

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. <sup>57</sup> OF 1998

BETWEEN: CAYMAN NATIONAL BANK LTD. PLAINTIFF  
AND: FRANKLIN A. B. SMITH DEFENDANT

TO: Franklin A. B. Smith  
P.O. Box 52,  
Savannah,  
Grand Cayman

WRIT OF SUMMONS



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 fourteen days (14) 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 495 GT, 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 <sup>22<sup>nd</sup></sup> day of October 1998

NOTE - This Writ may not be served later than 4 calendar 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.

BETWEEN: CAYMAN NATIONAL BANK LTD. PLAINTIFF  
AND: FRANKLIN A. B. SMITH DEFENDANT

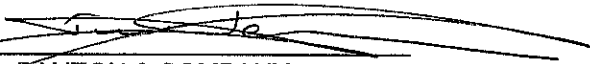
**STATEMENT OF CLAIM**

1. The Plaintiff is a limited liability Company incorporated and existing under the Laws of the Cayman Islands, with its Registered Offices situate in the Cayman National Building, 200 Elgin Avenue, George Town, Grand Cayman, and the postal address of the said Registered Office is P.O. Box 1097 GT, Grand Cayman, Cayman Islands, B.W.I.
2. The Plaintiff is a Class "A" Bank licensed to carry out Commercial Banking Business within the Cayman Islands and is duly authorised to issue MasterCard Credit Cards and establish MasterCard Credit Card facilities for the use of its customers.
3. The Defendant has a postal address of P.O. Box 52, Savannah, Grand Cayman and was at all material times a resident of the Cayman Islands, and a customer of the Plaintiff.
4. The Plaintiff issued a MasterCard Credit Card, numbered 5425-6850-0325-9003 to the Defendant.
5. The Defendant has charged goods and/or services to the said MasterCard Credit Card and incurred interest and other charges, and fees in respect of such MasterCard Credit Card in the amount of US\$3,412.38.
6. That it was a term of the agreement entered into between the Plaintiff and the Defendant in respect of the issuing of the said MasterCard Credit Card that interest on the arrears on the said account would be calculated at the rate of Eighteen Per Centum (18%) per annum.
7. The Plaintiff's claim is for the principal sum of US\$3,412.38 being the balance owing on the credit card account. The account is currently in arrears and interest continues to accrue at the rate of 18.00% per annum.
8. The Defendant has defaulted in making regular payments on the account and the same remains unpaid.

AND THE PLAINTIFF claims:

1. The principal amount of US\$3,412.38.
2. The Plaintiff further claims interest on the said sum at the contract rate of eighteen Per Centum (18%) per annum from the 1st day of May 1998.
  - (a) Court costs of CI\$100.00
  - (b) Attorneys fees of CI\$300.00
  - (c) Fees for service of CI\$45.00
  - (d) Filing fee of CI\$15.00 for Affidavit of Service.

If, within the time for returning the acknowledgment of Service, the Defendant pays the total amount claimed of US\$3,412.38 (plus interest accrued at the aforesaid rate to the date of settlement, and costs) further proceedings will be stayed. The money must be paid to the Plaintiff, its Attorney or Agent.



O. L. PANTON & COMPANY  
Attorneys-at-Law for the Plaintiff herein

THIS WRIT was issued by Messrs. O. L. Panton & Company, Attorneys-at-Law, Pansons Building, Crewe Road, P.O. Box 876, George Town, Grand Cayman, for and on behalf of the Plaintiff herein whose address for service is that of its said Attorneys-at-Law.

**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 495 GT, 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 2), the Defence must be served within 14 days after the time for acknowledgment of 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 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 "FRANKLIN A. B. SMITH".
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.

BETWEEN: CAYMAN NATIONAL BANK LTD. PLAINTIFF

AND: FRANKLIN A. B. SMITH 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 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 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.

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.

Yes

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Service of the Writ is acknowledged accordingly.

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[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 location 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 principle office.

*Indorsement by Plaintiffs attorney (or by the Plaintiff if suing in person) of his name, address and reference, if any, below.*

A. Dwight Panton  
Attorney-at -Law for the Plaintiff  
O.L. Panton & Company  
Pansons Building  
Crewe Road  
P.O. Box 875/876  
George Town  
Grand Cayman

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