

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 0284 OF 2008

BETWEEN:

JUN 12 2008

COLMAR LIMITED

PLAINTIFF

AND

SHIONA CREARY T/a CREARY & ASSOCIATES

DEFENDANT

WRIT OF SUMMONS



TO: SHIONA CREARY

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, P.O. Box 495G, George Town, Grand Cayman, the accompanying Acknowledgement of Service, stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or 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 12th day of June 2008

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 is a company registered and trading in the Cayman Islands.
2. The Defendant was at the time of the accident a resident of the Cayman Islands and was the principal in a firm of Attorneys called Shiona Creary & Associates.
3. On the 15th September 2006 the Plaintiff and Defendant entered into a lease agreement for the lease of business premises situated at B1/b B2/b and B4/b of the property known as Registration Section West Bay Beach North Block 11B also known as Trafalgar Square.
4. Pursuant to this agreement the Defendant was under an obligation to pay rent on a monthly basis for the lease of the premises. The lease commenced on the 15th September 2006 and the date of end of the lease was the 31st July 2008.
5. As per clause 2.1 of the lease the amount payable by the Defendant was US\$30,731.64 from the 1st August 2006 to the 31st July 2007 and US\$35,121.84 from the 15th September 2007 to the 31st July 2008. The Defendant's obligation was to pay these monies to the Plaintiff by equal monthly installments in advance on or before the first day of each month.
6. as per Clause 5(5) of the lease agreement the tenant is liable to pay interest at the rate of 10% per annum on any unpaid amount which is owing calculated from the due date of actual payment and compounded at the end of each calendar month.
7. In breach of this obligation the defendant has failed or refused to pay rent in the sum of US\$32,741.86 or CI\$26,848.32 including interest.

8. On the 14th March 2008 the Plaintiff served upon the Defendant a Notice to Quit in accordance with the Registered Land Law (2004 Revision) and with clause 4(a) of the lease agreement. Since service of this notice no further rent was received nor were any arrears payments made.
9. The Plaintiff took possession of the property on the 9th June 2008.
10. The Plaintiff's claim is for the liquidated sum of US\$32,741.86 or CI\$26,848.32 due and owing to the Plaintiff by the Defendant for breach of contract and monies due and owing on foot of a lease agreement made in writing between the Plaintiff and Defendant dated 15th September 2006.

AND THE PLAINTIFF claims:

1. Damages
2. Interest in accordance with the lease agreement at 10% per annum or in the alternative in accordance with the Judicature Law (2007 Revision) and the Judgment Debt (Rates of Interest) Rules as amended from time to time.
3. Costs
4. Such further and other relief as this Court may deem just

STATEMENT REGARDING INTEREST

- a) The rate of interest is 10 per annum.
- b) The date from which interest accrues is the date of issue of the Writ.
- c) The amount of interest accruing each day following the issue of this Writ is US\$8.97

If, within the time for returning the Acknowledgement of Service, the Defendant pays the total amount claimed of CI\$27,217.32 (including filing fees of CI\$200 and ad valorem filing costs of CI\$169) and costs to be taxed if not agreed and bailiffs fees further proceedings will be stayed. The money must be paid to the Plaintiff or his Attorney.

Dated this 12th day of June 2008

Samson & McGrath

Samson & McGrath
Attorneys-at-Law for the Plaintiff

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SHIONA CREARY T/a CREARY & ASSOCIATES

DEFENDANT

ACKNOWLEDGEMENT 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. Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

1. State the name of the Defendant by whom or on whose behalf the service of this Writ is being acknowledged.

2. State whether the Defendant intends to contest the proceedings (tick the 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
[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 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 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:

SAMSON & MCGRATH
3RD FLOOR GENESIS BUILDING
GENESIS CLOSE
PO BOX 446
GRAND CAYMAN KY1 - 1106
CAYMAN ISLANDS

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

[Empty box for Defendant's Attorney indorsement]

**DIRECTIONS FOR ACKNOWLEDGMENT 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 Courts, P.O. Box 495G, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement 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 judgement is served on the Defendant.

If the defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgement 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 judgement 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 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 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 a ()” 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.