

IN THE SUMMARY COURT OF THE CAYMAN ISLANDS

CAUSE NO. SC 167 OF 2018

BETWEEN:

THE PROPRIETORS OF STRATA PLAN 395

PLAINTIFF

AND:

LEOELIS GAINZA ENG

FIRST DEFENDANT

AND:

NIUVIS CARTER-GAINZA

TO THE DEFENDANTS:

Leoelis Gainza Eng & Niuvis Carter-Gainza
Lot 11 Willow Lake
Savannah
Grand Cayman

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 the 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, KY1-1106 the accompanying Acknowledgment of Service stating therein whether you intend to contest this action. If you intend to defend this 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.

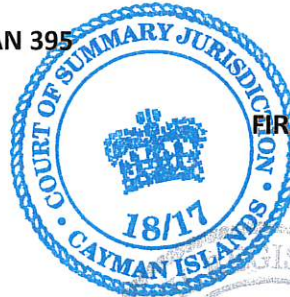
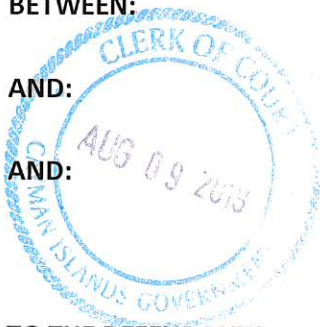
If you fail to satisfy the claim or to return the Acknowledgment of Service form containing full particulars of your defence, the Plaintiff may apply for a **default judgment** without further notice to you.

Issued this 8th day of August 2018.

IMPORTANT

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

THIS PLAINT is issued by Campbells, Attorneys the Plaintiff, whose address for service is Floor 4, Willow House, Cricket Square, George Town, Grand Cayman (Ref: JAS/15391-24501)



PARTICULARS OF CLAIM

- 1 At all material times, the Plaintiff was and is a strata corporation established under the Cayman Islands Strata Titles Registration Law (2013 Revision) ("the Law"), being the condominium development known as Willow Lake.
- 2 The Defendants, at all material times, are and were the registered owners of one of the Strata lots at Willow Lake, being Block 28B, Parcel 299H11 known as Unit 11 Willow Lake ("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 5(2), it is the Defendants' obligation to pay to the Plaintiff all rates, taxes, charges, outgoings and assessments that may be payable in respect of his Strata Lot. Pursuant to by-law 5(3) it is the Defendants' obligation to pay all other amounts owed to the Plaintiff on demand. Pursuant to by-law 5(4) it is the Defendants' obligation to pay all contributions to the fund for administration expenses levied by the Plaintiff and their due proportion of all other costs and expenses incurred by the Plaintiff in connection with the performance of its duties under the Law and the by-laws within 14 days of demand.
- 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 contributions levied by the Plaintiff.
- 7 As at 8 August 2018, pursuant to by-laws 5(2) and 5(4), the Defendant was justly and truly indebted to the Plaintiff in the sum of **CI\$4,661.01**, including interest due under by-law 5(39),

calculated at the rate of 4% per annum over the thirty day London Inter Bank Offer Rate for United States Dollars at the time of default quoted by the bankers of the Plaintiff, with a minimum of 12% per annum, accruing on a daily basis with monthly rests, on all payments due to the Plaintiff and unpaid for 14 days after the due date.

- 8 By reason of the Defendants' breach of the by-laws by reason of their failure to pay the contributions levied (as set out above), the Plaintiff has suffered loss and damage.
- 9 Further, 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\$1.52 until judgment or sooner payment calculated as follows:

		Rate	No. of Days	Daily Rate
Statement Amount	\$4,620.00	12.00%	27	\$1.52
Interest since last statement	\$41.01			
Start Date	7/12/2018			
End Date	8/8/2018			

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 Pursuant to by-laws 5(2) and (4) the Plaintiff is entitled to, and does, claim all costs associated with bringing these proceedings on an indemnity basis.

AND THE PLAINTIFF CLAIMS:

- (1) Judgment against the Defendants in the sum of **CI\$4,620.00;**

THIS PLAINT is issued by Campbells, Attorneys the Plaintiff, whose address for service is Floor 4, Willow House, Cricket Square, George Town, Grand Cayman (Ref: JAS/15391-24501)

- (2) Interest in the sum of CI\$41.01 and continuing at the daily rate of CI\$1.52, as set out in Paragraph 10 above, alternatively at such rate from such date and in such amount as this Honourable Court thinks just.
- (3) Costs on an indemnity basis.
- (4) Such further and/or other relief as this Honourable Court deems appropriate.



CAMPBELLS
Attorneys-at Law for the Plaintiff

THIS PLAINT is issued by Campbells, Attorneys the Plaintiff, whose address for service is Floor 4, Willow House, Cricket Square, George Town, Grand Cayman (Ref: JAS/15391-24501)

IN THE SUMMARY COURT OF THE CAYMAN ISLANDS

CAUSE NO. SC OF 2018

BETWEEN: THE PROPRIETORS OF STRATA PLAN 395 PLAINTIFF

AND: LEOELIS GAINZA ENG FIRST DEFENDANT

AND: NIUVIS CARTER-GAINZA

ACKNOWLEDGEMENT OF SERVICE

1. State Defendant's name and address -

2. State whether the Defendant intends to contest the action (*tick appropriate box*)

yes

no

3. If you do not intend to contest the action, do you want time in which to pay the claim? (*tick box*)

yes

no

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

Service of the Plaintiff is acknowledged accordingly

Defendant's Signature

Dated this ___ day of _____ 2018

PARTICULARS OF DEFENCE

(Here set out in numbered paragraphs 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, P O Box 495, George Town, Grand Cayman KY1-1106 within 14 days of receipt otherwise a default judgment may be entered against you.

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
Attorneys-at-Law
P.O. Box 884
Floor 4, Willow House
Cricket Square
George Town, Grand Cayman
Ref: JAS/15038-24501

Indorsement by defendant's Attorney (or by defendant if acting 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

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 495, 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 installments 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 his 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.