

IN THE GRAND COURT OF THE CAYMAN ISLANDS

386  
CAUSE NO: OF 2005

BETWEEN:

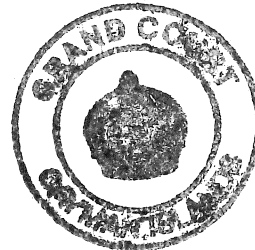
THE PROPRIETORS, STRATA PLAN 155

Plaintiff

AND

CARMEN DACRES

Defendant



WRIT OF SUMMONS

TO: Carmen Dacres  
PO Box 31224 SMB  
#64 Randyke Gardens  
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 495 GT, 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 29<sup>th</sup> day of August 2005

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.

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STATEMENT OF CLAIM

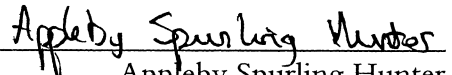
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1. The Plaintiff is and was at all material times a Strata Corporation formed pursuant to the *Strata Titles Registration Law (1973 Revision)* and the *Strata Titles Registration (Amendment) Law (1982)* and having an address of PO Box 236 GT, Grand Cayman, Cayman Islands. It is also known as Randyke Gardens.
2. The Defendant is an individual residing at Apartment #64 Randyke Gardens, Grand Cayman, Cayman Islands, with a mailing address of PO Box 31224 SMB, Grand Cayman, Cayman Islands. The Defendant is a proprietor of Block 20E Parcel 310H64 and known locally as Apartment #64, Randyke Gardens.
3. The Plaintiff relies on the *Strata Titles Registration Law (1996 Revision)* (the “**Strata Law**”) and the Registered by-laws of the Proprietors of Strata Plan No. 155 (the “**Strata By-Laws**”).
4. Pursuant to the Strata Law and the Strata By-Laws, the Plaintiff is entitled to assess and collect administrative fees from the proprietors for common expenses and incidental expenses such as insurance, repairs to damaged property and general upkeep of the strata lots and common property.
5. Pursuant to paragraph 41 (c) (ii) of the Strata By-Laws, unpaid assessments accrue interest at the rate of 4% per annum above the prime rate prevailing at Barclays Bank PLC, George Town, Grand Cayman.
6. The Plaintiff did assess common expenses and rendered invoices of such assessments on the Defendant from time to time contemporaneous with the assessments.
7. Notwithstanding the rendering of invoices for assessments, from time to time, and a demand for payment made prior to the commencement of these proceedings, the Defendant has either failed or neglected to pay assessed common expenses in the sum of CI\$30,091.62, inclusive of interest, as of 29 August 2005.
8. As a result of the above, the Plaintiff is entitled to the relief claimed in this proceeding.

**AND THE PLAINTIFF CLAIMS:**

- (a) CI\$30,091.62 being the total sum of the expenses owing and interest as at 29 August 2005;
- (b) Pre and post judgment interest at the rate of 10.5% (4% above Barclay's prevailing prime rate, which is 6.5% as at the date of issuing this proceeding) pursuant to paragraph 41 (c) (ii) (A) of the Strata By-Laws;
- (c) 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;
- (d) Costs on an indemnity basis or standard basis in accordance with the Court Costs Rules 2001;
- (e) Such further and other relief as this Court may deem just.

  
\_\_\_\_\_  
Appleby Spurling Hunter  
Attorneys for the Plaintiff

**INDORSEMENT**

The principal amount claimed in respect of the debt is CI\$30,091.62 inclusive of interest of CI\$259.46 as of the date of filing. The amount of the filing fees to commence the proceeding is US\$182.93 (CI\$150.00). 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, interest and the costs of issuing the Writ of Summons and Statement of Claim, further proceedings will be stayed. The money must be paid to the plaintiff or to its attorneys-at-law.

**INDORSEMENT REGARDING INTEREST**

1. The contractual term upon which interest is claimed is as set out in paragraph 5 above;
2. The prescribed rate of interest is 10.5% (4% above Barclay's prevailing prime rate, which is 6.5% as of the date of issuing this proceeding) per annum;
3. The date from which interest is payable is 30 August 2005;
4. The total interest claimed as at 29 August 2005 is CI\$259.46; and
5. The amount of interest accruing due each day is CI\$8.66.

This WRIT OF SUMMONS and STATEMENT OF CLAIM was issued by Appleby Spurling Hunter, attorneys-at-law for the Plaintiff, whose address for service is PO Box 190 GT, Grand Cayman, Cayman Islands (CJJ/10288.004)

**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, PO Box 495 GT, 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.

**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.

Appleby Spurling Hunter Attorneys-at-Law 75 Fort Street PO Box 190 George Town Grand Cayman  Ref: CJJ/10288.004
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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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