

IN THE GRAND COURT OF THE CAYMAN ISLANDS

G0152

CAUSE NO: OF 2015

BETWEEN:

(1) HENRY BODDEN  
(2) ETHEL BODDEN

PLAINTIFFS

AND:

SYLVIA LEWIS

DEFENDANT



WRIT OF SUMMONS

TO: SYLVIA LEWIS  
Pet Barn  
Caymanian Village  
P.O. Box 10222  
Grand Cayman KY1-1002  
Cayman Islands



THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiffs 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 Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 1<sup>st</sup> day of September 2015

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.

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STATEMENT OF CLAIM

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1. The Plaintiffs are the registered proprietors of the property known as Unit No. 20, Block C, Caymanian Village, George Town, Grand Cayman registered as Block 14C Parcel 296H20 (the **Property**).
2. By an agreement in writing dated 1 February 2011 (the **Agreement**) the Plaintiffs agreed to sell and the Defendant agreed to purchase the Property in accordance with the terms of the Agreement.
3. Under the terms of the Agreement, the Defendant agreed to purchase and the Plaintiffs agreed to sell the Property for a purchase price of CI\$260,000 payable as follows:
  - (a) the sum of CI\$10,000 upon execution of the Agreement; and
  - (b) the balance of CI\$250,000, together with interest at the rate of 7.25% per annum, payable in 240 instalments of CI\$1,975.94 each, commencing on 1 March 2011 with the final payment due on or before 31 January 2031, in accordance with the amortisation schedule attached to the Agreement.
4. In accordance with the terms of the Agreement, the Defendant was granted vacant possession of the Property on 4 February 2011.

5. The Agreement provides that from the date of vacant possession:
- 5.1 Risk in the Property passed to the Defendant.
  - 5.2 The Defendant shall be responsible for all outgoings incurred in relation to the Property.
  - 5.3 The Defendant shall pay up to date the strata fees, building insurance and assessments (**Strata Payments**) levied in respect of the Property by the strata corporation for the strata plan of which the Property falls a part (**the Strata Corporation**).
  - 5.4 The Defendant shall observe and comply with all requests, bills, notices, demands and assessments made by the Strata Corporation and shall indemnify the Plaintiffs during the period of the Defendant's possession of the Property in respect of all claims and assessments made by the Strata Corporation in respect of the Property.
6. Special Condition (13) of the Agreement provides as follows:

*The Purchaser or any person on behalf of the Purchaser shall fail to pay all or part of or any of the installment payments referred to on page 1 hereof and as set out in the Amortization Schedule on the date each respectively falls due, or the Balance of monies due on the Completion Date, or shall otherwise fail to perform or observe any of the terms of this Agreement for a period of fourteen (14) days from the date upon which such payment fell due, or such other breach occurred, the Vendor may serve on the Purchaser ... notice calling for payment of the arrears due and owing [sic] or curing such breach as the case may be within a period of fourteen (14) days from the date upon which such notice is served, and if the arrears are not then paid by the Purchaser to the Vendor or if the breach shall not have been cured, the Vendors may then serve on the Purchaser notice calling for payment of the arrears due and owing [sic] together with the whole balance of the said price then remaining outstanding within a further period of thirty (30) days from the date upon which such notice is served and if such arrears and balance remains outstanding at the expiry of such period of thirty (30) days, the Purchaser shall forthwith yield up possession of the*

*Property and instruct the Registrar of Lands to remove or cause to remove any Caution, Inhibition or Restriction or any other entry which the Purchaser may have caused to be registered on the Land Register of the Property under this Agreement failing which the Vendors may in keeping with the provisions of paragraph (3) of the Special Conditions so instruct the Registrar of Lands to remove any such entries, and the Vendors shall be entitled to retain all monies paid hereunder as rents and/or as liquidated damages for, inter alia, the possession of the Property, and this Agreement shall forthwith be terminated, and thereafter neither party hereto shall have claim against the other.*

7. In breach of the terms of the Agreement, the Defendant consistently failed to make the monthly instalments of the balance of the purchase price on time or at all and consistently failed to pay the Strata Payments to the Strata Corporation, at times being several months in arrears. In particular,

7.1 The Defendant failed to pay the sum of CI\$1,975.94, inclusive of interest, which fell due and payable on 1 May 2015, towards the balance of the purchase price of the Property, and that sum remained due and unpaid for a period in excess of 14 days since the date those sums fell due;

7.2 The Defendant also failed to pay the sum of CI\$4,247.20 due to the Strata Corporation as at 1 May 2015 in respect of Strata Payments and that sum remained outstanding for more than 14 days since the date it fell due.

8. By letter dated 19 May 2015, served on the Defendant on 20 May 2015, the Plaintiffs' attorneys-at-law gave notice to the Defendant of her default as set out at paragraph 7 of this Statement of Claim and required the Defendant, within 14 days of the date of service of the letter upon the Defendant, to pay the sums due as set out at paragraph 7.

9. Despite the Plaintiffs' demand as set out at paragraph 8 of this Statement of Claim the Defendant failed to pay the monthly instalment towards the purchase price of the Property, inclusive of interest, due and payable to the

Plaintiffs, and the Strata Payments due and outstanding to the Strata Corporation within 14 days as demanded in the letter dated 19 May 2015 or at all.

10. In accordance with Special Condition (13) of the Agreement, by letter dated 2 July 2015, served on the Defendant on the same day, the Plaintiffs' attorneys-at-law served notice on the Defendant demanding that within 30 days of the date of service of that letter, the Defendant pay all Strata Payments then due and payable to the Strata Corporation in respect of the Property, then amounting to CI\$4,866.04, and the whole balance of the purchase price of the Property remaining outstanding, inclusive of interest and all unpaid arrears, which then stood at CI\$221,610.23. The letter dated 2 July 2015 demanded that in default of the sums demanded the Defendant should forthwith deliver up possession of the Property.
11. Notwithstanding the Plaintiffs' demand contained in the letter dated 2 July 2015, the Defendant failed, within thirty days of the date of service of the letter, to pay the arrears in Strata Payments due to the Strata Corporation, or any part thereof; to pay to the Plaintiffs the entire balance of the purchase price remaining due or any part thereof; or to deliver up possession of the Property to the Plaintiffs.

**WHEREFORE THE PLAINTIFFS CLAIM AGAINST THE DEFENDANT:**

- (1) An order that the Defendant deliver up possession of the Property to the Plaintiffs forthwith;
- (2) Costs.
- (3) Further or other relief.

Dated this <sup>1<sup>st</sup></sup> day of *September* 2015

*Mourant Ozannes*  
Mourant Ozannes  
Attorneys-at-Law for the Plaintiffs

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)".
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.

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(1) HENRY BODDEN  
(2) ETHEL BODDEN

PLAINTIFFS

AND:

SYLVIA LEWIS

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.

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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

(Signed).....

Attorney for the Defendant  
Address for service: (*See overleaf*)  
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.

Mourant Ozannes  
Attorneys-at-Law  
94 Solaris Avenue  
Camana Bay  
PO Box 1348  
Grand Cayman KY1-1108  
  
ref: 8019043/64602974/1

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

[Empty box for Defendant's Attorney indorsement]