

IN THE GRAND COURT OF THE CAYMAN ISLANDS

776
CAUSE NO: OF 2003

BETWEEN:

SCOTIABANK (CAYMAN ISLANDS) LTD.

Plaintiff

AND

KIRKLAND J MCTAGGART

JENNIFER L. MCTAGGART

Defendants



WRIT OF SUMMONS

TO: Kirkland J. McTaggart
Jennifer L. McTaggart
P.O. Box 2254 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, 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 27 November 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 carrying on the business of retail and other banking in the Cayman Islands, its registered office being PO Box 689 GT.
2. The Defendants are individual customers of the Plaintiff residing in the Cayman Islands.

The Car Loan – Scotia Plan Loan # 2102250

3. In February 2002, the First and Second Defendants entered into loan agreement with the Plaintiff whereby the Plaintiff would loan to the Defendants certain sums, the terms of which are subject to the following instruments:
 - a. A Promissory Note signed by the Defendants dated 27 February 2002;
4. The Plaintiff did advance funds of CI\$14,625.00 to the Defendants on the terms of the instruments referred to at paragraph 3(a), above, which terms included as follows:
 - a) The Defendants, would pay the Plaintiff the loaned sums at the rate of CI\$397.82 per month plus interest;
 - b) Interest would accrue at the rate of 13.5% per annum;
 - c) On default, the entire debt would become due and owing.
5. The Defendants defaulted on the repayment terms. The security of the loan has not been repossessed as of the date of the commencement of these proceedings.
6. As of the date of the commencement of this proceeding (27 November 2003) the sum of CI\$12,569.59 is due inclusive of interest
7. Interest on the car loan is claimed on the due sum in accordance with the agreement pleaded above at 4(b) at the rate of 13.5% per year which presently accrues at the rate of CI\$4.56 per day.

The Credit Card Debt – Mastercard # 5417-6510-0000-5617

8. The Defendants also entered into an agreement with the Plaintiff for a Mastercard credit card in or about June 2001. The terms of the credit card agreement were included as follows:
 - a. Plaintiff would advance credit to the Defendants;

- 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 Defendants 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.
9. The Defendants did default on the terms of payment and as of the date of the commencement of this proceeding (27 November 2003) the Defendant owed to the Plaintiff the sum of US\$5,408.11 inclusive of interest and principal. Interest continues to accrue at the rate of CI\$2.60 per day from 28 November 2003.
 10. Notwithstanding requests made by the Plaintiff or its attorneys for the payment of the indebtedness, the Defendants have either failed or refused to make payment.
 11. As a result of the above, the sums claimed herein are due and owing to the Plaintiff.

AND THE PLAINTIFF CLAIMS

The Car Loan

- a. CI\$12,569.59 due on the mortgage loan as of the date of this proceeding (27 November 2003);
- b. Pre and post judgment interest from the commencement of this proceeding (28 November 2003) at 13.5% as agreed and as claimed at paragraph 4(b);
- c. Post judgment interest following the commencement of this proceeding at 13.5% as agreed.
- d. Alternatively pre-and post judgment interest pursuant to the Judicature Law (1995 Revision) and Judgment Debts (Rates of Interest) Rule as amended from time to time;
- e. Such further and other relief as this Honourable Court may deem just;

The Credit Card

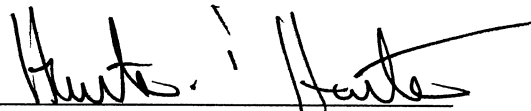
- f. US\$5,408.11 (CI\$4,542.81) due on the Mastercard #5417-6510-0000-5617 as of the date of this proceeding (27 November 2003);
- g. Pre and Post judgment interest from the commencement of this proceeding at 18% as claimed at paragraph 8(c).

- h. Alternatively pre-and post judgment interest pursuant to the Judicature Law (1995 Revision) and Judgment Debts (Rates of Interest) Rule as amended from time to time;
- i. Such further and other relief as this Honourable Court may deem just;

Costs

- j. Costs on an indemnity basis pursuant to the contract terms pleaded at paragraph 8 (d) of the Statement of Claim;
- k. Alternatively, costs as taxed pursuant to the Bills of Costs Rules;

Dated: 27 November 2002



Hunter & Hunter .

FILED by Hunter & Hunter Attorneys-at-Law for the Plaintiff whose address for service is The Huntlaw Building, 75 Fort Street, P.O. Box 190 GT, George Town, Grand Cayman (Ref: WAS/00187.190)

INDORSEMENT

The Car Loan & Credit Card

The total amount claimed in respect of the car loan and credit card is CI\$17,112.40 as set out above. The costs of issuing the Writ of Summons is CI\$221.12 (CI\$150.00 plus CI\$71.12 ad valorem). If, within the time for returning the acknowledgement of service, the defendant pays the plaintiff or its attorneys-at-law the total amount claimed in principal and interest, contractual costs and the costs of issuing the writ of summons, further proceedings will be stayed. The money must be paid to the plaintiff or to its attorneys-at-law.

INDORSEMENT REGARDING INTEREST

(Order 6 (2) (e) of the Grand Court Rules)

The Car Loan

- i. The contractual term upon which interest is 13.5 % as claimed in paragraph 4(b); above.
- ii. The prescribed rate of interest during the entire relevant period is 13.5%;
- iii. The interest claimed as at the date of the issue of the writ of summons is CI\$223.75;
- iv. The amount of interest accruing each day following the issue of the writ of summons is CI\$4.56.

The Credit Card

- v. The contractual term upon which interest is 18% as claimed in paragraph 8(c), above;
- vi. The prescribed rate of interest during the entire relevant period is 18%;
- vii. The interest claimed as at the date of the issue of the writ of summons is US\$127.60 (CI\$151.90);
- viii. The amount of interest accruing each day following the issue of the writ of summons is US\$2.60 (CI\$2.18).

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SCOTIABANK (CAYMAN ISLANDS) LTD.

Plaintiff

AND

1. KIRKLAND J MCTAGGART

2. JENNIFER L. MCTAGGART

Defendants

ACKNOWLEDGMENT 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.

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 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.

<p>Hunter & Hunter The Huntlaw Building 75 Fort Street PO Box 190 GT Grand Cayman Telephone: (345)949-4900 Telefax: (345)949-4901 (REF: WS/00187.190)</p>
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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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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 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

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.