

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 482 OF 2006

BETWEEN: HORACE DUQUESNAY

PLAINTIFF

AND: CURTIS EBANKS

FIRST DEFENDANT

AND: PATRICK WILLIAMS

SECOND DEFENDANT

WRIT OF SUMMONS

TO: Mr. Curtis Ebanks

AND TO: Mr. Patrick Williams



THIS WRIT OF SUMMONS has been issued against you by the abovenamed 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, P.O. Box 495, George Town, Grand Cayman B.W.I., the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment 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 16 day of November, 2006.

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 Acknowledgment of Service are given with the accompanying form.



STATEMENT OF CLAIM

1. In or about April 2005 the Defendants made a joint and several promissory note for the sum of CI\$39,557.88 with interest thereon of 6.75% per annum payable to the Plaintiff by instalments of CI\$1,500.00 on 1st October 2005 and CI\$1,500.00 on the first day of each succeeding month subject to the condition that if default should be made in the payment of any of the instalments the whole of the sum of CI\$39,557.88 together with interest remaining unpaid at the time of default should become immediately payable.
2. The Defendants made a partial payment of CI\$500.00 towards the first instalment but failed to pay the remaining balance of the first instalment or any other instalments on the due date or at all.
3. By letter dated 18th August 2006 the Plaintiff gave notice to the Defendants of their default and demanded payment of the whole of the sum of CI\$39,557.88 together with interest remaining unpaid and to date the Defendants have failed to pay the amount owing to the Plaintiff.

AND THE PLAINTIFF claims:


1. the sum of CI\$39,057.88
 2. Interest
 - (i) pursuant to the promissory note on the sum of CI\$39,057.88 at the rate of 6.75% per annum that is a daily rate of CI\$7.22 from 1st October 2005 until the date of the judgment sum and thereafter at the same said rate until the date of payment.
- Or alternatively,
- (ii) interest on such sum as is awarded to the Plaintiff from 1st October 2005 until payment of the judgment sum or at such other rate and for such other period as the Court may find just pursuant to the Judicature Law (1995 Revision) and the Judgment Debts (Rate of Interest) Rules 2001 or pursuant to the inherent jurisdiction of the Court.

3. Such further and other relief as this Honourable Court deems just in the circumstances.

4. Costs.

If within the time for returning the Acknowledgment of Service the Defendants pay the total amount claimed of CI\$43,273.10 (including costs in the sum of CI\$1,240.58 or costs to be assessed or taxed) further proceedings will be stayed. The money must be paid to the Plaintiff and/or his Attorneys-at-Law.

Dated this 16th day of November 2006



MYERS & ALBERGA
Attorneys-at-Law for the Plaintiff

TO: The Clerk of the Court

AND TO: The Defendants

This WRIT and STATEMENT OF CLAIM was issued and filed by Myers & Alberga, Attorneys-at-Law for and on behalf of the Plaintiff whose address for services is Harbour Place, P.O. Box 472, George Town, Grand Cayman B.W.I.

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 495GT, 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

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 482 OF 2006

BETWEEN: HORACE DUQUESNAY Plaintiff

AND: CURTIS EBANKS First Defendant

AND: PATRICK WILLIAMS Second 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.

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.

Myers & Alberga
Attorneys-at-Law
P.O. Box 472
Harbour Place, Second Floor, N Wing
103 S Church Street
Grand Cayman – KY1-1106

Ref: LDD/cy/D0381-001

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

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.