

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 438—OF 2013  
LEGAL AID NO: LCV0317/2013

BETWEEN :

ELLA ARCHIBOLD

Plaintiff

AND

MATTHEW LESLEY~~IE~~

Defendant

AMENDED WRIT OF SUMMONS

To the Defendant:

Matthew Lesley~~ie~~  
Caybrew  
The Cayman Islands Brewery  
Red Bay, Shamrock Road  
P.O Box 366  
Grand Cayman, KY 1-1209  
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, PO Box 495, Grand Cayman, KY1-1106, Cayman Islands, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement 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            201~~4~~3

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 Acknowledgement of Service are given with the accompanying form.

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**PARTICULARS STATEMENT OF CLAIM**

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1. The Plaintiff is and was at all material times a citizen and resident of the Cayman Islands and the maternal grandmother of the Defendant. The Plaintiff's address for service is care of her attorney, Richard H Barton, Attorney-at-Law, Artemis House, 67 Fort Street, PO Box 1294, Grand Cayman, KY1-1108, Cayman Islands.
  
2. The Defendant is and was at all material times an individual also a citizen residing in the Cayman Islands. The Defendant's address for service is Caybrew, the Cayman Islands Brewery, Red Bay Shamrock Road, PO Box 366 KY1-1209, Cayman Islands.
  
3. On or about 1 August 2004 the Defendant entered into an oral agreement with the Plaintiff ("Loan Agreement"). The terms of the Loan Agreement were, *inter alia*, as follows:
  - a. That the Plaintiff would loan the Defendant CI\$27,033.75 at the rate of interest of 13% per annum (the "Loan") so as to enable to the Defendant fund medical related expenses for a surgical procedure that he was required to undergo at the material time.
  
  - b. That the Defendant would commence repayment on the Loan immediately following his recovery from a the medical procedure referred to at paragraph 3(a) he had received with the aid of the Loan;
  
  - c. That the Defendant would repay the Plaintiff in full;
  
4. The Defendant duly underwent the medical procedure and has since made a full recovery.
  
- 4.5. Pursuant to the Loan Agreement, on 25 August 2004 the Plaintiff along with the Defendant's mother, Susan H. Cowan's (the "Parties") entered into a separate agreement (the "Promissory Note") with the Plaintiff's then employer, the Cayman

Islands Government (the "Government"). The terms of the Promissory Note were *inter alia*, as follows:

- a. That the Government would pay CI\$27,033.75 (the "Government Loan") to Harris County Hospital District, or any other treatment center that was recommended to the attending physician in respect of Defendant and all medical expenses incurred by him;
- b. That the Parties shall be jointly and severally liable and would repay the Government the sum of CI\$27,033.75 at the rate of interest of 13% per annum;
- c. That the Parties shall be jointly and/or severally to repay CI\$300.00 per month commencing September 2004 until the Government Loan was fully extinguished;
- d. That in default of any instalment, the Parties would pay the Government the whole balance immediately upon demand.

~~5-6.~~ 5-6. In keeping with the terms under the Promissory Note, CI\$150.00 has been deducted from the Plaintiff's salary every month since 7 September 2004 until she retired from full-time employment with the Government in 2009. The Plaintiff currently receives a pension in the amount of CI\$619.00 of which CI\$150.00 continues to be deducted and applied to the Government Loan.

~~6-7.~~ 6-7. Susan H Cowan has never paid any monetary contribution towards the Government Loan and the Plaintiff remains severally and jointly liable.

~~7-8.~~ 7-8. In or around September 2004 the Defendant's medical expenses were settled in full thereby fulfilling the Plaintiff's obligation under the Loan Agreement.

~~8-9.~~ 8-9. The Defendant subsequently defaulted on the terms of payment and as of the date of the commencement of this proceeding the Defendant, pursuant to the terms of

the Loan Agreement, owed to the Plaintiff the principal sum of CI\$27,033.75 plus interest of CI\$3,514.39 as at 12 December 2013. Interest on the principal sum continues to accrue at the rate of CI\$9.63 per day.

~~9.~~10. Notwithstanding a demand for payment made prior to the commencement of these proceedings, the Defendant has either failed or neglected to make full payment to the Plaintiff.

~~10.~~11. As a result of the above, the Plaintiff is entitled to the relief claimed in this proceeding

AND THE PLAINTIFF claims:

1. CI\$27,033.75 being the principle sum due to today's date;
2. CI\$3,514.39 interest from date interest starts to todays date at the rate of 13% per annum in accordance with the Loan Agreement;
3. Alternatively, pre and post judgment interest in accordance with the *Judicature Law (2007 Revision)* and the Judgment Debt (Rates of Interest) Rules, as amended from time to time;
4. Costs as the court deems appropriate.



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**Richard H. Barton**  
Attorney for the Plaintiff

## INDORSEMENT

The principal amount claimed in respect of the debt is CI\$27,033.75, plus interest of CI\$3,514.39 as of 12 December 2013. The amount of the filing fees to commence the proceeding is CI\$150.00. If, within the time for returning the acknowledgement of service, the Defendants' pays to the Plaintiff or its attorney-at-law the total amount claimed in principal, interest and the costs of issuing the Plaint, further proceedings will be stayed. The money must be paid to the Plaintiff or to its attorneys-at-law.

### INDORSEMENT REGARDING INTEREST

1. The contractual term upon which interest is claimed is as set out in paragraph 3 (c) above;
2. The prescribed rate of interest is 13% per annum;
3. The date from which interest is payable is 1 September 2004;
4. The total interest claimed as at today's date is CI\$ CI\$3,514.39; and
5. The amount of interest accruing due each day is CI\$ CI\$9.63.

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

1. The accompanying form of Acknowledgement 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, PO BOX 495G, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement 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 28 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 28 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 Acknowledgement of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgement, 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 Acknowledgement 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.

BETWEEN:            ELLA ARCHBOLD PLAINTIFF

AND:            MATTHEW LESLIE 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.

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.
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2. State whether the Defendant intends to contest the proceedings (tick appropriate box)
- |     |    |
|-----|----|
| YES | NO |
|-----|----|
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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 |
|-----|----|
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Service of the Writ is acknowledged accordingly

\_\_\_\_\_

Date:

Attorney for Defendant

**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.

Richard H. Barton {  
Attorney-at-Law  
Artemis House, 67 Fort Street  
PO Box 1294 – KY1 -1108  
George Town, Cayman Islands}

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