

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 248 OF 2000

B E T W E E N:

NATIONAL BUILDING SOCIETY

Plaintiff

AND

ALBERT A. THOMPSON

Defendant

WRIT OF SUMMONS

To: Albert A. Thompson of P.O. Box 575GT, 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 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 2nd day of May 2001

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 at all material times been a lending institution registered to carry out business in the Cayman Islands.
2. The Defendant is a client of the Plaintiff.
3. On 28 September 1998 a loan in the amount of CI\$12,000.00 was made available to the Defendant. The loan was subject to the following terms and conditions: total amount of loan CI\$12,000.00 for a term of 5 years to be repaid in monthly instalments of CI\$270.00 with first monthly payment to commence 30 days from date of disbursement. Interest rate to be applied at a rate of 4.25% above the Cayman Islands base rate.
4. The Defendant indicated his agreement to the above terms and conditions by signing a letter in acknowledgment and agreement dated 28 September 1998 in which the said terms and conditions were set out.
5. The property is also secured by a registered first charge over registration Cayman Brac Central Block 103D Parcel 90.
6. The Defendant failed to make the monthly payments and is presently in arrears for the total sum of \$9,020.19 to the Plaintiff, who has made several attempts to contact the Defendant regarding the arrears.
7. On 21 June 2000 a demand letter was sent to the Defendant by registered mail informing him of the outstanding amount and demanding payment of outstanding balance. The Defendant has as to date failed to bring his arrears up to date.
8. In the premises the Defendant has repudiated the agreement of the sums due by payment of monthly instalments and the Plaintiff is entitled to payment of the monies owed, plus interest and late charges.
11. The Plaintiff claims the principal sum of \$9,020.19, which includes the principal sum of \$8,519.12, interest of \$437.78 calculated at a rate of 11.75% and late charges of \$63.29 as calculated to 1 May 2001.

AND THE PLAINTIFF CLAIMS:

1. The principal sum of CI\$9,020.19
2. Interest on the principal sum at the rate of 11.75%.
3. Costs to be taxed or agreed plus fees of the writ of CI\$150.00.

If within the time of returning the acknowledgement of service the Defendant pays the total amount claimed of CI\$9,020.19 and interest at the rate of aforesaid calculated up to the date of payment and legal costs for the proceedings will be stayed. The money must be paid to the Plaintiff or his attorney.

Hunter & Hunter

Hunter & Hunter

This Writ was issued by Hunter & Hunter, Attorneys at Law for Plaintiff, whose address for service is P.O. Box 190, George Town, Grand Cayman. Ref: (ZM/06065.079)

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 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 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 instalments 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 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.

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NATIONAL BUILDING SOCIETY

Plaintiff

AND

ALBERT A. THOMPSON

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.

Please complete overleaf

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 plaintiff if suing in person) of his name, address and reference, if any, in the box below.

Hunter & Hunter
75 Fort Street
PO Box 190 GT
Grand Cayman
Cayman Islands
Ref. ZM/06065.079

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 indorsement]