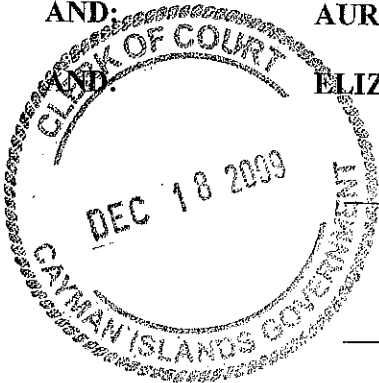


IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO.: CIV G 0630/2009

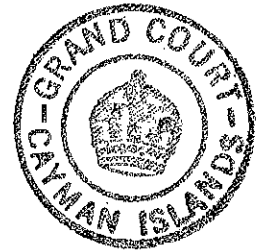
BETWEEN: EDGARDO FAUSTINO 1<sup>ST</sup> PLAINTIFF  
AND: AURA FAUSTINO 2<sup>ND</sup> PLAINTIFF  
ELIZABETH SMITH DEFENDANT



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WRIT OF SUMMONS

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

Within 14 days after the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495, George Town, Grand Cayman, KY1-1106 the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

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

Issued this 16<sup>th</sup> day of December 2009

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

IMPORTANT

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

## STATEMENT OF CLAIM

1. The First Plaintiff and Second Plaintiff have resided in the Cayman Islands for no less than twelve years.
2. The Defendant is a resident of the Cayman Islands.
3. On or about March 13, 2006 the First and Second Plaintiff herein entered an Agreement with the Defendant to purchase land registered at Savannah Block 28C Parcel 99. The Agreement specifically references that:
  - 3.1 The Vendor, Elizabeth Smith, is the beneficial owner of the property.
  - 3.2 The purchase price is to be CI\$68,000.00
  - 3.3 The deposit due on signing the Agreement is CI\$13,600.00
  - 3.4 The manner of payment would be monthly payments of CI\$1,000.00 paid on or before the 28<sup>th</sup> day of each month.
  - 3.5 That the Vendor will transfer to the First and Second Plaintiff all rights to the property.
4. Pursuant to this Agreement, the First and Second Plaintiffs made their deposit of CI\$13,600.00 and have made regular payments towards purchase price. The payments made by the First and Second Plaintiffs total CI\$53,605.00.
5. Apart from the written Agreement, the Defendant made a verbal agreement with the First Plaintiff that he would be able to take possession of the property before the full purchase price was paid.
6. Further to the Agreements between the Vendor and the First Plaintiff, the First Plaintiff has been in regular communication with the Defendant since March 16, 2006 on the matter of when the property would be in a state of readiness for construction of a residential dwelling.

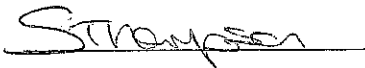
7. In response to the questions posed by the First Plaintiff, the Defendant has on each occasion since March 2006 made verbal assurances of a date in the future when the property would be in a state of readiness.
8. Up to date hereof the First Plaintiff and Second Plaintiff have learnt that the property has not been subdivided, that no new registers have been opened in respect of each subdivision and that therefore the Defendant is in no position to transfer the parcel promised.
9. Upon inspection of the Land Register the First Plaintiff and Second Plaintiff have also discovered that there are two registered proprietors, namely Elizabeth Smith and Rosedean Jackson who hold as joint proprietors.
10. Since the Agreement for sale of property clearly makes a singular reference to Elizabeth Smith as proprietor, the Agreement is invalid and insufficient to make a disposition and vest title in the First Plaintiff and Second Plaintiff.
11. The First Plaintiff and Second Plaintiff therefore made formal demand on September 29, 2009 for the CI\$53,605.00 already paid to the Defendant under the guise of an Agreement for the purchase and transfer of land. This demand was made by the First and Second Plaintiff's Attorney in letter format addressed to the Defendant.
12. The Defendant has refused to repay the sums owing to the First Plaintiff and Second Plaintiff.

13. The First Plaintiff and Second Plaintiff therefore claims a principal amount of CI\$53,605.00 and interest on the principal amount at the rate of 10% per annum from September 29, 2009 and continuing until all sums paid to the Defendant is repaid in full. The First and Second Plaintiff also claims costs on an indemnity basis.

AND THE FIRST PLAINTIFF AND SECOND PLAINTIFF CLAIMS:

1. The sum of CI\$53,605.00
2. Interest on the principal at the rate of 10% per annum, at compounded interest, from September 29, 2009 until the date of judgment.
3. Interest on the principal and any outstanding interest at the rate of 10% per annum, at compounded interest, from date of judgment until payment in full to the First and Second Plaintiffs.
4. Costs on an indemnity basis
5. Such further and other relief as this Honourable Court deems fit.

Dated this 16<sup>th</sup> day of December 2009



Stacy Thompson  
Attorney-at-Law for the First Plaintiff and Second Plaintiff

This Writ of Summons and Statement of Claim are issued by Stacy Thompson, Attorney-at-Law for and on behalf of the First Plaintiff and Second Plaintiff, whose address for service is Unit C2, Cayman Centre, George Town, Grand Cayman, Cayman Islands. Tel: 345 747-4279.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. G0630/2009

BETWEEN: EDGARDO FAUSTINO 1<sup>ST</sup> PLAINTIFF  
AND: AURA FAUSTINO 2<sup>ND</sup> PLAINTIFF  
AND: ELIZABETH SMITH DEFENDANT

ACKNOWLEDGEMENT OF SERVICE  
OF WRIT OF SUMMONS

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

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

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

- 
1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged -
- 
2. State whether the Defendant intends to contest the proceedings (*tick appropriate box*)  
 yes  no
- 
3. If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (*tick box*)  
 yes  no
- 

Service of the Writ is acknowledged accordingly

(Signed) \_\_\_\_\_  
[Attorney] for  
[Defendant in Person]  
Address for service:

## 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.

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

Stacy Thompson  
Attorney-at-Law  
Unit C2, Cayman Centre  
P.O. Box 12133  
Grand Cayman KY1-1010  
Cayman Islands

Tel : 345 747 4279  
Fax: 345 949 4279

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

**DIRECTIONS FOR  
ACKNOWLEDGMENT OF SERVICE OF WRIT OF SUMMONS**

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

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

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

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

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

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

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

*See over for notes for guidance*

## Notes for Guidance

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