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Action No. \_\_\_\_\_  
Victoria Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

KATHERINE EWASEW and CHARMAINE McBAIN

PLAINTIFFS

AND

MENU FOODS INCOME FUND

DEFENDANT

**WRIT OF SUMMONS**

***"Brought under the Class Proceedings Act"***

(Name and address of  
each Plaintiff)

KATHERINE EWASEW and CHARMAINE McBAIN

c/o Merchant Law Group LLP  
203 - 468 Belleville Street  
Victoria, British Columbia  
V8V 1W9

(Name and address of  
each Defendant)

MENU FOODS INCOME FUND

8 Falconer Drive  
Streetsville, Ontario  
L5N 1B1

**ELIZABETH THE SECOND**, by the Grace of God, of the United Kingdom, Canada, and Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

TO the Defendant : **MENU FOODS INCOME FUND**

**TAKE NOTICE** that this action has been commenced against you by the Plaintiff for the claim set out in this Writ of Summons.

**IF YOU INTEND TO DEFEND** this action, or if you have a set-off or counterclaim that you wish to have taken into account at the trial, **YOU MUST:**

a) **GIVE NOTICE** of your intention by filing a form entitled "Appearance" in the above registry of this Court within the Time for Appearance provided for below and **YOU MUST ALSO DELIVER** a copy of the Appearance to the Plaintiff's address for delivery, which is set out in this Writ of Summons; and

b) If a Statement of Claim is provided with this Writ of Summons or is later served on or delivered to you, **FILE** a Statement of Defence in the above registry of this Court within the time for Defence provided for below and **DELIVER** a copy of the Statement of Defence to the Plaintiff's address for delivery.

**YOU OR YOUR SOLICITOR** may file the Appearance and the Statement of Defence. You may obtain a form of Appearance at the registry.

**JUDGMENT MAY BE TAKEN AGAINST YOU IF:**

a) **YOU FAIL** to file the Appearance within the Time for Appearance provided below;  
or

b) **YOU FAIL** to file the Statement of Defence within the Time for Defence provided for below.

### **TIME FOR APPEARANCE**

If this Writ of Summons is served on a person in British Columbia, the time for Appearance by that person is 7 days from the service (not including the day of service).

If this Writ of Summons is served on a person outside British Columbia, the time for Appearance by that person, after service, is 21 days in the case of a person residing anywhere within Canada, 28 days in the case of a person residing in the United States of America, and 42 days in the case of a person residing elsewhere.

[or, if the Time for Appearance has been set by order of the court, within that time]

### **TIME FOR DEFENCE**

A Statement of Defence must be filed and delivered to the Plaintiff within 14 days after the later of:

- a) the time that the Statement of Claim is served on you (whether with this Writ of Summons or otherwise) or is delivered to you in accordance with the Rules of Court; and
- b) the end of the time for Appearance provided for above.

[or, if the Time for Defence has been set by order of the court, within that time.]

<p>The address of the registry is: <b>MINISTRY OF ATTORNEY GENERAL</b> Court Registry PO Box 9248, Stn Provincial Government 2<sup>nd</sup> Floor – 850 Burdett Avenue Victoria, B.C. V8W 9J2</p>

The Plaintiffs' address for delivery:

c/o MERCHANT LAW GROUP

203 - 468 Belleville Street

Victoria, British Columbia, V8V 1W9

Fax number for delivery: (250) 478-9943

The name and office address of the Plaintiffs' solicitor:

MERCHANT LAW GROUP

203 - 468 Belleville Street

Victoria, British Columbia, V8V 1W9

Fax number for delivery: (250) 478-9943

The Plaintiffs claim is for, *inter alia*, general and special damages, recovery of economic loss, and other relief sought against the Defendant, for the Defendant's acts, omissions, wrongdoings and breaches of legal duties and obligations.

The Plaintiffs claim pre-judgment and post-judgment interest in the amount of 2% per month, or alternatively, pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, chapter 79, and amendments thereto.

The Plaintiffs claims costs of this action.

The Plaintiffs claims such further and other relief as this Honourable Court deems just and meet.

Dated on this 23<sup>rd</sup> day of March, 2007, at City of Victoria, in the Province of British Columbia.

MERCHANT LAW GROUP LLP



Solicitors for the Plaintiffs