

IN THE SUMMARY COURT OF THE CAYMAN ISLANDS

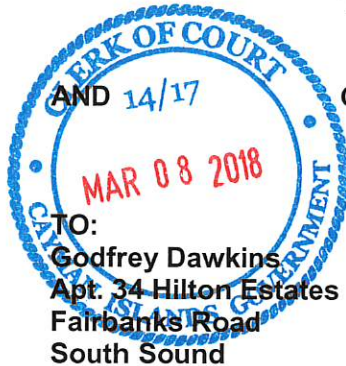


CAUSE NO. SC 44 OF 2018

BETWEEN:

THE PROPRIETORS, STRATA PLAN No. 559

PLAINTIFF



GODFREY L. DAWKINS

DEFENDANT

PLAINT



THIS PLAINT 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 service of this *Plaint* 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, the accompanying *Acknowledgment of Service* form stating therein whether you intend to contest this action. If you intend to defend the action, in whole or in part, you must set out **full particulars of your defence** in the space provided in the *Acknowledgment of Service* form.

IF YOU FAIL to satisfy the claim or fail to return the *Acknowledgment of Service* form containing full particulars of your defence, the Plaintiff may apply for a **default judgment** without any further notice to you.

Issued this 8th day of March 2018

See overleaf for particulars of the Plaintiff's claim.

PARTICULARS OF CLAIM

1. The Defendant is the registered proprietor of the property situated at Registration Section South Sound Block and Parcel 15C191H34, also known as Apartment 34, Hilton Estates, within a residential development situated in South Sound, Grand Cayman and the subject of Strata Plan No. 559.
2. The Plaintiff is a body corporate consisting of a collection of all the Strata Proprietors contained within Strata Plan No. 559 in accordance with section 5(1) of the Strata Titles Registration Law (2013 Revision) ("**the Law**").
3. In accordance with its duties and powers under section 6(2) of the Law the Plaintiff;
 - (a) Has to establish a fund for administrative expenses sufficient in the opinion of the Plaintiff for the control, management and administration of the common property, for the payment of any premiums of insurance and for the discharge of any of its other obligations.
 - (b) Is empowered to determine, from time to time, the amounts to be raised for the fund for administrative expenses and to raise such amounts by levying contributions on the proprietors in proportion to their unit entitlement.
4. On or around 25th November 2008, in accordance with Section 21(5) of the Law, the Plaintiff resolved to pass By-laws ("**the By-laws**") to regulate the control, management, administration, use and enjoyment of the Strata lots and the common property. The By-laws were registered at the Cayman Islands Land And Survey Department on 5th January 2009
5. Section 7.3 of the By-laws states, *inter alia* the following:

"[A proprietor shall:]

7.3 Pay to the corporation within fourteen (14) days of demand:

7.3.1 all contributions necessary to establish and maintain a fund for administrative expenses, levied by the Corporation pursuant to Section 6(2) of the Law and sufficient in the opinion of the Corporation for the control, Management and administration of the Common Property, for the payment of

insurance premiums and for the discharge of any other obligations of the Corporations; and

7.3.2 the proportion of all other costs and expenses incurred by the Corporation in connection with the performance of its duties under the Lw and under these by-laws as the unit entitlement of his strata lot bears to the total entitlement of all Strata Lots."

6. The Plaintiff levied such contributions by way of monthly invoices sent to the Defendant stating the payment due for that month. A copy of the last statement of account for the defendant is annexed to this plaint.
7. The Plaintiff has previously issued proceedings in respect of recovery of unpaid sums under Cause No. 219 of 2016. The defendant, in the face of enforcement of the Default Judgment by Charging order, paid the majority of the sums due, leaving a modest shortfall of CI\$9.37.
8. The Defendant has failed to honour his obligations to make such payments within 14 days of demand and is now in arrears in the amount of CI\$3,450.16 as 1 February 2018.
9. In addition, the Defendant was served with a letter ("the Letter") demanding payment of outstanding sums by registered mail dated 5th February 2018. No contact or offer of payment has been received from the Defendant. A copy of the Letter is appended hereto together with a statement of account.
10. The Plaintiff claims the said sum of CI\$3,450.16 as monies due and owing on foot of the Defendant's breach of sums lawfully and properly due to the Plaintiff pursuant to the By-laws.
11. The amount as set out above includes interest to 1 February 2018 to which the Plaintiff is entitled in accordance with Section 7.3.2-1, that rate of interest being three per cent (3%) per annum above the prime lending rate for commercial banks in the Cayman islands at the time of default which interest shall accrue from day to day with monthly rests until payment (being 4.50%). The effective rate is currently 7.5%.

12. Interest is thereafter claimed on the amount owing as of 1 February 2018 at the rate described above.

STATEMENT REGARDING INTEREST

- (a) The Plaintiff seeks pre and post judgment interest from 1 February 2018 in accordance with the provisions of the bye-laws or in the alternative in accordance with the Judicature Law (2013 Revision) and the Judgment Debt (Rates of Interest) Rules as amended from time to time.
- (b) The interest rate claimed as per the bye-laws is seven and one half per cent (7.5%) per annum in accordance with the bye-laws.
- (c) In the alternative the interest rate as per the Judgment Debt (Rates of Interest) Rules is 2 3/8% per annum or such other rate as the court shall deem just.
- (d) Interest is included in the claim for damages to the 1 February 2018 and from the 1 February 2018 is thereafter is claimed at the rate of CI\$0.71 per day. Interest to date of issue of this plaint is CI\$24.85.

AND THE PLAINTIFF CLAIMS:

- (i) The said sum of CI\$3,450.16.
- (ii) Pre and post judgment Interest on the said sum of CI\$3,450.16 in accordance with the Strata bye-laws, and/or in the alternative, Section 34 of the Judicature Law (2013 Revision) and the Judgment Debt (Rates of Interest) Rules as amended from time to time at such rate as the court deems just;
- (ii) Costs in accordance with the By-laws, or in such sum as the court may award in accordance with the Summary Court Rules.

If within the time for returning Acknowledgement of Service the Defendant pays to the Plaintiff's Attorneys-at-Law the total amount claimed of CI\$3,450.16 (together with interest and costs of CI\$150) all further proceedings will be stayed.

Dated this **8th** day of March 2018

A handwritten signature in blue ink that reads "McGrath Tonner". The signature is written in a cursive style and is positioned above a horizontal line.

McGrath Tonner
Attorneys for the Plaintiff

This PLAINT was issued by McGrath Tonner, Attorneys-at-Law for the Plaintiff whose address for service and correspondence is 5th Floor Genesis Bldg, Genesis Close, P.O. Box 446 GT, George Town, Grand Cayman KY1-1106, Cayman Islands.

5 February 2018

By Registered Mail

apark@mcgrathtonner.com

Godfrey Dawkins
P.O. Box 31384
Grand Cayman
KY1-1206

Dear Sir,

Our Client: The Proprietors, Strata Plan No. 559 "Hilton Estates"
Re: Outstanding Strata fees

We have been retained by the Executive Committee of the above-captioned strata plan ("**the Strata**") in connection with unpaid strata fees in respect of your unit 34.

In accordance with its duties and powers under Section 6(2) of the Strata Titles Registration Law the Plaintiff has to establish a fund for administrative expenses sufficient in the opinion of the Plaintiff for the control, management and administration of the common property, for the payment of any premiums of insurance and for the discharge of any of its other obligations. It is also empowered to determine, from time to time, the amounts to be raised for the fund for administrative expenses and to raise such amounts by levying contributions on the proprietors in proportion to their unit entitlement.

The Strata exercised such powers by both establishing a fund for administrative expenses and by determining from time to time the amounts to be raised for the fund for administrative expenses.

Pursuant to Strata Corporation By-Laws 7.3, to which you are legally bound, it is your obligation to make payments of the amounts determined by the Strata within 14 days of demand, with those demands having been received by you by way of monthly statement from the Strata.

As at 1 February 2018 your indebtedness to the Strata stood at CI\$3,450.16 and a copy of the account in respect of your unit is **enclosed** for ease of reference.

By-Law 7.3.2.1 provides that in the event of any such payment not being made within 14 days of such demand or the due date as the case may be you shall pay interest thereon at the rate of three per cent per annum above the prime lending rate for commercial banks in the Cayman Islands at the time of default which interest shall accrue from day to day with monthly rests until payment.

By-Law 7.3.2.2 further provides that the Strata shall have the power to take possession of your unit in circumstances where debts remain outstanding for 30 days.

Demand is hereby made for payment in full of the outstanding debt **within 14 days** of the date of receipt of this letter.

If payment is not received by the stated date, legal proceedings will be issued without further notice to you. Please remember that in addition to our client's claim they will also be claiming legal costs and interest if such proceedings are issued.

Yours faithfully,



McGrath Tonner

BCQS Hilton Estates Strata #559 (CI\$)

PO Box 871

Grand Cayman KY1-1103

Statement

Date
2/1/2018

To:
34 Godfrey Dawkins PO Box 31384 Grand Cayman KY1-1206 Cayman Islands

		Amount Due	Amount Enc.		
		\$3,450.16			
Date	Transaction	Amount	Balance		
08/31/2017	Balance forward		22,266.77		
09/01/2017	INV #6811. Due 09/01/2017. Monthly Cable	40.50	22,307.27		
09/01/2017	INV #6930. Due 09/01/2017. Monthly Strata Fee	282.53	22,589.80		
09/06/2017	GENJRN #355. INV 28776 RE-charge Legal Fees	50.00	22,639.80		
09/30/2017	INV #7092. Due 09/30/2017. 7.25% over 14 days	136.78	22,776.58		
10/01/2017	INV #7001. Due 10/01/2017. Monthly Cable	40.50	22,817.08		
10/01/2017	INV #7057. Due 10/01/2017. Monthly Strata Fee	282.53	23,099.61		
10/12/2017	PMT #Chase117 DTC Nov 6.	-21,632.24	1,467.37		
10/31/2017	GENJRN #365. CABLE CREDIT	-1,458.00	9.37		
10/31/2017	INV #7574. Due 10/31/2017. 7.25% over 14 days	8.87	18.24		
11/01/2017	INV #7187. Due 11/01/2017. Monthly Strata Fee	282.53	300.77		
11/10/2017	GENJRN #366. McGrath Toner, Inv# 29098, legal proceedings	2,242.50	2,543.27		
11/30/2017	INV #7586. Due 11/30/2017. 7.25% over 14 days	15.31	2,558.58		
12/01/2017	INV #7305. Due 12/01/2017. Insurance 2017/18	231.26	2,789.84		
12/06/2017	GENJRN #371. McGrath Toner, Inv#29182, notice in Cayman Compass	180.00	2,969.84		
12/31/2017	INV #7599. Due 12/31/2017. 7.25% over 14 days	17.80	2,987.64		
01/01/2018	INV #7480. Due 01/01/2018. Insurance 2017/18	231.26	3,218.90		
02/01/2018	INV #7641. Due 02/01/2018. Insurance 2017/18	231.26	3,450.16		
CURRENT	1-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 90 DAYS PAST DUE	Amount Due
231.26	0.00	429.06	2,489.07	300.77	\$3,450.16

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THE PROPRIETORS, STRATA PLAN No. 559

PLAINTIFF

AND

GODFREY L. DAWKINS

DEFENDANT

ACKNOWLEDGMENT OF SERVICE

1. State Defendant's name and address -

2. State whether the Defendant intends to contest the action.

Yes

No

3. If you do not intend to contest the action, do you want time in which to pay the claim?

Yes

No

4. If you do intend to contest the action, in whole or in part, you must set out full particulars of your defense overleaf.

Service of the Plaintiff is acknowledged accordingly.

Defendant's Signature

Dated this day of , 2018

See Overleaf

PARTICULARS OF DEFENCE

(Here set out in numbered paragraph the grounds upon which the Defendant says that he is not liable to the Plaintiff, or is not liable for the full amount claimed)

Defendant's Signature

REMINDER - This form must be taken or sent to the Courts Office, PO Box 495, George Town, Grand Cayman within 14 days of receipt otherwise a default judgment may be entered against you.