

IN THE GRAND COURT OF THE CAYMAN ISLANDS

Cause No. 493 of 2002 ✓

BETWEEN:

CAYMAN NATIONAL BANK LTD.

PLAINTIFF

AND:

CARIBBEAN AGGREGATE LTD.

DEFENDANT

WRIT OF SUMMONS

TO: Caribbean Aggregate Ltd. whose registered office is located at Woodward Terry & Company, 2<sup>nd</sup> Floor, West Wind Building, Harbour Drive & Fort Street, 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 service of this Writ on you, 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.

**NOTE** - This Writ may not be served later than 4 calendar months beginning with the date of issue unless renewed by order of the Court.

Issued this 3<sup>rd</sup> day of July 2002.

IMPORTANT

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

See overleaf for particulars of Plaintiff's claim.


## STATEMENT OF CLAIM

1. The Plaintiff is a Bank carrying on business at its branch at Elgin Avenue, PO Box 1097, Grand Cayman, and elsewhere, and the Defendant is and at all material times, has been a customer of the Plaintiff at the said branch.
2. The Defendant is indebted to the Plaintiff on its current account number 011-06828 in the sum of CI\$15,687.20, being an amount outstanding as an unauthorised overdraft on the said account.
3. Further, the Defendant is indebted to the Plaintiff on its current account number 021-03603 in the sum of US\$10,415.99 (which converts to the sum of CI\$8,749.43 at the rate of 0.84) being an amount outstanding as an unauthorised overdraft on the said account.
4. The said sums are payable on demand, together with interest, from the date the accounts became overdrawn, namely, 31<sup>st</sup> July 2001 until the commencement of these proceedings at the rate of 10.75% per annum.
5. The Plaintiff has made written demands by letters dated 7<sup>th</sup> February 2002 and 9<sup>th</sup> April 2002 but the Defendant has failed to repay the said sums or any part of it.

### AND THE PLAINTIFF CLAIMS AGAINST THE DEFENDANT:-

1. Payment of the said sum of CI\$24,436.63, being the CI total of the sums outstanding as set out in paragraphs 2 and 3 above;
2. Interest on the sum of CI\$24,436.63 at the rate of 10.75% per annum which amounts to a daily figure of CI\$7.20 from the date the account became overdrawn (31<sup>st</sup> July 2002) until the date of issue hereof in the sum of CI\$2,419.20 and continuing from the date hereof or sooner payment at the said daily rate of CI\$7.20.
4. Costs.
4. Further or other relief.

Dated the 2<sup>nd</sup> day of July 2002.

  
\_\_\_\_\_  
RITCH & CONOLLY  
Attorneys at Law for the Plaintiff

IN THE GRAND COURT OF THE CAYMAN ISLANDS

Cause No. of 2002

**BETWEEN:**

**CAYMAN NATIONAL BANK LTD.**

**PLAINTIFF**

**AND:**

**CARIBBEAN AGGREGATE LTD.**

**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:

**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 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: CNB/Caribbean Aggregate #8782

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

## Acknowledgement of Service of Writ of Summons

### DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE OF WRIT OF SUMMONS

1. 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, PO Box 495GT, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement 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 endorsed 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 endorsed 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 Acknowledgement of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgement, 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 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 this form at the Courts Office.