

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 113 OF 2017

BETWEEN: THE PROPRIETORS OF STRATA PLAN #108 PLAINTIFF

AND: LIONEL DURRANT FIRST DEFENDANT

AND: CHRISTOPHER DURRANT SECOND DEFENDANT



WRIT OF SUMMONS

TO: Lionel and Christopher Durrant
10 Ryan's Retreat
Crewe Road
George Town
Grand Cayman



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 495, George Town, Grand Cayman KY1-1106, 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 28th day of June 2017.

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 At all material times, the Plaintiff is and was a strata corporation established under the Cayman Islands Strata Titles Registration Law (2013 Revision) (“the Law”), being the condominium development known as Ryan’s Retreat (“the Strata”).
- 2 The Defendants, at all material times, are and were the registered owners of one of the Strata lots at Registration Section George Town East, being Block 20D, Parcel 386H11 known as Unit 10, Ryan’s Retreat (“the Property”).
- 3 The control, management, administration, use and enjoyment of the Strata lots and the common property contained in the registered strata plan of the Plaintiff is regulated by its Strata By-laws (“the By-laws”).
- 4 Pursuant to By-Law 41(b), it is the Defendants’ obligation to pay to the Plaintiff all rates, taxes, charges, outgoings and assessments that may be payable in respect of their Strata Lot. Pursuant to By-law 41(c) it is the Defendants’ obligation to pay all contributions to the fund for administrative expenses levied by the Plaintiff and their proportion of any costs and expenses incurred by the Plaintiff in connection with the performance of its duties under the Law and the By-laws.
- 5 The Plaintiff levies such contributions by way of monthly invoices sent to the Defendants stating the payment due for that month which are payable in arrears.
- 6 Despite repeated demand by the Plaintiff, the Defendants have failed, refused and/or neglected to make payment of any, or all, of the sums due to the Plaintiff.
- 7 As at 20 June 2017, pursuant to By-laws 41(b) and (c), the Defendants were justly and truly indebted to the Plaintiff in the sum of **CI\$22,220.44**, including interest due under By-law 41(c)(ii)(a), calculated at the rate of 4% per annum above the Prime Rate prevailing at Barclays Bank PLC, George Town, Grand Cayman for loans in United States Dollars at the time of default which such interest will accrue from day to day until payment.

8 By reason of the Defendants' breach of the By-laws in failing to pay the contributions levied (as set out above), the Plaintiff has suffered loss and damage.

9 The Plaintiff's entitlement to payment continues to accrue on a monthly basis and, if payment is not made in accordance with the By-laws, the Plaintiff will add the accrued amounts to the sum claimed herein.

10 Further, the Plaintiff seeks and is entitled to interest calculated in accordance with the By-laws continuing at the daily rate of CI\$4.41 until judgment or sooner payment calculated as follows:

		Rate	No. of Days	Daily Rate
Statement Amount	\$22,220.44	7.25%	8	\$4.41
Interest since last statement	\$35.31			
Start Date	6/20/2017			
End Date	6/28/2017			

alternatively pursuant to section 34(1) of the Judicature Law (2017 Revision) from and to such dates, and in such amounts, and at such rates, as this honourable Court thinks just.

11 The Plaintiff is entitled to, and does, claim all costs associated with bringing these proceedings on an indemnity basis.

AND THE PLAINTIFF claims:

1. The sum of CI\$22,220.44;
2. Interest from 20 June 2017 to date on the Loan Account totalling CI\$35.31, and accruing thereafter at the daily rate of CI\$4.41 until payment;
3. Costs on an indemnity basis; and
4. Such further and/or other relief as this Honourable Court deems appropriate.

If, within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed of CI\$22,255.75 plus further accruing interest and costs further proceedings will be stayed. The money must be paid to the Plaintiff or its Attorney.

Campbells

CAMPBELLS

28 June 2017

BETWEEN: THE PROPRIETORS OF STRATA PLAN #108 PLAINTIFF

AND: LIONEL AND CHRISTOPHER DURRANT 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).....

Attorney for

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.

**Campbells
4th Floor Willow House
PO Box 884
George Town
Grand Cayman KY1-9010
(Ref: JAS/15420-24797)**

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]

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

Please complete overleaf

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.