

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 0490 OF 2009

BETWEEN:

FIRSTCARIBBEAN INTERNATIONAL BANK
(CAYMAN) LIMITED

PLAINTIFF

AND:

ELBERT MCFIELD

DEFENDANT



WRIT OF SUMMONS



To: Elbert McField
PO Box 2438
George Town
Grand Cayman
KY1-1105

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 of 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 GT, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment 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 8th day of October 2009

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 Acknowledgment of Service are given on the accompanying form. **See overleaf for particulars of the Plaintiff's claim.**

STATEMENT OF CLAIM

1. The Plaintiff, First Caribbean International Bank (Cayman) Limited, is a bank carrying on business at FirstCaribbean House, 25 Main Street, PO Box 68GT, George Town, Grand Cayman, Cayman Islands.
2. The Defendant is and was at all material times a customer of the Plaintiff.
3. In or about 1 October 2007, the Plaintiff provided a loan to the Defendant in the sum of CI\$ 27,700.00 ("the Loan"). The purpose of the Loan was to assist the Defendant in the purchase of a 2007 Mazda Speed 3 ("the Vehicle"), which costs the Defendant CI\$ 27,700.00.
4. The following terms and conditions applied to the Loan. The Loan was repayable at the rate of CI\$ 520.18 per month, commencing on 30 October 2007. The last payment plus any outstanding principal and interest was due on 30 September 2013. Interest was repayable on the principal sum at the rate of 10.50% per annum. The Loan was secured by a Registered Bill or Sale over the Vehicle. The Plaintiff holds a lien over the Vehicle.
5. On or about 5 October 2007 the Defendant executed a Bill of Sale in favour of the Plaintiff. The Bill or Sale was filed at the Public Records Office on 3 January 2008.
6. The Defendant failed to service the Loan in accordance with the agreed terms. The Plaintiff made numerous unsuccessful attempts to contact the Defendant to organise repayment of the Loan.
7. Pursuant to paragraph 3 (h) and (i) of the Bill of Sale dated 5 October 2007 the Plaintiff is entitled to seize the Vehicle and after the expiration of five clear days from the day of seizure sell the Vehicle by public auction or private contract and to retain out of the proceeds of sale so much of the monies as remain owing and all costs and expenses.
8. The Plaintiff understands that the Vehicle was involved in an accident in or around February 2008 and that as a result the Vehicle was substantially destroyed. The Plaintiff understands that at the time of the accident the Vehicle was not insured.

9. In or about 28 January 2009 the Plaintiff's attorney made a written demand for repayment of the Loan. Following this demand the Defendant contacted the Plaintiff and said that he would attend the branch to organise repayment of the Loan.
10. The Defendant failed to attend the local branch. Subsequently the Plaintiff's attorney spoke to the Defendant on the telephone. The Defendant informed her that he intended to set up a direct deduction from his employer to repay the loan. The Defendant has failed to make any payments since 25 June 2009 when he made a payment of CI\$ 584.18.
11. As at 7 October 2009 the Defendant was indebted to the Plaintiff in respect of the Loan in the sum of CI \$25,692.44 including arrears of CI \$4,161.44. Interest continues to accrue at the rate of 10.50% per annum or CI \$6.93 per diem.

AND the Plaintiff claims:

- (a) payment of the sum of CI \$25,692.44 outstanding on the Loan as at 7 October 2009;
- (b) continuing interest until payment of the Loan at the rate of 10.50% per annum from 7 October 2009 being CI \$6.93 per diem;
- (c) fixed costs of CI \$500.00 plus Bailiffs' fees, Issue and Ad Valorem Court fees, or alternatively costs to be assessed; and
- (d) further and other relief.

Walkers

WALKERS
Attorneys at Law for the Plaintiff

This Writ is filed by Walkers, Attorneys at Law, Walker House, 87 Mary Street, George Town, Grand Cayman KY1-9001, for the whose address for service is care of said Attorneys at Law.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2009

BETWEEN: FIRSTCARIBBEAN INTERNATIONAL BANK PLAINTIFF
(CAYMAN) LIMITED

AND: ELBERT MCFIELD DEFENDANT

**ACKNOWLEDGEMENT 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 Delay may result in judgment being entered directions and notes for guidance carefully against a Defendant whereby he may have to before completing this form. If any information pay the costs of applying to set it aside. required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

12. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

13. State whether the Defendant intends to contest the proceedings (*tick appropriate box*)

yes

no

14. 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 communications 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.

Walkers
Attorneys at Law
PO Box 265GT
Walker House, Mary Street
George Town, Grand Cayman

Ref: DMM/TAM/F1757.84587

Indorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.

[Empty box for defendant's attorney indorsement]

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE OF WRIT OF SUMMONS

The accompanying form of *Acknowledgment of Service* should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person.

After completion it must be delivered or sent by post to the Courts Office, PO Box 495GT, George Town, Grand Cayman.

15. 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.

16. 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

Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Court's office.

17. 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.
18. 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*)".
19. 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.
20. 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.
21. 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.
22. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian *ad litem*.
23. A Defendant acting in person may obtain help in completing the form at the Court's office.