

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 835 OF 2001

BETWEEN: THE PROPRIETORS STRATA PLAN NO. 43

Plaintiff

AND: DAVID ROBERT SARGEANT  
ANNA MARIA SARGEANT

Defendants

WRIT OF SUMMONS

TO: David Robert Sargeant and Anna Maria Sargeant  
PO Box 31708 SMB  
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 Acknowledgment of Service stating therein whether you intend to contest these proceedings.

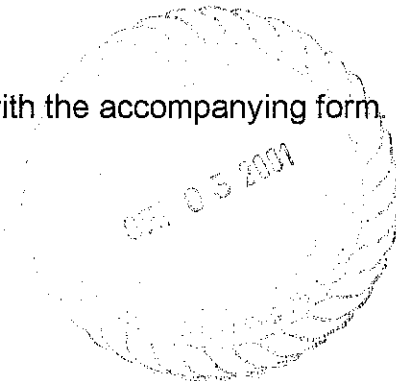
If you fail to satisfy the claim or return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may entered against you forthwith without further notice.

Issued this 3<sup>rd</sup> day of September 2001.

NOTE - This Writ may not be served later than 6 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 Plaintiff is a strata corporation formed under and in accordance with the Strata Titles Registration Law (1996 Revision) with its registered office situated in George Town, Grand Cayman.
- 2) The Defendants are residents of Grand Cayman and were at all material times proprietors of Plaintiff Strata Corporation.
- 3) Pursuant to s.6(1)(f) of the Strata Titles Law a strata corporation has a duty to maintain the common property and to keep it in a good state of affairs. On the following dates the Plaintiff made special assessments to the Proprietors to cover the cost of certain capital improvements to the common property approved by the Proprietors in the 2001 AGM meeting ("the 2001 Capital Improvements Projects Assessment"): 28 February 2001 and 31 March 2001.
- 4) Pursuant to section 6(1)(a) of the Strata Titles Law the Plaintiff is required to insure and keep insured the building to the replacement value thereof against fire, earthquake, hurricane and such other risks as may be prescribed. The Plaintiff made an assessment in respect of maintaining the insurance coverage required by the Strata Titles Registration Law (1996 Revision) on 20 April 2001 ("the 2001 Insurance Assessment").

- 5) The Plaintiff makes a monthly assessment in respect of each strata lot which includes strata fees in the sum of US\$350.00 for 2 bedroom units or US\$437.50 for 3 bedroom units plus any outgoings which may be incurred by the Plaintiff in respect of the Proprietor's strata lot ("the Strata Fees").
  
- 6) Pursuant to s.6(3) of the Strata Titles Law any contribution levied by a strata corporation shall be due and payable upon the passing of a resolution to that effect. Further, Clause 35(b) of the Plaintiff's By-Laws require every proprietor to pay all rates, taxes, charges, outgoings and assessments that may be payable with respect of his Strata Lot within 14 days of demand.
  
- 7) The Plaintiffs claim is for the sum of US\$16,030.63 for Unit 228, being the balance of the monies owed pursuant to unpaid Strata Fees, the 2001 Capital Improvements Project Assessment and the 2001 Insurance Assessment.

#### PARTICULARS

<b>Strata Fees - Unit # 228</b>				
Date of Assessment	# Days O/S	Assessment Amount*	Interest Accrued to date	Total Due
30-Apr-01	120	\$350.00	\$9.66	\$359.66
31-Mar-01	150	\$350.00	\$12.39	\$362.39
28-Feb-01	181	\$350.00	\$15.21	\$365.21
31-Jan-01	209	\$350.00	\$17.76	\$367.76
31-Dec-00	240	\$6,958.45	\$409.31	\$7,367.76
		<b>\$8,358.45</b>	<b>\$464.33</b>	<b>\$8,822.78</b>

<b>2001 Insurance Assessment - Unit # 228</b>				
Date of Assessment	# Days O/S	Assessment Amount*	Interest Accrued to date	Total Due
30-Apr-01	120	\$1,980.00	\$54.63	\$2,034.63
31-Dec-00	240	\$1,200.00	\$116.47	\$1,316.47
		\$3,180.00	\$116.47	\$1,316.47

<b>2001 Capital Improvements Assessment - Unit # 228</b>				
Date of Assessment	# Days O/S	Assessment Amount*	Interest Accrued to date	Total Due
31-Mar-01	150	\$1,881.50	\$66.60	\$1,948.10
28-Feb-01	181	\$1,881.50	\$81.78	\$1,963.28
		\$3,763.00	\$148.38	\$3,911.38

<b>Summary - Unit # 228</b>				
	Strata	Insurance	2001 CIA	
Total Invoices	\$8,358.45	\$3,180.00	\$3,763.00	
Total Interest	\$464.33	\$116.47	\$148.38	
Total Due	\$8,822.78	\$3,296.47	\$3,911.38	

\* Assessment Amounts less any credits.

- 8) By a letter dated June 23, 2000 the Plaintiffs demanded settlement of the account in full within 14 days of receipt. By verbal demands in or around August, 2000 the Plaintiffs again demanded settlement of the account in full. The Plaintiff's Attorney-at-Law also sent a letter dated 24 May 2001 demanding payment in full within 7 days. These demands have been ignored by the Defendant.
- 9) Further the Plaintiff claims interest on the said sum pursuant to Proviso (i) to Clause 35 of the Plaintiff's By-Laws at the rate of 9.5% per annum amounting to US\$729.18 at the date hereof calculated from the dates set out in paragraph 14 herein and continuing interest from the date of issue at a daily rate of US\$3.98. In

the alternative the Plaintiff claims interest for such period and at such rate as the Court thinks fit.

**AND THE PLAINTIFF** claims:

- (i) The sum of US\$16,030.63;
- (ii) Interest as set out in paragraph 9 herein
- (iii) Fixed costs of US\$426.82, alternatively costs to be assessed.

If, within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed of US\$16,457.45 (including costs) further proceedings will be stayed. The money must be paid to the Plaintiff's Attorney.

  
**TRUMAN BODDEN & COMPANY**

**Billing Address:**

David Robert Sargeant and Anna Maria Sargeant  
PO Box 31708 SMB  
Grand Cayman

**FILED BY** Truman Bodden & Company, Attorneys at Law for the Plaintiff herein whose address for service is 5<sup>th</sup> Floor Anderson Square Building, PO Box 866 GT, Grand Cayman, Cayman Islands

**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 instalments or otherwise.

***See over 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 named 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: S3S OF 2001

BETWEEN: THE PROPRIETORS STRATA PLAN NO. 43 Plaintiff

AND: DAVID ROBERT SARGEANT  
ANNA MARIA SARGEANT Defendants

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 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 of Summons is being acknowledged.

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2. State whether the Defendant intends to contest or otherwise participate in the proceedings *tick appropriate box*

Yes  No

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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

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Service of the Writ of Summons 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 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.*

Truman Bodden & Company  
PO Box 866  
George Town  
Ref: SND/ckh/6442

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

