



**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

**CAUSE NO: GC OF 2022**

**B E T W E E N:**

**ANDREW WILLIAM MORTIMER DEAR**

**Plaintiff**

**-V-**

**OASIS BEACH BAY DEVELOPMENTS (1)**

**First Defendant**

**AND**

**AURA WELLNESS DEVELOPMENTS LTD (2)**

**Second Defendant**

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**WRIT OF SUMMONS**

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<p>TO: Oasis Beach Bay Developments          PO Box 10335          Grand Cayman KY1-1003          Cayman Islands</p>	<p>AND</p>	<p>Aura Wellness Developments LTD          PO Box 10335          Grand Cayman KY1-1003          Cayman Islands</p>
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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, PO Box 495, 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 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 13<sup>th</sup> day of October 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 Acknowledgement of Service are given with the accompanying form.

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**STATEMENT OF CLAIM**

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1. The Plaintiff is and was at all material times an individual whose address for service is care of its attorneys, HSM Chambers, 68 For Street, PO Box 31726, George Town, Grand Cayman, KY1-1207, Cayman Islands.
2. The First Defendant and Second Defendant is and was at all material times a company organised and carrying on business pursuant to the laws of the Cayman Islands with registered office address PO Box 10335, Grand Cayman KY1-1003, Cayman Islands, (the, "Defendants")
3. Pursuant to the Second Deed of Assignment of Land Agreement for Sale and the Second Deed of Assignment of Agreement to Develop both dated 28 February 2020, the Plaintiff agreed to pay the Defendants the deposit sum of CI\$34,500.00 in three instalments for the purchase and construction of the property Unit 206 Orchard Village, (the "Contract").
4. It was a term of the Orchard Ecovillage Agreement to Develop dated 27 September 2019, (the "Original Agreement"), that either party may give notice in writing to the other to terminate the contract in the event that the Developer has not done the following by 30<sup>th</sup> June 2022:
  - (a) *Completed the construction of the dwelling; or*
  - (b) *Completed the registration of a Strata Plan in connection with the development; or*
  - (c) *Received from the Registrar of Lands notification that a land register has been opened for the Strata Lot; or*
  - (d) *Received a certificate of fitness for occupancy for the dwelling from the Central Planning Authority for the Cayman Islands.*
5. In accordance with the Original Agreement the Plaintiff gave notice in writing to the Defendants to terminate the Contract on the basis that construction of the dwelling would not be completed by 30 June 2022. Therefore, a Release and Receipt Agreement dated 1 July 2022 was agreed

between the Plaintiff and the Defendants, stating that the deposit would be refunded within 60 days of the parties signing the Agreement, (the "Release Agreement")

6. In breach of the Release Agreement, the Defendants failed to refund the deposit to the Plaintiff as and when due and the Plaintiff suffered loss and damage as a result. Accordingly, the Plaintiff by its attorneys issued a Formal Demand letter dated 29 September 2022, which was personally served on the registered office of the First and Second Defendants on 29 September 2022, demanding refund of the deposit to the Plaintiff.
7. The Defendants failed to refund the deposit in full to the Plaintiff and to date the Defendants have refunded only CI\$5,000.00 to the Plaintiff. Accordingly, the Plaintiff claims the sum of CI\$29,500.00 under the Release Agreement, (the "Debt").
8. The Plaintiff claims pre- and post-judgment interest in accordance with s.34 of the *Judicature Act (2021 Revision)* and the *Judgment Debts (Rates of Interest) Rules, 2021* at the rate of 8.38% for such period as the Court deems fit;

**AND THE PLAINTIFF CLAIMS:**

- a) The Debt of CI\$29,500.00
- b) The Plaintiff claims pre- and post-judgment interest in accordance with s.34 of the *Judicature Act (2021 Revision)* and the *Judgment Debts (Rates of Interest) Rules, 2021* at the rate of 8.38% for such period as the Court deems fit;
- c) Costs; and
- d) Such further and other relief as this Court may deem just.

*Hsm chambers*

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**HSM Chambers  
Attorneys-at-Law for the Plaintiff**

**INDORSEMENT**

The amount claimed in respect of the debt is CI\$29,500.00. The amount of the filing fees to commence the proceeding is CI\$200.00 plus Ad Valorem in the sum of CI\$195.00. If, within the time for returning the acknowledgement of service, the defendants pay the plaintiff or its attorneys-at-law the total amount claimed in principal, interest and the costs of issuing the Writ of Summons, further proceedings will be stayed. The money must be paid to the plaintiff or to its attorneys-at-law.

**INDORSEMENT REGARDING INTEREST**

1. The term upon which interest is claimed is as set out in paragraph 7 above;
2. The date from which interest is payable is 11 October 2022.

This WRIT OF SUMMONS was filed by HSM Chambers, Attorneys-at-Law for the Plaintiff whose address for service is 68 Fort Street, PO Box 31726, George Town, Grand Cayman, KY1-1207, Cayman Islands (ref: 510159-0002)

No.8

**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 each Defendant or by each Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, PO Box 495 GT, 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  
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 (.....)" 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

B E T W E E N: CAUSE NO: GC OF 2022

ANDREW WILLIAM MORTIMER DEAR Plaintiff

-v-

OASIS BEACH BAY DEVELOPMENTS (1) First Defendant

AND

AURA WELLNESS DEVELOPMENTS LTD (2) 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).....

[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 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 communication for him should be sent. In the case of a limited company, "residence" means its registered or principal 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.

HSM Chambers  
68 Fort Street  
PO Box 31726  
George Town  
Grand Cayman KY1-1207  
CAYMAN ISLANDS  
  
Ref: 510159-0002

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]