



JSE's EXECUTIVE OFFICES

Received: January 29, 2021

Signature: [Signature]

1:47pm

FIXED DATE CLAIM FORM

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN THE COMMERCIAL DIVISION

Su 2021CD000014

CLAIM NO. 2021SUCB



IN THE MATTER OF THE COMPANIES ACT OF JAMAICA

AND

IN THE MATTER OF AN APPLICATION BY A DIRECTOR OF SALADA FOODS JAMAICA LIMITED FOR DIRECTIONS PURSUANT TO SECTION 130(2) OF THE COMPANIES ACT OF JAMAICA

AND

IN THE MATTER OF CALLING, HOLDING AND CONDUCTING THE 2021-2023 GENERAL MEETINGS OF SALADA FOODS JAMAICA LIMITED



2:40pm

Stephany Robinson

The Claimant, **PATRICK WILLIAMS**, being a director of **SALADA FOODS JAMAICA LIMITED**, a company registered under the laws of Jamaica with registered office at 20 Bell Road, Kingston 11 in the parish of Kingston, claims pursuant to section 130(2) of the Companies Act for the following relief:

1. An order that notwithstanding the provision in the Companies Act and the provision in Salada Foods Jamaica Limited (Salada) articles of incorporation regarding holding of an annual general meeting of shareholders, and any notice of an annual general meeting, information circular or other document that may be or already have been disseminated by Salada regarding the holding of its annual general meeting, Salada may call, hold and conduct its annual general meetings (hereinafter called "the Annual Meeting" which term shall include Annual General Meetings and/or any Extraordinary General Meetings

conducted following an adjournment or postponement) for the period 2021-2023 in accordance with this order and any Annual Meeting called or held by Salada in accordance with this order shall be valid.

2. An order that Salada is permitted in addition to the manner prescribed in the Companies Act and in its articles of incorporation to conduct its Annual Meeting during the years 2021-2023 by either:

(i) Holding an Annual Meeting with one or more shareholders present at a physical venue with a live stream or broadcast of the meeting by electronic means or software including but not limited to webcasting, teleconferencing, videoconferencing, or a combination of these electronic means which allows all shareholders access to see and hear proceedings, ask questions in such reasonable order as the chairman may allow and to vote electronically including before the meeting or by proxy chosen from among the persons Salada indicates will be physically present at the meeting; or

(ii) Holding an Annual Meeting entirely by live stream or broadcast of the meeting by electronic means or software including but not limited to webcasting, teleconferencing, videoconferencing, or a combination of these and/or other electronic means that allows all shareholders access to see and hear proceedings, ask questions in such reasonable order as the chairman may allow and to vote electronically including before the meeting.

3. An order that Salada is permitted to provide shareholders with notice of the Annual Meetings, resolutions, draft resolutions proposed to be passed, circulars, proxy forms, financial statements including profit and loss accounts, balance sheet and auditor's reports and any other documents necessary or relevant for the conduct of the Annual

Meeting during the period 2021-2023 by any one or more of the following ways: electronic mail, pre-paid mail and/or posting links to access the documents on Salada's website and/or that of the Jamaica Stock Exchange website.

4. A declaration that notwithstanding the provisions in the Companies Act or the article of incorporation for Salada any notice or documents delivered to shareholders in accordance with this order shall satisfy all requirements for serving documents for the Annual Meeting notwithstanding any provision to the contrary in Salada's articles of incorporation or the Companies Act.
5. An order that the failure or inability of a shareholder to attend or remain in an Annual Meeting held in accordance with paragraph 2 above as a result of mistake or of events beyond the control of Salada shall not constitute a defect in the calling and holding of the Annual Meeting and shall not make invalid any resolutions passed or proceedings taken at that Annual Meeting.
6. An order that any vote in an Annual Meeting called, held and conducted by Salada may be made entirely by electronic means made available for that purpose. Accordingly, where an Annual Meeting is held in accordance with this Order, voting required under Salada's articles or the Companies Act to be made by "show of hands" or poll will allow a member or proxy or representatives therefore attending by electronic means to cast a vote live during the Annual meeting orally or via electronic means.
7. An order that where the Annual Meeting to be called and held by Salada is an extraordinary general meeting paragraph 1-6 of this order shall apply with such modifications as are necessary.
8. Liberty to apply is granted to any director or shareholder of Salada.
9. Such Further and other relief as this Honourable Court deems appropriate or which may be necessary to give effect to the order sought.

The Claimant seeks the orders on the following grounds:

- (1) The Claimant is a Director and the Chairman of the Board of Directors of Salada Foods Jamaica Limited (Salada), a company incorporated under the Companies Act of Jamaica and listed on the Jamaica Stock Exchange.
- (2) On March 13, 2020 the Prime Minister of Jamaica, the Most Honourable Andrew Holness, pursuant to the Disaster Risk Management (Enforcement Measures) Order ('the Order') declared Jamaica a disaster area due to the effects of the SARS-Cov-2 (Coronavirus COVID-19).
- (3) The Order imposed various restrictions including restricting the size of public gatherings and other measures to limit the spread of SAR-CoV2 (Coronavirus COVID-19).
- (4) Since the Order was made the Government of Jamaica has imposed several other measures through a series of other amendments to the Order to further control and reduce the spread of SAR-CoV2 (Coronavirus COVID-19). The measures under the amended Order continue to include but are not limited to provisions for physical distancing and restricting the size of public gatherings.
- (5) Since March of 2020 the number of positive SAR-CoV2 (Coronavirus COVID-19) cases in Jamaica have been increasing daily which makes it highly likely there would be further extensions of the Order with measures necessary for individual health and safety during the subsistence of the SAR-CoV2 (Coronavirus COVID-19).
- (6) The medical advisory from the Ministry of Health remain that persons should limit social contact, including public gatherings, as much as is possible.
- (7) Section 126 (1) of the Companies Act provides that "*Every Company shall in each year hold an general meeting as its annual general meeting...; and not more than fifteen months shall elapse between the date of one annual general meeting of a company and that of the next.*"

- (8) Salada is also required pursuant to clause 40 of its articles of incorporation to hold a general meeting every year.
- (9) Salada normally calls its annual general meeting in the month of February in each year and hold and conduct the meeting at a physical venue where shareholders attend in person.
- (10) As at December 31, 2020 Salada had 419 shareholders who are all entitled to receive notice of any annual general meeting, be heard and vote there at.
- (11) There are no provisions under the Companies Act that seem to allow an annual general meeting to be held or conducted by electronic means and Salada's articles of incorporation also make no provision for its annual general meetings to be held or conducted by electronic means.
- (12) Section 130(2) of the Companies Act provides that *"If for any reason it is impractical to call a meeting of a company in any manner in which the meeting of that company is to be called, or to conduct the meeting of the company in a manner prescribed in the company's articles, the Court may, either of its own motion or on the application of any director of the company or of any member of the company who would be entitled to vote at the meeting, order a meeting of the company to be called, held and conducted in such manner as the Court thinks fit, and where any such order is made may give such ancillary or consequential directions as it thinks expedient, and any meeting called, held and conducted in accordance with any such order shall for all purposes be deemed to be a meeting of the company duly called, held and conducted."*
- (13) In the present circumstances caused by the SAR-CoV2 (Coronavirus COVID-19) it is impractical for Salada to call, hold and conduct an annual general meeting in the manner in which it usually call and hold its annual general meetings, i.e. entirely in person, given its number of shareholders.

- (14) Without the relief sought herein the annual general meeting to be held by Salada this year may be in breach of the Government ordered requirements for social distance and numbers in gatherings. Furthermore, gathering in any numbers of more than 20 persons is likely to pose a high risk to exposure to SAR-CoV2 (Coronavirus COVID-19) to those members and officer of Salada in attendance.
- (15) To not hold an annual general meeting at all this year due to not being granted the relief sought herein would result in a breach by Salada of the Companies Act and Salada's articles of incorporation.
- (16) The relief sought herein are therefore appropriate and necessary to ensure Salada's compliance with both the Order by the Government, the Companies Act and Salada's articles of incorporation.
- (17) It would be in keeping with the overriding objective of the Court to deal with cases justly to grant the relief sought in the terms of the Fixed Date Claim Form filed herein.

CERTIFICATE OF TRUTH

I, **PATRICK WILLIAMS**, Director of the Salada Foods Jamaica Limited and the Claimant, certify that I believe that all the facts in this Claim Form are true.

Dated the 14th day of January 2021

Patrick Williams

PATRICK WILLIAMS

CLAIMANT

AND

DIRECTOR OF SALADA FOODS JAMAICA LIMITED

SETTLED BY:
LEWIS, SMITH, WILLIAMS & COMPANY



MICHELLE N. SMITH

NOTICE OF HEARING

The first hearing of this claim will take place at the Supreme Court, Public Building, King Street, Kingston on the 18th day of February 2021 at 9:30 a.m./p.m.

If you do not attend at that hearing judgment may be entered against you in accordance with the claim.

If you do not attend, the judge may

- (a) Deal with the claim, or
- (b) Give directions for the preparation of the case for a further hearing

A Particulars of Claim or Affidavit giving full details of the Claimants claim should be served on you with this Claim Form. If this has not been done and there is no order permitting the Claimant not to serve the Particulars of Claim or Affidavit you should contact the court immediately. You should complete the form or Acknowledgement of Service served on you with this Claim Form and deliver it to the registry (address below) so that they receive it within FOURTEEN (14) days of service of this Claim Form on you. The form of Acknowledgement of Service may be completed by you or an Attorney-at-LAW acting for you. See rules 9.3(1) and 9.4(3).

You should consider obtaining legal advice with regard to this claim. See notes in Form @A served with this claim form.

This Claim Form has no validity if it is not served within six month of the date below unless it is accompanied by an order extending that time (See Rule 8.14(1)).

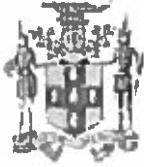
[SEAL]

The registry is at King Street, Kingston, telephone number (876) 922-8300-9, fax (876) 967-0669. The office is open between 9:00a.m. and 4:00p.m., Mondays to Thursdays and 9:00a.m. to 3:00p.m. Friday except on public holidays.

Dated the 15 day of January 2021

The Claimant's address for service is that of its attorneys-at-law, Lewis Smith Williams & Company of 17 Ripon Road, Kingston 5; telephone 876-960-3471; fax (876) 960-6816; email msmith@lswlegal.com; (Attention: Michelle N. Smith 4024).

FILED by **LEWIS SMITH WILLIAMS & COMPANY** Attorneys-at-Law, 17 Ripon Road, Kingston 5 in the parish of Saint Andrew, Attorneys-at-Law for the Claimant herein, telephone 876-960-3471; fax (876) 960-6816; email msmith@lswlegal.com; (Attention: Michelle N. Smith 4024).



**PRESCRIBED NOTES FOR DEFENDANTS
(FIXED DATE CLAIM FORM)**



Form 2A [Rule 8.16(10) (c)]

This Form is important.

When you get this document you should consider getting legal advice.

The Claimant is seeking an order from the court as set out in the Claim Form on the basis of the facts or evidence set out in the Particulars of Claim or Affidavit which was served with it. The Claimant will not be entitled to enter judgment against you without a hearing.

You may:

A. Admit the Claim

If so, you should complete and return the form of Acknowledgement of Service to the registry within FOURTEEN (14) DAYS stating this. You may attend the first hearing if you wish to do so.

B. Dispute the Claim

If so, you should complete and return the form of acknowledgement of Service as under A. You should also file at the registry and serve on the Claimant's Attorney-at-Law (or the Claimant if he had no Attorney-at-Law):

- (a) A Defence if the Claim Form was accompanied by the Claimant's Particulars of Claim, or
- (b) An Affidavit in answer if the Claim Form was accompanied by an Affidavit sworn by or on behalf of the Claimant. See Rule 10.2(2) within **FORTY TWO (2) DAYS** of the day on which the Fixed Date Claim Form was served on you. Your Defence or Affidavit must set out briefly ALL the facts on which you will rely to dispute the claim made against you.

C. Make a claim against the Claimant

If so, you should complete and return the form of Acknowledgment of Service as under A. You must file a Particulars of Claim (a counterclaim) setting out full details of what you claim against the Claimant and the facts on which you will rely. This must be done within **FORTY TWO (42) DAYS** of the date on which the claim form was served on you. The Particulars of Claim should set out ALL the facts on which you rely in disputing any part of the Claimant's claim against you.

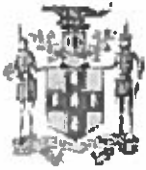
YOU SHOULD ALSO ATTEND THE FIRST HEARING. IF YOU DO NOT THE JUDGE MAY DEAL WITH THE CLAIM IN YOUR ABSENCE.

Copies of forms may be obtained from the registry or at www.sc.gov/jm.

received: January 29, 2021

(Signature)

1:47pm



ACKNOWLEDGMENT OF SERVICE OF FIXED DATE CLAIM FORM

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN THE COMMERCIAL DIVISION

Su 2021 CD 00014

CLAIM NO. 2021SUCD



IN THE MATTER OF THE COMPANIES ACT OF JAMAICA

AND

IN THE MATTER OF AN APPLICATION BY A DIRECTOR OF SALADA FOODS JAMAICA LIMITED FOR DIRECTIONS PURSUANT TO SECTION 130(2) OF THE COMPANIES ACT OF JAMAICA

AND

IN THE MATTER OF CALLING, HOLDING AND CONDUCTING THE 2021-2023 GENERAL MEETINGS OF SALADA FOODS JAMAICA LIMITED



*2:40pm
Stephony Robinson*

WARNING: This Form should be completed and returned to the registry at the address below within **FOURTEEN (14) DAYS** of service of the Claim Form on you. See rule 9.3(1). However, the Claimant will not be entitled to have judgment entered against you except at the first or subsequent hearing of the claim.

1. Have you received the Claim Form with the above claim number? YES/NO
2. If so, when did you receive it? ___/___/___
3. Did you also receive the Claimant's Particulars of Claim or Affidavit in support? YES/NO
4. If so, on what date did you receive it? ___/___/___

5. Are your names properly stated on the Claim Form? YES/NO
If not, what are your full names?

.....

6. Do you intend to defend the claim? YES/NO
If so you must file a Defence or affidavit in answer within 42 days of service
of the Claim Form on you. See Rule 10.3(1).

7. Do you admit the whole claim? YES/NO

8. Do you admit any part of the claim? YES/NO

9. If so what do you admit?
.....

10. What is your address
.....
.....

11. What is your address for service?
If you are acting in person you must give an
address to which documents may be sent either
from other parties or from the court. You should
also give your telephone number and fax number
if any.
.....
.....
.....

Dated the day of 20

Signed.....
[Defendant in Person]
[Defendant's Attorneys-at-Law]

FILED by (indicate name and address of attorneys-at-law filing the document)