

**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION**

**CAUSE NO: FSD 203 OF 2011 (CQJ)**

**BETWEEN THE EMPIRE LIFE INSURANCE COMPANY PLAINTIFF**  
**AND JACQUES-ANDRÉ THIBAULT 1<sup>ST</sup> DEFENDANT**  
**AND FIDUCIE CLAUDETTE HALLÉE 2<sup>ND</sup> DEFENDANT**  
**(a Trust)**  
**AND NADIA THIBAULT 3<sup>RD</sup> DEFENDANT**  
**(in her capacity as Trustee of 2<sup>nd</sup> Defendant)**  
**AND JULIE THIBAULT 4<sup>TH</sup> DEFENDANT**  
**(in her capacity as Trustee of 2<sup>nd</sup> Defendant)**  
**AND PIERRETTE THIBAULT 5<sup>TH</sup> DEFENDANT**  
**(in her capacity as Trustee of 2<sup>nd</sup> Defendant)**



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**WRIT OF SUMMONS**

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- TO:** Jacques-André Thibault of 303, Clairevue East, Unit 4101, Saint-Bruno-de-Montarville, Quebec, J3V 0B2, Canada
- TO:** Fiducie Claudette Hallée of 303, Clairevue East, Unit 4101, Saint-Bruno-de-Montarville, Quebec, J3V 0B2, Canada
- TO:** Nadia Thibault of 4341 du Trille-Blanc Street, Saint-Bruno-de-Montarville, Quebec J3V 6J7
- TO:** Julie Thibault of 309 Place Antoine-Forestier, Carignan, Quebec J3L 0H6
- TO :** Pierrette Thibault of 1241, Calais, Sherbrooke, Quebec J1R 0H9

**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 **28 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        day of December 2011

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.

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**STATEMENT OF CLAIM**

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1. The Plaintiff, The Empire Life Insurance Company, a Canadian corporation, commenced proceedings against Jacques-André Thibault, (the “First Defendant”) for debts owed pursuant to a loan in the sum of CDN\$12,000,000.00 made by The Toronto-Dominion Bank (the “Bank”) to the First Defendant, which provided that interest would be payable at the Bank’s prime rate. This loan was subsequently sold by the Bank to the Plaintiff, which then initiated a legal action to recuperate said loan, through a Complaint filed in the Superior Court of Canada, for the Province of Quebec, District of Montreal, Canada (the “Canadian Court”) in Case Nos: 500-17-029064-063 – The Empire Life Insurance Company v. Jacques-Andre Thibault et al (hereinafter the “Montreal Proceedings”).
2. Fiducie Claudette Hallée is a trust set up by the First Defendant and Nadia, Julie and Pierrette Thibault ( together with Fiducie Claudette Hallee the “Trust Defendants”) are trustees of Fiducie Claudette Hallée. The Trust Defendants impleaded in the Montreal Proceedings.
3. The Canadian Court was duly constituted and held in accordance with the laws of the Province of Quebec, District of Montreal, Canada and had jurisdiction on that behalf.
4. The First Defendant resides at 303, Clairevue East, Unit 4101, Saint-Bruno-de-Montarville, Quebec, J3V 0B2, Canada.
5. Fiducie Claudette Hallée is located at 303, Clairevue East, Unit 4101, Saint-Bruno-de-Montarville, Quebec, J3V 0B2, Canada
6. Nadia Thibault resides at 4341 du Trille-Blanc Street, Saint-Bruno-de-Montarville, Quebec J3V 6J7
7. Julie Thibault resides at 309 Place Antoine-Forestier, Carignan, Quebec J3L 0H6
8. Pierrette Thibault resides at 1241, Calais, Sherbrooke, Quebec J1R 0H9

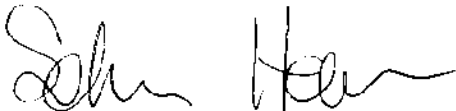
9. The First Defendant defended the Montreal Proceedings and appeared at the Trial therein thereby attorning to the jurisdiction of the Canadian Court. The Trust Defendants impleaded in the Montreal Proceedings and appeared at Trial thereby attorning to the jurisdiction of the Canadian Court
10. Further to a hearing held in February 2011, the Canadian Court entered on June 30 2011 final judgment in the Montreal Proceedings (which judgement was rectified on 11 July 2011) that the First Defendant was liable to the Plaintiff for the CDN\$12 million loan plus interest thereon since 29 June 2005 at the Bank's prime rate amounting to a debt of CDN\$15,669,943.00 as at 31 December 2010 ("Judgment"). A copy of this Judgment is attached at Schedule 1 to the Statement of Claim.
11. The Canadian Court ordered provisional execution of the Judgment notwithstanding appeal.
12. The First Defendant is liable for the sums due to the Plaintiff in accordance with the Judgment.
13. The First Defendant has appealed the Judgment to the Court of Appeal, Province of Quebec, District of Montreal, Canada ("Canadian COA"). The Canadian COA refused to order a stay of provisional execution and so the Plaintiff is entitled to seize (although not sell) assets of the First Defendant and Fiducie Claudette Hallée as the trust was found by the Canadian Court to be the alter ego of the First Defendant.
14. The Plaintiff seeks to enforce the debt due to it under the Judgment against the First Defendant in the Cayman Islands as it believes the First Defendant has assets in the Cayman Islands in his own name and/or held in the name of Fiducie Claudette Hallée and it is entitled to provisional execution of that Judgment against such assets notwithstanding that the Judgment has been appealed to the Canadian COA by the First Defendant.
15. By reason of the Judgment the Defendant is indebted to the Plaintiff for the sums set out in the Judgment plus post Judgment interest at the Bank's prime rate (currently at 3% per annum) as awarded by the Canadian Court.

**AND THE PLAINTIFF** claims against the First Defendant:

1. The sum sue under the Judgment in the amount of CDN\$15,669,943.00;
2. Interest pursuant to the Judgment at the Bank's prime rate (currently at 3% per annum) from December 31 2010 (357 days) on the amount of CDN\$15,669,943.00 being CDN\$459,794.58 and continuing until date of payment at the rate of CDN\$1287.94 per day alternatively interest pursuant to s. 34 of the Judicature Law alternatively interest at such other rate and for such other period as the Court thinks fit;
3. Costs.

If, within the time for returning the Acknowledgment of Service, the Defendants pay the total amount claimed of CDN\$15,669,943.0 plus interest of CDN\$459,794.58 and fixed costs of C\$5,500.00 further proceedings will be stayed. The money must be paid to the Plaintiff or its Attorney.

DATED the 28<sup>th</sup> day of December 2011



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**SOLOMON HARRIS**  
**ATTORNEYS-AT-LAW FOR THE PLAINTIFF**

**THIS WRIT** was **ISSUED** by **SOLOMON HARRIS**, of 3<sup>rd</sup> Floor FirstCaribbean House, P.O. Box 1990, George Town, Grand Cayman, KY1-1104, Cayman Islands, Attorneys-at-law for and on behalf of the Plaintiff whose address for service is that of its said Attorneys-at-law.

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**DIRECTIONS FOR ACKNOWLEDGEMENT  
OF SERVICE OF WRIT OF SUMMONS**

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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.
2. After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495G, George Town, Grand Cayman, Cayman Islands.
3. 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.

4. 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**

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 28 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.



yes | no

Service of the Writ is acknowledged accordingly

(Signed).....

Attorney for

**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.

Solomon Harris  
Attorneys-at-law  
3<sup>rd</sup> Floor, First Caribbean House  
P.O. Box 1990  
Grand Cayman, KY1-1104  
Cayman Islands  
  
Tel: (345) 949-0488  
Fax: (345) 949-0364  
Email: [lhathfield@solomonharris.com](mailto:lhathfield@solomonharris.com)

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