

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 155 OF 2018

BETWEEN:

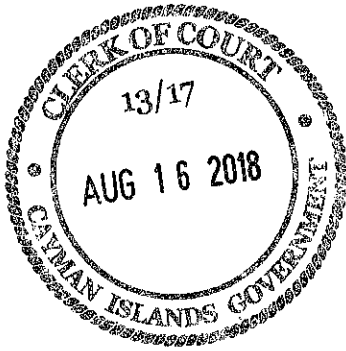
DAVID REID

PLAINTIFF

AND:

(1) CAYMAN AUTOMOTIVE LEASING & SALES LTD.
(2) JOHN C. FELDER

DEFENDANTS



WRIT OF SUMMONS



TO: CAYMAN AUTOMOTIVE LEASING & SALES LTD. of Stuarts Corporate Services Ltd. 1 Cayman Financial Centre, 36A Dr. Roy's Drive, P.O. Box 2510, Grand Cayman., KY1-1104, Cayman Islands

To: JOHN FELDER of 1053 Crewe Road, Grand Cayman, KY1-1010, Cayman Islands.

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff, of 110 Theresa Drive, George Town, Grand Cayman, KY1-1007 in respect of the claims 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 Courts Office, P.O. Box 495, George Town, Grand Cayman, KY1-1106, Cayman Islands 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 any intention to contest the proceedings, the Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 15th day of August 2018.

NOTE this Writ may not be served later than 4 calendar months beginning with the date of original issuance unless renewed by order of the Court

IMPORTANT

Directions for the Acknowledgement of service are given with the accompanying form.

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PLAINTIFF

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STATEMENT OF CLAIM

The First Loan

1. On 8 August 2017, the Plaintiff lent to the First Defendant ("**CAL**"), CI\$ 75,000, repayable together with interest accruing from 9 August 2017 at the fixed rate of 8% per annum ("**the First Loan**"). Payment of the First Loan was personally guaranteed by the Second Defendant ("**Mr. Felder**").
2. On 10 August 2017, CAL made a promissory note for the First Loan payable to the Plaintiff ("**the 2017 Note**").
3. On 18 October 2017, Mr. Felder endorsed the 2017 Note by writing "*I hereby personally guarantee repayment of this promissory note*". He signed the 2017 Note, describing himself as Guarantor and his signature was witnessed by Hong Nguyen.
4. The purpose of borrowing was for the purchase of JAC motor vehicles ("**the Vehicles**") which the CAL and Mr. Felder intended to import and sell to the public.
5. The debt recorded in the 2017 Note was payable to the Plaintiff in installments as each of the Vehicles was sold. The Vehicles were to act as security for the First Loan.
6. It was a term of the 2017 Note, at section iv, that if any payment obligation under the note was not paid, CAL would pay all costs of collection, including reasonable attorney's fees, whether a lawsuit was commenced as part of the collection process or not.

7. It was also a term of the 2017 Note, that if any of the events of default, as specified at section v of the 2017 Note occurred, the sums borrowed would immediately become due to the Plaintiff.
8. Section v of the 2017 Note specified that an event of default would arise if there was default in the sale, transfer and assignment, or other disposition of the Vehicles and/or default in the security which secured the 2017 Note.
9. In breach of the loan agreement, and 2017 Note, CAL has failed to procure the Vehicles and sell the Vehicles within a reasonable time, or at all, and accordingly an event of default has occurred under the terms of the 2017 Note.
10. On 3 August 2018, the Plaintiff demanded from CAL repayment, at his address, of the sums due on the First Loan, together with reasonable attorney's fees, by 11 August 2018, but CAL has failed to repay the First Loan, or any part of it, either then or at all, and the 2017 Note has been dishonoured.
11. The Plaintiff has served upon Mr. Felder a written notice and demand for payment of the sums due and owing by CAL which he personally guaranteed.
12. Despite the Plaintiff's demands, the CAL and Mr. Felder have not paid the sums due and owing to the Plaintiff.
13. As at the date of issue, the principal sum of CI\$ 75,000 and unpaid interest of CI\$6,000.00 remain due and owing, together with reasonable pre-action attorney's fees and disbursements in the sum of CI\$ 1,567.75.
14. In the circumstances, the Plaintiff claims against CAL and Mr. Felder, severally, the amount of the 2017 Note together with interest as special damage at the rate of 8% per annum pursuant to Section 57 (1) of the Bills of Exchange Law (1997 Revision) from 9 August 2017 to date of trial and reasonable pre-action attorney's fees and disbursements of CI\$1,567.75.
15. In the alternative, the Plaintiff claims the sum of CI\$ 75,000 as money lent to the CAL and repayable within a reasonable time or otherwise on demand which CAL and Mr. Felder have failed to repay in whole or in part, with contractual interest accruing at 8% per annum from 9 August 2017 to date of trial.

The Second Loan

16. On 17 December 2017, the Plaintiff, lent to CAL, CI\$ 37,500, without interest repayable on 30 July 2018 ("**the Second Loan**"). Payment of the Second Loan was personally guaranteed by Mr. Felder.

17. On 2 July 2018, CAL made a promissory note for the Second Loan payable to the Plaintiff ("**the 2018 Note**"). The 2018 Note was executed by Mr. Felder as guarantor of the obligations of CAL.
18. CAL failed to pay the sums due under the 2018 Note on 30 July 2018.
19. On 3 August 2018, the Plaintiff demanded from CAL repayment, at his address, of the sums due on the Second Loan, together with reasonable attorney's fees by 11 August 2018, but in breach of the loan agreement and the 2018 Note CAL has failed to repay the Second Loan, or any part of it, either then or at all, and the 2018 Note has been dishonoured.
20. The Plaintiff has served upon Mr. Felder a written notice and demand for payment of the sums due and owing by CAL which he personally guaranteed.
21. In the circumstances, the Plaintiff claims against CAL and Mr. Felder, severally, the amount of the 2018 Note being CI\$ 37,500 together with interest as special damage at the rate of 2 3/8% from date of issue to the date of trial calculated pursuant to the Judicature Law (2017 Revision) and the Judgment Debt (Rates of Interest) Rules, as amended from time to time.
22. In the alternative, the Plaintiff claims the sum of CI\$ 37,500 as money lent to the CAL and repayable within a reasonable time or otherwise on demand which CAL and Mr. Felder have failed to repay in whole or in part, with interest as special damage at the rate of 2 3/8% from date of issue to the date of trial calculated pursuant to the Judicature Law (2017 Revision) and the Judgment Debt (Rates of Interest) Rules, as amended from time to time.

The Vehicle Purchase

23. On or about 18 January 2018, the Plaintiff orally and by email agreed to purchase, and CAL orally and by email agreed to sell, a BMW Mini motor vehicle ("**the Mini**").
24. In consideration of the agreement, the Plaintiff paid CAL the sum of CI\$5,000.00 by way of a refundable deposit, for the purchase of the Mini.
25. At the time of the said agreement, CAL were not the registered owners of the Mini. They had represented that they were in the process of transferring the ownership from Scotiabank and Trust (Cayman Ltd) ("**Scotia**").
26. As far as the Plaintiff is aware, CAL has never completed the successful transfer of the Mini from Scotia. In the circumstances, although the Plaintiff stands ready willing and able to complete the purchase of the Mini, the agreement is unable to be performed.
27. On 3 August 2018, the Plaintiff demanded repayment of the said CI\$ 5,000.00 deposit by 11 August 2018 but CAL has failed to repay this sum in breach of the agreement.

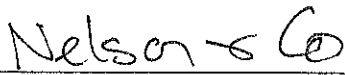
28. The Plaintiff therefore claims the sum of CI\$ 5,000 with interest at the rate of 2 3/8% from date of issue to the date of trial calculated pursuant to the Judicature Law (2017 Revision) and the Judgment Debt (Rates of Interest) Rules, as amended from time to time.

THE PLAINTIFF THEREFORE CLAIMS AGAINST THE DEFENDANTS AND EACH OF THEM SEVERALLY:

- (a) CI\$ 82,567.75 as money due under the 2017 Note or on the First Loan;
- (b) Interest on the above sum, as special damage at the rate of 8% per annum pursuant to Section 57 (1) of the Bills of Exchange Law (1997 Revision) from 9 August 2017 to date of trial, or in the alternative, at the rate of 2 3/8% from date of issue to the date of trial calculated pursuant to the Judicature Law (2017 Revision) and the Judgment Debt (Rates of Interest) Rules, as amended from time to time.
- (c) CI\$37,500 as money due under the 2018 Note or on the Second Loan;
- (d) Interest on the above sum, as special damage pursuant to Section 57 (1) of the Bills of Exchange Law (1997 Revision) from 30 July 2018 to date of trial, or in the alternative, at the rate of 2 3/8% from date of issue to the date of trial calculated pursuant to the Judicature Law (2017 Revision) and the Judgment Debt (Rates of Interest) Rules, as amended from time to time;
- (e) CI\$ 5,000
- (f) Interest on the above sum, at the rate of 2 3/8% from date of issue to the date of trial calculated pursuant to the Judicature Law (2017 Revision) and the Judgment Debt (Rates of Interest) Rules, as amended from time to time;
- (a) Costs; and
- (a) Such further and other relief as to this Honourable may seem just.

If, within the time for returning the Acknowledgment of Service, the Defendants pay the total amount claimed of **CI\$125,067.75** further proceedings will be stayed. The money must be paid to the Plaintiff or her Attorney.

DATED at Grand Cayman this 15th August 2018



Nelson & Co.
Attorneys for the Plaintiff

THIS WRIT OF SUMMONS AND STATEMENT OF CLAIM is issued by Nelson & Co., Attorneys-at-Law, attorney for the Plaintiff, whose address for service is that of his said attorneys at 31 The Strand, P.O. Box 2075, Grand Cayman KY1-1105 Cayman Islands.

TO: The Clerk of the Grand Court

AND TO: The Defendants

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2018

BETWEEN:

DAVID REID

PLAINTIFF

AND:

(1) CAYMAN AUTOMOTIVE LEASING & SALES LTD.
(2) JOHN C. FELDER

DEFENDANTS

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

Attorney for the Defendant

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

Nelson & Company
Attorneys at Law
PO Box 2075
31 The Strand
46 Canal Point Drive
Grand Cayman KY1-1105
Attn: C Flanagan

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 *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, 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

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.