

IN THE GRAND COURT OF THE CAYMAN ISLANDS



94/03

BETWEEN

VIVA INTERNATIONAL GROUP

PLAINTIFF

AND

CAYMAN EYECARE CENTRE

DEFENDANT

**WRIT OF SUMMONS**



TO: Cayman Eyecare Centre  
P.O. Box 31114 SMB  
No. 25 Passadora Place  
Smith Road  
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 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 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 judgment may be entered against you forthwith without further notice.

Issued this                    day of February, 2003

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 Acknowledgement of Service are given with the accompanying form.

**STATEMENT OF CLAIM**

1. The Plaintiff is a supplier of optical equipment to customers for reward.
2. At all material times the Defendant was a customer of the Plaintiff for optical equipment, including frames and lens.
3. Between January and March 2001 at the request of the Defendant the Plaintiff sold and delivered optical equipment, including frames and cases for eye glasses to the Defendant in the sum of US\$6,376.82 for which the Defendant has failed and/or refused to pay either in whole or in part.
4. The Plaintiff further claims pre-judgment and post-judgment interest on the above amount in accordance with the rates prescribed under the Judicature Law (1995 Revision) and the Judgment Debts (Rate of Interest) Rules. The total of said interest presently amounts to US\$609.88 and is increasing at a per diem rate of US\$0.79 cents.

**AND THE PLAINTIFF claims:**

1. US\$6,376.82;
2. Interest pursuant to Section 34 of the Judicature Act (1995 Revision) to date in the amount of US\$609.88 and increasing at a per diem rate of US\$0.79 cents.
3. Costs to be taxed if not agreed.

DATED the 14<sup>th</sup> day of February, 2003

**A. STEVE MCFIELD & ASSOCIATES**

PER:   
**PLAINTIFF'S ATTORNEYS-AT-LAW**

**THIS WRIT OF SUMMONS and STATEMENT OF CLAIM** was filed by **A. STEVE MCFIELD & ASSOCIATES** of No. 196 Shedden Road, George Town, Grand Cayman, Cayman Islands, Attorneys-at-law for and on behalf of the Plaintiff whose address for service is that of his said Attorneys-at-law.

## DIRECTIONS FOR ACKNOWLEDGMENT 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, P.O. Box 495G, 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 with 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 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 Acknowledgement 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 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 authorized 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. 94 OF 2003

BETWEEN VIVA INTERNATIONAL GROUP PLAINTIFF  
AND CAYMAN EYECARE CENTRE DEFENDANT

ACKNOWLEDGEMENT OF SERVICE

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.

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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 judgment 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:

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.

**A. STEVE MCFIELD & ASSOCIATES**  
Attorneys-at-law  
P.O. Box 10715 APO  
Grand Cayman  
Cayman Islands

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