



IN THE SUMMARY COURT AT GEORGE TOWN

B E T W E E N:

CAUSE NO: SC OF 2023

PROVEN BANK (CAYMAN) LIMITED FORMERLY
KNOWN AS FIDELITY BANK (CAYMAN) LIMITED

Plaintiff

AND

ZIFIKILE KUNENE

Defendant

PLAINT

TO: Zifikile Kunene
P.O Box 493
Grand Cayman,, KY1-1106
Cayman Islands

THIS PLAINT 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 Plaint 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, the accompanying Acknowledgement of Service stating therein whether you intend to contest this action. If you intend to defend the action, in whole or in part, you must set out full particulars of your defence in the space provided in the Acknowledgment of Service form.

If you fail to satisfy the claim or to return the Acknowledgment of Service form containing full particulars of your defence, the Plaintiff may apply for a default judgment without any further notice to you.

Issued this 30 day of January 2023

See overleaf for particulars of the Plaintiff's claim

PARTICULARS OF CLAIM

1. The Plaintiff is and was at all material times a Class 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, PO Box 31726, George Town, Grand Cayman, KY1-1207, Cayman Islands.
2. By Certificate of Incorporation on Change of Name dated 28 July 2022, Fidelity Bank (Cayman) Limited) changed its name and is now incorporated under the name Proven Bank (Cayman) Limited.
3. The Defendant is and was at all material times an individual resident in the Cayman Islands with a mailing address of P.O. Box 493, Grand Cayman, KY1-1106, Cayman Islands.
4. Pursuant to a credit agreement dated 3 April 2018, a credit facility was agreed between the Plaintiff and the Defendant so that the Defendant could obtain a credit card (the "Credit Agreement"). The terms of the Credit Agreement were, *inter alia*, as follows:
 - a. that the Plaintiff would advance credit to the Defendant;
 - b. that interest would accrue on the balance at the rate of 16% per annum; and
 - c. that the Defendant would be liable for the Plaintiff's collection costs and legal fees in the event that the Defendant defaulted on the payment terms.
5. The Plaintiff advanced credit to the Defendant from time to time in accordance with the terms of the Credit Agreement.
6. In breach of the Credit Agreement, the Defendant defaulted upon the terms of repayment and the Plaintiff has suffered loss and damage as a result.
7. Pursuant to a demand letter dated 18 January 2022, the Plaintiff demanded from the Defendant the outstanding balance of credit facility, which letter was personally served on the Defendant on 27 April 2022.

8. Accordingly, as at 25 January 2023, the Plaintiff claims the principal sum of US\$6,634.36 together with interest thereon at the contractual rate of 16% per annum and continuing at the rate of US\$2.91 per diem in accordance with the terms of the Credit Agreement.
9. Alternatively, the Plaintiff claims pre- and post-judgment interest in accordance with s.34 of the *Judicature Act (2021 Revision)* and the *Judgment Debts (Rates of Interest) Rules, 2021* at the rate of 8.375% for such period as the Court deems fit.

AND THE PLAINTIFF CLAIMS:

- a) The principal sum of US\$6,634.36;
- b) Pre- and post-judgment interest from 26 January 2023 at the contractual rate of 16% per annum and continuing at the rate of US\$2.91 per diem in accordance with the terms of the Agreement;
- c) Alternatively, pre- and post-judgment interest in accordance with s.34 of the *Judicature Act (2021 Revision)* and the *Judgment Debts (Rates of Interest) Rules, 2021* at the rate of 8.375% for such period as the Court deems fit;
- d) Fixed costs of CI\$175 pursuant to the *Summary Court Rules 2004*, alternatively costs to be assessed; and
- e) Such further and other relief as this Court may deem just.

HSM chambers

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

INDORSEMENT

The principal amount claimed in respect of the debt is US\$6,634.36 as of the date of filing. The amount of the filing fees to commence the proceeding is CI\$25.00. The fixed costs applicable upon entry of Judgment are CI\$150 pursuant to the *Summary Court Rules 2004*.

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 and the costs of issuing the Plaint, 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 8 above.
2. The prescribed rate of interest is 16% per annum in accordance with the Credit Agreement.
3. The date from which interest is payable is 26 January 2023.
4. The current amount of interest accruing due each day is US2.91.
5. Alternatively the applicable rate of interest will be 8.375% per annum interest in accordance with s.34 of the *Judicature Act (2021 Revision)* and the *Judgment Debts (Rates of Interest) Rules, 2021* at the rate of 8.375% for such period as the Court deems fit.

This PLAINT was filed by HSM Chambers, Attorneys-at-Law for the Plaintiff whose address for service is 68 Fort Street, George Town, PO Box 31726, Grand Cayman, KY1-1207, Cayman Islands (ref: 309430-0397)

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Plaintiff

AND

ZIFIKILE KUNENE

Defendant

ACKNOWLEDGMENT OF SERVICE

1. State Defendant name and address:--

2. State whether the Defendant intends to contest the action.

Yes

No

3. If you do not intend to contest the action, do you want time in which to pay the claim?

Yes

No

4. If you do intend to contest the action, in whole or in part, you must set out full particulars of your defence overleaf.

Service of the Plaintiff is acknowledged accordingly.

Dated this day of 2023

Defendant's Signature

See overleaf

PARTICULARS OF DEFENCE

[Here set out in numbered paragraphs the grounds upon which the Plaintiff claims that the Defendant is indebted to him or is liable to pay damages to him]

1.

Defendant's Signature

REMINDER - This form must be taken or sent to the Court Office, P.O. Box 495, Grand Cayman KY1-1106 within 14 days of receipt otherwise a default judgment may be entered against you.