



AND COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2022

LUIS ADOLFO DURAN DURAN

PLAINTIFF

AND:

MIRNA RODRIQUEZ HERNANDEZ

DEFENDANT

WRIT OF SUMMONS

TO: Mirna Rodriguez Hernandez
33 Jackie Street, North Sound Estates
Newlands
Grand Cayman
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 495G, George Town, Grand Cayman, 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.

DATED this *11th* day of August 2022.

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.

S T A T E M E N T O F C L A I M

1. At all material times, the Plaintiff was a resident of the Cayman Islands.
2. The Defendant is an individual who resides in the Cayman Islands with an address of 33 Jackie Street, North Sound Estates, Grand Cayman, Cayman Islands.
3. The Plaintiff and the Defendant are former business partners and joint proprietors of the motor fishing vessel, Cap Israel, with registration number 746178 ("the MV Cap Israel"). The Plaintiff is the registered owner of thirty-two (32) shares of the sixty-four (64) issued shares in the vessel. The Defendant is the registered owner of thirty-two (32) shares in the vessel.
4. The MV Cap Israel was purchased for and utilized as a commercial fishing vessel by the parties. The parties agreed that the profits generated from the commercial fishing use of the MV Cap Israel were to be shared equally between them on a 50/50 basis.
5. Between mid-2017 and mid-2019, the profits generated from the commercial fishing use of the MV Cap Israel were divided equally between the Plaintiff and the Defendant on a 50/50 basis.
6. In or about August 2019, the Defendant seized complete control of the MV Cap Israel to the exclusion of the Plaintiff, unlawfully and unjustly depriving the Plaintiff of the vessel and its profits generated from its commercial fishing business.
7. During the period of December 2020 through March 2021, the MV Cap Israel operated in Cayman Islands territorial waters and, according to Customs & Border Control Ship's report, garnered fish with a sale value of CI\$93,000.00 and lobster with a sale value of CI\$175,836.00 for a total net income of CI\$268,836.00.
8. As joint owner of the MV Cap Israel, the Plaintiff is owed CI\$134,418.00 of the sales, being profits generated from its commercial fishing business. As of today's date, the Defendant has failed to pay the Plaintiff his share of the profits generated by the MV Cap Israel, and the Plaintiff has suffered loss and damage as a result. The Defendant owes the Plaintiff the principal sum of CI\$134,418.00.

9. On 14 October 2021, a formal demand letter was served upon the Defendant by personal service at her home address. Notwithstanding the written demand for payment, and in breach of the agreement, the Defendant has failed to make payment to the Plaintiff.
10. Since April 2021, the Defendant continues to operate the MV Cap Israel and has not accounted for profits generated from its commercial fishing business. The Plaintiff thereby claims a full account from Defendant in respect of all her dealings with the MV Cap Israel from April 2021 to date.
11. Accordingly, the Plaintiff claims the principal sum of CI\$134,418.00. In addition, the Plaintiff claims pre and post-judgment interest in accordance with s.34 and of the Judicature Law (2021 Revision) and the Judgment Debts (Rates of Interest) Rules, 2012 at the rate of 2 3/8% for such period as the Court deems fit.

AND THE PLAINTIFF claims:

- a) The Principal amount of CI\$134,418.00.
- b) Pre and Post-judgment interest in accordance with s.34 of the Judicature Law (2021 Revision) and the Judgment Debts (Rates of Interest) Rules, 2012 at the rate of 2 3/8% for such period as the Court deems fit;
- c) All further proper accounts, inquiries and directions in respect of the Defendant's dealings with the vessel since April 2021, including all monies received or expended by her or on her behalf relating to the MV Cap Israel;
- d) An order that the Defendant pay to the Plaintiff such sums as may be found due upon taking the accounts together with interest as set out in Paragraph c) above;
- e) All necessary and consequential Orders to restore the rights and interests of the Plaintiff as equity and the law requires;
- f) An injunction restraining the Defendant, her servants, or agents, or otherwise, howsoever, from disposing of the vessel or removing it from the Cayman Islands territorial waters.
- g) Costs to be taxed if not agreed; and

h) Such further and other equitable relief as this Honourable Court may deem just.

Dated 11th August 2022

Handwritten signature in black ink, appearing to read 'MSR'.

MARTHA SELICEA RANKINE
Attorney-At-Law for the Plaintiff

THIS WRIT was filed by MARTHA SELICEA RANKINE, Attorney-at-Law for the Plaintiff, whose address for service 2nd Floor, Genesis Building, 13 Genesis, Close, Grand Cayman KY1-1503, Cayman Islands.

Acknowledgment of service of writ of summons (O.12, r.3)**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 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 Plaintiffs (or on the Plaintiffs 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 Plaintiffs 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

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 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 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

CAUSE NO. OF 2022

BETWEEN: LUIS ADOLFO DURAN DURAN PLAINTIFF

AND: MIRNA RODRIQUEZ HERNANDEZ DEFENDANT

**ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS**

TO: Mirna Rodriquez Hernandez
33 Jackie Street, North Sound Estates
Newlands
Grand Cayman
Cayman Islands

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** she 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

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.

MARTHA SELICEA RANKINE
Attorney-at-Law
2nd Floor, Genesis Building
Genesis Close
P.O. Box 1191
Grand Cayman KY1-1503
T: +1 (345) 547-6725

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