

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. **435** OF 2006

BETWEEN:

PETER KELLEHER

PLAINTIFF

AND:

ANTHONY CUPID

DEFENDANT



WRIT OF SUMMONS

TO: Anthony Cupid of PO Box 30947, Grand Cayman KY1-1204, 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 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, George Town, Grand Cayman KY1-1106, 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 18th day of October 2006.

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

The Plaintiff's claim is for the sum of CI\$12,650.00 for money had and received by the Defendant to and for the use of the Plaintiff.

PARTICULARS

1. Particulars of the said claim exceed 3 folios and are as follows:

Date	Cheque No	Amount	Reason Given for Loan Request
21 st September 2000	32	\$350.00	Credit Card Overdue
21 st December 2000	54	\$1,000.00	Credit Card Overdue
13 th July 2001	116	\$500.00	Credit Card Overdue
20 th July 2001	119	\$500.00	Credit Card Overdue
24 th July 2001	120	\$1,000.00	Rent Overdue
8 th August 2001	146	\$1,800.00	Rent/Phone Overdue
1 st November 2001	Acc T/ft	\$1,000.00	Residency Application
2 nd November 2001	165	\$300.00	Rent Overdue
20 th December 2001	132	\$1,400.00	Rent Overdue
12 th February 2002	136	\$300.00	Pay for Cayman status
1 st November 2003	Cash	\$500.00	Rent Overdue
1 st November 2003	Cash	\$1,000.00	Car Insurance/Credit Card Overdue
5 th December 2003	361	\$3,000.00	
Total as at 31 st December 2003		\$12,650.00	


2. Further, the Plaintiff is entitled to and hereby claims interest on the said sum of CI\$12,650.00 pursuant to Section 34 of the Judicature Law (2004 Revision) or under the equitable jurisdiction of the Court on the amount due and at such rate and for such period as the Court thinks fit.
3. At the date hereof interest amounts to CI\$1,060.88 and continues to accrue at the daily rate of CI\$1.04 until Judgment or sooner payment.

AND THE PLAINTIFF CLAIMS:-

1. Payment of the sum of CI\$12,650.00.
2. Interest pursuant to Section 34 of the Judicature Law (2004 Revision) to total CI\$1,060.88 or interest under the equitable jurisdiction of the Court on the amount due at such rate and for such period as the Court shall think fit.

3. Costs.

Dated the 18th day of October 2006


MITCHELL
MITCH & CONOLLY
Attorneys at Law for the Plaintiff

If, within the time limited for returning the Acknowledgement of Service the Defendant pays the amount claimed of CI\$12,650.00 and interest of CI\$1,060.88 and fixed costs of CI\$726.50 to the Plaintiff or its attorneys further proceedings will be stayed.

TO: The Clerk of the Court

AND TO: The Defendant of PO Box 30947, Grand Cayman KY1-1204, Cayman Islands

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AND:

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DEFENDANT

ACKNOWLEDGMENT 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.

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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 no

Service of the Writ is acknowledged accordingly

(Signed).....

Attorney for

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.

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

Rich & Conolly
PO Box 1994
Queensgate House
113 South Church Street
Grand Cayman KY1-1104
RHM/10214/Kelleher (Cupid)

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, Grand Cayman KY1-1106.

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 endorsed 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 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 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.