

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION



BETWEEN

EUGENE HOFFMAN JR.

Plaintiff

-and-

MYRON GUSHLAK

Defendant

WRIT OF SUMMONS



TO: MYRON GUSHLAK of FCI Allenwood Low Security Federal Prison, PO Box 1000, White Deer, Pennsylvania, 17887, USA.

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out herein.

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 17th day of August 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO. FSD

BETWEEN

EUGENE HOFFMAN JR.

Plaintiff

-and-

MYRON GUSHLAK

Defendant

STATEMENT OF CLAIM

1. The Plaintiff is an individual who is a resident of the state of California in the United States of America.
2. The Defendant is an individual who is a resident of the state of Pennsylvania in the United States of America.
3. On or about 3 August 2006 the Plaintiff loaned US\$550,000 to the Defendant.
4. The Defendant executed a promissory note (the "Note") on 3 August 2006. The Note provided:
 - a. for the repayment of US\$550,000 plus interest at 7.9% p.a., by way of repayments of US\$3,997.44 due on the first day of every months between 1 September 2006 and 1 September 2011, with the balance of US\$525,280.96 to be paid on 1 October 2011;
 - b. that it would be governed by and construed in accordance with the laws of the State of California, United States of America;
 - c. that the Defendant expressly authorised any action brought upon the enforcement of the Note by the Plaintiff to be instituted and prosecuted in any Federal Court of the USA in California; and

- d. that the Defendant would pay all reasonable attorneys' fees in case any payment of principal or interest was not paid by the due date.
 5. The Defendant breached his obligations pursuant to the Note to repay the Plaintiff.
 6. Accordingly, the Plaintiff filed a complaint (the "**Proceedings**") against the Defendant in the United States District Court for the Northern District of California (the "**US Court**").
 7. On 12 July 2012 the Plaintiff obtained in the US Court an in personam judgment (the "**Judgment**") against the Defendant for payment of the following:
 - a. the sum of US\$612,264.92;
 - b. interest at 15% p.a. on the above sum;
 - c. costs of US\$3,450; and
 - d. future attorney fees and costs to enforce the Judgment.
 8. At the time when the Proceedings that gave rise to the Judgment were served on the Defendant:
 - a. pursuant to the terms of the Note, he had expressly agreed to submit to the jurisdiction of the US Court;
 - b. he was resident in the United States; and
 - c. he had voluntarily participated in the Proceedings.
 9. Accordingly the Defendant submitted to the US Court in respect of the claim giving rise to the Judgment, which is binding on him.
 10. The Judgment is final and conclusive, and for a sum certain as aforesaid.
 11. The Defendant has been unable to satisfy the judgment, which remains wholly unpaid.
-

12. In the premises, the Plaintiff is entitled to costs against the Defendant on an indemnity basis for all steps in these proceedings.
13. Pursuant to the Judgment, the Plaintiff is entitled to interest on the Judgment from the Defendant at the rate of 15.0% per annum from 12 July 2012 up to the date of payment. In the alternative, the Plaintiff claims interest pursuant to Section 34 of the Judicature Law on such damages as may be awarded to it at such rate and for such period as the Court thinks fit.

AND THE PLAINTIFF CLAIMS

- (1) Damages as above.
- (2) Interest as above.
- (3) Costs on an indemnity basis.
- (4) Such further or other relief as the Court thinks fit.

Dated the 17th day of August 2012

Mourant Ozannes

Mourant Ozannes
Attorneys-at-law for the Plaintiff

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

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)'.
(Note: The original text contains a typo 'sued' which has been corrected to 'sued as' for clarity.)
 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.
-

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.

Mourant Ozannes
Attorneys at Law
94 Solaris Avenue
Camana Bay
PO Box 1348
Grand Cayman KY1-1108

ref: 8001931/55497141/2

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