

**IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION**

G0635
CAUSE NO. of 2009

BETWEEN:

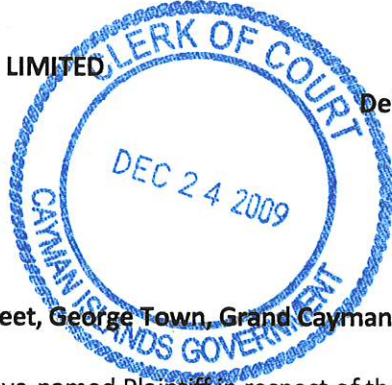


JOHN & ALINE SLATTERY

Plaintiffs

AND:

WATERFORD RESIDENCE CLUB LIMITED



Defendant

WRIT OF SUMMONS

TO: Waterford Residence Club Limited
Address: PO BOX 61, 4th Floor, Harbour Centre, North Church Street, George Town, Grand Cayman.

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, P.O. Box 495G, 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 24th day of December 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 with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiffs are Irish citizens and are a married couple resident in the Republic of Ireland.
2. The Defendant is and was at all material times a limited liability company operating in the Cayman Islands as the developer and vendor of a time share vacation development to be known as 'The Waterford Private Residence Club'(hereinafter 'the Club') located at West Bay Beach North Block 17A Parcel 198.
3. On the 20th October 2006 the Plaintiffs entered into a membership agreement to purchase a timeshare at the Club with their contract being known as 'Residence Interest No.18102006PH.' At the time of entering the agreement the development was pre-construction.
4. Upon entering the contract the Plaintiff's were entitled to a 1/8th fractional interest in a penthouse Unit of 4,260 square feet with 2,248 square feet terrace for a period of 99 years leasehold interest in Phase 1 of the Club once complete.
5. In exchange for this interest the Plaintiffs agreed to pay the total sum of U.S. \$580,000 to be paid in stages.
6. In accordance with the stage payment schedule as set out at Clause 4 of the Membership Agreement the Plaintiffs paid the following sums in US\$;

(a) Processing fee	\$1,000
(b) Cash down payment	\$115,000
(c) Down payment on commencement construction	\$86,250
(d) Reservation deposit	\$5,000
(e) Total payments made	\$207,250
7. In accordance with Clause 2 of the Agreement Completion of the sale and purchase of the Residence Interest will take place on the Completion date which was defined as 'The Completion Date shall be the earlier of (i) the date falling two (2) years after the date that a building permit is issued by the Cayman Islands Department of Planning to the Developer to commence building the

Club on the property or (ii) the date falling thirty (30) days after the Member receives a copy of the Certificate of Occupancy for the building on the property that contains the Member's residence."

8. The building permit was issued by the Cayman Islands Department of Planning to the Developer to commence building the Club on the property on the 21st November 2007 and therefore the Completion Date as per the Agreement was the 21st November 2009.

Right to Rescind Agreement

9. Clause 14(c) of the Agreement states as follows:

"In the event that on the Completion Date, the Company has not completed construction of the building in which the Member's residence is to be located, then the Member may rescind this Membership Agreement by notifying the Company in writing of such rescission whereupon the Company shall cause all funds previously paid by the Member hereunder to be returned to the Member no later than thirty (30) days following date of receipt of such written notice from Member and thereafter this Membership Agreement will be null and void and neither Party shall have any further rights or obligations hereunder."

10. Clause 22 of the Membership Agreement provides that Notices should be in writing and in the case of the Defendant should be served at PO Box 30610 SMB, Grand Cayman, Cayman Islands.
11. As of the date of the issue of this Writ the construction of the building in which the Member's residence is to be located is not complete and indeed construction has not commenced save and except that ground was broken in. There is no date for completion at present.
12. In accordance with the Plaintiffs' rights under the Agreement the Plaintiffs choose to rescind the contract due to the failure to complete construction of the residence by the 21st November 2009.
13. The Plaintiff caused notice to be served in accordance with Clause 22 on the Defendant by mail from the Plaintiffs on the 8th October 2009 and by registered mail sent by their Attorney on the 22nd October 2009.
14. As of the date of issue of the Writ the Defendant has failed or refused to return all funds paid by the Plaintiffs and as such is in breach of contract.

PARTICULARS OF LOSS

15. The Plaintiff has lost the total sum of US\$207,250.

AND THE PLAINTIFF claims:

1. The sum of US\$207,250 for breach of contract;
2. Payment of the sum of US\$207,250 by way of specific performance;
3. Interest in accordance with the Judicature Law (2007 Revision) and the Judgment Debt (Rates of Interest) Rules as amended from time to time;
4. Costs ;
5. Such further and other relief as this Court may deem just.

STATEMENT REGARDING INTEREST

- a) The rate of interest is 5% per annum;
- b) The date from which interest accrues is the 21st December 2009;
- c) The amount of interest owing as of the date of issue of this Writ is US\$113.56;
- d) The amount of interest accruing each day following the issue of this Writ is US\$28.25.

Dated this 24th day of December 2009



Samson & M^cGrath

Attorneys-at-Law for the Plaintiff

INDORSEMENT

The principle amount claimed in respect of the debt is US\$207,250 plus interest of US\$85.17 as of the date of filing. The amount of the filing fees to commence proceedings is US\$200 plus ad valorem fees of US\$. If, within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed in principle, interest and cost of issuing the writ of summons further proceedings will be stayed. The money must be paid to the Plaintiff or his Attorney.

THIS WRIT was issued by Samson & McGrath, Attorneys for the Plaintiff whose address for service is 5th Floor Genesis Building, Genesis Close, P.O. Box 446 GT, George Town, Grand Cayman

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 the Defendant or by the Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495G, George Town, 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 installments 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 Acknowledgment 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.

BETWEEN:

JOHN & ALINE SLATTERY

Plaintiffs

AND:

WATERFORD RESIDENCE CLUB LIMITED

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.

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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
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 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
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Service of the Writ is acknowledged accordingly

(Signed).....

Attorney for the Defendant

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.

Samson & McGrath
Attorneys at Law
5th Floor Genesis Building
Genesis Close
PO Box 446
George Town
Grand Cayman

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]