

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION

CAUSE NO: 227 OF 2013

BETWEEN: EMERALD ISLES OF THE CARIBBEAN LTD.

PLAINTIFF

AND: YESENIA LOPEZ  
JOSE ROJAS  
RAMONA PERALTA

FIRST DEFENDANT  
SECOND DEFENDANT  
THIRD DEFENDANT

WRIT OF SUMMONS

TO: Ave. 27 de Febrero  
Plaza Optimus  
Modulo A2-10  
Santiago  
Dominican Republic

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 the Writ on you, counting the day of service, you must either satisfy the claim of return to the Court Office, P.O. Box 495, George Town, Grand Cayman, 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 judgement may be entered against you forthwith without further notice.

Issued this 5<sup>th</sup> day of July 2013.

NOTE: - This Writ may not be served later than 4 calendar months (or, if leave is require to effect service out of the jurisdiction, 6 months) beginning with the date of issue renewed by order of the Court.

**IMPORTANT**

Directions for Acknowledgment of Service are given with the accompanying form.

### STATEMENT OF CLAIM

The Plaintiff is the Franchisor of Century 21 of the Caribbean and the Defendants are Franchisees pursuant to a Contract between the parties dated 22<sup>nd</sup> May 2007.

In accordance with the Contract, the Defendants agreed to pay fees including but not limited to franchise fees and royalty fees ("the Fees") and the Plaintiff would allow the Defendants to use the Franchise Century 21.

The Plaintiff claim is for damages resulting from Defendants failure to pay the Fees in accordance with the Contract.

As at 30<sup>th</sup> April 2013, the amount owing to the Plaintiff was USD92,652.34. Despite the Plaintiffs Demand Letter dated 23<sup>rd</sup> August 2012, telephone calls and emails sent to the Defendants, the Defendants made only one payment on 15<sup>th</sup> November 2012 of USD5,000.00.

The account continues to accrue late charges and fees pursuant to the Contract.

Interest continues to accrue at a 8.25% compounded monthly with the current rate being USD16.27 per diem. (5% higher than the prime rate currently established by the Bank of New York) 3.25 5% rate of 5% per annum) pursuant to the Contract.

As at 18<sup>th</sup> June 2013, the Defendants outstanding debt to the Plaintiff is USD92,652.34.

AND THE PLAINTIFF claims:

1. The sum of USD92,652.34
2. Interest
  - i. The rate of interest claimed is 8.25 per annum compounded monthly.
  - ii. The date from which interest is calculated is 30<sup>th</sup> May 2013.
  - iii. The total amount of interest claimed as at the date hereof is USD6,131.45
  - iv. the amount of interest accruing each day thereafter is USD16.79 per diem compounded monthly.
3. Costs
4. Further or other relief as the Court deems fit.

If within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed of USD92,652.34 (including interest and costs) further proceedings will be stayed. The money must be paid to the Plaintiff or his Attorney.



Sonia Bush & Associates Law Firm  
Attorneys for the Plaintiff

**This Writ** is filed by Sonia Bush & Associates, Attorneys-at-Law for and on behalf of the Plaintiff herein whose address for service and correspondence is Grand Pavilion Commercial Center, 802 West Bay Road, P.O. Box 11139, Grand Cayman, KY1-1008 Cayman Islands.

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICES  
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 "Statements 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 judgement 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 judgement 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 is 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 (.....)" his name.
6. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorized 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 if 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 communication for him should be sent. In the case of a limited company, "residence" means it 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.

Sonia Bush & Associates Law Firm  
Attorneys-at-Law  
Grand Pavilion Center,  
802 West Bay Road,  
P. O. Box 11139  
Grand Cayman, KY1-1008  
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.