

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 251 OF 2012

BETWEEN: FIDELITY BANK (CAYMAN) LTD PLAINTIFF
AND: ENRIQUE HERNANDEZ SMITH DEFENDANT

WRIT OF SUMMONS

TO: Enrique Hernandez Smith
122A Powell Smith Drive
West Bay
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 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 18th day of May 2012.

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 Cayman Island Class "A" Licensed bank ("the Bank"), duly authorized under the laws of the Cayman Islands to, *inter alia*, offer retail banking facilities to its customers.
2. The Defendant is an individual who at all material times was a resident in the Cayman Islands.
3. At the request of the Defendant on 1 March 2012 the Bank advanced money to him under a loan agreement under account number 50577255 ("the Loan") with the Bank.
4. Payment under the terms of the Borrowing fell into arrears and on 9 May 2012, the Bank, through its attorneys, made formal demand for the immediate payment of the total amount outstanding under the Loan, together with accrued interest to the date of payment.
5. A payment of CI\$243.00 was paid on 16 April 2012 and another payment of CI\$259.00 was paid on 26 April 2012. No other payments have been received from the Defendant since 26 April 2012 in relation to the Loan.
6. As at 9 May 2012, the amount due under the Loan totalled CI\$24,751.47, with interest of CI\$394.13, with interest accruing at a daily rate of CI\$12.89.
7. The Bank is entitled to and claims interest on the Loan.

STATEMENT REGARDING INTEREST

- 7.1. It was a provision of the agreement in relation to the Loan that interest would accrue.
- 7.2. The agreed rate of interest in respect of the Loan was 19%.

- 7.3. Interest was payable from the date the Loan was made being 1 March 2012.
- 7.4. The total amount of interest claimed to date under the Loan is CI\$394.13. The amount of interest accruing due each day thereafter is CI\$12.89.

AND THE PLAINTIFF claims:

1. The sum of CI\$24,751.47;
2. Interest to 7 May 2012 on the Loan totalling CI\$394.13, and accruing thereafter at the daily rate of CI\$12.89 until payment;
3. Costs; and
4. Such further and/or other relief as this Honourable Court deems appropriate.

If, within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed of CI\$25,165.60 plus interest and costs further proceedings will be stayed. The money must be paid to the Plaintiff or his Attorney.

CAMPBELLS
18 May 2012

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.

C ampbells Attorneys at Law
PO Box 884
George Town
Grand Cayman KY1-1103
Tel: +1 345 949 2648
Fax: +1 345 949 8613
(Ref: STM/12857-19555

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

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 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 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.