

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 433 of 1999

BETWEEN:

CAYMAN FINANCE SERVICES LIMITED

Plaintiff

AND

BENNY ZELAYA

Defendant



WRIT OF SUMMONS



TO: Benny Zelaya, P.O. Box 31299, Seven Mile Beach, 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 495, 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 this 12 day of July 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.

STATEMENT OF CLAIM

1. The Plaintiff is and has at all material times been a lending institution registered to carry on business in the Cayman Islands.
2. The Defendant is a client of the Plaintiff.
3. On the 16 April 1997 a loan in the amount of CI\$5,100.00 was made available to the Defendant. The loan was subject to the following terms and conditions: The term of the loan would be two years, interest rate to be applied at the rate of 13% per annum, monthly payments to be in the sum of CI\$242.00 to commence thirty days from the date of disbursement, and 1% commitment fee.
4. The Defendant indicated his agreement to the above terms and conditions by signing a Commitment Letter and Promissory Note, both dated 16 April 1997 in which the said terms and conditions were set out.
5. In the letter dated 10 December 1998 the Defendant was informed that he was in arrears to the amount of CI\$4,058.38 and if payment of the full amount was not received legal proceedings would be commenced against him.
6. As a result of the letter the Defendant contacted the Plaintiff and an agreement was made whereby the Defendant would make monthly payments of CI\$200.00.
7. One payment in the sum of CI\$250.00 was received by the Defendant on the 29th January 1999 and another on the 8 April 1999 in the amount of CI\$100.00.
8. In breach of the said agreement the Defendant has to date failed to make any other payments.
9. In the premises the Defendant has repudiated the agreement of the sums due to the Plaintiff and the Plaintiff is entitled to the payment of the money owed, plus interest as per the Commitment Letter and Promissory Note.
10. The Plaintiff claims the principal sum of CI\$4,364.32, which includes interest calculated at a rate of 13% per annum, and late charges and penalty as calculated to the 11 June 1999.

AND THE PLAINTIFF CLAIMS:

1. Principle sum of CI\$ 4,364.32.
2. Interest of CI \$1.55 per diem from 12 June 1999 to date of payment.
3. Fixed costs pursuant to Order 62 rule 1 of CI \$250.00, plus the fees of the Writ of CI \$100.00.

If, within the time for returning the Acknowledgement of Service, the Defendant pays the total amount claimed of CI\$ 4,364.32 and interest at the rate aforesaid calculated up to the date of payment, and fixed costs of CI \$250.00, further proceedings will be stayed.

The money must be paid to the Plaintiff or his attorney.

Hunter & Hunter
HUNTER & HUNTER

Filed by Hunter & Hunter, Attorneys at Law, for the Plaintiff, whose address for service is
P.O. Box 190 George Town, Grand Cayman (Ref: ZM/06627.009)

**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 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.

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 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 483 of 1999

B E T W E E N : CAYMAN FINANCE SERVICES LIMITED

Plaintiff

AND:

BENNY ZELAYA

Defendant

ACKNOWLEDGEMENT 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.

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

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

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.

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

Hunter & Hunter
P.O. Box 190
West Wind Building
George Town
Grand Cayman

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