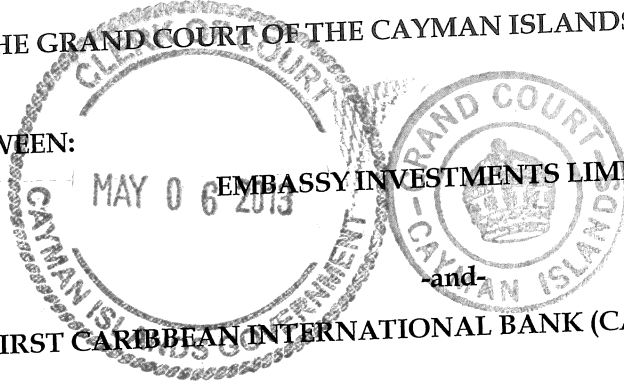


IN THE GRAND COURT OF THE CAYMAN ISLANDS

Cause No ¹⁴⁴ of 2013

BETWEEN:



EMBASSY INVESTMENTS LIMITED

Plaintiff

-and-

FIRST CARIBBEAN INTERNATIONAL BANK (CAYMAN) LIMITED

Defendant

WRIT OF SUMMONS

TO: First Caribbean International Bank (Cayman) Limited
PO Box 487 GT
First Caribbean House
25 Main Street
Grand Cayman, 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 6th day of May 2013.

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 Jersey company, registered as a foreign company in the Cayman Islands. The Plaintiff, through its wholly owned subsidiary Beach Suites Cayman Limited (now Grand Cayman Beach Suites Limited)) is and was at all material times the owner of the Grand Cayman Beach Suites Resort (the "Hotel") and carried on business there.
2. The Defendant is and has at all material times carried on the business of a bank in Grand Cayman.
3. There existed at all material times a relationship of customer and banker between the Plaintiff and the Defendant.
4. Pursuant to the credit agreement between the Plaintiff and Defendant signed on 20 May 2004 (the "Credit Agreement"), the Defendant agreed to provide the Plaintiff with certain banking services.
5. On or around 31 July 2006, the Plaintiff and Defendant agreed to amend the Credit Agreement. The amendments are set out in an email sent from the Defendant's account manager (Mr Brian Esau) to Mr Asif Bhatia of the Plaintiff on 31 July 2006 (the "Amending Agreement"). Pursuant to the Amending Agreement, it was agreed between the Plaintiff and Defendant that:

"Effective July 28 [2006], the borrowing rate on all loan balances for EIL[the Plaintiff] will be booked at 75 Basis Points above the securing fixed deposit rate of 4.95%, the latter which will also take effect from July 28 [2006]. As a result, the borrowing rate will be 4.95% +.75 = 5.70%.

When the fixed deposit matures and if rolled over for another 3 month term, the EIL loans will continue to receive the rate of 75 Basis Points above the rate paid on the securing fixed deposit."
6. Pursuant to the Amending Agreement, an interest rate equivalent to the Defendant's deposit rate plus 75 basis points (the "Agreed Interest Rate") was

agreed to apply to all loans, including the operating line as defined in the Credit Agreement (the "Working Capital Facility"), taken out by the Plaintiff so long as the value of those loans did not exceed the value of the monies the Plaintiff had deposited with the Defendant.

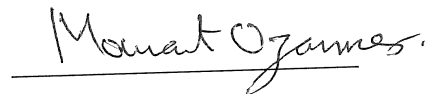
7. Relying on the terms of the Amending Agreement, the Plaintiff deposited large cash deposits with the Defendant. The most substantial deposits include (but are not limited to) the following payments:
 - (1) US\$15,094,981 paid into account 10008193 on or around 28 July 2006 and held in deposit account 10177063.
 - (2) US\$16.75 million paid into account 10008193 on or around 17 March 2010 and also held on deposit.
 - (3) Deposit of US\$316,121.88 held in account number 10029511 as at 31 July 2006.
 - (4) Deposits of varying amounts held on the Plaintiff's current and operating accounts including, but not limited to account numbers 10113413, 3424618, 3424715, 3424812, 3425010 and 3425118.
8. Relying on the Amending Agreement, the Plaintiff took out various loans from the Defendant between 28 July 2006 and 6 July 2012. The relevant loans included the Working Capital Facility and loan account numbers 10014215, 10014265, 10122307, 10091924 and 1008193 (together the "Loans").
9. In breach of contract, the Defendant has failed to apply the Amending Agreement as it has not charged the Plaintiff the Agreed Interest Rate on the Loans. In breach of contract, the Defendant has charged the Plaintiff higher rates of interest on the Loans.
10. In addition, at various times, Mr Jan Bertelsen and Mr Asif Bhatia of the Plaintiff have both given written instructions by email to the Defendant that the Plaintiff should not have any amount outstanding under the Working

Capital Facility given the Plaintiff at all material times had more funds on account with the Defendant than it had outstanding pursuant to the Loans.

11. The Defendant in further breach of contract failed to comply with these written instructions.
12. Further, and in the alternative, the definition of "Interest Rate" pursuant to the Working Capital Facility of the Credit Agreement includes the following *"to the extent the balance in the Furniture, Fixtures and Equipment Reserve exceeds the authorized limit on this facility, interest will not be charged on borrowings under this facility"* (the "Balancing Agreement").
13. In further breach of contract, the Defendant has failed to apply the Balancing Agreement pursuant to the Working Capital Facility on monies withdrawn by the Plaintiff from that Facility.
14. The Defendant has also wrongly charged the Plaintiff overdraft fees, default interest and other fees relating to the operation of the Plaintiff's accounts with the Defendant.
15. By a letter dated 2 April 2013 from the Plaintiff's attorneys (Mourant Ozannes) to the Defendant, the Plaintiff demanded repayment of the sum due.
16. The Plaintiff claims:
 - (1) damages for the Defendant's breaches of contract;
 - (2) an order that the Defendant provide the Plaintiff with a full account of the interest the Defendant charged on the Loans, the interest the Defendant should have been charged on the Loans if it had used the Agreed Interest Rate and the fees the Defendant charged on the various deposit and loan bank accounts the Plaintiff held at the Defendant between 28 July 2006 and 6 July 2012 to allow the Plaintiff to quantify its loss;

- (3) an order that the Defendant pay the Plaintiff the sum due following the provision of the full account referred to in (2) above;
- (4) interest pursuant to section 34 of the Judicature Law (2007 Revision) on such amount and at such rate and for such period as the Court thinks fit;
- (5) such further or other relief as this Honourable Court thinks fit; and
- (6) costs.

Dated this 6th day of May 2013



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 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

Cause No of 2013

BETWEEN:

EMBASSY INVESTMENTS LIMITED

Plaintiff

-and-

FIRSTCARIBBEAN INTERNATIONAL BANK (CAYMAN)
LIMITED

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 a Defendant whereby he 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 no

Service of the Writ is acknowledged accordingly

(Signed)

..... [Attorneys for the Defendant]

Address for service: (*See 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.

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

ref: 3040660/57116797/1.

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