

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: GC 162 OF 2019

BETWEEN:

FIDELITY BANK (CAYMAN) LIMITED

Plaintiff

AND

JAMIE DIONNE STEWART

Defendant



WRIT OF SUMMONS

TO:

Ms. Jamie Dionne Stewart
#9 Beach Bay Road,
P.O. Box 10776,
Grand Cayman, KY1-1007
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, Grand Cayman, KY1-1106, Cayman Islands, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement 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 26 day of September 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 Acknowledgement of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiff is and was at all material times a Bank organised and carrying on business pursuant to the laws of the Cayman Islands. The Plaintiff's address for service is care of its attorneys, HSM Chambers, 68 Fort Street, P.O. Box 31726, George Town, Grand Cayman, KY1-1207, Cayman Islands.
2. The Defendant is an individual who resides in the Cayman Islands with a mailing address of P.O. Box 10776, Grand Cayman KY1-1007, Cayman Islands.
3. Pursuant to the Promissory Note dated 7 June 2016, the Plaintiff agreed to loan the Defendant the sum of CI\$38,000 together with interest at the rate of 15% per annum ("the Promissory Note dated 7 June 2016").
4. It was a term of the Promissory Note dated 7 June 2016, that the Defendant agreed to, *inter alia*, the following:

"For value received I promise to pay on demand to FIDELITY BANK (CAYMAN) LIMITED or order at its Principal Office in George Town, Grand Cayman the sum of KYD 38,000 (THIRTY EIGHT THOUSAND CAYMAN ISLANDS DOLLARS) together with interest at the rate of 15%.

In the event of your incurring costs, charges and expenses with respect to the enforcement or protection of any rights hereunder, I hereby further agree that such costs, charges and expenses may be claimed in a Statement of Claim in the event that an action is commenced in a Court of Law for the recovery of the moneys due hereunder even though a demand has not been made for the payment of the same."

5. Pursuant to the Promissory Note dated 29 June 2016, the Plaintiff agreed to loan the Defendant the sum of CI\$23,000 together with interest at the rate of 8.5% per annum ("Promissory Note dated 29 June 2016") to be secured against a 2014 Kia Carens ("the Vehicle").
6. It was a term of the Promissory Note dated 29 June 2016, that the Defendant agreed to, *inter alia*, the following:

"For value received I promise to pay on demand to FIDELITY BANK (CAYMAN) LIMITED or order at its Principal in Office George Town, Grand Cayman the sum of KYD 23,000

(TWENTY THREE THOUSAND CAYMAN ISLANDS DOLLARS) together with interest at the rate of 8.5%.

In the event of your incurring costs, charges and expenses with respect to the enforcement or protection of any rights hereunder, I hereby further agree that such costs, charges and expenses may be claimed in a Statement of Claim in the event that an action is commenced in a Court of Law for the recovery of the moneys due hereunder even though a demand has not been made for the payment of the same."

7. The Defendant defaulted on both loans granted by the Plaintiff and was served with demands for payment on several occasions the most recent of which was dated 11 October 2018. Despite these demands for payment, the Defendant has failed to make any payments towards the delinquent accounts.
8. In respect of the loan granted to the Defendant under the Promissory Note dated 29 June 2016, secured against the Vehicle, the Plaintiff repossessed the same on or around 21 December 2017.
9. The Plaintiff conducted a valuation on the Vehicle on 13 July 2018 and thereafter made several attempts to sell the same by posting advertisements on the EcayTrade website and advertising the Vehicle for sale in an open lot of land for potential purchasers to view without success.
10. In respect of the Promissory Note dated 7 June 2016, as at 20 September 2019, the Defendant was indebted to the Plaintiff in the sum of CI\$37,544.45 being the principal sum together with interest thereon at the contractual rate of 15% per annum which continues to accrue at the daily rate of CI\$12.06.
11. In respect of the Promissory Note dated 29 June 2016, as at 20 September 2019, the Defendant was indebted to the Plaintiff in the sum of CI\$26,975.64 being the principal sum together with interest thereon at the contractual rate of 8.50% per annum which continues to accrue at the daily rate of CI\$6.29.
12. Alternatively, the Plaintiff claims statutory interest in accordance with the Judicature Law (2017 Revision) and the Judgment Debts (Rates of Interest) Rules, 2012 at such rate and for such period as the Court deems fit.
13. The Plaintiff is entitled to, and claims, its contractual fees and all costs of, and incidental to, the enforcement of its rights under the term of the Promissory Notes, on an indemnity basis pursuant to paragraph two of both Promissory Notes.

14. As a result of the above, the Plaintiff is entitled to the relief claimed in these proceedings.

AND THE PLAINTIFF CLAIMS:

- a) CI\$37,544.45 principal sum in relation to the Promissory Note dated 7 June 2016;
- b) Interest from 21 September 2019 at the rate of 15% per annum at the rate of CI\$12.06 per diem in accordance with the terms of the Promissory Note dated 7 June 2016;
- c) CI\$26,975.64 principal sum in relation to the Promissory Note dated 29 June 2016;
- d) Interest from 21 September 2019 at the rate of 8.50% per annum at the rate of CI\$5.28 per diem in accordance with the terms of the Promissory Note dated 29 June 2016;
- e) Alternatively, pre- and post-judgment interest in accordance with the Judicature Law (2017 Revision) and the Judgment Debts (Rates of Interest) Rules, 2012 at such rate as the Court deems fit;
- f) Costs;
- g) Such further and other relief as this Court may deem just.

HSM Chambers

**HSM Chambers
Attorneys-at-Law for the Plaintiff**

INDORSEMENT

The principal amounts claimed in respect of the debts are CI\$64,520.09. The amount of the filing fees to commence the proceeding is CI\$200.00 along with ad valorem fees in the sum of CI\$545.20. If, within the time for returning the acknowledgement of service, the defendants pay the plaintiff or its attorneys-at-law the total amount claimed in principal, interest and the costs of issuing the Writ of Summons, further proceedings will be stayed. The money must be paid to the Plaintiff or to its Attorneys-at-Law.

INDORSEMENT REGARDING INTEREST

1. The contractual terms upon which interest is claimed is as set out in paragraphs 4 and 6 above;
2. The prescribed rate of interest is 15% per annum in accordance with the terms of the Promissory Note dated 7 June 2016 and 8.50% per annum in accordance with the terms of the Promissory Note dated 29 June 2016;
3. The date from which interest is payable is 21 September 2019;
4. The amount of interest accruing due each day is CI\$12.06 in relation to the Promissory Note dated 7 June 2016 and CI\$5.28 per day in relation to the Promissory Note dated 29 June 2016.

This WRIT OF SUMMONS was filed by HSM Chambers, Attorneys-at-Law for the Plaintiff whose address for service is 68 Fort Street, PO Box 31726, George Town, Grand Cayman, KY1-1207, Cayman Islands (ref: 309430.0239)

Acknowledgment of service of writ of summons (O.12, r.3)

**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 each Defendant or by each Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, PO Box 495 GT, 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 Acknowledgement 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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CAUSE NO: GC OF 2019

BETWEEN:

FIDELITY BANK (CAYMAN) LIMITED

Plaintiff

AND

JAMIE DIONNE STEWART

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,

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

THIS FORM MAY HAVE TO BE RETURNED.

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
[Defendant in person]
Address for service:

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 communication 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.

HSM Chambers
68 Fort Street
PO Box 31726
George Town
Grand Cayman KY1-1207
CAYMAN ISLANDS

Ref: SJA/DB.309430.0239

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]