

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: <sup>794</sup> OF 2002

**BETWEEN:**

**THE PROPRIETORS, STRATA PLAN NO.251  
(a body corporate)**

**Plaintiff**

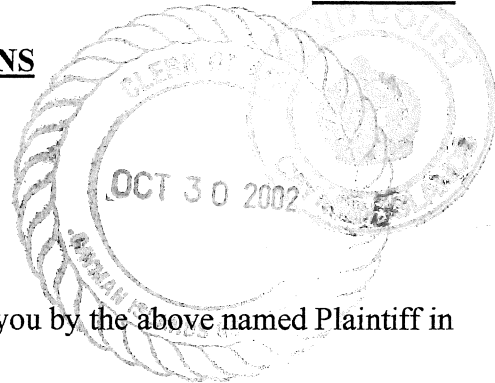
**-and-**

**MARLENE SMITH - ANDACIO**

**Defendant**

**WRIT OF SUMMONS**

TO: Marlene Smith- Andacio  
P.O. Box 907 GT  
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 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 495GT, 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 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 28<sup>th</sup> day of October, 2002

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 Plaintiff is a corporation composed of all of the Proprietors of Strata Plan No. 251 located at Walkers Road, George Town, Grand Cayman, Cayman Islands (“the Strata”) and they are entitled to sue and be sued as such.
2. The Defendant is the owner and occupier of the Strata Lot known as Unit No. 7 of the Strata located at Registration Section South Sound, Block and Parcel 15B 331H4 (“the Strata Lot”).
3. The registered Bye-Laws of the Strata (by which all Proprietors are bound) registered with the Registrar of Lands in the Cayman Islands on the 30<sup>th</sup> day of September 1998 (“the Bye-Laws”) state that a Proprietor shall:
  - a. not keep any pet including any dog or other animal, except with the prior written consent of the Executive Committee, which consent may be subject to conditions, and which may be withdrawn by the Executive Committee in its sole discretion and without assigning any reason therefor;
  - b. not use his Strata Lot or permit it to be used in such a manner or for such purpose as shall cause a nuisance or hazard to the occupier of any other Strata Lot (whether a proprietor or not) or any employee, lessee or visitor of the occupier;
  - c. not construct or alter, or cause to be constructed or altered, any fence on an open area which forms part of the Strata Lot, without prior written approval of the Executive Committee;
  - d. not use and enjoy Common Property in such a manner as to unreasonably interfere with the use and enjoyment of Common Property by other Proprietors;
  - e. not alter or construct in or remove from the Common Property anything except with the written consent of the Corporation.
4. Since about March of 2002, in breach of the Bye-Laws the Defendant has kept a large dog on the Strata Lot without the written approval of the Executive Council. In further breach of the Bye-Laws the said dog creates noise and a potential danger to the Proprietors of other Strata Lots.
5. The said noise and potential danger to the safety of other Proprietors of Strata Lots constitute a nuisance caused or permitted to be caused by the Defendant. As must be known to the Defendant she keeps a large aggressive and unruly dog which barks constantly.

6. The Defendant has further breached the Bye-Laws by extending the fence on the Strata Lot beyond her Strata Lot entitlement. The said alteration and construction of the fence without the written consent of the Executive Committee unreasonably interferes with the use and enjoyment of Common Property by other Proprietors of the Strata. Further the Defendant's construction of the fence beyond her Strata Lot entitlement amounts to a trespass.
7. The Plaintiff has frequently requested the Defendant to remove the fence, to cease keeping her dog and in any event abate the said trespass and nuisance and to comply in all respects to the Bye-Laws, but the Defendant has fail and refuse to take any such steps and threatens and intends, unless restrained by the Court to continue to defy the Bye-Laws and to trespass and cause the aforesaid nuisance.
8. By reason of the matters aforesaid the Plaintiff has suffered loss and damage.

AND the Plaintiff claims:

- (1) An Injunction requiring the Defendant forthwith to remove so much of her fence as encroaches upon the Common Property.
- (2) An Injunction restraining the Defendant from keeping any dogs at Unit No. 7 at the Strata.
- (3) Damages, interest and costs

Dated: 30<sup>th</sup> October, 2002

Filed: October, 2002

Broadhurst DaCosta  
BROADHURST DaCOSTA  
Attorneys-at-Law for the Plaintiff

TO: The Clerk of the Court  
AND TO: Marlene Smith Andacio

P.O. Box 907 GT  
Grand Cayman  
Cayman Islands

This Writ of Summons and Statement of Claim was issued by Broadhurst DaCosta whose address for service is Broadhurst DaCosta, Attorneys-at-Law, 40 Linwood Street, P.O. Box 2503, George Town, Grand Cayman, Cayman Islands, British West Indies, Attorneys for the Plaintiff.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 794 OF 2002

BETWEEN:

THE PROPRIETORS, STRATA PLAN NO.251  
(a body corporate)

Plaintiff

-and-

MARLENE SMITH - ANDACIO

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.*

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

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2. State whether the Defendant intends to contest 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 judgement entered by the Plaintiff (*tick box*)

Yes [ ]

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Service of the Writ is acknowledged accordingly

(Signed) \_\_\_\_\_

[Attorney] for

[Defendant in Person]

Address for service:

*Please see 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 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.

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

BROADHURST DACOSTA  
ATTORNEYS-AT-LAW  
40 LINWOOD STREET  
PO BOX 2503 GT  
GEORGE TOWN, GRAND CAYMAN  
CAYMAN ISLANDS, BRITISH WEST INDIES

*Endorsement 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 Attorney endorsement]

**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 495, 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 fourteen (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 fourteen (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 judgement 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 fourteen (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 installments or otherwise.

**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 fourteen (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 authorized to act on behalf of the Company, but the Company can take no further steps in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL HEALTH 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.