

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 541 of 2005

B E T W E E N:

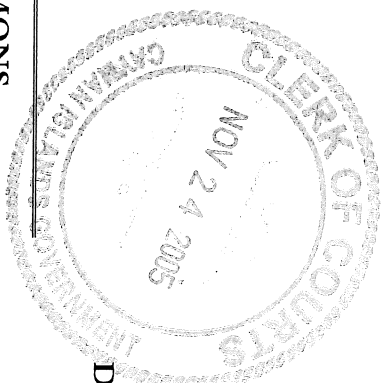
CAYMAN ISLANDS TENNIS CLUB

AND

Plaintiff

1. MYRON GUSHLAK
2. DEBBIE GUSHLAK

Defendants



WRIT OF SUMMONS

TO: Myron & Debbie Gushlak
PO Box 31485 SMB
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 23rd day of November 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.

STATEMENT OF CLAIM

1. The Plaintiff, Cayman Islands Tennis Club, (the “**Tennis Club**”) is and was at all material times a non-profit limited company formed pursuant to section 77 of the *Company Law (1975 Revision)* and having an address of PO Box 1813 GT, Grand Cayman, Cayman Islands.
2. The First Defendant and Second Defendant (the “**Defendants**”) are individuals both with a mailing address of PO Box 31485 SMB, Grand Cayman, Cayman Islands. The Defendants were at all times material to the within proceeding members of the Tennis Club.
3. The Tennis Club pleads and relies on the Cayman Island Tennis Club Memorandum and Articles of Association (the “**Memorandum and Articles**”).
4. Pursuant to the Memorandum and Articles, the Tennis Club is entitled to assess and collect Subscription, Court Fees and other dues from the members of the Tennis Club, such as the Defendants.
5. Article 39 of the Memorandum and Articles states, *inter alia*, the following:
 39. If any Member shall, after demand has been made, fail to pay his Subscription and Court Fees (if any) within three (3) months, he shall cease to be a Member but, if he shall give a satisfactory explanation to the Directors, he may, at the discretion of the Directors, and upon payment of all arrears, be re-admitted to membership without payment of a second Entrance Fee.
6. Article 87 of the Memorandum and Articles states, *inter alia*, the following:
 87. Members' accounts shall be made up quarterly and payment is due by the fifteenth (15th) day of the ensuing month. If any Member shall, after demand has been made, fail to pay his Subscription, Court Fees or any other amount due within three (3) months, he shall cease to be a Member but, if he shall give a satisfactory explanation to the Directors, he may, at the discretion of the Directors, and upon payment of the total amount due, be re-admitted to membership without payment of a second Entrance Fee.

7. Article 88 of the Memorandum and Articles states, *inter alia*, the following:

88. The Directors may at any time call upon any Member of the Company to pay forthwith any amount due. Failing payment, such Member shall be disallowed the privileges of a Member of the Company until the account is settled and the Directors may take such other action as they deem necessary to recover the debt.
8. Notwithstanding the rendering of invoices for Subscription, Court Fees and other dues, from time to time, and a demand for payment made prior to the commencement of these proceedings, the Defendants have either failed or neglected to pay Subscription, Court Fees and other dues in the sum of CI\$3,139.05 as of the date of issuance of this proceeding.
9. As a result of the above, the Tennis Club is entitled to the relief claimed in this proceeding.

AND THE PLAINTIFF CLAIMS:

- (a) CI\$3,139.05 being the total sum of the expenses owing and interest as of the date of issuance of this proceeding;
- (b) 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;
- (c) Costs on an indemnity basis or standard basis in accordance with the Court Costs Rules 2001;
- (d) Such further and other relief as this Court may deem just.

Appleby Spurling Hunter

Appleby Spurling Hunter
Attorneys for the Plaintiff

INDORSEMENT

The principal amount claimed in respect of the debt is CI\$3,139.05 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 defendants pay 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.

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 Clifton House, 75 Fort Street, PO Box 190 GT, Grand Cayman, Cayman Islands (CJ/11099.001)

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/11099.001

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