

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 495 OF 2001

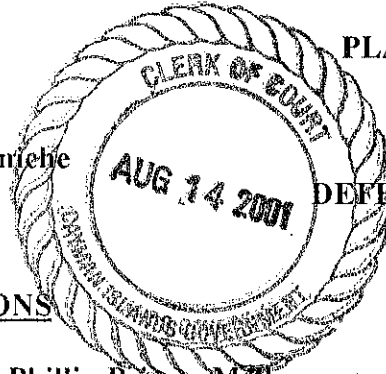
BETWEEN

Banco Mercantil Del Norte, S.A Institucion de Banca
Multiple, Grupo Financiero Banorte

AND



Carlos Efrain de Jesus Cabal Peniche



PLAINTIFF

DEFENDANT

WRIT OF SUMMONS

To: Carlos Efrain De Jesus Cabal Peniche c/o Port Phillip Prison, Melbourne, Australia

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 28 days after service of this Writ on you (or such other period as the Court shall determine), counting the day of service, you must either satisfy the claim or return to the Court Office, PO Box 495 GT, 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 judgement may be entered against you forthwith without further notice.

ISSUED this day of August 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, six months*) beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

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

GENERAL INDORSEMENT

The Plaintiff claims against the Defendant:-

- (i) The sum of Sixty Million Mexican Pesos(60,000,000)* being the sum adjudged due from the Defendant pursuant to a Judgment dated 23rd August 1995 of the Federal District Court of Mexico in Action No. 1238/95 which Judgment and claims on which it is based, have been assigned to the Plaintiff from Banpais S.A. Institucion de Banca Multiple pursuant to an Agreement dated 16th February 2000, together with accumulated interest which at the date hereof brings the total sum due under the Judgment to Two Hundred and Fifty Four Million Seventy Seven Thousand Four Hundred and Sixty Six Mexican Pesos (254,077,466)**;
- (ii) Interest on the said total sum from the date hereof to the date of Judgment or sooner payment at such rate as the Court deems appropriate;
- (iii) Such further Order as the Court shall think fit;
- (iv) Costs;


*** Note:** *The sum of Sixty Million Mexican Pesos is the equivalent of US\$9,623,095.40 at the rate of 6.235 to the U.S. Dollar at the date of the said Judgment.*

****Note:** *The sum of Two Hundred and Fifty Four Million Seventy Seven Thousand Four Hundred and Sixty Six Dollars is the equivalent of US\$42,750,195.02 at the rate of 6.235 prevailing at the date of the said Judgment.*

DATED this 14th day of August 2001.

TO: The Clerk of the Court

AND TO: The Defendant



 RITCH & CONOLLY
 Attorneys at Law for the Plaintiff

This Writ of Summons was issued by Ritch & Conolly, Attorneys-at-Law for an on behalf of the Plaintiff herein whose address for service is that of their said Attorneys at Law of PO Box 1994 GT, Fourth Floor, Queensgate House, 113 South Church Street, George Town, Grand Cayman, B.W.I.

BETWEEN

Banco Mercantil Del Norte, S.A Institucion de Banca Multiple, Grupo Financiero Banorte

PLAINTIFF

AND

Carlos Efrain de Jesus Cabal Peniche

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. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED. Delay may result in Judgement 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 judgement 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

Messrs. Ritch & Conolly
PO Box 1994 GT
Grand Cayman
Ref: DAM #8116

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

Acknowledgment of service of writ of summons (O.12, r.3)

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 ~~28~~ 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 instalments 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 28 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.