

IN THE GRAND COURT OF THE CAYMAN ISLANDS
IN THE MATTER OF THE REGISTERED LAND LAW (1995 REVISION)
AND IN THE MATTER OF MIDLAND EAST, BLOCK 59A, PARCEL 221
BETWEEN:

THE CAYMAN ISLANDS CIVIL SERVICE ASSOCIATION
CO-OPERATIVE CREDIT UNION LTD

PLAINTIFF

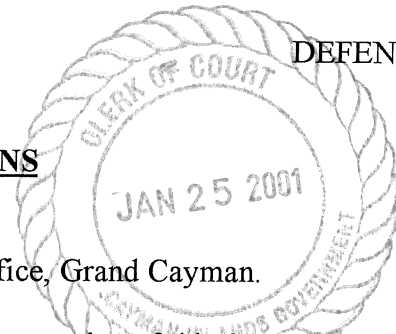
AND

KENLEY SMITH

DEFENDANT



ORIGINATING SUMMONS



TO: Kenley Smith of General Delivery, West Bay Post Office, Grand Cayman.

LET THE DEFENDANT, Kenley Smith within 14 days after service of this Summons on him, counting the day of service, return the accompanying Acknowledgement of Service to the Courts Office, PO Box 495 GT, George Town, Grand Cayman.

BY THIS SUMMONS which is issued on the application of the Plaintiff, The Cayman Islands Civil Service Association Co-operative Credit Union Ltd, the Plaintiff seeks relief pursuant to the Registered Land Law (1995 Revision).

1. On 13th September 1999 the Defendant applied to the Plaintiff for a loan in the sum of CI\$61,000.00. The loan was to be repaid by 96 monthly repayments of CI\$951.54 and was to be secured by a first Legal Charge on the land registered at the Lands & Survey Department as Midland East, Block 59A, Parcel 221 ("the Property").
2. On 15th September 1999 the Plaintiff as Chargee and the Defendant as Chargor executed a Legal Charge ("the Charge") in respect of the Property.
3. The Charge provided that:
 - 3.1 The Plaintiff would lend and the Defendant would borrow the principal sum of CI\$61,000.00 ("the Principal Sum").
 - 3.2 Interest on the Principal Sum would accrue at the rate of 0.9% per month on the reducing balance.

4. In or about April 2000 and since that time the Defendant has failed to pay the monthly instalments due in respect of the Principal Sum and interest.
5. By a letter dated 29th June 2000 and handed to the Defendant on 10th July 2000, Messrs Ritch & Conolly as Attorneys for the Plaintiff served Notice on the Defendant pursuant to Section 64 (2) of the Registered Land Law (1995 Revision) demanding payment of the balance of the Principal Sum and accrued interest which as at 29th June 2000 was CI\$49,734.12.
6. The Defendant has failed to pay the balance due of the Principal Sum and accrued interest.
7. The provisions of the Registered Land Law (1995 Revision) provide that once a Notice of Demand has been served pursuant to Section 64 (2) the total amount outstanding of principal and interest becomes due and payable 3 months after service of that Notice. The Plaintiff avers that the letter dated 29th June 2000 and served on the Defendant on 10th July 2000 constitutes such Notice pursuant to Section 64 (2).
8. The provisions of the Registered Land Law (1995 Revision) also provide that a Chargee will then acquire power to sell the property in question by public auction after three months have elapsed after service on the Chargor of a second Notice demanding payment. Such provisions are subject to an approval of the Court to the variation of such requirements and the Court may give leave to waive the need to serve a second Notice and give leave to allow the Chargee to sell by either private sale or public auction.
9. The relief the Plaintiff seeks in these proceedings is an Order of the Court that:-
 - 9.1 Variations in the Charge to the provisions of the Registered Land Law (1995 Revision) be allowed so that the Plaintiff is not required to serve on the Defendant a further Notice to pay the money owing or to perform and observe the provisions of the Charge.
 - 9.2 The Plaintiff be entitled to sell the Property forthwith.
 - 9.3 Such sale to be either by private treaty or public auction, in good faith and having good regard to the interests of the Defendant.

Dated the 24th day of January 2001


Ritch & Conolly

If the Defendant does not acknowledge service, judgment may be given or made against him or in relation to him as the Court may think just and expedient.

NOTE - This Summons may not be served later than four calendar months (or if Leave is required to effect service out of the jurisdiction, six months) beginning with that date unless renewed by order of the Court.

IMPORTANT

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

Acknowledgement of service of originating summons (O.10, r.5)

37/01

**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE
OF ORIGINATING SUMMONS**

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 495 GT, George Town, Grand Cayman.

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, an Originating Summons served on the Defendant personally is treated as having been served on the day it was delivered to him/her.
3. Where the Defendant is sued in a name different from his own, the form must be completed by them with the addition in paragraph 1 of the words “sued as (*the name stated on the Originating 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/her name.
5. Where the Defendant is sued as an individual TRADING IN A NAME OTHER THAN THEIR OWN, the form must be completed by him/her with the addition in paragraph 1 of the description “trading as (.)” after his/her 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.

If the Defendant does not acknowledge service, judgment may be given or made against him or in relation to him as the Court may think just and expedient.

NOTE - This Summons may not be served later than four calendar months (or if Leave is required to effect service out of the jurisdiction, six months) beginning with that date unless renewed by order of the Court.

IMPORTANT

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

This Originating Summons was issued by Messrs Ritch & Conolly as Attorneys at Law for the Plaintiff and whose address for service is PO Box 1994 GT, Queensgate House, 113 South Church Street, Grand Cayman, B.W.I.

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BETWEEN

THE CAYMAN ISLANDS CIVIL SERVICE ASSOCIATION
CO-OPERATIVE CREDIT UNION LTD

PLAINTIFF

AND

KENLEY SMITH

DEFENDANT

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**.

1. State the full name of the Defendant by whom or on whose behalf the service of the Originating Summons is being acknowledged.

2. State whether the Defendant intends to contest the proceedings (*tick appropriate box*)

yes

no

Service of the Originating Summons is acknowledged accordingly

(Signed)

[Attorney] for

[Defendant in person]

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.

Please complete overleaf

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

Ritch & Conolly
PO Box 1994 GT
Queensgate House
113 South Church Street
Grand Cayman

Ref: RHJ/CICSA-Kenley Smith

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