

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 9 OF 2019

BETWEEN: RBC ROYAL BANK (CAYMAN) LTD

PLAINTIFF

AND: DELMIRA BODDEN

DEFENDANT



WRIT OF SUMMONS



TO: Delmira Bodden  
PO Box 761  
Grand Cayman KY1-1801  
Cayman Islands

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 17<sup>th</sup> day of January 2019.

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. The Plaintiff is a Cayman Islands Class “A” Licensed bank (“the Bank”), duly authorised under the laws of the Cayman Islands to, *inter alia*, offer retail banking facilities to its customers.
2. The Defendant is an individual who at all material times was resident in the Cayman Islands.
3. Following foreclosure proceedings in relation to the Defendant’s defaulted mortgage account number 3315480 (“the Mortgage Account”) the Plaintiff, on 14 April 2016, sold the Defendant’s property known as Registration Section East End, Block 72C, Parcel 340 (“the Property”). Following the allocation of the sale proceeds from the Property to the Mortgage Account in accordance with the terms of the mortgage, the Defendant still owed CI\$117,256.37. Set out below are details of the Defendant’s mortgage debt, sale proceeds, fees incurred and interest which has accrued:

	KYD
Date of sale of the Property – 14 April 2016	
Amount property sold for	\$99,000.00
Total outstanding at date of sale including all fees	\$207,046.37
Amount applied (sales price minus fees)	\$89,790.00
Amount outstanding following sale proceeds being applied	\$117,256.37
Interest accrued @ 7.25% per annum (14 April 2016-17 January 2019 – 1008 days)	\$16,057.44
Per diem rate	\$15.93
<b>Amount due as at date of Writ</b>	<b>\$133,313.81</b>

4. No payments to this Mortgage Account have been made by the Defendant since the sale of the Property. Accordingly on 3 January 2019, the Bank, through its attorneys, made formal demand for the immediate payment of the total amount outstanding under the Mortgage Account, together with accrued interest to the date of payment.

5. It was a provision of the mortgage agreement that the Defendant would pay all costs, charges and expenses incurred by the Bank on a full indemnity basis. Accordingly the Plaintiff is entitled to, and does, claim its costs on an indemnity basis.
6. As at 17 January 2019, the amount due under the Mortgage Account totalled CI\$133,313.81, including interest of CI\$16,057.44, with interest accruing at a daily rate of CI\$15.93.
7. The Bank is entitled to and claims interest on the Loan.

#### **STATEMENT REGARDING INTEREST**

- 7.1. It was a provision of the agreement in relation to the Mortgage Account that interest would accrue.
- 7.2. The agreed rate of interest in respect of the Mortgage Account was 7.25%.
- 7.3. Interest was payable from the date the shortfall to the Mortgage Account occurred being 14 April 2016.
- 7.4. The total amount of interest claimed from 14 April 2016 to date under the Mortgage Account is CI\$16,057.44. The amount of interest accruing due each day thereafter is CI\$15.93.

#### **AND THE PLAINTIFF claims:**

1. The sum of CI\$117,256.37 in relation to the Mortgage Account;
2. Interest from 14 April 2016 to 17 January 2019 on the Mortgage Account totalling CI\$16,057.44, and accruing thereafter at the daily rate of CI\$15.93 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\$133,131.81 plus further accruing interest and costs further proceedings will be stayed. The money must be paid to the Plaintiff or its Attorney.



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**CAMPBELLS**

17 January 2019

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2019

BETWEEN: RBC ROYAL BANK (CAYMAN) LTD PLAINTIFF  
AND: DELMIRA BODDEN DEFENDANT

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ACKNOWLEDGMENT OF SERVICE  
OF WRIT OF SUMMONS

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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  
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  
4<sup>th</sup> Floor Willow House  
Cricket Square  
George Town  
Grand Cayman KY1-9010  
(Ref: JAS/13460-21154)**

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

## **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.