

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. *464* OF 1999

BETWEEN: JOHN BURKE

PLAINTIFF

AND: HARRISON BOTHWELL

DEFENDANT

WRIT OF SUMMONS

TO: Harrison Bothwell, West End, Cayman Brac, Cayman Islands

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.

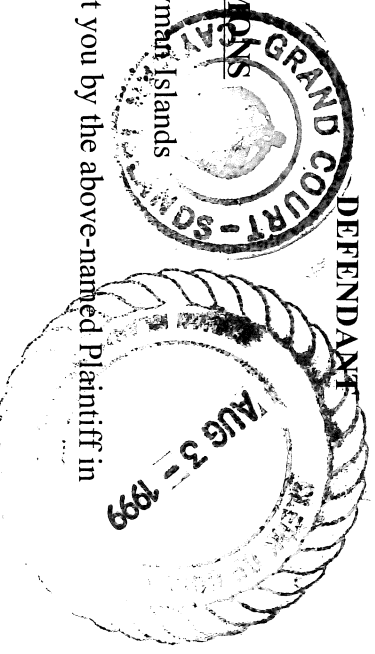
If you fail to satisfy the claim or return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this *30th* day of August 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. By a demand promissory note dated 16th September 1996 the Plaintiff loaned the Defendant the sum of CI\$ 35,000 at no interest until maturity by demand whereupon the interest of 12% per annum was payable.
2. On 7th September 1996 the Plaintiff made a demand to the Defendant for payment of the said loan.
3. The Defendant has made two payments of CI\$ 5000 on 11th December 1996 and CI\$ 250 in April 1999 leaving an outstanding principal balance of CI\$ 30,450.
4. The Plaintiff has made numerous demands for complete payments from the Defendant to no avail.
5. The Plaintiff claims interest pursuant to the interest term of the said loan demand promissory note at the rate of 12% p.a. as follows: -

7th September 1996 to 7th December 1996	- CI\$ 700
7th December 1996 to 7th April 1999	- CI\$ 8,596
7th April to 7th July 1999	- CI\$ 1,171.38

Total CI\$ 10,467.38

AND THE PLAINTIFF claims:

1. The sum of CI\$ 29,750.
2. Interest pursuant to the agreed rate of 12 % p.a. from 7th September 1996 for a total amount of CI\$ 10,467.38 at 7th July 1999 and a daily rate of interest of CI\$ 13.22.
3. Fixed costs of CI\$ 922.50.

If, within the time for returning the Acknowledgment of Service, the Defendant says the total amount claimed of CI\$ 41,139.88 (including interest and costs) further proceedings will be stayed. The money must be paid to the Plaintiff or his Attorney.



POLACK & CO.

THIS WRIT was issued by POLACK & CO. whose address for service is No. 15 Pasadora Place, Smith Road, George Town, Grand Cayman.

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 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 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 installments 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 Court Office.

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PLAINTIFF

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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 Delay may result in judgment being entered
directions and notes for guidance against a Defendant whereby he may have to
carefully before completing this form. If pay the costs of applying to set it aside.
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:

