

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION



CAUSE NO. *96* of 2020



BETWEEN: THE PROPRIETORS OF STRATA PLAN 448

PLAINTIFF

GREGORY HAMILTON

FIRST DEFENDANT

MYLYN MONTILLON AUSTRIA

SECOND DEFENDANT

WRIT OF SUMMONS

TO: Gregory Hamilton & Mylyn Montillon Austria
18 Parkview Court
George Town
Grand Cayman KY1-1204



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 service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, PO Box 495GT, George Town, Grand Cayman, the accompanying Acknowledgment of Service form 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 11th day of June 2020

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 strata corporation established under the Cayman Islands Strata Titles Registration Law (2013 Revision) ("the Law"), being a condominium development known as Parkview Court II ("the Strata"). The Strata is capable of bringing proceedings by virtue of section 5(1) of the Law.
2. The Defendants, at all material times, are and were the registered owners of one of the Strata lots, being Block 13D, Parcel 331H18 known as Unit 18 Parkview Court II ("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 the Plaintiff's Bye-Laws ("the Bye-Laws").
4. By virtue of section 21(7) of the Law, the Bye-Laws of a Strata in force at any time shall bind the owners of units at the Plaintiff strata including the defendant.
5. Pursuant to Bye-Law 2(c) of the registered Bye-Laws of the Strata it is the Defendants' obligation to pay within fourteen (14) days of demand charges and outgoings assessed by the Plaintiff in order for the Plaintiff to comply with its duties and obligations to insure the Strata units and to control, manage and administer the common property.
6. The Plaintiff levied charges and assessments by way of monthly invoices sent to the Defendants stating the payment due for the month and the cumulative debt at that time.
7. Despite repeated demand by the Plaintiff, the Defendants have failed or refused to make payment to the contributions assessed and levied by the Plaintiff.
8. As at 1 June 2020, the Defendants are indebted to the Plaintiff in the principal sum of CI\$28,420.04 and a statement showing a breakdown of the debt by dated invoice and amount is attached hereto.

STATEMENT REGARDING INTEREST

9. The Plaintiff seeks pre and post judgment interest at the rate of 12% per annum from 1 June 2020 to the date of payment pursuant to Bye-Law 2(c)(iii) in accordance with the contract terms and the provisions of the Judicature Law.
10. Interest is calculated in accordance with Bye-Law 2(c)(iii) at the rate of 12% per annum.
11. The current interest rate claimed is 12%.

12. Interest is claimed on the sum claimed from the date of issue of the Writ.
13. The amount of interest owing as at the issue of the Writ is CI\$93.44.
14. The amount of interest accruing each day following the issue of this Writ is CI\$9.34.

AND THE PLAINTIFF CLAIMS:

- a) The said sum of CI\$28,420.04 as monies due and owing.
- b) Pre and post judgment interest from the date of issue of Writ and interest accruing thereafter on the said sum at CI\$9.34 daily until payment.
- c) Costs or alternatively fixed costs in the sum of CI\$500.00 plus filing fees and bailiff's fee for service



KSG
Attorneys for Plaintiff

If within the time for returning the Acknowledgement of Service the Defendants pay to the Plaintiff's Attorneys the total amount claimed of CI\$28,420.04 and all filing fees and all interest claimed all further proceedings will be stayed.

Plaintiff's address for service:

4 th Floor Harbour Centre 42 North Church Street PO Box 2255 George Town, KY1-1107
--

**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, PO Box 495GT, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings must also service 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, 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 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 LIMITED COMPANY the form must be completed by an Attorney or by someone authorized 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.

**IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION**

CAUSE NO. of 2020

BETWEEN: THE PROPRIETORS OF STRATA PLAN 448 PLAINTIFF
AND: GREGORY HAMILTON FIRST DEFENDANT
AND: MYLYN MONTILLON AUSTRIA SECOND 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 appropriate 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 suing in person) of his name, address and reference, if any, in the box below.

KSG Attorneys at Law
4th Floor Harbour Centre
42 North Church Street
PO Box 2255
George Town
KY1-1107
Grand Cayman

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

[Empty box for Defendant's Attorney indorsement]