

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION



CAUSE NO: 237 OF 2011

BETWEEN:

MIGUEL GOMEZ

Plaintiff

AND:

WILLIAM GOMEZ MIRANDA



Defendant

WRIT OF SUMMONS

TO: Mr William Gomez Miranda
75 Ebanks Road, West Bay
Grand Cayman
Cayman Islands

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

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

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

Issued this 24th day of June 2011.

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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CIVIL DIVISION

CAUSE NO: OF 2011

BETWEEN:

MIGUEL GOMEZ Plaintiff

AND:

WILLIAM GOMEZ MIRANDA Defendant

STATEMENT OF CLAIM

The Parties

1. The Plaintiff is at all material times an individual with a legal and equitable interest in the property known as 75 Ebanks Road, West Bay, Grand Cayman, Cayman Islands, Block 1D Parcel 611 (the "Property").
2. The Defendant is at all material times an individual who is the son of the Plaintiff. The Defendant also holds a legal interest in the Property.

Background

3. The Plaintiff and his then wife purchased the Property for \$23,000.00 in February 2002 with the intention that the Plaintiff would build apartments on the Property to generate income.
4. On 2 September 2002, the Defendant, then age 17, was added as a joint proprietor of the Property by way of natural love and affection to assist his mother with the Property especially in view of the fact that the Plaintiff was seriously ill.
5. In 2003, a mortgage was taken out on the Property with Butterfield Bank in the amount of \$135,000.00.

6. In or around 2005 the Plaintiff and his then wife declared, and the Defendant agreed that the Defendant would have sole ownership and interest of the apartment commonly referred to as Unit 5 and marked as "Big Apartment 2cnd Floor" on the attached diagram.
7. There was a verbal understanding that the Property, save for Unit 5, belonged to the Plaintiff and his then wife and that the rental income save for that collected from Unit 5 would be used to service the mortgage and the surplus would be retained by the Plaintiff.
8. In breach of the agreement set out in paragraphs 6 and 7 above, the Defendant has:
 - a. taken control of collecting rental income to which he is not entitled;
 - b. failed and/or refused to service the mortgage causing it to fall into arrears in the sum of CI\$15,127.60; and
 - c. failed to surrender the surplus of the rental income to the Plaintiff.
9. The Defendant has failed to contribute to the maintenance of the Property causing the Property to fall into disrepair and during 2009 and 2010 the Defendant caused damage to the gas supply and the air conditioning units in the amount of approximately CI\$250.00.
10. Since that time the Defendant has failed to reimburse the Plaintiff for costs in the amount of approximately CI\$250.00 to repair the damages.
11. On 3 March 2009, 31 May 2009 and 10 December 2010 the Defendant physically assaulted the Plaintiff causing the Plaintiff to suffer physical injuries resulting in damages in the amount of approximately CI\$1,800.00.
12. The Defendant has since, in 2009 been charges with assaulting causing ABH as against the Plaintiff contrary to the Penal Code, 2010 Revision.
13. Since that time the Defendant has neglected or failed to reimburse the Plaintiff for the Plaintiff's medical expenses in relation to the said assaults set out in paragraph 10 above.
14. On 28 June 2005 the Defendant obtained a loan from Royal Bank of Canada in the amount of CI\$7,700 for the purchase of furniture. The Plaintiff and his then wife signed as guarantors of the Defendant's said loan.
15. As a result of the Defendant's failure to repay the loan referred to in paragraph 14 above, the bank then registered a Caution against the Property register.

AND THE PLAINTIFF CLAIMS FOR:

1. damages to be assessed;
2. a declaration of the respective interest of each of the Proprietors;

3. an interim and final order that the Plaintiff be the sole authorised recipient of collecting any and all rents due from tenants residing on the Property;
4. an interim and final order that the Defendant be restrained from collection any rents due from tenants at 75 Ebanks Road and that the Defendant be restrained from molesting, annoying or intimidating the Plaintiff or any of the tenants residing on the Property;
5. an order that the Defendant make all necessary arrangements to ensure that the Caution registered on the Property is removed;
6. such further and other relief as this Honourable Court deems just; and
7. costs to be assessed if not agreed.

Dated the 27th day of June 2011.



Chanda V. Glidden

Attorney-at-law for the Plaintiff

TO: The Clerk of the Court

AND TO: William Gomez Miranda
75 Ebanks Road, West Bay

Big Apartment 2nd Floor

Big Kitchen and Livingroom

Big Bathroom

Big Bedroom

Big Apartment 1st Floor

Kitchen Diningroom

Small Bedroom

Small Bathroom

Small Bedroom

Small Apartment

Big Bedroom

Kitchen Diningroom

Small Bathroom

Garage

Kitchen Diningroom

Small Bathroom

Garage

Kitchen Diningroom

Small Bathroom

Left Hand House

Big Bedroom

Kitchen Diningroom

Small Bedroom

Bedroom

Bedroom

Livingroom

Livingroom

Bathroom

Livingroom

Right Hand House

Kitchen

Living and Diningroom

Bedroom

Small Bathroom

Big Bedroom

Livingroom

75 Ebanks Road, West Bay

Bedroom

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO: OF 2011

BETWEEN:

MIGUEL GOMEZ Plaintiff
AND:
WILLIAM GOMEZ MIRANDA Defendant

**ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS**

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

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

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

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

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

yes

no

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

yes

no

Service of the Writ is acknowledged accordingly

(Signed).....

Attorney for
Defendant in person
Address for Service:

Please complete overleaf

Notes on address for service

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

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where 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.

Chanda Glidden
PO Box 1160
24 Huldah Dr.,
2nd Floor Barnett Music Building, Suite D,
Grand Cayman KY1-1503

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

Acknowledgement of service of writ of summons (0.12, r.3)

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

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

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

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings must also serve a defence on the Attorney for the 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.

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

See over for notes for guidance

Please complete overleaf

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. For 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.