

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

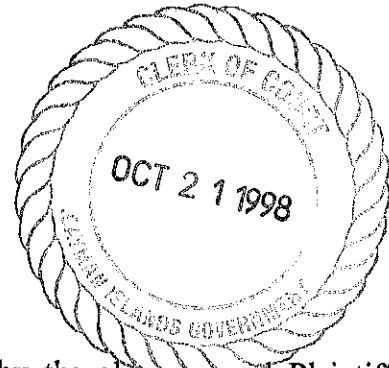
697  
CAUSE No. of 1998

**BETWEEN: BRITISH AMERICAN CARD CO. LTD. PLAINTIFF**

**AND DARCIA C. TATUM DEFENDANT**

**WRIT OF SUMMONS**

TO: DARCIA C. TATUM  
P.O. Box 1098 GT  
George Town  
Grand Cayman  
B.W.I.



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 495G, George Town, Grand Cayman, the accompanying Acknowledgment of Service 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 19<sup>th</sup> day of October 1998.

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. By a written agreement made between the Plaintiff and the Defendant ("the Agreement") the Plaintiff agreed to issue the Defendant with a credit token upon the terms and conditions therein set out.
2. The terms and conditions of the Agreement provided inter alia that:-
  - a. possession of the credit token entitles the Defendant to obtain cash advances and purchases of goods and services upon production thereof to such persons who honour the said credit token,
  - b. once a month the Plaintiff shall send a statement to the Defendant showing the account balance including any interest charged and the minimum payment to be made by the Defendant,
  - c. the Defendant shall repay to the Plaintiff on demand the whole of the outstanding balance owing on his account if the Defendant is in breach of any terms and conditions of the Agreement,
  - d. all outstanding account balances attract interest at the rate of 2% per month,
  - e. overdue accounts are subject to collection and all collection costs including, but not limited to, legal expenses incurred shall be charged to the Defendants account.
3. The Defendant is in breach of the terms and conditions of the Agreement by consistently failing to pay the minimum payments shown on the monthly statements sent to the Defendant.
4. The Plaintiff has made demand of the Defendant to repay the whole of the outstanding balance on his account without a satisfactory response.
5. The Plaintiff has incurred legal expenses of CI\$50.00 in trying to collect the Defendant's overdue account prior to the issue of these proceedings and claims these and all further legal expenses it incurs in connection with this action.

### **AND THE PLAINTIFF CLAIMS:-**

1. The principal sum owing of US\$2,603.82 (CI\$2,135.13).
2. Legal expenses incurred to date of US\$60.97 (CI\$50.00).

3. Interest at the rate of 2% per month from 19th October 1998, compounded monthly and continuing.
4. FURTHER and/or other relief.
5. COSTS of the Prescribed Filing and Bailiff Service Fees of US\$158.53 (CI\$130.00) and fixed costs US\$304.87 (CI\$250.00).

Total Amount as of 19 October 1998:

US\$3,128.19 (CI\$2,565.11)

**STATEMENT REGARDING INTEREST:**

1. The rate of interest claimed is 2% per month.
2. The date from which interest is calculated is 19<sup>th</sup> October 1998.
3. The total amount of interest claimed as at the date of issue herein is nil.
4. The amount of interest accruing each day thereafter is US\$1.67 (CI\$1.37).

If, within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed of US\$3,128.19 (CI\$2,565.11) (including interest and costs) further proceedings will be stayed. The money must be paid to the Plaintiff's Attorney.

*Orren Merren & Company*  
ORREN MERREN & COMPANY  
Attorneys-at-Law for the Plaintiff

*This Writ was issued by Messrs. Orren Merren & Company, the attorneys-at-law for the Plaintiff, whose address for service is Kirk House, Third Floor, Albert Panton Street, P.O. Box 481G, Grand Cayman, Cayman Islands, British West Indies.*

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 endorsed 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 endorsed 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 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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**CAUSE NO. OF 1998**

**BETWEEN: BRITISH AMERICAN CARD CO. LTD.. PLAINTIFF**

**AND DARCIA C. TATUM 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

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

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2. State whether the Defendant intends to contest the proceedings (tick appropriate box)

yes  no

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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

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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 communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

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

Orren Merren & Company Attorneys-at-Law P.O. Box 481G Kirk House 3rd Floor Albert Panton Street Grand Cayman, B.W.I. Ref: AJT:sh
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Endorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.

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