

IN THE GRAND COURT OF THE CAYMAN ISLANDS

634 ✓
CAUSE NO OF 2003

BETWEEN: ROYAL BANK OF CANADA PLAINTIFF

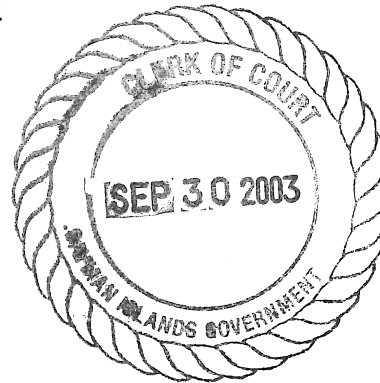
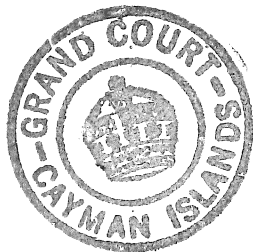
AND: (1) JAMES ELDON WHITTAKER FIRST DEFENDANT
(2) JILL EDWARD BODDEN SECOND DEFENDANT

WRIT OF SUMMONS

TO THE DEFENDANTS:

James Eldon Whittaker
P O Box 414
George Town
Grand Cayman

Jill Edward Bodden
P O Box 414
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 G.T., George Town, Grand Cayman, the accompanying Acknowledgment 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 September 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 Acknowledgment of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiff is a Cayman Islands Class "A" Licensed bank ("the Bank"), duly authorised under the laws of the Cayman Islands to, *inter alia*, offer retail facilities to its customers. The First Defendant is, and was, at all material times a resident of the Cayman Islands and a retail customer of the Bank.
2. On or about 18 December 2001, the Bank agreed to grant to the First Defendant at his request a loan in the sum of CI\$8,500.00 held to the First Defendant's order under loan account no. 3331075 ("the loan").
3. By a promissory note dated 18th December 2001 and in consideration of the Bank advancing the loan to the First Defendant, the First Defendant agreed to repay to the Bank on demand all sums due under the loan together with interest thereon at the rate of 10 % per annum ("the promissory note").
4. By a guarantee and postponement of claim dated 19th November 2001, the Second Defendant agreed to guarantee the sum of CI\$8,250.00 owed to the Bank by the First Defendant.
5. By registered letters from its attorneys dated 22nd July 2003, the Bank demanded payment of the loan balance of CI\$7,631.00 and arrears of CI\$2,451.00 from the First Defendant pursuant to the said promissory note and from the Second Defendant pursuant to the guarantee. Part payment of CI\$1,311.03 was paid on the debt, leaving a balance of CI\$6,319.97.
6. Despite demand, the First Defendant and Second Defendant have failed, refused and/or neglected to pay the full amount due to the Bank pursuant to the said promissory note and the guarantee.
7. The Bank is therefore entitled to and claims interest pursuant to the said promissory note at the rate of CI\$2.09 per day, or alternatively pursuant to section 34(1) of the Judicature Law (1995 Revision).

STATEMENT REGARDING INTEREST:

1. It was a term of the promissory note dated 18th December 2001 that the First Defendant shall repay to the Bank the principal sum with interest thereon;
2. The agreed rate of interest is 10% per annum;
3. Interest is payable from 18th December 2001;
4. The total amount of interest claimed to 9th September 2003 is CI\$875.00; and
5. Interest is accruing at CI\$2.09 per day.

WHEREFORE the Plaintiff claims:

1. Judgement in the sum of CI\$7,194.97 against both Defendants.
2. Pre and post-judgment interest at the daily rate of CI\$2.09 per day from 9th September 2003 until payment.
3. Alternatively, pre and post-judgment interest pursuant to section 34(1) of the Judicature Law (1995 Revision).
4. Costs.
5. Such further and/or other relief.

If within the time for returning the acknowledgment of service the Defendants pay the total sum claimed of **CI\$7,194.97** plus interest calculated at **CI\$2.09** per day from 9th September 2003 until payment the further sum of CI\$500.00 in respect of fixed costs and fees of CI\$150.00, further proceedings will be stayed. The funds must be paid to the Bank or its attorney.

DATED 30th September 2003

FILED 30th September 2003



CAMPBELLS
Attorneys at Law for the Plaintiff

THIS WRIT was filed by CAMPBELLS, Attorneys at Law for the Plaintiff, whose address for service is 4th Floor, Scotiabank Building, George Town, Grand Cayman, Tel : 949 2648; Fax 949 8613. (Ref: JRM/lp/09683)

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BETWEEN: ROYAL BANK OF CANADA PLAINTIFF

AND: (1) JAMES ELDON WHITTAKER FIRST DEFENDANT
(2) JILL EDWARD BODDEN SECOND 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 judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

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

3. State whether the Defendant intends to contest the proceedings (*tick appropriate box*)
 yes no

4. 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 no

Service of the Writ is acknowledged accordingly

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.

Campbells (Ref: JRM)
P O Box 884 G.T.
George Town
Grand Cayman

Tel: 949 2648
Fax: 949 8613

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

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 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, 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 installments or otherwise.

See over for notes for guidance

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment 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 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.