

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE G <sup>343</sup> OF 2010

IN THE MATTER OF THE STRATA REGISTRATION LAW (2005 REVISION)

**BETWEEN:** PROPRIETORS STRATA PLAN NO. 55 PLAINTIFF

**AND:** UNIKAY LTD. DEFENDANT

**WRIT OF SUMMONS**

**TO THE DEFENDANT:**

Unikay Ltd.  
P O Box 10910  
1300 South Sound Road  
Grand Cayman KY1-1007  
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 **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 495 G.T., 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 15<sup>th</sup> September 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 Acknowledgment of Service are given with the accompanying form.

## STATEMENT OF CLAIM

1. The Plaintiff is a body corporate consisting of a collection of all the registered strata proprietors contained within Strata Plan No. 55 (“the Strata”) in accordance with section 5(1) of the Strata Titles and Registration Law (2005 Revision) (“the Law”).
2. The Defendant is a Cayman Islands ordinary resident company and the registered proprietor of the property more particularly described as Registration Section Spotts, Block 25B, Parcel 338H134 (“the Property”) and is one of the properties contained within a residential development known as Ocean Club situated in Spotts, Grand Cayman.
3. The control, management, administration, use and enjoyment of the Strata lots and the common property contained in the registered strata plan of the Strata is regulated by its Strata by-laws (“the By-Laws”).
4. Pursuant to By-Law no. 46.3, it is the Defendant’s obligation to pay to the Plaintiff all contributions levied by the Plaintiff to the Defendant pursuant to section 6(2) of the Law within 14 days of demand.
5. The Plaintiff levies such contributions by way of monthly invoices sent to the Defendant stating the payment due for that month which are payable in arrears.

6. At the date of the Strata's last annual general meeting on 1 May 2010, the Defendant was in arrears for non-payment of contributions in the amount of CI\$22,865.78 (Twenty two thousand, eight hundred and sixty five Cayman Islands dollars and seventy eight cents).
7. The Plaintiff claims liquidated damages for the Defendant's breach of contract, that contract being the By-Laws which exists and are legally enforceable as between the Plaintiff and Defendant pursuant to section 21 of the Law.
8. The Defendant has failed, refused or neglected to make such payments within 14 days of demand and has been in arrears of payments for in excess of one month.
9. The amount set out above in paragraph 6 includes interest to which the Plaintiff is entitled to in accordance with section 34(c)(4) of the By-Laws, that rate of interest being a minimum of 2% per month subject to a minimum charge of twenty (20) Cayman Islands Dollars per month on all payments unpaid for 15 days after the due date.
10. Such interest is current to 1 May 2010 and has been charged at the minimum rate of 2% per month subject to a minimum charge of CI\$20.00.

#### STATEMENT REGARDING INTEREST

11. The Plaintiff seeks pre and post judgment interest from the date of issue of the Writ in accordance with the provisions of the By-Laws or in the alternative in accordance with the Judicature Law (2007 Revision) and the Judgment Debt (Rates of Interest) Rules, as amended from time to time.

- a) The interest rate claimed as per the By-Laws is 2% per month subject to a minimum charge of CI\$20.00 per month.
- b) In the alternative the interest rate as per the Judgment Debt (Rates of Interest) Rules is 5% per annum.
- c) The amount of interest owing as at 1 May 2010 is CI\$457.32.
- d) The amount of interest accruing since the 1 May 2010 is 2% per month subject to a minimum charge of CI\$20 per month.
- e) Pre and post judgment Interest on the said sum in accordance with the Strata By-Laws and the Judicature Law (2007) Revision and the Judgment Debt (Rates of Interest) Rules as amended from time to time.
- f) Costs to be taxed or agreed or alternatively fixed costs in the sum of CI\$500 plus filing fees and process server's fee for service.

12. As at 1 May 2010 the following amounts were owing by the Defendants to the Plaintiff;

<p><b>a.</b> In respect of the outstanding strata payments from 31<sup>st</sup> August 2004:</p>	<b>CI\$ 22,865.78</b>
<p><b>b.</b> Interest as aforesaid</p>	<b><u>CI\$ 457.32</u></b>
<p><b>Total:</b></p>	<b><u>CI\$ 23,537.24</u></b>

**WHEREFORE THE PLAINTIFF CLAIMS:**

1. Judgment in the sum of **CI\$22,865.78**.
2. Pre-judgment interest in the amount of CI\$457.32 and post-judgment interest pursuant to contract at the rate of **2%** per month subject to a minimum charge of CI\$20 per month from 1 May 2010 until payment.
3. Alternatively, pre and post-judgment interest pursuant to section 34(1) of the Judicature Law (1995 Revision).
4. Costs.
5. Such further and/or other relief.

**INDORSEMENT**

The principal amount claimed in respect of the debt is CI\$22,865.78 plus interest of CI\$457.32 as of 1 May 2010. The amount of the filing fees to commence proceedings is CI\$200 plus ad valorem fees of CI\$128.66. If within the time for returning the Acknowledgment of Service, the Defendant pays the total sum claimed in principle, interest, and cost of issuing the writ of summons, further proceedings will be stayed. The funds must be paid to the Bank or its attorney.

DATED: 15<sup>th</sup> September 2010

FILED: 15<sup>th</sup> September 2010



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**CAMPBELLS**  
**Attorneys at Law for the Plaintiff**

IN THE MATTER OF THE STRATA REGISTRATION LAW (2005 REVISION)

BETWEEN: PROPRIETORS STRATA PLAN NO. 55 PLAINTIFF

AND: UNIKAY LTD. 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 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.

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

3. State whether the Defendant intends to contest the proceedings (tick appropriate box)
[ ] yes [ ] no

4. 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

Address for service:

## 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 (Ref: CM/17469)  
4<sup>th</sup> Floor, Scotia Centre  
P O Box 884 G.T.  
George Town  
Grand Cayman**

**Tel: 949 2648  
Fax: 949 8613**

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

**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.