 24% per annum in respect of the Agreement.
3. The date from which interest is payable is from 11 March 2022.
4. The current amount of interest accruing due each day is CI\$11.67.

This PLAINT 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:418890-0075)

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**ACKNOWLEDGMENT OF SERVICE**

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1. State Defendant 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



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**PARTICULARS OF DEFENCE**

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*[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]*

1.

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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.