

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 261 OF 2003 ✓

BETWEEN:

FIDELITY BANK (CAYMAN) LIMITED



AND

HAROLD DAVIS



Plaintiff

Defendant

WRIT OF SUMMONS

TO: Harold Davis
c/o Black Belt Executive Services
PO Box 11078 APO
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, PO Box 495GT, 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 7 April 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 and was at all material times a Class A bank carrying on the business of retail banking in the Cayman Islands. Its Registered Office is P.O. Box 914 GT.
2. The Defendant is an individual residing in the Cayman Islands with a mailing address of PO Box 11078 APO, Grand Cayman. At all material times the Defendant was a customer of the Plaintiff.
3. The Defendant also entered into an agreement with the Plaintiff for a Mastercard credit card. The terms of the credit card agreement were included as follows:
 - a. Plaintiff would advance credit to the Defendant;
 - b. Defendant would repay a minimum amount of 5% per month.
 - c. Interest would accrue on unpaid balances at the rate of 18% per annum.
 - d. The Defendant would be liable for the legal costs of the Plaintiff on an indemnity basis arising from or relating to steps required to obtain repayment in the event that the Defendant defaulted on the payment terms.
4. The Defendant did default on the terms of payment and as of the date of the commencement of this proceeding (7 April 2003) the Defendant owed to the Plaintiff the sum of CI\$4,094.01 inclusive of interest and principal. Interest continues to accrue at the rate of CI\$2.034 per day from 8 April 2003.
5. As a result of the above, the Plaintiff is entitled to the relief claimed in this proceeding.

AND THE PLAINTIFF CLAIMS:

- a) Principal and interest due to the pleaded Agreement;
- b) Costs on an indemnity basis in accordance with the Agreement and as pleaded above at paragraph 6.
- c) Pre and post judgment interest at the rate of 18% in accordance with the Agreement, pleaded above at paragraph 3(c);
- d) Alternatively, Pre- and post-judgment interest in accordance with the Judicature Law (2002 Revision) and the Judgment Debt (Rates of Interest) Rules as amended from time to time;

- e) Alternatively, costs on an indemnity basis or standard basis in accordance with the Court Costs Rules 2001.
- f) Such further and other relief as this Court may deem just.



Hunter & Hunter
Attorneys for the Plaintiff

INDORSEMENT REGARDING INTEREST
(Order 6 (2) (e) of the Grand Court Rules)

- i. The contractual term upon which interest is claimed is as set out in paragraph 3(c) above.
- ii. The prescribed rate of interest during the entire relevant is 18% per year.
- iii. The interest is payable from the date of each monthly statement.
- iv. The total interest claimed as at the date of the issue of the writ of summons is CI\$1,923.37.
- v. The amount of interest accruing each day following the issue of the writ of summons is CI\$2.03.

This Writ was issued by Hunter & Hunter, Attorneys-at-Law for and on behalf of the Plaintiff herein whose address for service is 75 Fort Street, PO Box 190 George Town, Grand Cayman. (Ref: WAS/09430.008)

Acknowledgment of service of writ of summons (O.12, r.3)

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 each Defendant or by each 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 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 the form at the Courts Office.

B E T W E E N :

FIDELITY BANK (CAYMAN) LIMITED

Plaintiff

AND

HAROLD DAVIS

Defendant

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 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 judgment 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 communication 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.

Hunter & Hunter Attorneys-at-Law 75 Fort Street P.O. Box 190 George Town Grand Cayman Ref: WAS/09430.008

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

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