

IN THE GRAND COURT

CAYMAN ISLANDS

CAUSE NO. 431 OF 2007

BETWEEN:

NEVILLE W. LEVY

PLAINTIFF

AND:

DAVID SUBURANA DELL

DEFENDANT

**WRIT OF SUMMONS**

To: David Suburana Dell  
60 East Blvd Windsor Park

**THIS WRIT OF SUMMONS** has been issued against you by the above named Plaintiff in respect of claim set out in the next page.

**Within** fourteen (14) days of 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, KY1-1101 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 20<sup>th</sup> day September, 2007.

**NOTE:** This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, within 6 months) beginning with the date of issue unless renewed by the order of the Court form.

**IMPORTANT**

Directions to Acknowledgement of service are given in the accompanied form

## STATEMENT OF CLAIM

1 The plaintiff is an Attorney-at-Law.

2 The defendant lives at 60 East Boulevard, Windsor Park.

3 On the 2<sup>nd</sup> August, 2005 costs were awarded to the Respondent in Cause No. D. 23 of 2004 – David Dell v. Maxine Dell – for whom the plaintiff appeared.

4 On the 2<sup>nd</sup> February, 2006, costs were assessed in the sum of \$24,393.00 by the Clerk of Courts.

5 On the 28<sup>th</sup> February, 2006 the costs were assigned to the plaintiff by the Respondent, Maxine Dell.

6 On the 9<sup>th</sup> March, 2006 the Defendant signed a Promissory Note to pay the plaintiff the full sum of \$24,393.00 by installments of \$300.00 per month for twelve month at 5% per annum and thereafter to enter into a new agreement to pay the balance.

7 In breach of the said Promissory Note, the defendant has paid only \$2,950.00 since the signing and a balance of \$21,443.00 plus interest remains unpaid.

IN addition to the principal sum of \$21,443.00 the plaintiff is entitled to interest from the 9<sup>th</sup> March, 2006 to the 9<sup>th</sup> March, 2007 at the rate of 5% per annum and further interest at the rate of 7 ¼ % from the 10<sup>th</sup> March, 2007 (Statutory Rate) on the Principal sum until payment. Interest of \$1,881.40 on the principal sum is also due and owing as of the date of the filing of these proceedings. The Particulars of interest are set out in the schedule attached to the Statement of Claim.

WHEREFORE PRAYS THAT THE DEFENDANT BE ORDERED TO PAY:-

1. The balance due and owing = \$21,443.00
2. Interest at 5% p.a. from 9<sup>th</sup> March, 2006 to 9<sup>th</sup> March, 2007 = \$ 1,072.15
3. Int. at 7 ¼ % p.a. from 10<sup>th</sup> March, 2007 to 20<sup>th</sup> September, 2007 = \$ 826,28
4. Further interest at \$4.24 per day from 21<sup>st</sup> September, 2007 until payment
5. Costs to be taxed or agreed.

Dated this 20<sup>th</sup> September, 2007

*NW*  
 \_\_\_\_\_  
 NEVILLE W. LEVY & ASSOCIATES

**STATEMENT REGARDING INTEREST**

**Rate of Interest**

Interest from 9/3/06 to 9/3/07 is 5% as agreed  
 Interest from 10/3/07 to 16/9/07 is 7.25% per annum as per statutory rate

**Schedule of Interest calculated**

Interest from 9/3/06 to 9/3/07	$=\$21,443.00 \times 05 \times \$356/365$	=\$1,072.15
Interest from 10/3/06 to 20/9/07	$=\$21,443.00 \times .0725 \times 194/365$	=\$ 826.28
<b>Total</b>		<b>=\$1,898.43</b>

This Writ of Summons is filed by Neville W. Levy & Associates, Attorneys-at-Law for and on behalf of the Plaintiff whose address for service is Suite No.1, 180 Shedden Road, P. O. Box 2178, Grand Cayman KY1-1105, CAYMAN ISLANDS. Ph. 949-5429.

Acknowledgement of service of Writ of Summons (O.12, r.3)

**DIRECTIONS OF ACKNOWLEDGEMENT 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 Court. PO Box 495G 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 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 acknowledgement of service of the writ, unless in the meantime a summons for judgment is served on the defendant.

If the 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 of 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 for 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 an affidavit of means. The affidavit should state any offer which the Defendant desires to make for payment of the money by installments 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 acknowledgment of Service, as writ served on the Defendant personally is treated as having been 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, he must complete the form 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 authorized 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, an Attorney acting for a guardian ad litem must complete the form.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.

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CAYMAN ISLANDS

CAUSE NO. 2007

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AND: DAVID SUBURANA DELL DEFENDANT

**ACKNOWLEDGEMENT HAVE  
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 defendant whereby he may have to pay the costs of applying to set it aside.

1. David Suburana Dell
  
2. State whether the Defendant intends to contest the proceedings. (tick "yes" or "no")
  
3. State whether the Defendant intends to apply for a stay of execution of judgment entered by the Plaintiff (tick "yes")

Service of the Writ is acknowledged accordingly.

Signed

\_\_\_\_\_  
Attorney for Defendant

\_\_\_\_\_  
Defendant in Person

Address for service:

**Notes on address for service**

**Attorney:** Where an Attorney represents the defendant, 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.

Neville W. Levy & Associates  
NevLaw Building,  
180 Shedden Road,  
P. O. Box 2178,  
Grand Cayman KY1-1105  
CAYMAN ISLANDS.

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

