

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CIVIL DIVISION

CAUSE NO. GC 148 OF 2017

BETWEEN:

CAYMAN ENTERPRISE CITY LTD

Plaintiff

and

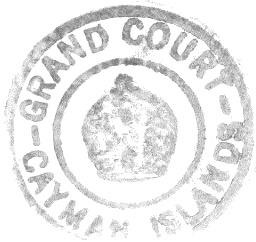
BYZANTIUM INTERNATIONAL LTD SEZC

First Defendant

and

BARDI LTD SEZC

Second Defendant



WRIT OF SUMMONS

To the Defendants:

Byzantium International Ltd SEZC
Maricorp Services Ltd
31 The Strand
46 Canal Point Drive
George Town
Cayman Islands

Bardi Ltd SEZC
Maricorp Services Ltd
31 The Strand
46 Canal Point Drive
George Town
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, P.O. Box 495 Grand Cayman KY1-1106, Cayman Islands, 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 6th day of September 2017

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.

PARTICULARS OF CLAIM

1. The Plaintiff is and was at all material times a company registered in the Cayman Islands.
2. The First Defendant was at all material times a Special Economic Zone Company formed in the Cayman Islands on 15 May 2012.
3. The Second Defendant was at all material times a Special Economic Zone Company formed in the Cayman Islands on 28 September 2012.

The Licence

4. By an agreement (the “**Licence**”) in writing executed on 8 March 2015 between the Plaintiff (the “**Licensor**”) and the First Defendant and the Second Defendant (collectively the “**Licensee**”) for a license to occupy the Plaintiff’s office facilities in the Flagship Building (the “**Flagship Space**”) the Licensee agreed to pay the sum of USD\$9,378.00 per calendar month as a license fee (the “**Licence Fee**”), along with charges for any additional fees in respect of the use of additional facilities, equipment and services (the “**Outgoings**”).
5. The Agreement contained the following express terms:
 - 5.1. The license period was for 3 years commencing on 1 March 2015 (the “**Commencement Date**”);
 - 5.2. The Licence Fee was payable at US\$9,378.00 per calendar month (“**pcm**”) and pro rata for any period of less than a calendar month, with the first such payment due on the Commencement Date and (subsequently) on the first working day of each calendar month;
 - 5.3. In accordance with clause 2.3 of Schedule A to the Licence, the Licensee shall be liable to the Licensor in respect of payments over 10 days late (*inter alia* for the Licence Fee, Per-Head CEC charges and the Outgoings)

for interest at the rate of 5% above the prime rate of Cayman National Bank Ltd. for US dollar lending, from time to time, compounded monthly;

- 5.4. At clause 3.1 of Schedule A to the Licence, the Licensor reserved the right to charge the Licensee the Outgoings as specified in the Commercial Terms including *inter alia* telephone charges;
- 5.5. At clause 3.11.1 of Schedule A to the Licence, the Licensee agreed to indemnify the Licensor against all losses, claims, demands, actions, proceedings, damages, costs or expenses or other liability arising in any way from any breach any of the Licensee's covenants contained in the Licence.
- 5.6. That the parties comprising the Licensee shall be jointly and severally liable to the Licensor for the due observance and performance of the obligations of the Licensee under the Agreement.
6. In breach of the Licence, the Licensee has failed to pay the sums due under the Licence and there remains due and owing the principal sum of US\$178,172.
7. Further, the Licensor claims contractual interest on the sum unpaid at the rate of 5% above the prime rate of Cayman National Bank Ltd. for US dollar lending, from time to time, compounded monthly from the due date to the date of issue of this claim until judgment or earlier payment.
8. Further, the Licensor claims under the Licence the Licensor's costs (including but not limited to legal costs) arising from the Licensee's failure to pay the sum set out in paragraph 6 above.
9. Further and in the alternative, to the above, the Licence was varied by agreement in January 2016, as set out a paragraphs 10 to 15.4, below.

The Varied Licence

10. In late 2015 the Licensee informed the Licensor that they were looking to save costs by moving to a smaller space. Although the Licence did not permit such a move, as a gesture of goodwill, the Licensor accommodated the Licensee's request, the result of which was a variation to the original Licence, agreed through writing and/or conduct (the "**Varied Licence**").
11. On 15 January 2016 the Licensor emailed the Licensee indicating it had found two clients (the "**Two Clients**") to take over part of the Flagship space and as such made an offer to the Licensee with the following terms:
 - 11.1. The Licensee would remain in the same premises but would occupy a smaller area (the "**Reduced Flagship Space**");
 - 11.2. The Licence Fee would be reduced to US\$49,250; and
 - 11.3. The commencement date would be 1 February 2016.
12. John Buck responded by email on behalf of the Licensor stating he had not looked at the offer in its entirety. He further stated "*[a]s far as our space it is UN [sic] important where it is as we will only be using when on island so put us in the closet if you need to.*" He indicated he would respond to the offer within two days. Notwithstanding this, the Licensee inferred that the location and size of the space did not matter and the Licensor could relocate the Licensee at its convenience.
13. Receiving no further correspondence from the Licensee and the Two Clients requiring an earlier move date, the Licensor placed the Two Clients into the Flagship Space as proposed.
14. Correspondence was sent from the Licensor to the Licensee on 21 January confirming that the Licensee now occupied the Reduced Flagship Space and that the Licence Fee would be reduced by a further US\$2,000 per annum due to the

lack of an external window. The Varied Licence was reduced to writing and a copy attached to the email for the Licensee to sign.

15. The Licensee thereafter ratified the Varied Licence through words, writing and conduct. This included, but was not limited to, the following:

15.1. The Licensee's occupation of the Reduced Flagship Space;

15.2. The Licensee's request on 26 April for a reduction of the Licence Fee for the Varied Licence for a period when the telephones were not working in the Reduced Flagship Space;

15.3. The request on 7 March for the permit of Kelvin Latta of Bardi Ltd SEZC to be renewed; and

15.4. The signing by the Licensee on 10 June 2016 of the "Acceptance Agreement" for items issued, including an office door key, and confirming an awareness of the terms of issuance.

16. In breach of the Varied Licence, the Licensee has failed to pay the sums due under the Varied Licence and there remains due and owing the principal sum of US\$75,136.36.

17. Further, the Licensor claims contractual interest on the sum unpaid at the rate of 5% above the prime rate of Cayman National Bank Ltd. for US dollar lending, from time to time, compounded monthly from the due date to the date of issue of this claim until judgment or earlier payment.

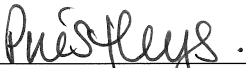
18. Further, the Licensor claims under the Varied Licence the Licensor's costs (including but not limited to legal costs) arising from the Licensee's failure to pay the sum set out in paragraph 16 above.

AND the Plaintiff Claims:

1. The principal sum of US\$178,182
2. Contractual interest as set out in paragraph 7 above;
3. Costs under the Licence;
4. Costs; and
5. Further or other relief.

Further, and in the alternative;

6. The principal sum of US\$75,136.36
7. Contractual interest as set out in paragraph 17 above;
8. Costs under the Varied Licence;
9. Costs; and
10. Further or other relief.



PRIESTLEYS
Attorneys for the Plaintiff

**DIRECTIONS FOR 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 Courts, PO Box 495, 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 fourteen (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 endorsed on the Writ, the defence need not be served until fourteen (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 fourteen (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 installments or otherwise.

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 fourteen (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 authorized to act on behalf of the Company, but the Company can take no further steps in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL HEALTH 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CIVIL DIVISION

CAUSE NO. GC 148 OF 2017

BETWEEN:

CAYMAN ENTERPRISE CITY LTD

Plaintiff

and

BYZANTIUM INTERNATIONAL LTD SEZC

First Defendant

and

BARDI LTD SEZC

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 [] No []

Service of the Writ is acknowledged accordingly

(Signed) _____

Address for service:

Please see 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 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.

PRIESTLEYS
ATTORNEYS-AT-LAW
SECOND FLOOR, CARIBBEAN PLAZA
878 West Bay Road
PO BOX 30310
GEORGE TOWN, GRAND CAYMAN
CAYMAN ISLANDS, KY1-1202

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