

**IN THE SUMMARY COURT OF THE CAYMAN ISLANDS****CAUSE NO. SC OF 2024****BETWEEN:****THE PROPRIETORS, STRATA PLAN NO. 45****PLAINTIFF****AND:****ERNO VIRAG****DEFENDANT****PLAINT****TO THE DEFENDANT:****Erno Virag of PO Box 31275, Apartment 14 Drake Y Cook Quays, Grand Cayman KY1-1206**

THIS PLAINT has been issued against you by the above-named Plaintiff in respect of the claim set out on the next page.

Within fourteen (14) days after the service of this Complaint 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 Acknowledgement of Service stating therein whether you intend to contest this action. If you intend to defend this action, in whole or in part, you must set out **full particulars of your defence** in the space provided in the Acknowledgement of Service form.

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

Issued this 30th day of September 2024.

IMPORTANT

Directions for Acknowledgement of Service are given with the accompanying form.

This **PLAINT** was filed by Nelsons Legal whose address for service is The Grand Pavilion, 802 West Bay Road, PO Box 30069, Grand Cayman, KY1-1201, Cayman Islands. (Ref: CF/5340-00006)

PARTICULARS OF CLAIM

1. The Plaintiff is a body corporate established pursuant to section 5 of the Strata Titles Registration Act (2013 Revision) (the “Act”) and is made up of the proprietors, at any given time, of the strata lots comprising strata plan no 45 (the “Strata Plan”), being the condominium development known as Cook Quay and Drake Quay.
2. At all material times, the Defendant was and is the registered proprietor of one of the Strata lots forming part of the Strata Plan, namely Block 11D, Parcel 33H14, known as Unit 14 Drake and Cook Quays (the “Property”).
3. The control, management, administration, use and enjoyment of the Strata lots and common property that form part of the Strata Plan, including the Property, is regulated by its the bye-laws registered against the Strata Plan (the “Bye-Laws”).
4. Pursuant to the Bye-Laws:
 - a. Clause 34(2) and 34(3), the Defendant is required to pay to the Plaintiff all rates, taxes, charges, outgoings and assessments levied by the Plaintiff in respect to the Property within 14 days of demand;
 - b. clause 34(3)(a), the Defendant is required to pay the Plaintiff all contributions necessary to establish and maintain the fund for management, administrative and other expenses incurred by the Plaintiff in connection with the performance of its duties under the Act and the Bye-Laws within 14 days of demand;
 - c. Clause 34(3)(i), the Defendant is required, in the event of payment not being made within 14 days of demand, to pay interest at the rate of 1.5% per month, accruing on a daily basis.

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5. The Plaintiff levies the contributions that the Defendant is required to pay the Plaintiff by issuing monthly invoices to the Defendant that record the amount payable that month and any amounts that the Defendant might be in arrears.
6. Each invoice sent to the Defendant constitutes demand for payment of the amounts due pursuant to that invoice.
7. As at the date of filing this Plaint, being 30 September 2024, the Defendant is in arrears to the Plaintiff in the sum of US\$13,588.84, including interest due under Bye-Law 34(3)(i) (the "Debt").
8. The Defendant has breached the Bye-Laws by failing or refusing to pay the Debt.
9. By reason of the Defendant's breach of the Bye-Laws the Plaintiff has suffered loss and damage and seeks to enforce its rights against the Defendant in accordance with the said By-Laws.

Particulars of Loss

Strata Fees

The Plaintiff has suffered in the amount of the Debt being US\$13,588.84 as at 26 September 2024.

The Plaintiff is entitled to the payment of the Debt and contributions that it levies together with interest up to the date of trial. Such loss is expected to continue to date of trial. Full and further particulars of which will be provided in advance of trial.

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Legal Expenses

By reason of the Defendant's breach of the By-Laws the Plaintiff has incurred legal expenses for which the Defendant is, in accordance with Clause 34(3)(c) required to pay on a full indemnity basis.

As at the date of issue of the Plaintiff has incurred the following reasonable expenses: -

Professional fees and disbursements – Nelsons Attorneys-at-Law US\$1,000.00

Such loss is expected to continue to date of trial. Full and further particulars of which will be provided in advance of trial.

10. Further, the Plaintiff seeks and is entitled to interest from the date of filing this Plaintiff until the date of judgment and post-judgment interest in accordance with clause 34(3)(i) of the Bye-Laws the particulars are set out in the table below and continuing at the daily rate of US\$6.70 until judgment or sooner payment calculated as follows:

		Rate	No. of Days	Daily Rate
Statement Amount	US\$13,588.84	18%	29	US\$6.70
Interest since last statement	US\$194.34			
Start Date	01.01.24			
End Date	26.09.24			

11. Alternatively, the Plaintiff seeks and is entitled to interest pursuant to section 34(1) of the Judicature Act (2021 Revision) from and to such dates, and in such amounts, and at such rates, as this honourable Court thinks just.

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AND THE PLAINTIFF CLAIMS:

1. Principle of US\$13,588.84;
2. Interest on the following terms:
 - a. US\$194.34 to the date of the Plaintiff;
 - b. US\$6.70 per day from the date of the Plaintiff to the date Judgment is entered;
 - c. Post-Judgment interest from the date of judgment until the date payment of the judgment debt in full.
3. Interest continuing at the daily rate of US\$6.70, as set out in paragraph 10 above, alternatively at such rate from such date and on such amount as this honourable Court thinks just.
4. Legal expenses in the amount of US\$1,000.00
5. Costs on the following terms:
 - a. Insert costs of fixed cost basis: or
 - b. Costs on an indemnity basis pursuant to Clause 34(3)(c) of the Bye-Laws.
6. Such further and/or other relief as this honourable Court deems appropriate.

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If, within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed of **US\$14,783.18** together with costs and interest, further proceedings will be stayed. The money must be paid to the Plaintiff or their Attorney.



Nelsons Legal
Attorneys for the Plaintiff

Plaintiff's address for service:

Nelsons Legal, The Grand Pavilion, 802 West Bay Road, George Town, Grand Cayman, Cayman Islands.

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IN THE SUMMARY COURT OF THE CAYMAN ISLANDS

CAUSE NO. SC OF 2024

BETWEEN:

THE PROPRIETORS, STRATA PLAN NO. 45

PLAINTIFF

AND:

ERNO VIRAG

DEFENDANT

ACKNOWLEDGEMENT OF SERVICE

1. State Defendant’s name and Address:

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

YES

NO

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

YES

NO

4. If you 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.

Defendant’s Signature

Dated this _____ day of _____ 2024

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PARTICULARS OF DEFENCE

Here set out in numbered paragraphs the grounds upon which the Defendant says that they are not liable to the Plaintiff or is not liable for the full amount claimed.

Defendant's Signature

REMINDER - This form must be delivered or sent to the Courts Office, P.O. Box 495GT, George Town, Grand Cayman, within fourteen (14) days of receipt, otherwise a default judgment may be entered against you.

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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, 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.

Nelsons Legal
The Grand Pavilion,
802 West Bay Road,
George Town,
Grand Cayman
Ref: CF/5340-00006

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

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DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE

1. The accompanying form of ***Acknowledgement 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, PO Box 495, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement 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 Acknowledgement 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 installments or otherwise.

See over for notes for guidance

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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 Court's 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 authorized to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on his 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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