

IN THE GRAND COURT OF THE CAYMAN ISLANDS

353
CAUSE NO: 2003

B E T W E E N:

FORTIS BANK (CAYMAN) LIMITED

Plaintiff

AND

HARLIN LIBERTY

Defendant

WRIT OF SUMMONS

TO: Harlin Liberty
PO Box 252 GT
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 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 26th day of May 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

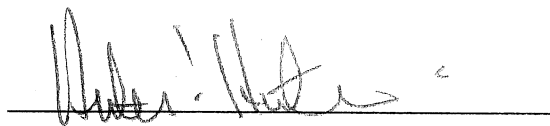
1. The Plaintiff is a Class A Bank and Trust Company formed in accordance with the laws of the Cayman Islands, having its registered office at PO Box 2003GT, Grand Pavilion Commercial Centre, 802 West Bay Road, Grand Cayman, Cayman Islands.
2. The Defendant is an individual resident of the Cayman Islands, whose last known address is PO Box 252 GT, Grand Cayman, Cayman Islands.
3. From 23 July 2001 to 14 February 2003, the Defendant was an employee of with the Plaintiff. As of 14 February 2003, his employment ceased due to his having resigned his position on notice to the Plaintiff.
4. As of 14 February 2003, all payments due to the Defendant in connection with his employment had been paid by direct deposit from the Plaintiff's bank, Cayman National Bank, to the account maintained by the Defendant at Bank of Butterfield. This payment was in accordance with the practice of the Plaintiff to have all employee salary payments made by direct deposit to the accounts maintained by each of the Plaintiff's employees.
5. On the immediately following payroll date of 15 March 2003, the Plaintiff's administrator responsible for payroll management was absent due to illness, and the payroll was conducted for this period by an interim replacement. Inadvertently, and in error, a payment was directed to be made by direct deposit from the Plaintiff's account to the account maintained by the Defendant at the Bank of Butterfield. This payment was in the sum of \$3,704.57, being his usual monthly remuneration, which sum was not due to him.
6. The error was noted the next day, and at the request of the Plaintiff Cayman National Bank attempted to reverse this transaction. A representative of Bank of Butterfield responded that the transaction could not be reversed due to the deposited funds having been removed from the Defendant's account.
7. On 25 March 2003, a demand was made for re-payment of the funds inadvertently paid by the Plaintiff to the Defendant.
8. Having received no response, the matter was then referred to the Plaintiff's attorneys, and on 8 May 2003 an attorney's demand letter was served on the Defendant requiring the Defendant to return the funds inadvertently paid to him.

9. As of the date of the issuance of this proceeding, no response has been received from the Defendant, and no funds have been received.
10. The Plaintiff states that the payment made to the Defendant was made in error and is thus recoverable as against the Defendant.
11. The Plaintiff also claims interest at the rate as set by the Judicature Law (2002 Revision) and the Judgment Debts (Rates of Interest) Rules as amended from time to time.
12. The Plaintiff also claims costs on an indemnity basis due to the Defendant's conduct on this matter.

AND THE PLAINTIFF CLAIMS AGAINST THE DEFENDANT:

1. Judgment in the amount of the sum paid to the Defendant in error;
2. Interest at the rate as set pursuant to the Judicature Law (2002 Revision) and the Judgment Debts (Rates of Interest) Rules as amended from time to time;
3. Costs on an indemnity basis;
4. Alternatively costs on a standard basis;
5. Such further and other relief as this honourable court deems just.

Dated the day of May 2003



HUNTER & HUNTER

THIS WRIT was issued by Hunter & Hunter of The Huntlaw Building, 75 Fort Street, P.O. Box 190 GT, Grand Cayman, Cayman Islands (Ref. WAS/08335.006), Attorneys-at Law for the Plaintiff.

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, P.O. Box 495 GT, 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 indorsed on the Writ (i.e. the words of "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 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 the form at the Courts Office.

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CAUSE NO: 2003

B E T W E E N:

FORTIS BANK (CAYMAN) LIMITED

Plaintiff

AND

HARLIN LIBERTY

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.

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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

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

Attorneys for [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 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
The Huntlaw Building
75 Fort Street
P.O. Box 190 GT
George Town
Grand Cayman
Ref: WAS/08335.006

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

