

OFFICE OF THE COMPLAINTS COMMISSIONER

Small Claims Handbook

This explanatory guide is provided in response to the many inquiries received on procedure. It is believed to be accurate but it is the responsibility of the user to ensure that the correct procedures are followed and no liability is accepted for errors and omissions.

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CHAPTER 1 Introduction to Small Claims

1.1 What are small claims?

'Small claims' are those which are normally seen as being too small to justify the expense of engaging an attorney. In such cases, the Court encourages claimants to act for themselves.¹

1.2 The Summary Court

Going to the Grand Court in a civil case can be expensive. The small claims procedure of the Summary Court was designed to provide a simpler solution to a civil dispute.

1.3 Is Summary Court right for you?

While small claims proceedings can settle uncomplicated disputes, there are specific rules that must be followed if you are to succeed in your claim. For example, you must complete all required forms (see appendix in this Handbook) and present your own evidence in the Summary Court, where your case will usually be heard by a Magistrate sitting alone, without a jury.² This Handbook introduces you to many of these rules and assists you in pursuing your small claim.

1.4 Who can sue in Summary Court?

Any person or business claiming an amount (whether fixed or to be assessed) that does not exceed CI\$20,000.00³ may bring an action in the Summary Court. The action may be in respect of a contract, a tort (or both) or trespass to land (but not where there is a question of title to land).

A 'tort' may be defined simply as a wrongful act, other than a breach of contract, that results in injury to another's person, property, reputation or some other legally protected right or interest, and for which the injured party is entitled to a remedy at law. Remedies for tort actions are usually in the form of damages (monetary compensation).

1.5 Exceptions

Minors cannot sue or be sued in the Summary Court.⁴ Anyone who is under the age of 18 is considered to be a minor under Cayman Islands law.⁵

1.6 What kind of claims can be filed in the Summary Court?

The following is a general list of claims which can be filed in the Summary Court:

- (a) Breach of a written or oral contract.
- (b) Return of money used as a down payment.
- (c) Property damage caused by a motor vehicle accident.
- (d) Damage to property.
- (e) Consumer complaints for defective merchandise or faulty workmanship.
- (f) Obtaining payment for work performed.
- (g) Claims based on bad checks.

(h) Claims for back rent.

(i) Return of a tenant's security deposit.

1.7 Time limits

When did the 'cause of action' begin? The cause of action is the event or situation in which the matter you are claiming first occurred. It is important to determine when the cause of action began because there are time limits to bringing certain claims.

1.8 Alternatives

To save the time and trouble of a small claims lawsuit, you would be well advised to initially contact the other party in the dispute to try and discuss the problem calmly and objectively. Make a serious effort to arrive at an agreement that will settle the matter fairly. A reasonable solution worked out to the mutual benefit of the parties will eliminate the stress of a courtroom confrontation. It will also reduce or eliminate the long-term personal hostility that often results from this type of grievance.

1.9 Letter before action

If you have been unable to reach any agreement with the other party in the dispute, consider writing a 'letter before action' before proceeding. Letters before action are letters which usually state the cause of action, the amount of money being sought and a time limit in which to pay the amount. You may also wish to state that you are considering bringing a claim against the other party in the Summary Court.

Do not be concerned with giving the other party this basic information. Such letters let parties know that the matter is being treated seriously and can be used to stimulate a response. You may even gain previously unknown information about your dispute that might affect your decision to proceed with the action.

1.10 Sample forms

Throughout this Handbook a series of sample forms appear. These follow the fictional scenario of John Smith who is trying to get money from ABC Dry Cleaners Ltd., who allegedly ruined his brand new suit. The sample forms are included to assist you when completing your own forms with the writing appearing *in script* being an example in that scenario only. **Do not copy the sample forms directly from this Handbook!** Any form submitted to the Court should be in 11-point font and have a margin of at least 1 inch on the left side.⁶

1.11 Summary Court Rules

If you have exhausted all other courses of action and have satisfied the above, it is recommended that you obtain a copy of the Summary Court Rules (**SCR**) before proceeding. Copies of the SCR are available from the Legislative Assembly in George Town between the hours of 9:00 a.m. 3:00 p.m., Monday through Friday, for a fee of C\$7.20.

Copies of the SCR forms are included in Appendix B of this Handbook. The SCR also incorporates many forms from the Grand Court Rules (**GCR**) and applicable GCR forms have been included in Appendix C.

CHAPTER 2 Commencing proceedings

2.1 The Complaint

If you are bringing a claim for the payment of a debt or damages, you will need to file a 'Plaint'. The Complaint comes in a standard form. An example of a completed Complaint can be found at the end of this chapter (see sample form 1); a blank form can be found in Appendix B.

2.2 Completing the Complaint

(a) Cause Number

This should be left blank for now as the Court will assign one to your claim. However, once the cause number is known, you should refer to this cause number when dealing with either the Court or the other party (or parties) to ensure proper filing.

(b) Parties to the action (Plaintiff and Defendant)

If you are bringing the claim, you are the 'Plaintiff'. You should fill in your name in its entirety, that is, your first name(s), middle name(s) and last name.

The person you are suing is the 'Defendant'. It is important that you have the correct legal name and address of the person or business you are suing so that they can be properly identified by the Court.

If your claim is the result of damages arising out of the use of motor vehicles, you should also add the names and addresses of the insurance companies - yours under your name and under his/her name, the details of the Defendant's insurance company.

(c) Address of the Defendant

The Defendant's correct address is also essential. If you are suing a company it may be helpful to check with the Registrar of Companies (**ROC**) to ensure that you have the correct name and address of the business. The ROC is located on the ground floor, Citrus Grove, Goring Avenue, George Town.

If the party you are suing no longer resides within the Cayman Islands, you may apply to the Court for permission to serve the Complaint on them - 'leave to serve out' - wherever they are.⁷ Such applications are beyond the scope of this Handbook.

(d) Date of issue

The date of issue is the date on which you intend to file the Complaint with the Court, not necessarily the date on which you signed the Complaint. A good idea may be to leave this blank and complete it by hand when you file the Complaint.

(e) Particulars of claim⁸

The Particulars of Claim are simply the details of your claim against the Defendant. Generally you should ask for the amount of money you spent or lost because of the alleged wrong. Take your time and set out your claim as clearly and plainly as possible. Taking a 'who, what, when and where' approach to your statement of claim is helpful. You should refer to yourself as 'the Plaintiff' and to the party you are suing as 'the Defendant'.

If you are claiming for the cost of certain goods, then include a statement of the value of those goods. Receipts and other similar documents can be very helpful in determining the

amount of money you are owed. Make sure that the currency of the sums you are claiming for is specified, i.e., C\$, US\$, £, € etc.

If you are claiming under the terms of a contract, you should note the term(s) of the contract which relate to your claim as well as the date the cause of action (see 1.7) occurred.

(f) Prayer for relief

At the end of the Complaint you must ask the Court for specific actions – this is called the 'Prayer for Relief'. This includes the amount you are claiming for and interest on that amount. You may also ask for the costs of making the application to be returned to you. Such costs include the filing fee, fixed cost and bailiff's fees. Each is explained further below:

(i) Amount claimed

Write in the total amount you arrived at in your Particulars of Claim here. If you are unable to arrive at a specific value, you should instead write 'damages'. The amount will then be up to the Court to assess.

(ii) Interest

Whether your claim is for the recovery of a fixed amount or for damages, you are entitled to apply to the Court for simple interest on the amount, at a rate prescribed by the Court. Interest will be due from the date on which the cause of action arose until the date of payment (if before judgment) or the date of judgment itself.⁹

The rate of interest prescribed by the Court is periodically subject to change. The Civil Registry at the Courthouse may be able to provide you with the current prescribed rate. For example, after 1 December 2008, the rate of simple interest prescribed by the Court is 5% for C\$ and US\$.¹⁰

To calculate the simple interest on your claim, first calculate the rate of interest per day:

$$\text{rate of interest per day} = (\text{sum claimed} \times 0.05) \div 365$$

Multiply the rate of interest by the number of days between the cause of action and the date on which you file your Complaint to calculate the interest on your claim.

$$\text{rate of interest per day} \times \text{number of days} = \text{Interest}$$

If there is more than one applicable rate, or you are unsure which rate may apply, it is advisable to simply remove the amount of interest so that the Complaint reads,

"Interest calculated at the prescribed rate from... to date."

You can then fill in the date of the cause of action. If your claim is for a debt under a contract which provides for rate of interest, this rate should be claimed instead. You cannot claim additional interest from the Court in such a case, even if the Court's prescribed rate of interest is higher.¹¹

(iii) Costs

You may also apply for an order for 'costs'. This means the Court may make an order which requires the Defendant to pay your Court costs. You may either apply for fixed costs (currently CI\$150.00), plus the filing fee (currently CI\$25.00) and the bailiff's fees for service (as applicable).¹²

If a claim is made for costs (other than fixed costs) the amount will be determined or 'assessed' by the Magistrate to be reasonable at the end of trial. Regardless, the total amount of costs you may be awarded in any action will never exceed \$2,000.¹³ The award of costs is made entirely in the Court's discretion so there is never a guarantee you will be successful.¹⁴ Nevertheless, it is good to ask!

(g) Endorsement

Remember to sign the Plaint at the very end. You must also provide your 'address for service'. This is important so that the Court (and the Defendant) know where to contact you and to send you documents relating to your case.

2.3 Acknowledgment of Service¹⁵

You must also provide the Defendant with an 'Acknowledgment of Service' (see sample form 2). This is very important because if you fail to do this, the Court will not consider the plaint properly served (see 3.5 below).¹⁶

2.4 Filing the Plaint¹⁷

Once you have completed the Plaint, make at least four (4) copies of it – one for you, one for each defendant and two for the Court.¹⁸ These copies must be filed with the Court, a process which is completed in two-stages:

(a) Payment

First, you must first take the copies of the Plaint to the Judicial Accounts Department which is located on the ground floor of Kirk House, 61 Albert Panton Street, George Town. There you must pay a fee of CI\$25¹⁹ to file the Plaint. A cause number (see 2.2(a) above) will be automatically generated and assigned to your case and written at the top right hand corner of each copy of the Plaint. Take note of this number as it will be useful to refer to it when writing to either the Court or to the Defendant. One of the copies of the Plaint will also receive a payment stamp. You will also receive an official receipt for payment – save this!

(b) Filing

Secondly, you must then take all copies of the Plaint to be filed at the Civil Registry, located next door to the Judicial Accounts Department in the Courthouse. There, the copies of the Plaint will be 'sealed' with a stamp of the Summary Court and will also be date stamped, indicating the date of filing. A Court File will be opened and any additional documents relating to your case and filed with the Court will be kept together for the use of the Court staff and later, the Magistrate.

After you have filed your Plaint with the Civil Registry, each Defendant must be given a sealed copy of the Plaint – a process called 'service' – which is dealt with at 2.6 below.

2.5 Filing errors

As a word of warning, each Court form has very specific purposes, many of which are legal in nature and are there to ensure fairness to all parties. Take your time when completing any Court form as a failure to do so correctly could result in your form being rejected by the Civil Registry, for example, for 'irregularity.' Should this happen, ask the Civil Registry staff member what the issue is and how it can be corrected.

Once you have corrected the error, return to the Judicial Accounts Department and ask that the fees you have already paid be transferred to the corrected Plaintiff. You should take the same number of copies of the Plaintiff as before, as well as the original Plaintiff which bears the fee payment stamp and the official receipt as evidence that you previously paid the fees. Return to the Civil Registry once the fees have been transferred.

2.6 Service

The Plaintiff must be served 'personally' on the Defendant, unless the Court makes an order to allow substituted service.²⁰ Depending on your circumstances, it may be easier to have someone who is not involved in your case, such as the court bailiff, to serve the Plaintiff on your behalf.

(a) Personal service

Personal service means, quite simply, handing a sealed copy of the Plaintiff to the Defendant and telling them what it is. This must be done face-to-face, rather than, for example, through a closed door. It is possible that the Defendant may refuse to accept the Plaintiff, in which case it is sufficient to leave it with that person. Make a note of the date, time and the place in which service occurred, as you may need to file an 'affidavit of service' later (see 3.2(b)).

(b) Personal service on a company

If your claim is against a company, the Plaintiff must be served on the company's 'registered office,' usually at its front desk. In many cases, the registered office of a company is different from its physical address. You should check with the Registrar of Companies to make sure.

(c) Substituted service

In some cases you may be unable to personally serve the Plaintiff on the Defendant for various reasons. In such case, you may apply to the Court instead for substituted service. Those applications, however, are beyond the scope of this Handbook.

(d) Service by a bailiff

Perhaps the easiest method of service is to request that the court bailiff serve the Plaintiff on the Defendant.²¹ If you choose to do so, there is a fee to have the bailiff serve the document.²²

(i)	George Town	CI\$30.00
(ii)	West Bay	CI\$50.00
(iii)	Bodden Town	CI\$60.00

- (iv) East End CI\$75.00
- (v) North Side CI\$75.00
- (vi) Cayman Brac & Little Cayman CI\$125.00

As mentioned above, bailiff fees may be included in the costs section of the Prayer for Relief.²³ One of the benefits of using a bailiff is that an affidavit of service will be provided and completed by the bailiff. On the other hand, however, there is no guarantee that the bailiff will be able to serve your Plaintiff right away. Bailiffs are very busy and have many other duties. If you have a bailiff serve your Plaintiff, it is your responsibility to check with the Civil Registry often to see if the bailiff's affidavit of service has been filed. See Chapter 3 for more on affidavits of service.

2.7 Timing

Timing is an important aspect of all Court procedures. Once served, the Defendant has 14 days, counting the day of service, to complete and file the Acknowledgment of Service²⁴ with the Civil Registry, where it will be sealed, stamped and placed on the Court File. Should the 14 day period end on a Saturday, Sunday or any day on which the Court Office is closed, then the period extends no further than the next available business day.²⁵

Bear in mind that should the Defendant fail to file the Acknowledgment of Service within the 14 days required, you may apply for a 'default judgment' against them. A default judgment means the Magistrate may enter a judgment without your matter going to trial, ordering the Defendant to pay you the money you have sued for. See Chapter 3 for more on default judgments.

2.8 GUIDANCE FOR THE DEFENDANT

(a) Service of the Plaintiff

If you have received notice that you are being sued, do not ignore it. Once you have been served with a Plaintiff, you have 14 days from the date of service to respond. You should complete and file the Acknowledgment of Service whether or not you intend to defend the claim.

(b) Acknowledgment of Service

If you decide to go ahead and fight the case, tick 'yes' next to question 2. If you intend to defend yourself, whether in whole or in part, then you must set out your defence under 'Particulars of Defence.' You must then prepare to go to Court and present your side of the story to the Magistrate. If the Defendant is a company, any director or duly authorised officer may act as the company's representative before the Court²⁶ (see sample form 2).

If you do not wish to fight the claim, but feel you need time in which to pay, tick 'yes' next to question 3 and state how much time you need.

(c) Counterclaim

If you have a claim against the Plaintiff relating to the same or related matter, you can make a 'Counterclaim'. To do so, make a heading underneath your Defence and set out the full particulars of your Counterclaim, just as you would the Particulars of Claim.²⁷ If you need more space for the particulars of your Counterclaim, you may use a separate

piece of paper, as long as it is attached to or filed with the Acknowledgment of Service. (see 2.2(e) above for guidance).

(d) Filing

Once you have completed the Acknowledgment of Service, you must sign, date and file it at the Civil Registry within 14 days, inclusive of the date when you received it. So, if you were served with the Complaint on 4 January 2010, the last day on which you should file your Acknowledgement of Service would be 17 January 2010. As the 17th is a Sunday, however, you have until the Civil Registry closes on Monday, 18 January 2010 to file. Failure to do so or to provide full particulars of your defence²⁸ may result in the Plaintiff making an application for a default judgment against you.

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC _____ OF 20__

BETWEEN:

JOHN SMITH

Plaintiff

AND:

ABC DRY CLEANERS LTD.

Defendant

PLAINT

To the Defendant

PO Box 4321

Grand Cayman KY1-1888

Cayman Islands

THIS PLAINT 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 Complaint on you, counting the day of service, you must either satisfy the claim or return to the Court Office, PO Box 495, George Town, Grand Cayman KY1-1106, Cayman Islands, the accompanying Acknowledgment of Service form stating therein whether you intend to contest this action. If you intend to defend the action, in whole or in part, you must set out **full particulars of your defence** in the space provided in the Acknowledgement of Service form.

If you fail to satisfy the claim or fail to return the Acknowledgement of Service form containing full particulars of your defence, the Plaintiff may apply for a **default Judgment** without any further notice to you.

Issued this *4th* day of *January* 2010

See overleaf for particulars of the Plaintiff's claim

PARTICULARS OF CLAIM

(Here set out in numbered paragraphs the grounds upon which the Plaintiff claims that the Defendant is indebted to him or is liable to pay damages to him)

- 1 *On 19th of December 2009 the Plaintiff took his black suit to the Defendant's premises located on 18 Runners road, George Town, to be cleaned. The suit was purchased new in March 2009 from Tuxedos and Suits Galore for \$3,500 and had only been worn once.*
- 2 *When the Plaintiff picked up his suit on 24 December 2009 it had faded spots on the trouser legs and the front of the jacket. Those spots were not there when the Plaintiff dropped off the suit with the Defendant.*
- 3 *The Defendant ruined the Plaintiff's suit and should have to reimburse the Plaintiff for the cost of the suit.*

AND the Plaintiff claims:

- (1) The sum of \$3,500.00
- (2) Interest in the sum of \$5.27 calculated at the prescribed rate from 24th December 2009 to date.
- (3) *Interest to continue until this matter is settled.*
- (4) Fixed costs of \$175.00, alternatively costs to be assessed.

John Smith

Plaintiff's Signature

Plaintiff's address for service

*P.O. Box 1234
Grand Cayman KY1-9999
Cayman Islands*

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC _____ OF 20__

BETWEEN:

JOHN SMITH

Plaintiff

AND:

ABC DRY CLEANERS LTD.

Defendant

ACKNOWLEDGEMENT OF SERVICE

1 State Defendant's name and address -

*ABC Dry Cleaners Ltd.
PO Box 4321
Grand Cayman KY1-8888
Cayman Islands*

2 State whether the Defendant intends to contest the action.

☒

Yes

☐

No

3 If you do not intend to contest the action, do you want time in which to pay the claim?

☐

Yes

☐

No

4 If you do intend to contest the action, in whole or in part, you must set out full particulars of your defence overleaf.

Service of the Plaint is acknowledged accordingly.

Peter Abanks for ABC Dry Cleaners Ltd.

Defendant's Signature

DATED this *18th* day of *January*, 2010

See Overleaf

PARTICULARS OF DEFENCE

(Here set out in numbered paragraphs the grounds upon which the Defendant says that he is not liable to the Plaintiff, or is not liable for the full amount claimed)

- 1 *On Saturday, 19th December 2009 the Plaintiff brought in a black suit to be dry cleaned.*
- 2 *However, the suit was obviously not new and already had the faded spots on the trouser leg and on the front of the jacket. This was pointed out to the Plaintiff by the clerk and he signed a release form acknowledging the faded spots on the suit.*
- 3 *As the suit that was left to be cleaned by the Plaintiff was not new and did have faded spots, the Defendant denies that the Plaintiff is owed any money for the damage to his suit that was already there.*

COUNTERCLAIM

- 4 *When shown the signed release mentioned above, the Plaintiff ran out of the Defendant's premises with his black suit.*
- 5 *The Plaintiff failed to pay the Defendant's fee for dry cleaning his black suit.*

AND the Defendant claims:

- (1) *The sum of C/\$15.00.*
- (2) *Costs.*

Peter Abanks for ABC Dry Cleaners Ltd.

Defendant's Signature

REMINDER - This form must be taken or sent to the Court Office, PO Box 495, Grand Cayman KY1-1106 Cayman Islands within 14 days of receipt otherwise a default Judgment may be entered against you.

CHAPTER 3 Pre-trial Procedure

3.1 What happens after the Plaintiff has been served?

The Defendant has several choices when served with the Plaintiff:

(a) Agree to pay the whole or part of the claim

In which case, the Defendant should contact you to arrange for payment of the sum claimed and the interest on that sum. You can negotiate a payment schedule once you are satisfied with payment and you should file for withdrawal and discontinuance of the action, which is dealt with at 3.2 below.

(b) Agree to pay but ask for more time in which to do so

(c) Contest the claim

In which case, the Defendant must file their Acknowledgment of Service within 14 days of being served the Plaintiff, inclusive of the day of service, with full particulars of their defence. You may then apply to the Court to have a trial date set, which is dealt with at 3.4 below.

(d) Contest the claim and file a counterclaim

As with (c), only that the full particulars of the Defendant's counterclaim should be included in the Acknowledgment of Service, or in a separate form filed on the same day as the Acknowledgment of Service.²⁹

You should treat any counterclaim seriously as, although related to your action, it is considered a separate action against you. Failure on your part to file a defence to the counterclaim within 14 days of the date you may result in a default judgment against you. The defence should be structured in a similar fashion to your particulars of claim. You should ensure that your defence meets every claim made in the counterclaim, whether accepted or denied. See sample form 2 for an example.

(e) Ignore the claim

Should the Defendant fail to file their Acknowledgment of Service within 14 days, you may apply for a default judgment against the Defendant. Default Judgments are dealt with at 3.3 below.

Once you have served the Plaintiff, you should return to the Civil Registry to see if the Acknowledgment of Service has been filed by the Defendant, especially so if you suspect the Defendant may file a counterclaim against you. At the very least, you should check with the Civil Registry on the 14th day after the Plaintiff was served.

3.2 Withdrawal and discontinuance³⁰

If, for any reason, you wish to withdraw parts of your claim (withdrawal) or stop the action from continuing altogether (discontinuance) you may do so. However, depending on the stage of proceedings, you may need leave (permission) from the Court to do so.

(a) Without leave

If you wish to discontinue your action or withdraw all or part of your claim, you may do so without the Court's leave (i.e. you won't need the Court's permission) at any time within the 14 days after the Particulars of the Defence has been served on you, whether it be included with the Acknowledgment of Service or filed separately.

This may be accomplished by serving a notice on the Defendant, which may be in the form of a letter. The notice should include a consent to withdrawal or consent to discontinuance (see sample form 4 and 5) which can then be filed with the Court at the Civil Registry. Equally, the Defendant may withdraw a Counterclaim within 14 days after receipt of the Defence to Counterclaim.³¹

(b) With leave

If you wish to withdraw all or part of your claim or discontinue your claim and the 14 day period has expired, then you will need to apply to the Court for leave. This may be applied for by way of a 'summons'³² and will require a separate hearing before the Court. Such applications are beyond the scope of this Handbook.

Subject to the wishes of the Court, if you decide to withdraw a claim, or discontinue your action because of, for example, needing more information or evidence, the other party may not use this as a Defence³³ should you wish to bring a new claim. However, the party who either discontinues the action or withdraws a particular claim against another party may be ordered to pay the other party's costs of doing so. These costs must be paid if the action is either continued or brought again later.³⁴

3.3 Default Judgment

If the Defendant fails to file an Acknowledgment of Service within 14 days from when the Plaintiff was served, you can make an application to the Chief Clerk of the Courts for a 'default judgment'. If your application is successful, this means the Magistrate may enter a judgment without the need for the matter to go to trial and order that the Defendant pay you the money you have sued for. This is done by using SCR Form No.3 (see sample form 6). With a default judgment, there is no need to attend Court as the Court will decide the case in your favour as an administrative process.

As well as your SCR Form No. 3 application, you will also need to include the following:

- (a) Three copies³⁵ of a draft of your default judgment. You will need to draft this yourself, although there is a template form to follow. The form you use will be determined by the type of debt:
 - (i) Where the debt is known

If your claim is for a certain amount of money or the amount can be calculated, for example from the terms of a contract, then SCR Form No.4 (see sample form 7) is to be used.
 - (ii) Where the debt is to be determined

If you are claiming for an amount which must be investigated or assessed by the Court, for example 'damages,' then SCR Form No.5 is to be used.

With both SCR Forms 6 and 7, leave the filing date at the bottom blank. It will be filled in by the Magistrate or Chief Clerk, as appropriate.

(b) Proof of Service

You must be able to prove to the Court that the Defendant has failed to file their Acknowledgment of Service within the allotted time. Service of the Plaintiff can be proven in a number of ways:³⁶

(i) By filing a copy of the Plaintiff

This is relatively straightforward. Before serving the Plaintiff, copy the first page. When serving on the Defendant, have them sign the copy and note the date, time and place the Plaintiff was served on them.

(ii) By filing an Affidavit of Service

If you file an Affidavit of Service yourself, you will need to have it notarised by a Notary Public. With affidavits, you should refer to yourself in the first person,³⁷ that is, as 'I' rather than 'the Plaintiff' (see sample form 8). If a bailiff served the Plaintiff for you, he or she will have completed an Affidavit of Service as part of their duties.

(iii) The Acknowledgment of Service filed by the Defendant.

This is of course reliant upon the Defendant correctly filing the Acknowledgment of Service.³⁸

If there is more than one Defendant, the Plaintiff may apply for a Default Judgment against each Defendant who did not file the Acknowledgment of Service and proceed with the action against those Defendants who did.³⁹

Take note that the Defendant may also apply to set aside or vary the Default Judgment.⁴⁰ If the Defendant is successful, this means that the Default Judgment may no longer be applicable and you will have to apply to set a trial date. Such applications are beyond the scope of this Handbook.

3.4 Setting a trial date

Once the Defendant has indicated that he intends to defend the claim, the Plaintiff may then apply to the Court to have a trial date set. This is done by using SCR Form No. 6 (see sample form 9). The Court completes and serves notice of the trial (the lower half of the form) on each Defendant who has filed an Acknowledgment of Service and listed the particulars of his defence.⁴¹

3.5 Preparing for trial

As Plaintiff, the burden is on you to prepare your claim before trial and to bring any evidence, including witnesses, which will help you prove your case and you must collect the necessary evidence to do so. This may include such things as books, papers, documents, receipts, cancelled checks, photographs—anything that is directly relevant to your case. Photographs can be very helpful if you are unable to bring the actual item to court. Make sure that they are clear and bear the date they were taken. If you intend to bring documents, photographs etc., as evidence, you must bring copies to the trial for the Court and for each Defendant.⁴²

Many people are nervous about speaking in public. In Court, few (even lawyers and Magistrates) can remember everything they need to say without notes. So before you go to Court you should make notes of the facts that are important for your case. They do not have to be and should not be complicated. Think about the simplest, clearest way to explain your case. Remember, the Magistrate knows nothing about your case and must make the decision solely on the basis of the evidence presented at trial. You need to decide on the best way to present your evidence. A good approach is to put your evidence in the order that you need for presentation to the Court.

3.6 Witnesses

If there are witnesses who have direct and personal knowledge of your case, let them know the date and time of your trial and ask them if they are willing to appear on your behalf. If they are unwilling to do so, you may make an application to the Court to summon that person to appear in court and to give evidence or to produce documents in the matter by way of 'subpoena.' Subpoena applications are beyond the scope of this Handbook.

3.7 Settlement⁴³

If you and the Defendant are able to reach a settlement of the dispute before trial, but after the Plaintiff has been filed, you should record your agreement and notify the Court. The terms of the settlement do not have to be exactly as those you claimed in your Plaintiff. There are several ways of doing this:

(a) Payment into Court

You can direct that the Defendant pay the settlement money to the Court directly,⁴⁴ which you can then direct to be paid to you. Settlement in this way is useful as you will not have to deal with the Defendant directly and there are prescribed forms available for your use.

(b) Notice of Payment

Using GCR Form No. 14, the Defendant is required to give you notice of payment (see sample form 10). You must let the Defendant know, in writing, that you received the notice within three (3) days of receiving it. The amount of money paid will automatically be construed to include any interest⁴⁵ claims as well, so you should check to ensure that all of the money agreed upon has been paid. If the Defendant hasn't paid all of the money agreed upon, you should let them know, in which case, they will send you a separate notice of payment of the additional amount, for which you must also provide written receipt within three (3) days of their notice.

(c) Acceptance of Payment

If you are happy that the Defendant has paid all of the settlement money agreed upon between you, you must give notice of acceptance of that sum, either within 21 days of the date of notice of your receipt, or, before the trial date, whichever is sooner.⁴⁶ To do so, use GCR Form No. 15 (see sample form 11).

Once you accept payment of the money into the Court, your action is 'stayed,' that is, it will not proceed to trial and the parties can treat the matter as concluded.

3.8 Payment out of Court

Once you have accepted the sum paid by the Defendant, you are entitled to that sum in satisfaction of your claim.⁴⁷

3.9 Consent Orders

A consent order is an order which informs the Court that you and the Defendant have agreed to a certain action, usually to stop the action from progressing any further or 'stay the proceedings.' It is recommended that you include the agreed settlement amount in the Consent Order (see sample form 12). Failure to file the Consent Order with the Civil Registry in time could have an unwanted effect on it, so it is important that you do so as soon as possible before trial so that the Court knows that the proceedings are being stayed and there is no reason to continue.

A Consent Order does not necessarily end the proceedings. However if, for example, the Defendant did not pay the agreed settlement within the time specified in the Consent Order, you are entitled to take enforcement proceedings against the Defendant. Enforcement proceedings are dealt with generally in Chapter 5 but it is strongly advised that you seek the assistance of an attorney before doing so.

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC _____ OF 20__

BETWEEN:

JOHN SMITH

Plaintiff

AND:

ABC DRY CLEANERS LTD.

Defendant

DEFENCE TO COUNTERCLAIM

- 1 *The Plaintiff accepts that he left the Defendant's premises with his black suit.*
- 2 *The Plaintiff denies owing the Defendant any fees for cleaning his black suit because when the Plaintiff left the Defendant's premises, the Plaintiff threw the Defendant's C/\$15.00 invoice in their garbage can.*

DATED this 20th day of January 2010

John Smith

Plaintiff's Signature

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC _____ OF 20__

BETWEEN:

JOHN SMITH

Plaintiff

AND:

ABC DRY CLEANERS LTD.

Defendant

CONSENT TO WITHDRAWAL OF COUNTERCLAIM

We, the parties to this action, consent to the withdrawal of the Defendant's Counterclaim.

SIGNED:

John Smith

Plaintiff

DATED this *25th* day of *January* 2010

SIGNED:

Peter Abanks for ABC Dry Cleaners Ltd.

Defendant

DATED this *25th* day of *January* 2010

[Sample Form No. 5 – Consent to discontinue]

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC _____ OF 20__

BETWEEN:

JOHN SMITH

Plaintiff

AND:

ABC DRY CLEANERS LTD.

Defendant

CONSENT TO DISCONTINUANCE

We, the parties to this action, consent to the discontinuance of this cause.

SIGNED:

John Smith

Plaintiff

DATED this *25th* day of *January* 2010

SIGNED:

Peter Abanks for ABC Dry Cleaners Ltd.

Defendant

DATED this *25th* day of *January* 2010

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC _____ OF 20__

BETWEEN:

JOHN SMITH

Plaintiff

AND:

ABC DRY CLEANERS LTD.

Defendant

APPLICATION FOR DEFAULT JUDGMENT

The Plaintiff hereby applies to the Chief Clerk pursuant to SCR rule 7(1) for final Judgment / ~~interlocutory Judgment~~ with damages to be assessed **(delete as applicable)** against the Defendant in the form and for the amounts specified in the draft annexed hereto.

The Plaintiff certifies that:

- 1 The Plaintiff was served on the Defendant as evidenced by the ~~Acknowledgment of Service /~~ endorsement on the copy plaint / ~~affidavit of service~~ filed herewith **(delete as applicable)**
- 2 The Defendant has not filed an Acknowledgment of Service or has filed one which does not indicate any intention to defend or does not contain full particulars of his defence.

AND the Plaintiff hereby applies for the Court file to be closed pending the determination of this application.

DATED this *20th* day of *January* 20*10*

John Smith

Plaintiff's Signature

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC _____ OF 20__

BETWEEN:

JOHN SMITH

Plaintiff

AND:

ABC DRY CLEANERS LTD.

Defendant

DEFAULT JUDGMENT

UPON the Plaintiff's application for default Judgment dated the *20th* day of *January*, 2010.

AND UPON being satisfied that the Plaint was duly served.

AND no notice of intention to defend and/or no particulars of defence having been filed prior to the date of the Plaintiff's application, it is this day adjudged that the Defendant do pay to the Plaintiff the principal sum of \$3,500.00, interest thereon of \$5.27 and fixed costs of \$175.00.

DATED this *20th* day of *January*, 2010.

FILED this ____ day of _____, 20__.

Magistrate

[Sample Form No. 8 – Affidavit of Service]

Plaintiff
J. Smith
Affidavit of Service
20 January 2010

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC _____ OF 20__

BETWEEN:

JOHN SMITH

Plaintiff

AND:

ABC DRY CLEANERS LTD.

Defendant

AFFIDAVIT OF SERVICE

I, John Smith of George Town, Grand Cayman hereby affirm and say:

- 1 *On the 4th of January 2010, at 4:30pm, I attended the registered office of ABC Dry Cleaners Ltd., 18 Runners Road, George Town,*
- 2 *A Mr. Peter Abanks identified himself to me as the director of ABC Dry Cleaners Ltd.*
- 3 *I handed a copy of the Plaint in this action on Mr. Peter Abanks.*

John Smith

Sworn before me at *George Town* this *20th* day of *January*, 2010

Notary Public

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC _____ OF 20__

BETWEEN:

JOHN SMITH

Plaintiff

AND:

ABC DRY CLEANERS LTD.

Defendant

APPLICATION

The Plaintiff hereby applies to the Chief Clerk to fix a date for the trial of the action and to serve notice of the trial date upon the parties.

Dated this *20th* day of *January*, 2010

John Smith

Plaintiff's Signature

NOTICE OF TRIAL DATE

TAKE NOTICE that the trial of this action will take place before the Magistrate at the Law Courts, George Town, Grand Cayman on the ____ day of _____, 20__ at ____ am/pm.

AND FURTHER TAKE NOTICE that if the Plaintiff fails to attend the trial the plaintiff may be struck out. If the Defendant fails to attend the Magistrate may proceed with the trial and Judgment may be given in the Defendant's absence.

AND FURTHER TAKE NOTICE that both parties are required to bring with them at least three copies of all the documents which they wish to give in evidence.

DATED this ____ day of _____, 20__

Chief Clerk

[Sample Form No. 10 – Notice of Payment into Court]

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC_____ OF 20__

BETWEEN:

JOHN SMITH

Plaintiff

AND:

ABC DRY CLEANERS LTD.

Defendant

NOTICE OF PAYMENT INTO COURT

TAKE NOTICE that the Defendant, *ABC Dry Cleaners Ltd.*, has paid \$3,500.00 into Court.

The said \$3,500.00 is in satisfaction of the following causes of action in respect of which the Plaintiff claims, namely *Cause No. SC []*.

DATED this *28th* day of *January* 2010

Peter Abanks for ABC Dry Cleaners Ltd.

Signature of Defendant

TO: The Chief Clerk

AND TO: *John Smith*
PO Box 1234
Grand Cayman KY1-1999
Cayman Islands

This Notice was filed by *ABC Dry Cleaners Ltd.* whose address for service is *PO Box 4321, Grand Cayman KY1-1888, Cayman Islands.*

[Sample Form No. 11 – Notice of acceptance of money paid into Court]

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC_____ OF 20__

BETWEEN:

JOHN SMITH

Plaintiff

AND:

ABC DRY CLEANERS LTD.

Defendant

NOTICE OF ACCEPTANCE OF MONEY PAID INTO COURT

TAKE NOTICE that the Plaintiff accepts the sum of \$3,500.00 paid by the Defendant, *ABC Dry Cleaners Ltd.*, in satisfaction of the cause of action in respect of which it was paid into Court and in respect of which the Plaintiff claims against that Defendant and abandons the other causes of action in respect of which he claims in this action.

DATED this *1st* day of *February* 2010

John Smith

Signature of Plaintiff

TO: The Chief Clerk

AND TO: *ABC Dry Cleaners Ltd.*
PO Box 4321
Grand Cayman KY1-8888
Cayman Islands

This Notice was filed by *John Smith* whose address for service is *PO Box 1234, Grand Cayman KY1-9999, Cayman Islands.*

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC _____ OF 20__

BETWEEN:

JOHN SMITH

Plaintiff

AND:

ABC DRY CLEANERS LTD.

Defendant

CONSENT ORDER

BY CONSENT

IT IS HEREBY ORDERED *that within 14 days of this Order the Defendant shall pay to the Plaintiff the sum of \$3,500.00 in full and final settlement of all claims which the Plaintiff has or may have against the Defendant arising from these proceedings.*

AND IT IS FURTHER ORDERED *that the record be withdrawn*

AND IT IS FURTHER ORDERED *that Defendant shall pay the Plaintiff's fixed costs of \$175.00*

DATED this *1st* day of *February*, 2010.

FILED this ____ day of _____, 20__.

Magistrate

Approved as to form and content:

John Smith

Plaintiff

Approved as to form and content:

Peter Abanks for ABC Dry Cleaners Ltd.

Defendant

CHAPTER 4 Trial

4.1 The Courtroom

All civil trials in Summary Court take place in "open court".⁴⁸ This means that the Court is open to the public and people are free to come and go as they please. This can be distracting. If persons are being loud or causing interruption, the magistrate may deal with them. Do not attempt to deal with them yourself! Should any person wilfully misbehave, interrupt or insult the Court, the Magistrate or anyone else, the Magistrate may instruct that the person be detained, fined or even imprisoned.⁴⁹

4.2 The Magistrate

Magistrates oversee the Summary Court. Occasionally, a Justice of the Peace (**JP**) may preside, in which case there will be two JPs. Magistrates and JPs have broad powers to conduct Court affairs as they see fit.

4.3 Attendance

Be on time. Better yet, be early. If you are not present when your case is called, it may be dismissed, postponed to another day, or decided without you.⁵⁰ If the Defendant has filed a Counterclaim (see 2.8), the Court may proceed with the trial of the counterclaim without you.⁵¹ If the Defendant fails to appear, be ready! You may still be asked to present your case. However, if one of the parties does not appear at the trial and a judgment is passed, that party may apply to have the judgment set aside. If you are the Plaintiff you should attend all Court sessions unless specifically excused by the Magistrate.

4.4 Courtroom etiquette

You will normally be seated when the Magistrate enters the Courtroom. The court bailiff will instruct everyone to stand. It is customary that the parties bow when a magistrate enters or leaves the Courtroom. On reaching the bench, the Magistrate will bow again to the parties, who will then return the Magistrate's bow. If in doubt, watch the bailiff and mimic his actions.

When speaking to either a Magistrate or JP, you should address that person 'Sir or 'Ma'am.' For the purposes of this Handbook it is assumed you will be before a Magistrate who may also be addressed as 'Your Honour.'

This and other mannerisms of the Court may seem strange, but they result from centuries of etiquette and protocol. It is important to remember that the Courtroom is a serious place so you should respect the Court and observe its traditions, regardless.

4.5 Presenting your case

(a) Opening

As Plaintiff, you will present evidence first. Try and speak as clearly as possible. The Magistrate or a clerk appointed for that purpose, will take notes of everything said to ensure a proper record is maintained.⁵² If the Magistrate asks you a question, answer it.

(b) Your witnesses

You may testify on your own behalf and also by having other witnesses, including the Defendant, testify. You need the best answers to support your case, so think of the questions you'd like to ask beforehand. After the completion of each of your witness's

testimony, the Defendant will have an opportunity to cross-examine by asking them questions. Listen to what the witnesses say. If they have said anything in their replies that is unclear or unhelpful to your case, give them a chance to better explain themselves.

(c) Oath

The magistrate also has the discretion to summon any person on the island to attend Court to give testimony or evidence on behalf of either party and may examine such a witness as he/she sees fit. If that person is not in attendance, the Magistrate will adjourn the trial until such date, as required.

(d) Evidence

You may also show the Court exhibits (physical evidence), such as photographs, receipts, contracts, repair bills and estimates, written leases, or other items to support your claim. If you wish to present documents to the Magistrate as evidence, you must have copies of the exhibits for the Magistrate and each Defendant.

(e) The Defence

After you have presented any witnesses or evidence, the Defendant may likewise present evidence by testifying on his or her own behalf, presenting witnesses to testify, and presenting exhibits. If the Defendant calls witnesses to testify, listen quietly and if necessary, take notes. After the completion of each witness's testimony, you will have an opportunity to cross-examine.

(f) The reply

After the Defendant has presented evidence, you may present additional evidence, but only to answer the Defendant's case.

(g) Final arguments

'Final arguments' is when you summarise your case. Include all the important points of your arguments and any counterarguments to the opposing arguments.

4.6 Judgment

At the end of the trial, the Magistrate will need time to consider the arguments and will usually 'adjourn' the trial until a later date. Should this happen, the Magistrate will tell you the new date upon which you should return. In the Judgment, the Magistrate will usually state the facts of the claim and who won. Within the Judgment, the Magistrate may then make several 'Orders' – for example, with regard to the payment of money, the award of costs, and/or interest to the winning party.

Whether you win or lose, make a careful note of what the Magistrate says. Unless the Magistrate directs otherwise, the winning party⁵³ will need to 'draw up' the Judgment into an appropriate document.⁵⁴ See Chapter 5 for more on Judgments.

(a) Costs

Costs may be awarded to you and the Magistrate is free to assess the amount.⁵⁵ However, such award will not exceed:

- (i) CI\$500 where the Judgment is between CI\$ 0 and \$2,000;

(ii) CI\$1,000 where the Judgment is between CI\$ 2,000 and \$10,000; or

(iii) CI\$2,000 where the Judgment is between CI\$ 10,000 and \$20,000.⁵⁶

(b) Interest

Interest may or may not be awarded to you, whether pleaded or not. No additional interest will be awarded for a period in which interest is already accruing.⁵⁷

(c) Payment of money into Court

In his/her Judgment, the Magistrate may also order that money be 'lodged into Court.' That means that money should be paid to the Court through the Judicial Accounts Department, to be held on behalf of whomever the money is due.⁵⁸ See Chapter 5 for more on lodging money with the Court.

4.7 Appeal

Both you and the Defendant have the right to appeal the Magistrate's decision.⁵⁹ If you won, the Defendant may ask for a 'stay of execution pending appeal'. That means that you cannot collect all or part of the money awarded to you in the Judgment until your case is re-heard in the Grand Court.⁶⁰ Listen carefully! If the Magistrate grants the Defendant's request for a stay of execution, then the terms of such stay must be recorded in the written Judgment. See Chapter 5 for more on Judgments.

If you lost and intend to appeal the Magistrate's Judgment, you must notify the Court of such intention. Appeals are discussed in further detail in Chapter 6.

CHAPTER 5 Post-trial

5.1 Success?

If you have won your small claims case and the Magistrate has made an order within the Judgment that the Defendant owes you money, the Defendant should pay you. If the Defendant (the judgment debtor) refuses to pay you (the judgment creditor) then you may need the assistance of the Court to enforce the Judgment. Although several enforcement processes are available in the Summary Court, they can be somewhat challenging. What follows is an overview of enforcement actions.

Should you find yourself in this position it is strongly recommended that you seek assistance from an attorney.

5.2 Drawing up the Judgment

Before you take any steps to enforce a Judgment, it must first be 'drawn up' (see GCR Form no.25)⁶¹ and served on the losing party.⁶² When doing so, certain information⁶³ must be included:

- (a) Name of the Magistrate.
- (b) The date of the Judgment (the date the Magistrate pronounced the Judgment in Court.⁶⁴)
- (c) The date the Judgment was filed. (It will be completed by either the Magistrate or a Court official⁶⁵).
- (d) Whether the Judgment was made in respect of a Plaintiff (or Counterclaim).
- (e) The identity of the parties who appeared (or did not appear) before the Court.
- (f) The name and address of the party who presents the Judgment for filing.
- (g) Where the Magistrate has granted a stay of execution of the Judgment pending an appeal, the terms of such stay (see 4.7 and Chapter 6 for more on Appeals).

See sample form no. 11 for an example. You should file four (4) copies of the Judgment with the Civil Registry.⁶⁶ Two will be kept, and two returned (one for you and one for the Defendant) after the Judgment has been sealed.

5.3 Service of the Judgment

Once received from the Court, the procedure for service of the Judgment on the Defendant is the same as required for service of the Plaintiff. See Chapter 2 for more on service of documents.

5.4 Determining assets

If the judgment debtor claims an inability to pay the Judgment amount and you are unable to verify whether this is true, you can apply to the Court to have that person's financial affairs examined.⁶⁷ This is done by way of an application to the Court (see GCR Form No 30A in Appendix C).

The application must be supported by an affidavit which:

- (a) Identifies the Judgment stating the amount unpaid at the time of the application;
- (b) States the date and place at which the Judgment was served upon the defendant;
- (c) Gives particulars of the documents to be produced and reasons for believing that the Defendant has such documents in his/her possession; and
- (d) Supplies particulars of the relationship the person to be examined has with the company, such as its director (where the judgment debtor is, for example, a company).

You must also provide a copy of the Order for Examination (see GCR Form 30 in Appendix C). The Chief Clerk will determine whether to approve your application 'on the papers,' that is, without hearing from you.⁶⁸

If the Chief Clerk grants your application, the sealed Order will be returned to you so that it may be served personally on the Defendant or person who is to be examined.⁶⁹ The Order will compel the Defendant to attend Court in order to be questioned by the Magistrate about their financial affairs. You may also attend and ask the judgment debtor questions to assist with your enforcement action.

5.5 Types of enforcement⁷⁰

There are a number of ways to enforce a Judgment for payment of money. These include:

- (a) a writ of *fiери facias*;
- (b) an Attachment of Earnings Order
- (c) a Garnishee Order; and
- (d) a Charging Order.

5.6 Writ of *Fieri Facias*

A writ of *fiери facias* is authorisation for the Court Bailiff to seize and sell the goods of a judgment debtor in order to satisfy the Judgment Debt, the cost of the Court proceedings and the costs of enforcement. Before a writ of *fiери facias* can be made, however, you must produce the following to the Court:

- (a) a 'praecipe' or written request to the Court to issue the writ;
- (b) two (2) copies of the writ of *fiери facias* (GCR form no see Appendix C);
- (c) the Judgment to be enforced.

Once the requirements are satisfied, the writ of *fiери facias* will be sealed by the Chief Clerk and the Bailiff will then have the authority to go to the judgment debtor's residential or business premises to seize and subsequently sell that person's property and to pay from the proceeds of the sale, after having deducted the Bailiff's fees and other expenses, the ordered sum to you.

A writ of *fiери facias* is valid for 12 months from the date of issue and may be renewed in 12 month periods by application thereafter.

5.7 Attachment of Earnings Order⁷¹

If you have received Judgment in your favour for an amount over CI\$500.00, the simplest way to enforce the order of the Court may be to apply for an Attachment of Earnings Order. This is an order that the Court can make whereby the debtor's employer is compelled to deduct regular payments from the debtor's salary in order to satisfy the debt due to you. In order to do so, however, you must be able to prove that your debtor has failed to make one or more payments.⁷²

The application requirements for the issue of an Attachment of Earnings Order are as follows:

- (a) An application must be made using GCR Form No. 35 (see Appendix C).
- (b) The application must be supported by an affidavit:
 - (i) identifying the judgment or order in respect of which the attachment of earnings order is sought;
 - (ii) verifying the amount due under the judgment or order; and
 - (iii) stating whether a writ of execution has been issued to enforce it.
- (c) A Form of Reply using GCR Form 36 (see Appendix C) as to the debtor's means shall be served on the debtor. See Chapter 2 for more on service of documents.

The type of documents which will help you with this type of order include the debtor's pay stubs, sources of any other income, bank statements and information relevant to the debtor's debts.

Once the debtor has been served, they have until eight (8) days after the date of service to file a statement of means on the form provided. If, during this eight-day period, the debtor pays the debt, they will no longer be under an obligation to file a statement of means and accordingly, you must inform the Chief Clerk that the debt has been satisfied.

Once received, the Chief Clerk will send a copy of the completed statement of means to you. The Court may also, at any time, send to any employer of the debtor a notice in GCR Form 37 (see Appendix C) requesting that the employer supply the Court with a statement of the debtor's earnings and anticipated earnings.

Once the Court has received the debtor's reply the Magistrate may then, if there is sufficient information, make an Attachment of Earnings order in GCR Form 38 (see Appendix C) which states the rate and period of deduction of earnings. The Court can do this independently, without your further involvement. A copy of the order will be sent to you, the debtor and to the debtor's employer.

If the Magistrate determines that additional information is needed in order to make a decision, a date will be fixed for hearing the matter. This is done on GCR Form 40 (see Appendix C). If the Judgment Creditor does not appear at the hearing he may request, in writing, that the Court proceed in his absence and hear the application and make an Order.

Within 14 days of the Magistrate issuing an Attachment of Earnings Order, either you or the judgment debtor may, on giving reasons, make an application for the order to be reconsidered. On receipt of the application (in whatever form) the Chief Clerk will fix a date for the hearing of the application and give notice of the hearing in GCR Form 39 (see Appendix C) to you and to the judgment debtor.

On hearing the application, the Magistrate may confirm the Order or set it aside and make a new Order as he/she sees fit.

5.8 Garnishee order

A Garnishee Order is a court order which instructs a third party ('the Garnishee') who owes money to a judgment debtor to instead pay the money to you. A typical example of such would be the debtor's bank, where the debtor has a positive account. You will need to know the debtor's bank account number in such a case.

To begin with, you must apply to the Court for a 'Garnishee Order nisi'. The application is made *ex-parte* (i.e. there is no need to notify the judgment debtor that this application is being made) and must be supported by an affidavit which identifies:⁷³

- (a) The name and address of the debtor;
- (b) The Judgment you wish to enforce and the amount of the Judgment which remains outstanding;
- (c) Whether, to the best of your information or belief:
 - (i) the Garnishee is currently within the Cayman Islands;
 - (ii) the Garnishee owes the debtor money; and
 - (iii) the source of your information or the grounds for your belief.

For example, you may know from a dishonoured ('bounced') cheque that the debtor has an account at a local bank and might cite such cheque as a source of information, but it would not prove the bank owes the debtor money.

If satisfied, the Court will make an order showing the debt and ordering the garnishee to appear before the Court should that person wish to give an explanation as to why the debt to the judgment creditor should not be paid.

The Court's order will set a hearing date to consider the matter further. The order must be personally served on:

- (a) the Garnishee at least 14 days before the hearing date; and
- (b) on the judgment debtor at least seven (7) days after the order has been served on the garnishee and at least seven (7) days before the hearing date.

Personal service of a document is effected by leaving a copy of the document with the person served. See Chapter 2 for more on service of documents. Once the Court order is served on the Garnishee, the Garnishee is bound by the Court to pay the debt to you.

If the Garnishee disputes liability, the Court may direct that the issue be tried in any manner that it sees fit. If not, the Court will make the Order 'absolute' (or final) and will grant an Order in the form of GCR Form 32 (see Appendix C).

5.9 Charging Order

A Charging Order is an order by the Court placing a 'charge' on the judgment debtor's property. This means that you gain a right of payment from the proceeds of such property, should it be sold. Charging orders are typically used over land.

Similar to garnishee orders, the application for a charging order must be made *ex-parte* (by only one of the parties) to the Court and must be supported by an affidavit which:

- (a) identifies the Judgment or order to be enforced;⁷⁴
- (b) states the amount unpaid at the date of the application;
- (c) gives the name of the judgment debtor and of any other creditor of that person whom the applicant can identify;
- (d) gives full particulars of the subject matter of the intended charge; and
- (e) verifies that the subject of the intended charge is owned beneficially by the judgment debtor.

The affidavit may contain statements of information or belief with the source and grounds of such information and belief.⁷⁵ If the subject of the charge is land owned by the judgment debtor, then the land registry details⁷⁶ should be included in the particulars and an uncertified copy of the land registry extract should be exhibited.⁷⁷

If the Court decides to make the order it will be an order 'to show cause'. A copy of the charging order, along with a copy of the supporting affidavit, must then be served on the judgment debtor. The Court may direct that copies of the order and affidavit be served on other parties, as appropriate.⁷⁸ The order and affidavit must be served at least seven (7) days before the time for the hearing date specified on the order.

At the hearing, the Court may either make the order 'absolute' or final as shown in GCR Form 34 (see Appendix C), with or without amendments, or discharge it. If it is made absolute you can then enforce the charge. The bailiff is authorized to seize and sell the property by a writ of *fiери facias* described above. However where the property to be sold is land, Form RL10 of the Registered Land Rules (2003 Revision) (see Appendix D) must be completed, signed by the Magistrate and filed at the Land Registry at the Lands and Survey Department.

Property that may be charged is any interest held by the judgment debtor beneficially in:

- (a) land;
- (b) securities including CI Government stock, stock of any body incorporated within the Islands, shares in any mutual fund;
- (c) or any funds in Court; and
- (d) under any trust and certain other trust interests.

In deciding whether to make a charging order the Court will take the following factors into consideration:

- (i) the personal circumstance of the debtor; and

- (ii) whether any other creditor of the debtor would be likely to be unduly prejudiced by the making of the order.

If you obtain a charging order absolute on the judgment debtor's land, you should also present an order on the Form RL9A for the Magistrate's signature and must register the order in the encumbrances section of the land register. This can be done at the Lands & Survey Department.

5.10 Further means of enforcement

The Court has many ways in which it can ensure that parties to an action comply with its directions. Failure to follow the Court's direction may find the offending party in 'contempt of Court' which can result in severe consequences as discussed below. These means of enforcement are therefore serious and are not granted lightly.

(a) Writ of Sequestration

Writs of sequestration are used where a judgment or order of the Court requires a party to either do and act within a specified period of time, or to refrain from doing an act. They are rarely used and even when so, they are unlikely to be used to enforce judgment debts or the delivery of land or goods.

A writ of sequestration permits specifically appointed 'sequestrators' to enter the judgment debtor's land and seize the Defendant's personal property and to hold it until the order of the Court against them has been fulfilled. Any personal property may be seized, including the exempted possessions listed above in a writ of *fiery facias* and the sequestrators may also collect and hold any rent payable on any real estate owned by the judgment debtor. However, in order to sell the Defendant's personal property, or to retain any monies collected, the judgment creditor must obtain a further order from the Grand Court.

In order to obtain a writ of sequestration an application must be made under a 'Notice of Motion.' This Notice must include a concise statement of the nature of the claim made or the relief or remedy required. It must also be accompanied by an affidavit in support of the application and must be served personally on the debtor. If the Court thinks it is just to do so it may dispense with service of the Notice of Motion.

The Court will not grant a writ of sequestration unless it is satisfied beyond a reasonable doubt that a contempt has been committed. Once the writ of sequestration is issued it binds the Defendant's personal property. A writ of sequestration may be issued against an individual or company.

(b) Order of Committal

An order of committal is where the Court will direct that a person in contempt of Court be seized and taken to prison. The Court may order so of its own accord, without your formal application.⁷⁹ An order for committal may also be accompanied by a writ of sequestration⁸⁰ (see above).

The Court may commit a person to prison for a term not exceeding six (6) weeks if it is satisfied that the judgment debtor:

- (i) has not paid the sum due to you in the Judgment;
- (ii) has the money to pay you, either in full, or in instalments; and
- (iii) is wilfully refusing or neglecting to pay you.

5.11 Affidavits

You will notice that nearly all of the types of enforcement require the use of affidavits. Affidavits are written, sworn statements of evidence. You must indicate which of your statements in the affidavit are within your personal knowledge, which are within your information and belief, as well as the source of such information or belief.

Affidavits are beyond the scope of this Handbook and it is recommended that you seek professional assistance to draft one for your enforcement purposes.

5.12 Time for enforcing your Judgment

An order of the Court is enforceable within 12 years of the date of the delivery of the order.⁸¹ It cannot be enforced after that period.

5.13 Points to note for Judgment Debtors

If Judgment has been entered against you, unless you wish to appeal, you should obey the orders of the Court. Failure to do so can have serious consequences, such as imprisonment.

In some cases, the Magistrate may order that the money be paid or 'lodged' into Court. In such case, payment is usually made into the Court's General Account⁸² and accompanied by a 'Lodgement Schedule'⁸³ as prescribed in GCR form no. 102.⁸⁴

If you are unable to pay the money or there are special circumstances which make it inexpedient to do so, you may ask the Court to 'stay' the execution of the Judgment, that is, for the Court to put the Judgment on hold. This may be done either at the time Judgment is delivered to you in Court, or later, by way of summons. If you choose to make such an application at a later date, you must, however, include a supporting affidavit which discloses your income, the type and value of property you hold such as land, as well as your debts and liabilities.

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC _____ OF 20__

*Before the Honourable Magistrate Bodden*⁸⁵

BETWEEN:

JOHN SMITH

Plaintiff

AND:

ABC DRY CLEANERS LTD.

Defendant

JUDGMENT

THIS ACTION having been tried before the Honourable Magistrate *Bodden*, without a jury, at the Law Courts, George Town, on *8 February 2010*.

UPON hearing the Plaintiff in person.

AND UPON *hearing Peter Abanks for the Defendant, in person.*⁸⁶

IT IS ORDERED AND ADJUDGED that:

4 *The Defendant do pay the Plaintiff the principal sum of \$3,500.00 together with interest of \$5.27.*

5 *The Defendant do pay the Plaintiff's fixed costs of \$175.00.*

DATED this *10th* day of *February*, 2010.

FILED this ____ day of _____, 20__.

Magistrate of the Summary Court

*THIS JUDGMENT was filed by John Smith, whose address for service is PO Box 1234, Grand Cayman, KY1-9999, Cayman Islands.*⁸⁷

CHAPTER 6 Appeal

6.1 Legal assistance

Grand Court proceedings are beyond the scope of this Handbook. What follows below are only the basic administrative steps for an appeal.

It is strongly recommended that you seek the assistance of a lawyer if you are proposing to appeal to the Grand Court.

6.2 Appeals generally

If you are granted the right to an appeal, such appeal will constitute a re-hearing. This means you will be starting from the beginning, as if the Court had never heard any details of your case. You will have to present your evidence, witnesses and plead your case to the Judge.

6.3 Timing

The appeal must be made to the Civil Division of the Grand Court.⁸⁸ This must be filed by filling out a Notice of Appeal (see sample completed Form No. 19) within 14 days from the date on which the order by the Magistrate is filed. You must set out the reasons why you are appealing the decision of the Magistrate.

6.4 Cost⁸⁹

A fee is payable when you file your Notice of Appeal, dependent on the amount of the Judgment you are appealing:

- (a) CI\$150 if the Judgment appealed is CI\$0 to \$4,999.99;
- (b) CI\$300 if the Judgment appealed is CI\$5,000 to \$9,999.99;
- (c) CI\$450 if the Judgment appealed is more than CI\$10,000.

**IN THE GRAND COURT OF THE CAYMAN ISLANDS
ON APPEAL FROM THE SUMMARY COURT**

Grand Court Cause No. _____ of 20____
Cause No. SC _____ of 20____

BETWEEN:

ABC DRY CLEANERS LTD.

Appellant

AND:

JOHN SMITH

Respondent

NOTICE OF APPEAL

TAKE NOTICE that I, *ABC Dry Cleaners Ltd.*, intend to appeal against the order of the Summary Court made on *10th February 2010*.

The grounds of my appeal are as follows-

- 1 *The Magistrate did not consider the photographs we had of the Respondent wearing the same suit in April 2009 which showed the faded spots clearly.*

DATED this *24th* day of *February*, 2010

Peter Abanks for ABC Dry Cleaners Ltd.

Appellant's Signature

APPENDIX A - Small Claims Checklist

- 1 Contact the other party to find out if you can agree on a solution to the problem before you start a lawsuit.
- 2 Figure out the exact amount that you are owed and who the correct Defendant(s) is and their address.
- 3 Complete your Complaint (Form 1) listing the particulars of your claim, including:
 - The amount claimed.
 - The facts (briefly stated) that you feel describe why and how the defendant owes you money. Include dates, times and circumstances of your claim.
- 4 File four (4) copies of your complaint at the Civil Registry at the Courthouse. Remember there is a filing fee of C\$25.00. The Courts Office will only accept cash. No personal cheques are accepted.
- 5 Arrange for the Complaint to be served on the Defendant.
- 6 If the Defendant has been served but fails to file an Acknowledgment of Service, you may apply to the Court for a Default Judgment. You do this by filing Form No. 3.
- 7 If the Defendant files the Acknowledgment of Service and indicates that he intends to defend the claim, you must then apply to the Court, using Form No. 6, for a trial date to be set.
- 8 Witnesses – Requests for witnesses to be made through the Magistrate or at the Civil Registry.
- 9 Prepare your case thoroughly. Make at least three (3) copies of any documents that you intend to use as evidence. These might include the contractual document(s); invoices; samples of items; photographs of defects and quotations showing how much repairs will cost.
- 10 Attend the hearing and present your case.
- 11 Get a copy of the Judgment. Read it carefully to be sure that you understand what the Judge ordered.

APPENDIX B - Summary Court Forms

SCR Form No. 1	Plaint
SCR Form No. 2	Acknowledgment of Service
SCR Form No. 3	Application for Default Judgment
SCR Form No. 4	Default Judgment – Final
SCR Form No. 5	Default Judgment – Interlocutory
SCR Form No. 6	Application to Fix Trial Date
SCR Form No. 7	Summons – General Form
SCR Form No. 8	Notice of Appeal

**No. 1
Plaint**

IN THE SUMMARY COURT AT GEORGE TOWN

Cause No. SC _____ of 20__

BETWEEN:

Plaintiff

AND:

Defendant

To the Defendant

THIS PLAINT has been issued against your by the above-named Plaintiff in respect of the claim set out on the next page.

Within 14 days after service of this Plaint on you, counting the day of service, you must either satisfy the claim or return to the Court Office, PO Box 495GT, George Town, Grand Cayman, the accompanying Acknowledgment of Service form stating therein whether you intend to contest this action. If you intend to defend the action in whole or in part you must set out **full particulars of your defence** in the space provided in the Acknowledgement of Service form.

If you fail to satisfy the claim or fail to return the Acknowledgement of Service form containing full particulars of your defence, the Plaintiff may apply for a **default judgment** without any further notice to you.

Issued this day of 20

See overleaf for particulars of the Plaintiff's claim

PARTICULARS OF CLAIM

(Here set out in numbered paragraphs, the grounds upon which the Plaintiff claims that the Defendant is indebted to him or is liable to pay damages to him).

AND the Plaintiff claims:

- 1 The sum of _____.
- 2 Interest in the sum of \$_____, calculated at the prescribed rate from _____ to date.
- 3 Fixed costs of \$_____, alternatively costs to be assessed.

Plaintiff's Signature

Plaintiff's address for service

--

No. 2

Acknowledgment of Service

IN THE SUMMARY COURT AT GEORGE TOWN

Cause No. SC_____ of 20__

Between:

Plaintiff

AND:

Defendant

ACKNOWLEDGMENT OF SERVICE

1 State Defendant's name and address -

2 State whether the Defendant intends to contest the action.

☐

Yes

☐

....No

3 If you do not intend to contest the action, do you want time in which to pay the claim?

☐

Yes

☐

No

4 If you do not intend to contest the action in whole or in part, you must set out full particulars of your defence overleaf.

Service of the Plaint is acknowledged accordingly.

Defendant's Signature

Dated this _____ day of _____, 20____

See Overleaf

PARTICULARS OF DEFENCE

(Here set out in numbered paragraphs, the grounds upon which the Defendant says that he is not liable to the Plaintiff, or is not liable for the full amount claimed).

Defendant's Signature

REMINDER: This form must be taken or sent to the Court Office, PO Box 495GT, George Town, Grand Cayman within 14 days of receipt. Otherwise, a default judgment may be entered against you.

No. 3

Application for Default Judgment

IN THE SUMMARY COURT AT GEORGE TOWN

Cause No. SC _____ of 20__

BETWEEN:

Plaintiff

AND:

Defendant

APPLICATION FOR DEFAULT JUDGMENT

The Plaintiff hereby applies to the Chief Clerk pursuant to SCR rule 7(1) for final judgment/interlocutory judgment with damages to be assessed **(delete as applicable)** against the Defendant in the form and for the amounts specified in the draft annexed hereto.

The Plaintiff certifies that:

- 1 The Plaintiff was served on the Defendant as evidenced by the Acknowledgment of Service/endorsement on the copy plaint/affidavit of service filed herewith **(delete as applicable)**.
- 2 The Defendant has not filed an Acknowledgment of Service or has filed one which does not indicate any intention to defend or does not contain full particulars of his defence.

AND the Plaintiff hereby applies for the Court file to be closed pending the determination of this application.

DATED this _____ day of _____ 20__

Plaintiff's Signature

No. 4

Default Judgment - Final

IN THE SUMMARY COURT AT GEORGE TOWN

Cause No. SC_____ of 20__

Between:

Plaintiff

AND:

Defendant

DEFAULT JUDGMENT

UPON the Plaintiff's application for default judgment dated the ____ day of _____, 20____.

AND UPON being satisfied that the Plaintiff was duly served.

AND no notice of intention to defend and/or no particulars of defence having been filed prior to the date of the Plaintiff's application, it is this day adjudged that the Defendant do pay to the Plaintiff the principal sum of \$_____, interest thereon of \$_____ and fixed costs of \$_____.

DATED this ____ day of _____, 20____

FILED this ____ day of _____, 20____

Magistrate

No. 5

Default Judgment - Interlocutory

IN THE SUMMARY COURT AT GEORGE TOWN

Cause No. SC _____ of 20__

BETWEEN:

Plaintiff

AND:

Defendant

DEFAULT JUDGMENT

UPON the Plaintiff's application for default judgment with damages to be assessed dated the ____ day of _____, 20__.

AND UPON being satisfied that the Plaintiff was duly served.

AND no notice of intention to defend (except as to quantum of damages) and/or no particulars of defence having been filed (except as to quantum of damages) prior to the date of the Plaintiff's application, it is this day adjudged that the Plaintiff do have judgment against the Defendant for damages to be assessed together with fixed costs of \$_____.

DATED this ____ day of _____, 20__

FILED this ____ day of _____, 20__

Magistrate

No. 6
Application to Fix Trial Date

IN THE SUMMARY COURT AT GEORGE TOWN

Cause No. SC _____ of 20__

Between:

Plaintiff

AND:

Defendant

APPLICATION

The Plaintiff hereby applies to the Chief Clerk to fix a date for the trial of the action and to serve notice of the trial date upon the parties.

Dated this ____ day of _____, 20__

Plaintiff's Signature

NOTICE OF TRIAL DATE

TAKE NOTICE that the trial of this action will take place before the Magistrate at the Law Courts, George Town, Grand Cayman on the ____ day of _____, 20__ at ____am/pm.

AND FURTHER TAKE NOTICE that if the Plaintiff fails to attend, the plaint may be struck out. If the Defendant fails to attend the Magistrate may proceed with the trial and judgment may be given in the Defendant's absence.

AND FURTHER TAKE NOTICE that both parties are required to bring with them at least three copies of all the documents which they wish to give in evidence.

DATED this ____ day of _____, 20__

Chief Clerk

No. 7
Summons – General Form

IN THE SUMMARY COURT AT GEORGE TOWN

Cause No. SC ____ of 20__

BETWEEN:

Applicant

AND:

Respondent

SUMMONS

To the Respondent

YOU ARE HEREBY SUMMONED to appear before the magistrate at the Law Courts, George Town, Grand Cayman on the ____ day of _____, 20__ at ____am/pm upon the hearing of an application by:

(Applicant's name and address)

for the following orders and relief set out overleaf.

DATED this ____ day of _____, 20__

Applicant's signature

See Overleaf

ORDERS AND RELIEF CLAIMED

(Here set out in numbered paragraphs, the orders and relief claimed against the Respondent).

APPLICANT'S GROUNDS

(Unless the applicant has sworn an affidavit, here set out in numbered paragraphs, the grounds upon which the Applicant claims to be entitled to such orders against the Respondent).

Applicant's signature

No. 8
Notice of Appeal

IN THE GRAND COURT OF THE CAYMAN ISLANDS
ON APPEAL FROM THE SUMMARY COURT

Grand Court Cause No. _____ of 20____
(Cause No. SC ____ of 20 ____)

BETWEEN:

Appellant

AND:

Respondent

NOTICE OF APPEAL

TAKE NOTICE that I, _____, intend to appeal against the order of the summary Court made
on _____ day of _____, 20____

The grounds of my appeal are as follows-

DATED this _____ day of _____, 20____

Appellant's Signature

APPENDIX C - Grand Court Forms

GCR Form No. 14	Notice of payment into Court
GCR Form No. 15	Notice of acceptance of money paid into Court
GCR Form No. 25	Judgment after trial before Judge without jury
GCR Form No. 26	Writ of <i>Fieri Facias</i>
GCR Form No. 29	Writ of Sequestration
GCR Form No. 30	Order for examination of Judgment Debtor or officer
GCR Form No. 30A	Application for examination of Judgment Debtor
GCR Form No. 31	Garnishee order to show cause
GCR Form No. 32	Garnishee order absolute where garnishee owes more than judgment debt
GCR Form No. 33	Charging order: notice to show cause
GCR Form No. 34	Charging order absolute
GCR Form No. 35	Application for Attachment of Earning Order (Judgment Debt)
GCR Form No. 36	Statement of Means
GCR Form No. 37	Notice to Employer
GCR Form No. 38	Attachment of Earnings Order
GCR Form No. 39	Notice of Hearing (Reconsideration)
GCR Form No. 40	Notice of Hearing

No. 14

Notice of payment into Court (0.22, rr.1&2)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 20__

BETWEEN:

PLAINTIFF

AND:

DEFENDANT

NOTICE OF PAYMENT INTO COURT

TAKE NOTICE that the Defendant [*state name*] has paid \$ [*state amount*] into Court.

The said \$[*state amount*] is in satisfaction of [*state cause of action / all the causes of action*] in respect of which the Plaintiff claims [*and after taking into account and satisfying the above-named Defendant's cause of action for [state counterclaim] in respect of which he counterclaims*].

or

The said \$[*state amount*] is in satisfaction of the following causes of action in respect of which the Plaintiff claims, namely [*state claim*] [*and after taking into account as above*].

or

Of the said \$ [*state amount*], \$ ____ is in satisfaction of the Plaintiff's cause[s] of action for [*state claim*] [*and after taking into account as above*].

Dated the day of 20__.

[Signature of Defendant's Attorney]

TO: The Clerk of the Court

AND TO: [*state name and address of Plaintiff or his Attorney*]

This Notice was filed by [*name of Defendant or his Attorney*] whose address for service is [*state address within the jurisdiction*] [*Attorney for the Defendant*].

No. 15

Notice of acceptance of money paid into Court (0.22, r.3)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 20__

BETWEEN:

PLAINTIFF

AND:

DEFENDANT

NOTICE OF ACCEPTANCE OF MONEY PAID INTO COURT

TAKE NOTICE that the Plaintiff accepts the sum of \$[*state amount*] paid by the Defendant [*state name of Defendant*] in satisfaction of the cause(s) of action in respect of which it was paid into Court and in respect of which the Plaintiff claims [*against that Defendant*] [*and abandons the other causes of action in respect of which he claims in this action*].

Dated the day of 20__.

[*Signature of Plaintiff's Attorney*]

TO: The Clerk of the Court

AND TO: [*state name and address of Defendant or his Attorney*]

This Notice was filed by [*name of Plaintiff or his Attorney*] whose address for service is [*state address within the jurisdiction*] [*Attorney for the Plaintiff*].

No. 25

Judgment after trial before Judge without jury (0.42, r.1)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

The Hon. Mr. Justice [*state name*]

CAUSE NO: OF 20__

BETWEEN:

PLAINTIFF

AND:

DEFENDANT

JUDGMENT

THIS ACTION, having been tried before the Honourable Mr. Justice [*state name*] without a jury, at the Law Courts, George Town, on [*state dates or period during which the trial took place*].

IT IS ORDERED AND ADJUDGED that:

1. The Defendant do pay the Plaintiff the principal sum of \$[*state amount*] together with interest of \$[*state amount*].
2. The Defendant do pay the costs of the action, to be taxed if not agreed.
3. [*It is directed that execution of this judgment be stayed [state terms]*].

Dated the day of 20__.
Filed the day of 20__

JUDGE OF THE GRAND COURT

This Judgment was filed by [*name of Plaintiff or his Attorney*] whose address for service is [*state address within the jurisdiction*] [*Attorney for the Plaintiff*].

No. 26

Writ of fieri facias (0.45, r.12)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 20__

BETWEEN:

PLAINTIFF

AND:

DEFENDANT

WRIT OF FIERI FACIAS

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Our Other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith

To the Bailiff, greeting

WHEREAS in the above named action it was on the day of 20__ ordered and adjudged in this Court that the Defendant do pay the Plaintiff the principal sum of \$[state amount] and interest thereon of \$[state amount] and costs to be taxed [costs which have been taxed and allowed at \$[state amount] as appears by the certificate of the taxing officer dated the day of 20_].

WE COMMAND you to seize the goods, chattels and other property of [state the judgment debtor's name] authorised by law to be seized in execution; to sell the said goods, chattels and other property; and to pay out of the proceeds of sale, after having deducted your fees and proper expenses of sale, the said sum of \$[state amount] to [state name of Judgment Creditor].

AND WE ALSO COMMAND you to endorse on this writ immediately after execution thereof a statement of the manner in which you have executed it and send a copy of the statement to the judgment creditor.

WITNESS the Honourable Mr. Justice [state name], Chief Justice of the Grand Court this day of 20__.

Dated the day of 20__.

[Signature of Judgment Creditor's Attorney]

This Writ was issued by [name of Judgment Creditor or his Attorney] whose address for service is [state address within the jurisdiction] [Attorney for the Judgment Creditor].

No. 29

Writ of sequestration (0.45, r.12)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 20__

BETWEEN:

PLAINTIFF

AND:

DEFENDANT

WRIT OF SEQUESTRATION

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Our Other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith

To *[state name of sequestrator]*

WHEREAS in the above named action *[or matter]* it was on the day of 20__ ordered and adjudged that *[state judgment debtor's name]* do pay the principal sum of \$*[state amount]* together with interest thereon of \$*[state amount]* and costs to be taxed *[costs which have been taxed and allowed at \$[state amount]]* as appears by the certificate of the taxing officer dated the day of 20__ *[or state details of mandatory injunctions, as the case may be]*.

KNOW YE, therefore, that we, in confidence of your prudence and fidelity, do by this writ authorise and command you, or any two or three of you, to enter upon and take possession of all the real and personal estate of the said *[state name]* and to collect, receive and get into your hands the rents and profits of his real estate and all his personal estate and keep the same under sequestration in your hands until the said *[state name]* shall *[pay into Court to the credit of the said action or matter the sum of \$[state amount] or as the case may be]* and clear his contempt and until our said Court shall make an order to the contrary.

WITNESS the Honourable Mr. Justice *[state name]*, Chief Justice of the Grand Court this day of 20__.

Dated the day of 20__.

[Signature of Plaintiff's Attorney]

This Writ was issued by *[name of Plaintiff or his Attorney]* whose address for service is *[state address within the jurisdiction]* *[Attorney for the Plaintiff]*.

No. 30

Order for examination of Judgment Debtor or officer (O.45, r.7(4))

IN THE GRAND COURT OF THE CAYMAN ISLANDS

The Hon. Mr. Justice [state name] [in Chambers]

CAUSE NO: OF 20__

BETWEEN:

PLAINTIFF/JUDGMENT CREDITOR

AND:

DEFENDANT/JUDGMENT DEBTOR

ORDER FOR EXAMINATION OF JUDGMENT DEBTOR OR OFFICER

UPON HEARING Counsel for the Plaintiff upon his summons dated [].

UPON reading the affidavit of [state deponent's name], filed herein

IT IS ORDERED that

1. The Judgment Debtor, [state name] [or, (state name) being a director or officer(s) of the Judgment Debtor] do attend before the Judge in Chambers at the Law Courts, George Town on the [state date] at [state time] to be orally examined about the debts owing to and property owned by the Judgment Creditor.
2. The said Judgment Debtor [or named officer(s) of the Judgment Debtor] shall produce all the books and records in his possession or power relating to the debts owed to and property owned by him including [list any specific documents either in the order or a schedule to it].
3. The costs of this order and of the examination shall be in the discretion of the Judge taking the examination.

Dated the day of 20__.

Filed the day of 20__.

JUDGE OF THE GRAND COURT

NOTE - This order requires personal service, and if the copy served bears a copy of the appointment of the date for the examinations, and is endorsed as prescribed by O.45, r.7(4), it may be enforced by committal.

This Order was filed by [name of Judgment Creditor or his Attorney] whose address for service is [state address within the jurisdiction] [Attorney for the Judgment Creditor].

No. 30A

Application for examination of Judgment Debtor (O.48, r.1)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 20

BETWEEN: PLAINTIFF/JUDGMENT CREDITOR

AND: DEFENDANT/JUDGMENT DEBTOR

APPLICATION FOR EXAMINATION OF JUDGMENT DEBTOR

Application is hereby made to the Clerk of the Court pursuant to GCR O.48 for an order that *[state name]* the Judgment Debtor *[or officer of the Judgment Debtor]* attend before the Court to be examined as to his means.

The grounds of this application are contained in the affidavit of *[state name]* sworn on *[state date]*.

Dated the day of 20 .
Filed the day of 20 .

[state name]

This application was filed by [name of judgment debtor or his attorney] whose address for service is [state address within the jurisdiction].

No. 31

Garnishee order to show cause (0.49, r.1)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

The Hon. Mr. Justice [state name] [in Chambers]

CAUSE NO: OF 20__

BETWEEN:

JUDGMENT CREDITOR

AND:

JUDGMENT DEBTOR
GARNISHEE

GARNISHEE ORDER TO SHOW CAUSE

UPON hearing Counsel for the Judgment Creditor and the Garnishee

AND UPON reading the affidavit of [state deponent's name] filed on the day of , 20__ on behalf of the [].

IT IS ORDERED that all debts due or accruing due from the above-mentioned garnishee to the above-mentioned judgment debtor [*in the sum of \$[state amount]*] be attached to answer a Judgment recovered against the said Judgment Debtor by the above-named Judgment Creditor in the Grand Court on the day of , 20__ for the sum [*or to answer an order made in the Grand Court on the day of , 20__ ordering payment by the said Judgment Debtor to the above-named Judgment Creditor of the sum of \$[state amount] [debt and \$[state amount] costs]*] (together with the costs of the Garnishee proceedings) on which Judgment [*or order*] the sum of \$[state amount] remains due and unpaid.

AND IT IS ORDERED that the said Garnishee attend before the Judge in Chambers on [*insert date*], at o'clock, on an application by the said Judgment Creditor that the said Garnishee do pay the said Judgment Creditor the debt due from the said Garnishee to the said Judgment Debtor, or so much thereof as may be sufficient to satisfy the said Judgment [*or order*], together with the costs of the Garnishee proceedings.

Dated the day of 20__ .
Filed the day of 20__

JUDGE OF THE GRAND COURT

TO: The Clerk of the Court

AND TO: The above-named Garnishee

AND TO: The Judgment Debtor

This Order was filed by [*name of Judgment Creditor or his Attorney*] whose address for service is [*state address within the jurisdiction*] [*Attorney for the Judgment Creditor*].

No. 32

Garnishee order absolute where garnishee owes more than judgment debt (0.49, rr.1, 4)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

The Hon. Mr. Justice [state name] [in Chambers]

CAUSE NO: OF 20__

BETWEEN:

JUDGMENT CREDITOR

AND:

JUDGMENT DEBTOR
GARNISHEE

GARNISHEE ORDER ABSOLUTE WHERE GARNISHEE
OWES MORE THAN JUDGMENT DEBT

UPON HEARING Counsel for the Judgment Creditor and the Garnishee

AND UPON reading the affidavit of [state deponent's name] filed herein, and the order to show cause made herein dated the day of , 20__.

IT IS ORDERED that all debts due or accruing due from the above-mentioned Garnishee to the above-mentioned Judgment Debtor [*in the sum of \$[state amount]*] be attached to answer the Judgment recovered against the said Judgment Debtor by the Judgment Creditor on the day of , 20__ for the sum of \$[state amount] (together with the costs of the Garnishee proceedings) on which Judgment the sum of \$[state amount] remains due and unpaid.

AND IT IS ORDERED that the said Garnishee do forthwith pay to the Judgment Creditor \$[state amount] being so much of the debt due from the said Garnishee to the said Judgment Debtor as is sufficient to satisfy the said Judgment debt and costs, together with \$[state amount] being the costs of the Garnishee proceedings, and that the said Garnishee be at liberty to retain \$[state amount] for his costs of this application out of the balance of the debt due from him to the Judgment Debtor.

Dated the day of 20__ .

Filed the day of 20__ .

JUDGE OF THE GRAND COURT

TO: The Clerk of the Court

AND TO: The above-named Garnishee

AND TO: The Judgment Debtor

This Order was filed by [name of Judgment Creditor or his Attorney] whose address for service is [state address within the jurisdiction] [Attorney for the Judgment Creditor].

No. 33

Charging order; notice to show cause (0.50, r.1)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

The Hon. Mr. Justice [state name]

CAUSE NO: OF 20__

BETWEEN:

PLAINTIFF

AND:

DEFENDANT

CHARGING ORDER: NOTICE TO SHOW CAUSE

UPON HEARING Counsel for the Plaintiff upon his motion dated [].

AND UPON reading the affidavit of [state deponent's name] filed herein the [date of filing] whereby it appears that by a Judgment [or order] made on the day of 20__ the Defendant was ordered to pay to the Plaintiff the sum of \$[state amount], of which \$[state amount] remains due and unpaid and that the Defendant has a beneficial interest in the asset specified in the schedule hereto:

IT IS ORDERED that unless sufficient cause to the contrary be shown at a hearing before the Grand Court on the day of 20__ , at o'clock, the Defendant's interest in the said asset shall, and it is ordered that in the meantime it do, stand charged with the payment of \$[state amount] due on the said Judgment [or order] [and interest thereon at the statutory rate] together with the costs of this application.

Dated the day of 20__ .

Filed the day of 20__.

JUDGE OF THE GRAND COURT

SCHEDULE

[Describe with full particulars the relevant land, securities, funds or trust, stating, in relation to securities, their full title, the amount of them and the name in which they stand and whether the beneficial interest charged is in the securities only or in dividends or interest as well, and stating, in relation to funds in Court, the number of the account].

[NOTE - In the case of land Form RL9A must be completed, signed by the Judge and filed in the Land Registry.]

This Order was filed by [name of Plaintiff or his Attorney] whose address for service is [state address within the jurisdiction] [Attorney for the Plaintiff].

No. 34

Charging order absolute (0.50, r.3)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

The Hon. Mr. Justice [*state name*] [*in Chambers*]

CAUSE NO: OF 20__

BETWEEN:

PLAINTIFF

AND:

DEFENDANT

CHARGING ORDER ABSOLUTE

UPON HEARING Counsel for the Plaintiff

AND UPON reading the affidavits of [*state deponent's name(s)*] filed herein the [*date of filing*] and the order to show cause made herein on the day of 20__:

IT IS ORDERED that the interest of the Defendant [*name of Defendant*] in the asset specified in the schedule hereto stand charged with the payment of \$[*state amount*], the amount due from the Defendant to the Plaintiff on a Judgment [*or order*] dated the day of 20__ [*and interest thereon at the statutory rate*] together with \$[*state amount*] the costs of this application, the said costs to be added to the Judgment debt.

Dated the day of 20__.
Filed the day of 20__.

JUDGE OF THE GRAND COURT

SCHEDULE

[*Describe with full particulars the relevant land, securities, funds or trust, stating, in relation to securities, their full title, the amount of them and the name in which they stand and whether the beneficial interest charged is in the securities only or in dividends or interest as well, and stating, in relation to funds in Court, the number of the account*].

STOP NOTICE

To [*specify the transfer agent*]

TAKE NOTICE that, in relation to the securities specified in the schedule to this Order, you may not, without notice to [*name of the Plaintiff*] at [*address*] register any transfer, or make any redemption payment, or, in the case of a unit trust, deal with the units, or, where dividends or interest are included in the order, pay any dividend or interest.

This Order was filed by [*name of Plaintiff or his Attorney*] whose address for service is [*state address within the jurisdiction*] [*Attorney for the Plaintiff*].

No. 35

Application for Attachment of Earnings Order (Judgment Debt) (0.50A, r.4)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 20__

BETWEEN

AND

Plaintiff

Defendant(s)

APPLICATION FOR ATTACHMENT OF EARNINGS ORDER

To the Judgment Debtor

--

TAKE NOTICE that an application has been made for an attachment of earnings order to be made against you to enforce payment of the Judgment, details of which are contained in the supporting affidavit, a copy of which is served herewith.

YOU ARE REQUIRED pursuant to GCR Order 50A, rule 5(2) to complete the enclosed Statement of Means form and return it to the Clerk of the Court at the Law Courts, P.O. Box 495, George Town, Grand Cayman within eight (8) days of receipt of this Application.

AND TAKE NOTICE that if you fail to complete and return the Statement of Means form within the prescribed time limit, an order may be made pursuant to GCR Order 50A, rule 8 that you be committed to prison.

Dated the day of , 20__.

Applicant's Signature

This Application is made by:

--

NOTES FOR GUIDANCE

1. If you dispute the amount owing, you must write a letter to the Clerk of the Court specifying how much you have paid, the dates of such payments and the amount which you believe to be outstanding, including interest and costs.
2. When corresponding with the Clerk of the Court you must quote the Cause No. specified on the top right hand corner of this application.
3. The Courts Office at the Law Courts George Town is open between 10:00 a.m. and 4:00 p.m.
4. It is important that the Statement of Means form is completed fully and accurately. Even if you dispute the amount owing, you must still complete the Statement of Means form, failing which you may be sent to prison.
5. If you want to avoid an Attachment of Earnings order being made against you, you may pay the full amount owing under the Judgment to the Accountant General of the Grand Court at the Court Funds Office, Government Administration Building, George Town. You may pay by:
 - (a) cash;
 - (b) bank draft payable to the Accountant General of the Grand Court; or
 - (c) personal cheque (if the Accountant General of the Grand Court agrees to accept this—there is no obligation to do so).

Unless payment is made in full within eight (8) days from receipt of this application, you must still complete the statement of means form and return it to the Clerk of the Court.

Certificate of Service

I certify that the application, of which this is a true copy, was served by me on the Judgment Debtor personally on the ____ day of _____, 20__ at approximately _____ a.m./p.m.

I certify that this application has not been served for the following reason:

--

Dated the ____ day of _____, 20__.

[Signature of Bailiff or Process Server]

No. 36

Statement of Means (0.50A, r.5 and 0.52, r.12)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO.....OF 20..

BETWEEN

AND

Plaintiff

Defendant(s)

STATEMENT OF MEANS

1. Personal details

Name: Age:

Address:

Marital status: Married ☐ Single ☐ Divorced ☐

2. Details of children:

Name	Age

3. Details of other dependents:

Name	Relationship

4. Details of employment:

Employer's name:

Employer's address:

Your Job Specification:

Amount of Wages: Work Permit No.

5. **If unemployed:**

Reason for unemployment:

Amount of pension (if any):

6. **Details of land owned:**

Registration details:	Registration Section	Block	Parcel
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Estimated value: Amount of Mortgage

7. **Details of savings:**

Name of bank:

Account no(s): Balance:

8. **Details of monthly expenses:**

Mortgage instalments:	<input type="text"/>
Rent:	<input type="text"/>
Utilities:	<input type="text"/>
Maintenance Orders:	<input type="text"/>
Loan instalments:	<input type="text"/>

I offer to pay the sum of \$ per month.

I declare that the details contained in this Statement of Means are true and accurate to the best of my knowledge and belief.

Signed: _____ Date: _____

No. 37

Notice to Employer (0.50A, r.6)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO.....OF 20..

BETWEEN

AND

Plaintiff

Defendant(s)

NOTICE TO EMPLOYER

To (Employer's Name and Address)

--

YOU ARE REQUIRED within seven (7) days of receipt of this notice to send to the Clerk of the Court details of the earnings of the following Judgment Debtor who is believed to be in your employment:

(Name and Address of Employee)

--

The details required to be given are explained in the guidance notes on the reverse side of this notice.

AND TAKE NOTICE that failure to comply with this notice within the prescribed time limit is a crime punishable by means of a fine or a term of imprisonment.

Dated the day of , 20__.

Filed the day of , 20__.

JUDGE OF THE GRAND COURT

NOTES FOR GUIDANCE

1. Your reply should be addressed to the Clerk of the Court at the Law Courts, P.O. Box 495G, George Town, Grand Cayman.
2. It is important that all correspondence with the Clerk of the Court quotes the Cause No. specified on the top right hand corner of this notice.
3. You should reply by letter specifying the following:
 - (a) if employed, the nature of the debtor's employment;
 - (b) if the debtor's employment is temporary, the anticipated length of employment;
 - (c) if the debtor is paid a salary, the weekly or monthly amount;
 - (d) if the debtor is paid overtime, the average amount of such payments over the preceding three (3) months;
 - (e) if the debtor is paid by the hour, the hourly rate(s) and his average earnings over the preceding six (6) weeks;
 - (f) if applicable, particulars of any other benefits to which the debtor is entitled under his contract of employment; and
 - (g) if you have a work permit for the debtor, specify the work number and the date upon which it expires.
4. If the debtor is no longer in your employment, you must reply stating the date upon which he ceased to be so employed. You should give the name and address of his present employer if this information is known to you.
5. Your reply should be signed by the employer personally or by someone duly authorised on the employer's behalf who has personal knowledge of the information required.

No. 38

Attachment of Earnings Order (Judgment Debt) (0.50A, r.10(1))

IN THE GRAND COURT OF THE CAYMAN ISLANDS

The Hon. Mr. Justice [state name]

CAUSE NO.....OF 20..

BETWEEN

AND

Plaintiff

Defendant(s)

ATTACHMENT OF EARNINGS ORDER

To [state name and address of employer]

The judgment debtor, [state name], who is employed by you is in arrears under a Judgment of this Court and earnings are payable by you to him.

You are therefore ordered to make periodical deductions out of the Judgment Debtor's earnings in accordance with the Second Schedule of the Judicature Law (1995 Revision) until the total sum of \$[state amount] (being principal and post-judgment interest), has been paid.

For the purpose of calculating the deductions:

- ☐ The normal deduction rate is \$ per week/month
- ☐ The protected earnings rate is \$ per week/month

And you are ordered to pay the sums deducted to the Court Funds Office, Government Administration Building, George Town, at monthly intervals in accordance with the directions on the reverse side of this order.

Dated this day of , 20__.

Filed this day of , 20__.

JUDGE OF THE GRAND COURT

DIRECTIONS FOR EMPLOYERS

1. The normal deduction rate is the amount which you must normally deduct from your employee's wages or salary each week or each month, as the case may be.
2. The protected earnings rate is the minimum net pay which must be left to the employee each week or month, as the case may be.
3. If the employee's wage or salary is reduced, for example because the employee has been ill or unable to work his usual amount of overtime, with the result that the net take home pay will be reduced below the protected earnings rate if the normal deduction is made, you must deduct a lower amount so that the employee always takes home at least the amount of the protected earnings rate.
4. All payments must be made by cheque payable to the 'Accountant General of the Grand Court' and must be accompanied by completed lodgement and receipt forms taken from the book of blank pre-printed carbonised forms delivered with this order. The receipt form will be signed by an authorised officer and returned to you to acknowledge receipt of your payment. Payments may be hand delivered or posted to the Court Funds Office, Government Administration Building, George Town.
5. Deductions made from an employee's remuneration must be recorded in the employer's work account maintained in accordance with Section 30(1) of the Labour Law 1987, as amended, and receipts issued by the Court Funds Office should be treated as part of the work account to be preserved for at least two years.

NOTES FOR GUIDANCE OF DEBTORS/EMPLOYEES

1. This is a copy of an Attachment of Earnings Order sent to your employer.
2. Installments deductible under this order include post-judgment interest calculated in accordance with Practice Direction 2/95.
3. Your employer should give you a statement each month specifying the amount which has been deducted from your wages in accordance with this order. If he fails to do so you have the right under Section 31 of the Labour Law 1987, as amended, to ask for such a statement.
4. If you change your employer you must notify the Clerk of the Court within seven (7) days giving the following details:
 - (a) the date on which your old employment terminated;
 - (b) the name and address of your new employer;
 - (c) the date on which your new employment commenced;
 - (d) your work permit number (if any); and
 - (e) *the average weekly or monthly amount of your new income, including the basic salary, overtime payments, and other monetary benefits.*

No. 40

Notice of Hearing (Reconsideration) (0.50A, r.7)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO.....OF 20..

BETWEEN

AND

Plaintiff

Defendant(s)

NOTICE OF HEARING

To the Judgment Debtor

--

To the Judgment Creditor

--

TAKE NOTICE that the Judgment Debtor's/Creditor's [delete as applicable] application under GCR Order 50A, rule 7(2) for reconsideration of the amount payable under the Attachment of Earnings Order dated _____ will be heard at the Law Courts, George Town, Grand Cayman on _____ at _____ a.m./p.m.

AND FURTHER TAKE NOTICE that if the Judgment Creditor does not wish to attend at the hearing of an application made by him, he must write a letter to the Clerk of the Court requesting that the hearing proceed in his absence, and if such letter is received prior to the hearing date specified above, the Court will proceed to deal with the application in the Judgment Creditor's absence.

AND FURTHER TAKE NOTICE that an application for reconsideration by the Judgment Debtor will be dismissed unless he attends at the hearing on the day and at the time specified above. If the Judgment Debtor fails to attend on an application made by the Judgment Creditor, the Court may in his absence, increase the amount payable under the Attachment of Earnings Order.

Dated the day of , 20__ .

Clerk of the Court

No. 40

Notice of Hearing (0.50A, r.7)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO.....OF 20..

BETWEEN

AND

Plaintiff

Defendant(s)

NOTICE OF HEARING

To the Judgment Debtor

--

To the Judgment Creditor

--

TAKE NOTICE that the Judgment Creditor's application for an Attachment of Earnings Order has been deferred pending an oral hearing.

AND TAKE NOTICE that the application will be heard at the Law Courts, George Town, Grand Cayman on _____ at _____ a.m./p.m.

AND FURTHER TAKE NOTICE that if the Judgment Creditor does not wish to attend at the hearing of an application made by him, he must write a letter to the Clerk of the Court requesting that the hearing proceed in his absence, and if such letter is received prior to the hearing date specified above, the Court will proceed to deal with the application in the Judgment Creditor's absence.

AND FURTHER TAKE NOTICE that if the Judgment Debtor fails to attend at the hearing, the Court may make an Attachment of Earnings Order in his absence on the basis of the information obtained in his Statement of Means form.

Dated the day of , 20__.

Clerk of the Court

APPENDIX D - Forms under the Registered Land Rules (2003 Revision)

Form RL9	Charge
Form RL10	Charge for Magistrate

FORM RL10

REGISTERED LAND LAW

(1995 Revision)

CHARGE

REGISTRATION SECTION

BLOCK

PARCEL

I/We

hereby charge my/our interest in the above-mentioned title or the charge shown as entry number in the incumbrances section of the register, relating to the above-mentioned title to secure the payment to [] of [] of the principal sum of [] with interest at the rate of [] percent per annum payable subject to section 67 of the Law, unless here negatived, modified or added to. *(Here set forth any variation, or make reference to any attached document).*

The principal sum shall be repaid on the [] day of [], 20[] together with any interest then due.

And **I/We** the above-named Chargor(s) hereby acknowledge that **I/We** understand the effect of section 72 of the Registered Land Law (1995 Revision).

Dated this day of , 20

Signed by the Chargor
In the presence of

Signed by the Chargee
In the presence of

CAYMAN ISLANDS**REGISTERED LAND LAW****(1995 Revision)****CHARGE****(GCR O.50, r.1A(2))**

REGISTRATION SECTION

BLOCK

PARCEL

The Registrar of Lands is hereby directed pursuant to an order of the Grand Court made on (*state date*) in Cause No. (*state number*) to register a charge relating to the above-mentioned title to secure payment to (*state name and address of Judgment Creditor*) the principal sum of \$(*state amount*) (including pre-judgment interest and costs) together with post-judgment interest thereon at the daily rate of \$(*state amount*) from (*state date*).

Dated this day of , 20

Judge of the Grand Court

FOR OFFICIAL USE ONLY

I, the Registrar of Lands in the Cayman Islands
Hereby certify that this document was received by
me for registration on the day of
20 and that the Land Registry fees at
CI\$ relating thereto have been paid.

REGISTERED

This day of , 20

Registrar of Lands

REGISTRAR OF LANDS

-
- ¹ www.judicial.ky/GuidanceResources/Instituting-Small-Claims.aspx
- ² While a jury trial is theoretically possible, it would be a rare occurrence indeed. See section 21 of the Judicature Law (2007 Revision).
- ³ See Schedule 1 to the Summary Jurisdiction Law (2006 Revision).
- ⁴ See section 14(2) of the Summary Court Rules (2004 Revision).
- ⁵ See sections 2(1) and 4 of the Age of Majority Law (1999 Revision).
- ⁶ GCR O.66, r.1(1) and 2(3) incorporated by way of SCR r.14(1)
- ⁷ SCR r.5(2)
- ⁸ See requirements of GCR O.6, r. 2, 3, 4 and 5 as directed by SCR r.3.
- ⁹ See section 34(1)(a) and (b) of the Judicature Law (2007 Revision).
- ¹⁰ See current Schedule to the Judgment Debts (Rates of Interest) Rules 1995. Currently effective from 1 December 2008.
- ¹¹ See section 34(3) of the Judicature Law (2007 Revision).
- ¹² SCR r.11(1)
- ¹³ SCR r.11(3)(c)
- ¹⁴ See section 33(1) of the Summary Jurisdiction Law (2006 Revision).
- ¹⁵ SCR 4(4)
- ¹⁶ SCR r.4(4)
- ¹⁷ See requirements of GCR O.5, r.1(3) to (6), except (4)(d), as directed by SCR r.3(6).
- ¹⁸ One for the Court File and one for the Register of Plaints and Summonses. See SCR r.3(6), incorporating GCR O.5,r.1(5), and SCR r.3(8) respectively.
- ¹⁹ SCR r.10(1)
- ²⁰ SCR r.4(2)
- ²¹ See section 3 of the Judicature Law (2007 Revision).
- ²² See Third Schedule, Court Fees Rules, 2009.
- ²³ See section 11(1) of the Summary Court Rules 2004.
- ²⁴ SCR r.6(1)
- ²⁵ GCR O.3,r.4, incorporated by way of SCR r.14(1)
- ²⁶ See section 14(3) of the Summary Court Rules 2004.
- ²⁷ SCR r.6(6)
- ²⁸ SCR r.7(1)
- ²⁹ SCR r. 6(7)
- ³⁰ GCR O.21, r. 2(1) incorporated by way of SCR r.14(1)
- ³¹ GCR O.21, r.2(3) incorporated by way of SCR r.14(1)
- ³² GCR O. 21, r.3 incorporated by way of SCR r.14(1)
- ³³ GCR O.21,r.4, incorporated by way of SCR r.14(1)
- ³⁴ GCR O.21, r.5(1) incorporated by way of SCR r.14(1)
- ³⁵ GCR O.42, r.5(9), incorporated by way of SCR r.14(1)
- ³⁶ SCR r. 4(5)
- ³⁷ GCR O.42,r.1(4), incorporated by way of SCR r.14(1)
- ³⁸ And at the risk of withdrawal. See GCR O.21, r.(1), incorporated by way of SCR r.14(1).
- ³⁹ SCR r.7(5)
- ⁴⁰ SCR r.7(6)
- ⁴¹ SCR r.8(2)
- ⁴² SCR r.8(6)
- ⁴³ GCR O.42, r.5A(2)(b)(iii) incorporated by way of SCR r.14(1)
- ⁴⁴ GCR O.22, r1(1) incorporated by way of SCR r.14(1)
- ⁴⁵ GCR O.22, r.1(7), incorporated by way of SCR r.14(1)
- ⁴⁶ GCR O.22, r.3(1), incorporated by way of SCR r.14(1)
- ⁴⁷ GCR O.22, r.3(6), incorporated by way of SCR r.14(1)
- ⁴⁸ SCR r.8(8)

-
- ⁴⁹ See section 39 of the Summary Jurisdiction Law (2006 Revision).
⁵⁰ SCR r.8(3)
⁵¹ *Ibid.*
⁵² See section 26(1) of the Summary Jurisdiction Law (2006 Revision).
⁵³ GCR O.42, r.5(1), incorporated by SCR r.14(1)
⁵⁴ GCR O.42, r.4(1), incorporated by way of SCR r.14(1)
⁵⁵ See section 33(1) of the Summary Jurisdiction Law (2006 Revision).
⁵⁶ SCR r. 11(3)
⁵⁷ See section 34(3) of the Judicature Law (2007 Revision).
⁵⁸ SCR r.13(1)
⁵⁹ See section 38 of the Summary Jurisdiction Law (2006 Revision).
⁶⁰ See section 15(2) of the Summary Court Rules 2004.
⁶¹ The Judgment should be drawn up on the form prescribed in GCR form No. 25, per GCR O.42, r.1(2), incorporated by way of SCR r.12(1) and (2).
⁶² SCR r.12(2)
⁶³ GCR O.42, r.1(1)
⁶⁴ See direction 1 of the Grand Court Practice Direction No. 2/99.
⁶⁵ See direction 3 of the Grand Court Practice Direction No. 2/99.
⁶⁶ GCR O.42, r.6(6)(a), incorporated by SCR r.14(1)
⁶⁷ GCR O.48, r.1(1), incorporated by SCR r.12(1)
⁶⁸ GCR O.48, r.1(2), incorporated by SCR r.12(1)
⁶⁹ GCR O.48, r.1(4), incorporated by SCR r.12(1)
⁷⁰ Under Section 12 of the SCR, the powers of the Summary Court to enforce its Judgments or orders are exercised in accordance with the Grand Court Rules. For the purpose of enforcement, Magistrates shall have the powers of a Judge of the Grand Court. As such the relevant forms which are contained in Grand Court Rules 1995 (Revised Edition) may be adapted to apply to the Summary Court as necessary. However, section 19.7 of the Explanatory Memorandum to the Grand Court (Amendment) Rules, 2009 suggests that the enforcement options available in the Summary Court may be restricted to Attachment of Earnings Orders, Writs of *Fieri Facias* and Garnishee Orders only.
⁷¹ The power of the Summary Court to do so is derived from section 28 and the Second Schedule of the Judicature Law (2007 Revision).
⁷² See provision 2(2) of the Second Schedule of the Judicature Law (2007 Revision).
⁷³ GCR O.49, r.2
⁷⁴ GCR O.50, r.1(3)(a)
⁷⁵ GCR O.50, r.1(5)
⁷⁶ GCR O.50, r.1(3)(c)(iii)
⁷⁷ GCR O.50, r.1(4)
⁷⁸ GCR O.50, r.2(2)
⁷⁹ GCR O.52, r.5
⁸⁰ GCR O.52, r. 8(2)
⁸¹ See section 32 of the Judicature Law (2007 Revision).
⁸² GCR O.92, r.7(4) incorporated by way of SCR r.13(1)
⁸³ GCR O.92, r.8(1) incorporated by way of SCR r.13(1)
⁸⁴ GCR O.92, r.8(1) incorporated by way of SCR r.13(2)
⁸⁵ GCR O.42, r.1(1)(a)
⁸⁶ GCR O.42, r.1(1)(f)
⁸⁷ GCR O.42, r.1(1)(i)
⁸⁸ See section 19.7 of the Explanatory Memorandum to the Grand Court (Amendment) Rules, 2009
⁸⁹ See section 15(4) of the Summary Court Rules 2004.