

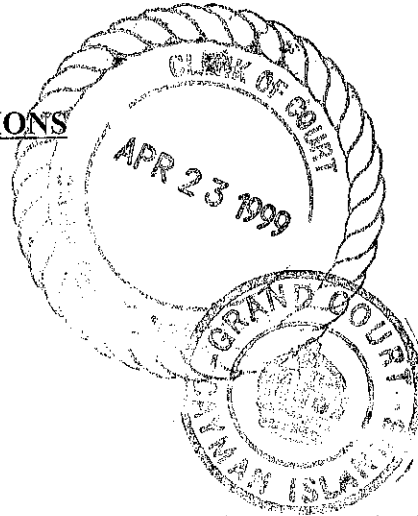
IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE No: 271 OF 1999

BETWEEN: KEN TAVES PLAINTIFF

AND: EURO BANK CORPORATION DEFENDANT

WRIT OF SUMMONS



TO: EURO BANK CORPORATION
5th Floor
Anderson Square Building
Shedden Road
George Town
Grand Cayman

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 Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement 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: 23rd April 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 month*) beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

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

INDORSEMENT

The Plaintiff's claim against the Defendant is for;

1. An Order that the Defendant do forthwith pay to the Plaintiff any and all monies standing to the Plaintiff's credit in the Defendant's possession or control to the Plaintiff or at his direction;
2. An Order that the Defendant pay the whole or any part of the monies in the Plaintiff's accounts to the Plaintiff or at his direction in accordance with the terms of the agreement between the Plaintiff as customer on the one hand and the Defendant as Banker on the other;
3. An Order restraining the Defendant from interfering with or preventing the Plaintiff from operating his account with the Defendant in accordance with the agreement between the parties;
4. Alternatively an Order that the Defendant do pay the monies to the Order of the Plaintiff;
5. Alternatively that the Defendant do pay the monies in the accounts to the Plaintiff as money had and received by the Defendant to the use of the Plaintiff;
6. Damages

7. Such further or other Order as the Court deems just; and

8. Costs.

Truman Bodden & Co.

TRUMAN BODDEN & COMPANY
ATTORNEYS-AT-LAW FOR THE PLAINTIFFS

This Writ was issued by Truman Bodden & Company, Attorneys-at-Law for the Plaintiffs, whose address for service is PO Box 866 GT, Anderson Square Building, Shedden Road, George Town Grand Cayman, Cayman Islands, BWI.

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS**

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, P.O. Box 495G, 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 Acknowledgement, 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 notes for guidance

Please complete overleaf

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 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 named 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 1999

BETWEEN: KEN TAVES Plaintiff

AND: EURO BANK CORPORATION 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 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 of Summons is being acknowledged.

2. State whether the Defendant intends to contest or otherwise participate in 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 of Summons 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 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.

Truman Bodden & Company
PO Box 866
George Town
Ref:

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

[Empty box for defendant's attorney indorsement]

firm claimed to represent a number of companies in litigation in the United States of America. The letter alleged *inter alia* that the monies in the Account were rightfully the property of their clients. Accordingly the Bank was demanded to freeze all such monies and not permit any activity on the Account. Notice of this request was forwarded to the Plaintiff on or about 31 March 1999.

6. On or about 31 March 1999 the Plaintiff instructed the Defendant to pay the monies in the Account to the Plaintiff or at his direction. The Defendant has failed, refused or neglected to act upon this or any subsequent instruction from the Plaintiff.
7. Subsequent to the Plaintiff giving the instructions referred to in paragraph 6 Mr Ivan Burges, the Senior Assistant Manager of the Defendant ("Mr Burges"), spoke with the Plaintiff regarding the Account. Mr Burges stated the Defendant was concerned that third parties might have valid claims against the funds that the Plaintiffs held in accounts with the Defendant. As a consequence Mr Burges informed the Plaintiff that due to those concerns which the Defendant had as a result the letter dated 26 March 1999 the Defendant had decided not to permit any dealings with respect to the Accounts.
8. The Plaintiff will, at the trial of this action, refer to the letter of 26 March 1999 for its precise terms and effect.

9. It is admitted that civil action is proceeding against the Plaintiffs in the United States District Court for the Central District of California (Western Division). The Plaintiffs deny the allegations in that action and will defend that action.

10. The Plaintiff denies any knowledge of or involvement in the manner alleged or of any dishonest or fraudulent activity and nothing pleaded herein should be taken as an admission of the veracity of the allegations referred to.

11. The Plaintiff contends that the allegations contained in the letter of 26 March 1999 do not justify the failure and/or refusal on the part of the Defendant to comply with the instructions of the Plaintiff.

12. Following the Plaintiff's objections to the position taken by the Defendant on 7 April 1999 the Defendant's attorneys Hunter and Hunter wrote to CAR&D as follows (omitting formal parts);

"I refer to your letter dated 26 March 1999 addressed to Euro Bank Corporation and to our subsequent telephone conversations.

I now write on behalf of Euro Bank Corporation to inform you that if it is the intention of your clients to seek legal recourse in the Grand Court in relation to the matters which they allege then any such steps must be initiated and the bank so informed by the close of business on Friday 9th April 1999.

In the continued absence of such steps being taken within the time limits which I have prescribed, the bank will disregard the contents of your letter dated 26 March 1999."

This sparked a brief exchange of correspondence including but not limited to the following letters.

<u>Date</u>	<u>From</u>	<u>To</u>
9 April 99	CAR&D	Hunter & Hunter
12 April 99	Hunter & Hunter	CAR&D

The Plaintiff will at the trial of this action refer to the all the said letters for their precise terms and effect.

13. None of the steps required to be taken by the clients of CAR&D on or before 9 April 1999 were taken and have never been taken but the Defendant nevertheless still continues wrongfully to freeze the Account.
14. In breach of the express and/or implied agreement between the Plaintiff and the Defendant, the Defendant has refused and continues to refuse to accept the instructions of the Plaintiff. As a consequence the Plaintiff is unable to use his money and is suffering loss and damage.
15. On 16 April 1999 Truman Bodden & Company ("TB&Co") was instructed to act for the Plaintiff. On 16 April and 22 April 1999 TB&Co wrote to the Defendant setting out the fault in the Defendant's refusal to follow the Plaintiff's instructions with respect to the Account. Additionally TB&Co by those letters demanded that the Defendant carry out

the Plaintiff's earlier instructions to pay the proceeds of the Account to the Plaintiff or at his direction. The Plaintiff will at the trial of this action refer to the letters of 16 and 21 April 1999 for their precise terms and effect.

16. On 22 April 1999 Hunter and Hunter wrote to TB&Co acknowledging receipt of the demand letters of 16 and 21 April 1999 and advising that "[their] clients are giving urgent attention to this matter and I hope to revert to you very shortly".
17. In the premises the Defendant is in breach of the express and/or implied terms of its agreement to act as banker to the Plaintiff by wrongfully refusing to carry out the Plaintiff's instructions regarding the Account and in the result the Plaintiff has suffered and continues to suffer loss and damage.
18. Further the Defendant holds the moneys in the Account to its own use and has wrongfully deprived the Plaintiff thereof whereby the Plaintiff has suffered loss and damage.
19. Further and in the alternative, the Defendant has had and received the monies in the Account to the use of the Plaintiff and is liable to pay the monies in the Account to the Plaintiff.

AND THE PLAINTIFF CLAIMS:

1. An Order that the Defendant do forthwith pay to the Plaintiff any and all monies standing to the Plaintiff's credit in the Defendant's possession or control to the Plaintiff or at his direction;
2. An Order that the Defendant pay the whole or any part of the monies in the Account to the Plaintiff or at his direction in accordance with the terms of the agreement between the Plaintiff as customer on the one hand and the Defendant as Banker on the other;
3. An Order restraining the Defendant from interfering with or preventing the Plaintiff from operating the Account with the Defendant in accordance with the agreement between the parties;
4. Alternatively an Order that the Defendant do pay the monies to the Order of the Plaintiff;
5. Alternatively that the Defendant do pay the monies in the Account to the Plaintiff as money had and received by the Defendant to the use of the Plaintiff;
6. Damages;
7. Such further or other Order as the Court deems just; and
8. Costs.

Truman Bodden & Co

TRUMAN BODDEN & COMPANY
ATTORNEYS-AT-LAW FOR THE PLAINTIFFS

This Statement of Claim was issued by Truman Bodden & Company, Attorneys-at-Law for the Plaintiffs, whose address for service is PO Box 866 GT, Anderson Square Building, Shedden Road, George Town Grand Cayman, Cayman Islands, BWI