

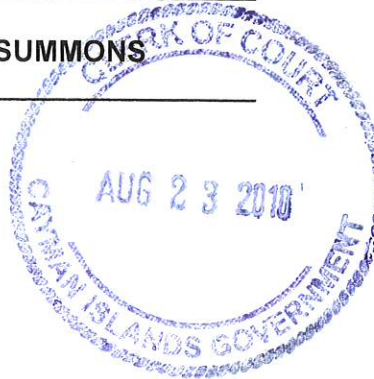
IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 292 OF 2010

BETWEEN: THE PROPRIETORS, STRATA PLAN NO. 238 PLAINTIFF  
AND: CONCH POINTE BEACH RESORT LTD. DEFENDANT

WRIT OF SUMMONS

TO: Conch Pointe Beach Resort Ltd.  
P.O. Box 472  
George Town  
Grand Cayman, KY1-1106  
Cayman Islands



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 fourteen (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 495GT, George Town, Grand Cayman, the accompanying Acknowledgement of Service stating whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the acknowledgement within the time stated, or if you return the acknowledgement 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 day of August 2010**

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 Acknowledgement of Service are given with the accompanying form.

This Writ was filed by Campbells, Attorneys-at-Law for the Plaintiff, whose address for service is Fourth Floor, Scotia Centre, George Town, Grand Cayman, Cayman Islands Tel. 949 2648 Fax: 949 8613 (Ref:MC/gh)

## STATEMENT OF CLAIM

1. The Plaintiff is the Proprietors, Strata Plan No. 238, a body corporate established pursuant to the Strata Titles Registration Law in respect of the development known as Conch Pointe Beach Resort ("the Development") and comprises the proprietors from time to time of the individual Strata Lots that make up the Development ("the Corporation"). The Defendant is the owner of the Strata Lot known as Unit 9, Conch Pointe Beach Resort, as comprised under block & parcel number West Bay North West 3D 155H9.
2. The Defendant has been in substantial arrears in respect of Strata Fees since 29<sup>th</sup> December 2009 and apart from payments CI\$7,314.76 and CI\$4,450.22 on 11<sup>th</sup> January 2010 and 1<sup>st</sup> April 2010 respectively has failed to make any further payments towards Strata Fees. The Defendant currently owes the Plaintiff CI\$14,466.94 in unpaid Strata Fees.
3. In accordance with its By-Laws, the Plaintiff claims interest at the rate of 4% per annum over the thirty (30) day London Inter Bank Offer Rate for United States Dollars at the time of default quoted by the banker's of the Corporation with a minimum of 12% per annum, accruing on a daily basis with monthly rests, on all payments due to the Corporation and unpaid for fourteen (14) days after the due date. The Defendant has been in default since 29<sup>th</sup> December 2009.
4. By letter from its attorneys dated 23<sup>rd</sup> July 2010, the Plaintiff demanded payment of the strata fees.
5. Despite demand, the Defendant has failed, refused and/or neglected to pay the amount due in respect of the strata fees.
6. The Plaintiff is therefore entitled to and claims interest on the unpaid strata fees.

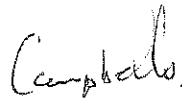
**AND** the Plaintiff claims:

1. The sum of CI\$14,446.94.
2. Interest.
3. Costs

If, within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed of CI\$14,446.94, as well as interest and costs further proceedings will be stayed. The funds must be paid to the Plaintiff's attorneys.

DATED this 20<sup>th</sup> day of August 2010

FILED this day of August 2010



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Campbells  
Attorneys-at-Law for the Plaintiff

To: The Clerk of the Court

And to: The Defendant

This Statement of Claim was filed by Campbells, Attorneys-at-Law for the Plaintiff, whose address for service is Fourth Floor, Scotia Centre, George Town, Grand Cayman, Cayman Islands Tel: 949 2648 Fax: 949 8613 (Ref: MC/gh)

**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 495, 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*

## 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 his 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: THE PROPRIETORS OF STRATA PLAN NO. 238 PLAINTIFF
AND: CONCH POINTE BEACH RESORT LTD. 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 the Defendants whereby they may have to pay the costs of applying to set it aside.

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

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

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.*

Campbells .  
Attorneys-at-Law  
P.O. Box 884  
Fourth Floor  
Scotia Centre  
George Town,  
Grand Cayman KY1-1103  
Cayman Islands  
Ref: MC/gh

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