

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE No. 177 of 1999

BETWEEN: CAYMAN NATIONAL BANK LTD.

PLAINTIFF

AND

ROBERT A. FOSTER

DEFENDANT

WRIT OF SUMMONS

TO: ROBERT A. FOSTER
P. O. Box 1825 GT
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 10th March 1999.

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. The Plaintiff's claim is against the Defendant for the sum of CI\$16,536.55, being the outstanding principal on a loan account # 01-252-407551-01 and CI\$15,762.31, being the outstanding principal on a loan account # 01-252-407551-02, plus interest thereon as from 1st March 1999 at the rate of 11¾ % per annum (4% above Cayman Islands prime rate) on loan account # 01-252-407551-01 and at the rate of 13 3/4% per annum (6% above the Cayman Islands prime rate) on loan account # 01-252-407551-02, all interest accrued daily and compounded monthly in accordance with the terms of a loan agreement ("the Agreement") as executed by the Defendant in favour of the Plaintiff.
2. By the terms of the Agreement, upon demand by the Plaintiff all principal and interest accrued, whether unpaid and overdue or otherwise, become payable forthwith. Several demands for payment from the Defendant have been made by and on behalf of the Plaintiff without satisfactory response.
3. Also under the terms of the Agreement, the rate of interest and arrangements for computing and compounding interest may be varied at any time at the sole discretion of the Plaintiff, as well after as before any demand made or judgment obtained thereunder. The Plaintiff is entitled to full recovery of its legal costs incurred in enforcing the Agreement.

AND THE PLAINTIFF CLAIMS:-

1. AN ORDER for the payment by the Defendant of the sums of CI\$16,536.55 and CI\$15,762.31.
 2. INTEREST accrued to 10th March 1999 in accordance with the terms of the loan account # 01-252-407551-01 at the rate of 11¾ % per annum, (4% above the Cayman Islands prime rate) compounded monthly, equal to CI\$53.90 and continuing.
 3. INTEREST accrued to 10th March 1999 in accordance with the terms of the loan account # 01-252-407551-02 at the rate of 13 ¾% per annum (6% above the Cayman Islands prime rate) compounded monthly, equal to CI\$60.10 and continuing.
 4. FURTHER and/or other relief.
 5. COSTS of the Prescribed Filing Fee and Bailiff Fees of CI\$352.98 and Fixed Costs CI\$500.00, alternatively costs to be assessed.
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- Total Amount as of 10th March 1999
- CI\$33,265.84

STATEMENT REGARDING INTEREST:

1. The rate of interest claimed is 11¾ % per annum, (4% above Cayman Islands base rate) compounded monthly on loan account # 01-252-407551-01 and 13 ¾% per annum (6% above Cayman Islands prime rate) compounded monthly on loan account # 01-252-407551-02.
2. The date(s) from which interest is calculated is 1st March 1999.
3. The total amount of interest claimed as at 10th March 1999 is CI\$53.90 on loan account # 01-252-407551-01 and CI\$60.10 on loan account # 01-252-407551-02.
4. The amount of interest accruing each day thereafter is CI\$5.39 compounded monthly on loan account # 01-252-407551-01 and CI\$6.01 compounded monthly on loan account # 01-252-407551-02.

If, within the time for returning the Acknowledgment of Service, the Defendant(s) pays the total amount claimed of CI\$33,265.84 (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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PLAINTIFF

AND

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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

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

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.

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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