



GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2022

BETWEEN THE CAYMAN ISLANDS CIVIL SERVICE ASSOCIATION CO-OPERATIVE CREDIT UNION LTD. PLAINTIFF

AND JOSH HAMILTON DEFENDANT

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WRIT OF SUMMONS

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TO: Mr. Josh Hamilton  
 PO Box 87  
 Grand Cayman KY1-1501  
 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 9<sup>th</sup> day of August, 2022

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.

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**STATEMENT OF CLAIM**

1. The Plaintiff is and was at all material times a credit union pursuant to the Co-operative Societies Law (Revised) of the Cayman Islands. The Plaintiff's address is PO Box 1450, Grand Cayman KY1-1110, Cayman Islands.
2. The Defendant is an individual and his mailing address is PO Box 87, Grand Cayman KY1-1501, Cayman Islands.
3. The Defendant entered into an agreement with the Plaintiff on 3 August 2017 for a loan in the amount of CI\$225,000.00 (the "Loan Agreement"). The terms of the Loan Agreement were, inter alia, as follows:
  - a. That the Defendant would repay the principal sum to the Plaintiff with interest at a rate of 6.75% per annum by monthly instalments of CI\$1,992.00 over a period of 180 months, commencing 30 September 2017;
  - b. Collateral security for the loan was a First Charge over the property described as Registration Section: Breakers, Block 55A, Parcel 273 (the "Property");
  - c. In the case of any default, unless excused by the Board of Directors of the Plaintiff, the entire balance of the loan shall become immediately due and payable on demand; and

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- d. The Defendant agreed to pay all fines imposed in accordance with the rules of the Plaintiff, for failure to comply with the terms of the Loan Agreement together with all costs or expenses, including legal fees, incurred in the collection of any sum due.
4. The Plaintiff advanced the loan amount of C\$225,000.00 to the Defendant in accordance with the Loan Agreement.
5. The Defendant defaulted on the terms of payment contained in the Loan Agreement.
6. The Plaintiff stopped charging interest pursuant to the Loan Agreement on 11 October, 2018 because the loan was delinquent, and no loan payments were being made.
7. Demands were made pursuant to The Registered Land Law (Revised).
8. The Registered Land Law (Revised) provides that once a notice of demand has been served pursuant to Section 64(2) the total amount of outstanding principal and interest becomes due and repayable 3 months after service of that notice.
9. The Registered Land Law (Revised) by virtue of Section 72(1) provides that once there is a default in the payment of principal, or any other periodical payments and if such default continues for 1 month, the Chargee may serve on the Chargor notice in writing to pay the money owing, or to perform and observe the terms of the Charge, as the case may be.

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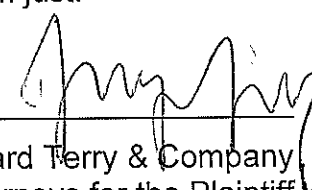
10. The Registered Land Law (Revised) by virtue of Section 72(2) provides that if a Chargor has not complied, within 3 months after the date of service of the notice served on him under Section 72(1), the Chargee may sell the Charged Property. Therefore, 3 months after the service of the Notices there has accrued a right to the Plaintiff to sell the Property.
11. The Property was listed on the Cayman Islands Real Estate Brokers Association ("CIREBA") multi-listing system through RE/MAX Cayman Islands and was sold by public auction. The Grand Court Practice Direction No. 5 of 2012 entitled, "Practice Direction on Applications Under Sections 72, 75 and 77 of the Registered Land Law", provides at Section (h) that a sale by public auction does not necessarily require a formal auction with a bidding process conducted by an appointed auctioneer but in substance the sale of a property through the CIREBA multi-listing system is a public auction.
12. The Property sold for CI\$180,000.00.
13. Demands were made to the Defendant in relation to the remaining outstanding loan balance.
14. As at the date of the commencement of these proceedings the Defendant owed the Plaintiff the sum of CI\$77,511.89, exclusive of costs.
15. Notwithstanding the demand for payment, the Defendant has failed or neglected to make payment to the Plaintiff.

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16. As a result of the above, the Plaintiff is entitled to the relief claimed in this proceeding.

AND THE PLAINTIFF claims:

- a) CI\$77,511.89, inclusive of interest calculated through to 11 October, 2018;
- b) Costs, and following the issuance of the Writ to be taxed if not agreed; and
- c) Such further and other relief as this Court may deem just.

  
\_\_\_\_\_  
Woodward Terry & Company  
Attorneys for the Plaintiff

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**INDORSEMENT**

The principal amount claimed in respect of the debt is CI\$77,511.89 inclusive of interest of CI\$8,290.00 as at 11 October, 2018 when the Plaintiff stopped charging interest pursuant to the Loan Agreement. The amount of the filing fees to commence this action is CI\$200.00. If, within the time for returning the acknowledgment of service, the Defendant pays the Plaintiff or its attorneys-at-law the total amount claimed in principal, interest and the costs of issuing the Writ, further proceedings will be stayed. The money must be paid to the plaintiff or its attorneys-at-law.

**INDORSEMENT REGARDING INTEREST**

1. The contractual term upon which interest is claimed is as set out in paragraphs 3 above;
2. The prescribed rate of interest is at a rate of 6.75% per annum;
3. The date from which interest is payable is 30 September 2017;
4. The total interest claimed as at 11 October, 2018 is CI\$8,290.00; and
5. The Plaintiff stopped charging interest pursuant to the Loan Agreement on 11 October, 2018. Going forward there is no interest accruing daily.

This Writ was filed by Woodward Terry & Company, Attorneys-at-Law, for and on behalf of the plaintiff whose address for service is PO Box 822, Suite # 10, 2<sup>nd</sup> Floor, Jack & Jill Building, 19 Fort Street, George Town, Grand Cayman, Cayman Islands, British West Indies.

### **Acknowledgement of service of writ of summons**

#### **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 3), 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.**

### 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.

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AND JOSH HAMILTON 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 cost of applying to set 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

**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.

Woodward Terry & Company  
Attorneys-at-Law  
PO Box 822, Suite # 10, 2<sup>nd</sup> Floor  
Jack & Jill Building, 19 Fort Street  
George Town, Grand Cayman  
Cayman Islands  
British West Indies

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

