

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE No. ⁵⁴⁸ of 2001

IN THE MATTER OF THE Bills of Exchange Law (1997 Revision)

BETWEEN:

AND:

BARBARA BARTON

(1) ALVIN GLENDAVE EBANKS

(2) ORETT OSTBY BANKER

Plaintiff

Defendants

WRIT OF SUMMONS

TO: ALVIN GLENDAVE EBANKS
PO Box 2177GT
George Town
Grand Cayman
Cayman Islands

AND TO: ORETT OSTBY BANKER
George Town
Grand Cayman
Cayman Islands

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out in the endorse Statement of Claim that follows.

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 495GT, 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 Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 7th day of September 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.

IMPORTANT

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

STATEMENT OF CLAIM

1. The Defendants made a joint and several promissory note for CI\$16,035 dated 9 November 1999 payable to the Plaintiff by installments of CI\$440 on 25 December 1999 and CI\$440 on the 25th day of each succeeding month.

2. The Defendants have made payments amounting in all to CI\$2,260. The last payment made was in April 2001 in the amount of CI\$500. In effect, the Defendants have failed to pay the installment of CI\$440 or any part thereof due on 25 September 2000 or at all and since then the Defendants have failed to pay the installments of CI\$440 or any part due on the 25th day of each succeeding month or at all.

3. As at the date of the Writ herein, the Defendants have failed to pay twelve installments as they became due (amounting in value to CI\$5,280) and the Defendants' default constitutes a repudiation by them of the said promissory note, so that the whole of the principal sum outstanding, being CI\$13,755, has become payable immediately.

4. The Plaintiff is entitled to and claims interest pursuant to s. 57(a)(ii) of the Bills of Exchange Law (1997 Revision) at the rate of 10% per annum.

PARTICULARS UNDER PARAGRAPHS 2 AND 3

Principal Sum outstanding	CI\$13,755
Interest at 10% per annum from 25 th September 2000 to date of Writ	CI\$1,311.26
Total	CI\$15,066.26

AND THE PLAINTIFF CLAIMS against the Defendants jointly and severally as makers:

- (1) the sum of CI\$13,755;
- (2) interest pursuant to s. 57(a)(I) of the Bills of Exchange Law (1997 Revision) on the sum of CI\$13,755 at the rate of 10% per annum being a daily rate of CI\$3.768 from the date of the Writ until judgment or sooner payment.
- (3) alternatively, the sum of CI\$13,755 as money lent on 9th November 1999 by the Plaintiff to the Defendants at their request; and
- (4) interest on the sum claimed under (3) above pursuant to s. 34(1) of the Judicature Law (1995 Revision) at the prescribed rate from the date of dishonour, being 25th September 2000, until judgment or sooner payment at the rate of 8% per annum (being a daily rate of CI\$3.015) or at such rate and for such period as the Court may think fit.

Dated this 7th day of September 2001.



BOXALLS

Attorneys for the Plaintiff

TO: The Clerk of the Court

AND TO: ALVIN GLENDAVE EBANKS
PO Box 2177GT
Grand Cayman
Cayman Islands

AND TO: ORETT OTSBY BANKER
George Town
Grand Cayman
Cayman Islands

This WRIT OF SUMMONS and STATEMENT OF CLAIM were issued by Boxalls, Attorneys at Law, whose address for service is: PO Box 1234GT, 3rd Floor, Queensgate House, South Church Street, George Town, Grand Cayman, British West Indies (Reference: 1744-0002/WJH).

IN THE GRAND COURT OF THE CAYMAN ISLANDS

548
CAUSE NO. OF 2001

BETWEEN:

BARBARA BARTON

Plaintiff

- and -

(1) ALVIN GLENDAVE EBANKS
(2) ORETT OSTBY BANKER

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 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 of Summons is being acknowledged.

2. State whether the Defendant intends to contest or otherwise participate in 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 Plaintiff (*tick box*).

yes

Service of the Writ of Summons is acknowledged accordingly.

Attorney for the Defendant

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 principal office.

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

Boxalls Attorneys-at-Law PO Box 1234GT George Town Grand Cayman, Cayman Islands British West Indies 1744-0002/WJH
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Indorsement by Defendant's Attorney (or by Defendant is suing in person) of his name, address and reference, if any, in the box below.

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**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 installments 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 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 Alvin Glendave Ebanks)”.
)
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 of 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 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. ⁵⁰⁸ OF 2001

BETWEEN:

BARBARA BARTON

Plaintiff

- and -

(1) ALVIN GLENDAVE EBANKS
(2) ORETT OSTBY BANKER

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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*).

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Attorney for the Defendant
Address for service:

Notes on address for service:

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

Boxalls Attorneys-at-Law PO Box 1234GT George Town Grand Cayman, Cayman Islands British West Indies 1744-0002/WJH
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Indorsement by Defendant's Attorney (or by Defendant is suing in person) of his name, address and reference, if any, in the box below.

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