

**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

CAUSE NO: 132 OF 2004

BETWEEN:

MARINA GARDENS  
Proprietor of Strata Plan # 179

PLAINTIFF

AND:

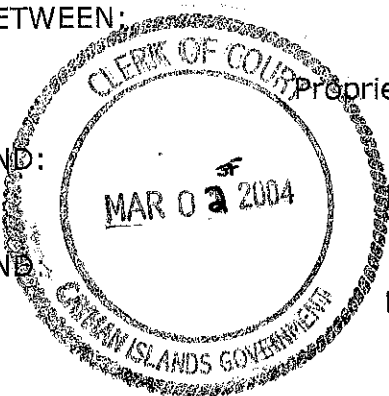
LORNA BLACKMAN

1<sup>st</sup> DEFENDANT

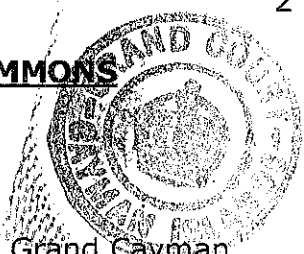
AND:

RANDY BLACKMAN

2<sup>nd</sup> DEFENDANT



**WRIT OF SUMMONS**



TO: The Defendants:

LORNA BLACKMAN, George Town, Grand Cayman.  
RANDY BLACKMAN, 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 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 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 judgement may be entered against you forthwith without further notice.

ISSUED this 1 day of March 2004

**NOTE -** This Writ may not be served later than 4 calendar 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 registered as Strata Plan # 179, a body corporate under the Strata Titles Registration Law 1973 of the Cayman Islands.
2. In or around 1994, the first and/or second defendants purchased apartment # 3 at Marina Gardens and are thereby bound under the 'by-laws' of strata plan # 179.
3. The plaintiff relies upon the 'by-laws' of strata plan # 179 for their full legal effect.
4. The plaintiff is entitled under the 'by-laws' of strata plan # 179 to, inter alia, under section s35(e) to "pay all existing and future rates, taxes, assessments, and outgoings now or hereafter imposed on or payable in respect of the common property."
5. The plaintiff is further entitled under the 'by-laws' of strata plan # 179 to, inter alia, under section 34(f) "do all things reasonably necessary for the enforcement of these by-laws and the control, management and administration of the common property."
6. The plaintiff therefore, pursuant its powers under the by-laws of Strata Plan # 179, charged the first and/or second defendants monthly for their contributions towards all rates, taxes, charges, outgoings and assessments due by them in respect of their particular strata lot, namely apartment # 3, within strata 179.
7. The first and/or second defendants are obligated under section 36(2) of the 'by laws' to, inter alia, "...pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of [the first and/or second defendant's] Strata Lot" to the plaintiff within 30 days of demand.
8. Since 1994 the plaintiff has, pursuant to his powers under the 'by-laws', made numerous unsuccessful written and oral demands for payments to the first and/or second defendant as follows:

**THIS WRIT OF SUMMONS** was issued by Morris M. Garcia, Attorneys-at-Law, for and on behalf of the Plaintiff herein whose address for service is P.O. Box 253SAV or Suite #2 Nevlaw Building, Shedden Road, George Town, Grand Cayman.

	Date	Amount
	(a) 1995	\$590.00
	(b) 1996	\$1,680.00
	(c) 1997	\$1,680.00
	(d) 1998	\$1,680.00
	(e) 1999	\$1,180.00
	(f) 2000	\$1,680.00
	(g) 2001	\$1,680.00
	(h) 2002	\$1,680.00
	(i) 2003	\$1,680.00
	Total:	\$13,530.00

9. The plaintiff is entitled, by virtue of inter alia section 36(i) of the 'by-laws' to, where payments have not been made within 30 days of such demand, charge interest thereon at the rate of two percent per annum above the prime rate of interest prevailing in the Cayman Islands at the time of default, and such interest shall accrue from day to day until payment.
10. Despite repeated demands for payment by the plaintiff to the first and second defendants, the sum of CI\$13,530.00 remains outstanding.

**AND THE PLAINTIFF CLAIMS AGAINST THE DEFENDANT:-**

1. Payment of the said sum of CI\$13,530.00;
2. Interest on the sum as aforesaid at the rate of 2% per annum above the Cayman Islands prime rate from the date the account became delinquent, December 1995 until the commencement of these proceedings, or, alternatively, interest pursuant to the relevant provisions of the Judicature Law (1995 Revision);
3. Fixed costs, pursuant to GCR O.62r1(c), in the sum of CI\$500.00, plus the prescribed fee of CI\$185.30, paid upon issue of this writ, or alternatively, costs to be taxed, if not agreed;
4. Any further or other relief as this Honourable Court may deem just.

**THIS WRIT OF SUMMONS** was issued by Morris M. Garcia, Attorneys-at-Law, for and on behalf of the Plaintiff herein whose address for service is P.O. Box 253SAV or Suite #2 Nevlaw Building, Shedden Road, George Town, Grand Cayman.

[If within the time for returning the Acknowledgement of Service, the Defendant pays the total amount claimed of seventeen thousand four hundred and fifty nine dollars and forty five cents, which includes interest and costs, then further proceedings will be stayed. The money must be paid to the Plaintiff's or their Attorneys.]

Dated the 1 day of March 2004

  
**MORRIS M. GARCIA**  
**Attorney-At-Law for the Plaintiff**

TO: The Clerk of Court

AND TO: The First and Second Defendant.

**THIS WRIT OF SUMMONS** was issued by Morris M. Garcia, Attorneys-at-Law, for and on behalf of the Plaintiff herein whose address for service is P.O. Box 253SAV or Suite #2 Nevlaw Building, Shedden Road, George Town, Grand Cayman.

## STATEMENT REGARDING INTEREST

1. The contractual rate of interest claimed throughout the period is 6 ½ percent per annum to the date of issue.
2. The date from which interest is claimed is December 1995.
3. The total amount of interest claimed as at February 2004 is CI\$3,244.15.
4. The amount of interest accruing each day thereafter is CI\$1.86.

IF WITHIN THE TIME FOR RETURNING THE ACKNOWLEDGEMENT OF SERVICE, THE DEFENDANT PAYS THE TOTAL AMOUNT CLAIMED OF SEVENTEEN THOUSAND FOUR HUNDRED AND FIFTY NINE DOLLARS AND FORTY-FIVE CENTS [Including Interest and Costs] FURTHER PROCEEDINGS WILL BE STAYED. THE MONEY MUST BE PAID TO THE PLAINTIFF'S ATTORNEY.

Dated this                    day of                    2004.

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MORRIS M. GARCIA  
Attorney-at-Law

**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

CAUSE NO: 132 OF 2004

BETWEEN:

MARINA GARDENS  
Proprietors of Strata Plan # 179

PLAINTIFF

AND:

LORNA BLACKMAN

1<sup>st</sup> DEFENDANT

AND:

RANDY BLACKMAN

2<sup>nd</sup> 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.

1. State the full name of the Defendant by whom or on whose behalf the service of the Writ of Summons 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 appropriate box).

\_\_\_\_\_ YES

\_\_\_\_\_ NO

Service of the Writ is acknowledged accordingly.

\_\_\_\_\_  
**Attorney for the Defendant**

\_\_\_\_\_  
**Defendant**

**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 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.

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

**MORRIS M. GARCIA**  
P.O. Box 253SAV  
Grand Cayman  
Cayman Islands  
British West Indies

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

**THIS WRIT OF SUMMONS** was issued by Morris M. Garcia, Attorneys-at-Law, for and on behalf of the Plaintiff herein whose address for service is P.O. Box 253SAV, Suite #2 Nevlaw Building, George Town, Grand Cayman.

**DIRECTION 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 495, 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 the Plaintiff if acting in person).

If a Statement of Claim is endorsed on the Writ (ie. 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 a 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 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 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 affidavit of his means. The affidavit should state any offer which the Defendant desires to make for the payment of the money by instalments or otherwise.

**See over 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.
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 hi 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.