

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. ⁵⁵⁶ OF 1999

BETWEEN: I.A.N. WIGHT AND M. W. PILLING, JOINT OFFICIAL LIQUIDATORS OF FIRST CAYMAN BANK LTD. (IN LIQUIDATION) Plaintiffs

AND: RUTH ANN McFIELD Defendant

WRIT OF SUMMONS

To: RUTH ANN McFIELD
PO BOX 2589
GEORGE TOWN
GRAND CAYMAN



THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiffs in respect of the claim set out on the next page.

Within Fourteen days [14] 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 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 Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this day of September, 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 Plaintiffs are the Joint Official Liquidators ("the Liquidators") of First Cayman Bank Ltd. (in Liquidation) ("the Bank"), whose address is P.O. Box 1113, George Town, Grand Cayman, Cayman Islands and who all material times has lent money to the Defendant.
2. The Defendant's address is, P.O. Box 2589, George Town, Grand Cayman, Cayman Islands and the Defendant was at all material times the recipient of money lent by the Bank.
3. On or about 14th day of April 1997, the Bank agreed to loan the Defendant the sum of US\$15,060.98, which the Defendant agreed to repay at the rate of US\$396.00 per month.
4. The said Agreement is contained in or is evidenced by a Memorandum dated the 14th day of April, 1997, signed by the Defendant.
5. It was an express term of the said Agreement that the Defendant would pay interest on the amount of the said loan at the rate of 11.5% per annum. Pursuant to the said Agreement on the 14th day of April 1997, the Plaintiffs advanced the Defendant by way of a loan the sum of US\$15,060.98 for the purpose of purchasing a 1996 Dogde Neon.
6. The said payment was made by cheque dated the 14th day of April 1997, drawn by the Plaintiffs to the Order of the Defendant which was duly met on presentation

7. The Defendant has repaid the Bank the total sum of US\$2,435.09 on account of the said loan.

PARTICULARS

- US\$396.43 - 4th day of June 1997 by Transfer from savings accounts
- US\$1,190.48 - 4th day of September 1997 by Cheque number 590469
- US\$14.86 - 20th day of October 1997 by Transfer from savings accounts
- US\$416.66 - 12th day of November 1997 by Customer deposit
- US\$416.66 - 20th day of November 1997 by Customer deposit

AND THE PLAINTIFFS CLAIM:

1. The said sum of US\$16,965.19 being the outstanding balance including interest of monies loaned to the Defendant by the Plaintiffs on the 14th day of April, 1997 which remains due and owing.
2. The Plaintiffs claim further interest on the said sum as aforesaid from the date hereof until judgement or sooner payment at the daily rate of US\$5.46.
3. Alternatively the Plaintiffs claim pre judgement interest pursuant to Section 34 of the Judicature Law (1995 revision) as follows:
 - (i) at the rate of $7\frac{3}{8}\%$ from the 14th of April 1997 to the 31st day of January, 1998;

(ii) at the rate of $7\frac{7}{8}\%$ from the 1st day of February, 1998 to the 31st day of December, 1998; and

(iii) at the rate of 7% from the 1st day of January, 1999 to the date of this Writ.

4. Further and alternatively the Plaintiffs claim interest at the rate of 7% pursuant to Section 34 of the Judicature Law(1995 Revision) from the date hereof until judgement or sooner payment.

5. Costs.

If within the time for returning Acknowledgement of Service the Defendant pays the total amount claimed of US\$16,965.19 (excluding the costs of any additional interest accruing) further proceedings will be stayed. The money must be paid to the offices of the Plaintiffs' Attorneys-at-Law.

Quin & Hampson .
Quin & Hampson
Attorneys-at-Law for the Plaintiffs

To: Clerk of the Court

And to: Ruth Ann McField
PO Box 2589
George Town
Grand Cayman

THIS WRIT was issued by Messrs. Quin & Hampson, Attorneys-at-Law for the Plaintiffs whose address for service and correspondence is P.O. Box 1348, Third Floor, Harbour Centre, George Town, Grand Cayman, B.W.I.

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 Plaintiffs (or on the Plaintiffs 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 Plaintiffs 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

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 authroised 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.

BETWEEN: I.A.N. WIGHT AND M. W. PILLING, JOINT OFFICIAL LIQUIDATORS OF FIRST CAYMAN BANK LTD. (IN LIQUIDATION) Plaintiffs

AND: RUTH ANN MCFIELD 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 Plaintiffs (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.

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

Messrs. Quin & Hampson
Attorneys-at-Law
Third Floor, Harbour Centre
P.O. Box 1348
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.