

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 0260 OF 2009

BETWEEN:

VINNELL DORCAS FOSTER
JULET THERESA FACEY

AND

SIMON EHURD REYNOLDS
PHIL KENRICK REYNOLDS
DONNA LEE EBANKS



Plaintiffs

Defendants

**AMENDED WRIT OF
SUMMONS**

TO: Simon Ehurd Reynolds & Phil Kendrick Reynolds
3 Neon Close
Mount Pleasant, West Bay
Grand Cayman, Cayman Islands

Donna Lee Ebanks
3 Neon Close
Mount Pleasant, West Bay
Grand Cayman, Cayman Islands

THIS AMENDED WRIT OF SUMMONS has been issued against you by the above-named Plaintiffs in respect of the claim set out on the next page.

Within 14 days after the service of this **Amended** Writ on you, counting the day of service, you must either satisfy the claim or return to the Court office, P.O. Box 495 GT, George Town, Grand Cayman, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 26th day of May 2009

Reissued this 1st day of September 2009

NOTE - This **Amended** Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

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

STATEMENT OF CLAIM

The Parties

- 1) The Plaintiffs are a Caymanian mother and daughter and were at all times material to this proceeding was resident at 93 Finch Drive, Birch Tree Hill, West Bay, Grand Cayman, Cayman Islands. The Plaintiffs' address for service is in care of their attorneys, Appleby, P.O. Box 190 GT, George Town, Grand Cayman, Cayman Islands.
- 2) The Defendants are resident at 3 Neon Close, Mount Pleasant, West Bay, Grand Cayman, Cayman Islands.

Background

- 3) The Plaintiffs are joint ~~is the sole~~ owners of two adjoining properties described as West Bay North West, Block 4D, Parcels 148 and 319, which are together known as 3 Neon Close, Mount Pleasant, West Bay (the "Property").
- 4) The Defendants live in two neighbouring houses located on the Property.
- 5) The First and Second Defendants are the brothers of the First Plaintiff and the uncles of the Second Plaintiff.
- 6) The Third Defendant lives in the same house as the First Defendant at Parcel 319 and is either the tenant and/or guest of the First Defendant.
- 7) ~~6)~~ The First and Second Defendants moved onto the Property in or around 2000 and lived rent free with the permission of their mother who owned

the Property until her passing in 2007 at which time the Property was bequeathed to the First Plaintiff.

- 8) On 28 July 2009, the First Plaintiff transferred half of her interest in the Properties to the Second Plaintiff. The Plaintiffs are now joint proprietors.
- 9) The Third Defendant has lived with the First Defendant intermittently in 2008 and 2009.
- 10) ~~7)~~ The Plaintiffs have ~~has~~ withdrawn their ~~her~~ permission for the Defendants to live on the Property and have ~~has~~ requested verbally on numerous occasions that they vacate the premises.
- 11) ~~8)~~ The First Plaintiff has given written notice to the Defendants on 25 November 2008 that they do not have the permission of the First Plaintiff to live on the Property and has asked them to vacate.
- 12) ~~9)~~ The Defendants have not vacated the Property in accordance with these verbal requests and written notices.

No lease or legal right to remain on the Property or in the House

- 13) ~~10)~~ The Defendants have no legal interest in the Property. There is not now, nor has there ever been, any lease or other oral or written agreement allowing the Defendants to remain on the Property.
- 14) ~~11)~~ The Plaintiffs wants the Defendants to leave the Property and have ~~has~~ repeatedly asked them orally and in writing to leave.
- 15) ~~12)~~ The Defendants have repeatedly refused to leave the Property.

16) ~~43)~~ As the Plaintiffs ~~have has~~ withdrawn permission for the Defendants to remain on the Property and the Defendants have remained, the Defendants are trespassers.

Police Attendances

17) ~~44)~~ The Plaintiffs ~~have has~~ been forced to call the Police and have them attend at the Property four times since 18 November 2007 to deal with the unruly and abusive behaviour of the Defendants.

Attendance #1

18) ~~45)~~ On 18 November 2007, the Plaintiffs noted that the Second Defendant was stealing water from the ~~Plaintiffs-Plaintiffs'~~ legitimate tenants who live in a third residence on the Property by carrying it in buckets from an external source attached to the tenants' house.

19) ~~46)~~ This necessitated a Police attendance and the Second Defendant was issued a warning.

20) ~~47)~~ On 26 November 2007, the ~~Plaintiffs-Plaintiffs'~~ attorneys prepared a formal letter giving notice and advising the Second Defendant that he was to vacate the Property within one month of receipt of the letter.

21) ~~48)~~ The Second Defendant did not vacate the Property as requested and the Plaintiffs chose not to pursue the eviction for fear of negative repercussions.

Attendance #2

22) ~~49)~~ On 5 July 2008, the Plaintiffs became aware that the Second Defendant was disturbing the legitimate tenants on the Property and was using drugs on the Property and she requested that he vacate the Property by 9 July 2008.

~~23) 20)~~ On 6 July 2008, the ~~daughter of the~~ Second Plaintiff asked the Second Defendant if he intended to vacate the Property.

~~24) 21)~~ In response, the Second Defendant threatened to burn the house down which necessitated a Police attendance.

~~25) 22)~~ The Second Defendant did not vacate the Property as requested.

~~26) 23)~~ The Second Defendant has since, on 28 March 2009 been charged with possession and use of ganja and cocaine contrary to the Misuse of Drugs Law (2000) Revision.

Attendance #3

~~27) 24)~~ On 25 November 2008, the ~~Plaintiff's-Plaintiffs'~~ attorneys prepared a formal letter giving notice and advising that the First Defendant was to vacate the Property within 14 days of receipt of the letter.

~~28) 25)~~ When the First Defendant was served the letter on 28 November 2008, the First Defendant did not open the letter and instead burnt it up while it was still in the envelope stating that would not leave the Property.

~~29) 26)~~ On 1 December 2008, the First Defendant attended the residence of the Plaintiffs and threatened to kill the ~~Second Plaintiff's daughter~~ resulting in attendance and a warning by Police.

Attendance #4

~~30) 27)~~ On 6 December 2008, the First Defendant again attended the residence of the Plaintiffs and threatened to kill ~~her~~ the First Plaintiff resulting in attendance and an investigation by Police.

31) ~~28)~~ Since that time, the Second Defendant has parked his vehicle in the spot allocated for legitimate tenants who are now parking on the side of the road. The Police have offered to attend the Property should the Plaintiffs choose to have the vehicle towed at her own expense.

32) ~~29)~~ The First Defendant has since, in or around 20 March 2009, been charged with intent to harm and threatening violence as against the Plaintiffs ~~and her daughter~~ contrary to the Penal Code, 2007 Revision.

Summary of the Defendants' treatment of the Plaintiffs

33) ~~30)~~ During the past several months the ~~First and Second~~ Defendants have treated the Plaintiffs with increasing disrespect and have regularly:

- a. cursed, yelled and sworn at the Plaintiffs ~~and her daughter~~;
- b. bullied, threatened and intimidated the Plaintiffs ~~and her daughter~~; and,
- c. has recently threatened to do violence to both the Plaintiffs ~~and her daughter~~.

34) ~~31)~~ As a result of the above, the ~~Third Defendant has committed trespass and the First and Second~~ Defendants have committed or have threatened to commit the following tortuous and criminal acts:

- a. trespass;
- b. threatened and/or attempted assault, battery and murder; and,
- c. damage to the ~~Plaintiff's-Plaintiffs'~~ property.

AND THE PLAINTIFFS CLAIM FOR:

- a. a declaration that the Defendants are trespassers on the ~~Plaintiff's~~ Plaintiffs' Property;

- b. a declaration that the Defendants are not entitled to occupy the ~~Plaintiffs-Plaintiffs'~~ Property at 3 Neon Close, Mount Pleasant in West Bay, Grand Cayman, Cayman Islands;
- c. an interim and final order that the Defendants vacate the ~~Plaintiff's~~ ~~Plaintiffs'~~ Property at 3 Neon Close, Mount Pleasant in West Bay, Grand Cayman, Cayman Islands forthwith;
- d. an interim and final order that the Defendants not annoy, intimidate or harass the Plaintiffs or ~~her~~ their tenants, nor return to the Property or the ~~Plaintiffs-Plaintiffs'~~ residence at 93 Finch Drive, Birch Tree Hill in West Bay, Grand Cayman, Cayman Islands;
- e. an interim and final order restraining the Defendants from returning to the Property or the ~~Plaintiff's-Plaintiffs'~~ residence at 93 Finch Drive, Birch Tree Hill in West Bay, Grand Cayman, Cayman Islands or coming within 100 feet of the Property;
- f. damages for trespass to the Property including the costs associated with removing the debris and abandoned vehicles from the Property;
- g. such further and other relief as this Honourable Court deems just; and,
- h. costs.

Dated the day of September 2009


APPLEBY
Attorneys-at-Law for the Plaintiffs

TO: The Clerk of the Court

AND TO: Simon Ehurd Reynolds
3 Neon Close

Mount Pleasant, West Bay
Grand Cayman, Cayman Islands

Phil Kenrick Reynolds
3 Neon Close
Mount Pleasant, West Bay
Grand Cayman, Cayman Islands

Donna Lee Ebanks
3 Neon Close
Mount Pleasant, West Bay
Grand Cayman, Cayman Islands

Filed by Appleby Attorneys-at-Law for the Plaintiffs whose address for service is 75
Fort Street, PO Bo 190 GT, George Town, Grand Cayman, Cayman Islands B.W.I.

**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE
OF WRIT OF SUMMONS**

1. The accompanying form of Acknowledgement of Service should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495 GT, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement of Service that he intends to contest the proceedings must also serve a Defence on the Attorney for the Plaintiffs (or on the Plaintiffs if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words of "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his Defence within the appropriate time, the Plaintiffs may enter judgment against him without further notice.

3. A Stay of Execution against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgement of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgement, but he must, within that time, issue a Summons for a Stay of Execution, supported by an affidavit of his means. The affidavit should state any offer which the

Defendant desires to make for payment of the money by instalments or otherwise.

See over for notes for guidance

Please complete overleaf

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (the name stated on the Writ of Summons)".
4. Where the Defendant is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
5. Where the Defendant is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
6. Where the Defendant is a Limited Company the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 0F 2009

B E T W E E N:

VINNELL DORCAS FOSTER
JULET FACEY

Plaintiffs

AND

SIMON EHURD REYNOLDS
PHIL KENRICK REYNOLDS
DONNA LEE EBANKS

Defendants

ACKNOWLEDGMENT OF
SERVICE OF WRIT OF
SUMMONS

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important. Read the accompanying directions and notes for guidance fully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged:

2. State whether the Defendant intends to contest the proceedings (tick appropriate)

box)

YES

NO

3. If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiffs(tick box)

YES

Service of the Writ is acknowledged accordingly

Defendant

Address for service:

Simon Ehurd Reynolds
3 Neon Close
Mount Pleasant, West Bay
Grand Cayman, Cayman Islands

Phil Kenrick Reynolds
3 Neon Close
Mount Pleasant, West Bay
Grand Cayman, Cayman Islands

Donna Lee Ebanks
3 Neon Close
Mount Pleasant, West Bay
Grand Cayman, Cayman Islands

Notes on address for service

Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

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