

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: GC OF 2021

B E T W E E N:

THE PROPRIETORS STRATA PLAN NO. 444

Plaintiff

AND

ANTOINETTE PRISCILLA RAMSAY-DIXON

Defendant



WRIT OF SUMMONS

TO:

Ms. Antoinette Priscilla Ramsay-Dixon
PO Box 79
Grand Cayman KY1-1601
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, PO 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 1st day of November 2021

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 a strata corporation consisting of all proprietors contained in Strata Plan No. 444 pursuant to section 5(1) of the Strata Titles Registration Act (2013 Revision) (hereinafter the "Act"). The Plaintiff's address for service is care of its Attorneys, HSM Chambers, 68 Fort Street, George Town, P.O. Box 31726, Grand Cayman, KY1-1207, Cayman Islands.
2. The Defendant is an individual who previously resided in the Cayman Islands with a mailing address of P.O. Box 79, Grand Cayman, KY1-1601, Cayman Islands. The Defendant is the registered proprietor of the property known as Apartment 9, Spotts Retreat and situate at, Registration Section Savannah, Block 28B, Parcel 229H9 (the "Property"), a residential development subject of Strata Plan No. 444.
3. The Duties and Powers of Strata Plan No. 444 are set out in section 6 of the Act, which states *inter alia*, as follows:

"...(2) The powers of a corporation include the following- (a) to establish a fund for administrative expenses sufficient in the opinion of such corporation 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) to determine, from time to time, the amounts to be raised for the fund referred to in paragraph (a) and to raise amounts so determined by levying contributions on the proprietors in proportion to the unit entitlement of their respective lots."

4. The Plaintiff 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 by administrative expenses.
5. In accordance with section 21 of the Act, the control, management, administration, use and enjoyment of Strata Plan No. 444 must be regulated by By-Laws. Strata Plan No. 444 has its own By-Laws which state, *inter alia*, as follows:

"ARTICLE 7: PROPRIETOR'S OBLIGATIONS

A Proprietor shall:-

...

2. *pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of his Strata Lot;*

3. *pay to the Corporation without abatement within thirty (30) days of demand:*
 - (a) *all contributions necessary to establish and maintain the fund for management, administrative and other expenses or for reserves levied by the Corporation pursuant to Section 6(2) of the Law or these Bylaws, and sufficient in the opinion of the Corporation for the control, management and administration of the Common Property, for the payment of insurance premiums, for proper reserves and for the discharge of any of the other obligations of the Corporation;*

 - (b) *such share as shall from time to time be proportionate to the Unit Entitlement of the Strata Lots comprising the Development of all contributions necessary to establish and maintain a contingency or other reserve fund (or funds) sufficient in the opinion of the Corporation for the purposes of paying for anticipated or routine capital expenditures, unanticipated capital expenditure or catastrophic losses, or for any other purposes the Executive Committee shall determine to be in the best interests of the Corporation;*

 - (c) *all amounts reasonably expended by the Corporation, on a full indemnity basis including legal and other professional consultancy fees, as a result of the breach by the Proprietor of any of these Bylaws, including any collection or legal costs incurred due to non-payment by the Proprietor of any amounts required to be paid hereunder; and*

 - (d) *such share as shall from time to time be proportionate to the Unit Entitlement of the Strata Lots of all and any other costs and expenses incurred by the Corporation in connection with the performance of its duties under the Law and under these Bylaws or otherwise incurred for the benefit of the Corporation.*

PROVIDED ALWAYS THAT:

- (a) *in the event of any such payments not being made within thirty (30) days of such demand the Proprietor shall pay interest thereon at the rate of one and a half percent (1.5%) per month at the time of default which interest shall accrue from day to day until payment plus legal and collection costs, if any, on a full indemnity basis; and*

(b) *in the event of any such payments (together with interest accrued) not being made within ninety (90) days of such demand or in the event of the Proprietor becoming bankrupt or making composition with creditors or being a corporation entering into liquidation then and in any of these events the Proprietor shall and does hereby irrevocably authorise and permit the Corporation to enter into possession of the Strata Lot, and for such purpose to change the locks thereon, and further does hereby irrevocably appoint the Corporation to be the receiver of the rents and profits of the Proprietor's Strata Lot in each case until such time as the said payments (together with interest accrued) have been made to the Corporation or received by the Corporation pursuant to the appointment aforesaid and should the Strata Lot not be subject to an existing rental management agreement, the Executive Committee shall be empowered to rent such Strata Lot for such period or periods as it thinks fit in order to recover the monies due and owing to the Corporation, together with all expenses incurred in recovering same provided always that the Corporation may in addition or alternatively recover such payments as a debt in an action in any court of competent jurisdiction;*

6. In breach of the Bylaws, the Defendant has defaulted on her monthly strata payments and as of 30 September 2021, owed to the Plaintiff is the principal sum of CI\$30,154.63. Interest on that sum continues to accrue at the rate of 1.5% per month.
7. The Defendant has failed to make full payment to the Plaintiff as and when due notwithstanding a Demand Letter and Notice to Proprietor dated 6 February 2020 being served upon the Defendant via Registered Mail. The Plaintiff has suffered loss and damage as a result.
8. As a result of the above, the Plaintiff is entitled to the relief claimed in this proceeding.

AND THE PLAINTIFF claims:

- a) CI\$30,154.63 being the principal sum due as at 30 September 2021;
- b) Pre- and post- judgment interest calculated from 31 May 2018 at the rate of 1.5% per month in accordance with the By-Laws and continuing at the rate of CI\$14.87 per diem until discharged in full;
- c) Alternatively, pre- and post-judgment interest in accordance with s.34 of the *Judicature Law (2017 Revision)* and the *Judgment Debts (Rates of Interest) Rules, 2012* at the rate of 2.375% per annum from 31 May 2018 for such period as the Court deems fit;

- d) Costs to be taxed if not agreed; and
- a) Such further and other relief as this Court may deem just.

HSM Chambers

**HSM Chambers
Attorneys for the Plaintiff**

INDORSEMENT

The principal amount claimed in respect of the debt is CI\$30,154.63. The amount of the filing fees to commence the proceeding is CI\$200.00 plus Ad Valorem in the sum of CI\$201.55. 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 term upon which interest is claimed is as set out in paragraph 5 above;
2. The prescribed rate of interest is 1.5% per month;
3. The date from which interest is payable is 31 May 2018;
4. The amount of interest accruing due each day is CI\$14.87;
5. Alternatively, the applicable rate of interest will be 2.38% per annum at a rate of CI\$1.97 per diem.

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.

B E T W E E N:

THE PROPRIETORS STRATA PLAN NO. 444

Plaintiff

AND

ANTOINETTE PRISCILLA RAMSAY-DIXON

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 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.420326-0007

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]