

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 465 OF 2011

IN THE MATTER OF THE REGISTERED LAND LAW (2004 REVISION)

AND IN THE MATTER OF SOUTH SOUND, BLOCK 15C, PARCEL 252H4

BETWEEN:

NATIONAL BUILDING SOCIETY OF CAYMAN

AND:

KERLUE McINNIS

PLAINTIFF

AND:

PHILLIP HYRE

FIRST DEFENDANT

SECOND DEFENDANT



ORIGINATING SUMMONS

LET THE DEFENDANTS KERLUE McINNIS of PO Box 11494, Grand Cayman, KY1-1009 Cayman Islands and PHILLIP HYRE of PO Box 1671, Grand Cayman, KY1-1109 attend before the Judge in Chambers, at the Law Courts, George Town, Grand Cayman on the day of 2011, at o'clock on the hearing of an application by the Plaintiff, NATIONAL BUILDING SOCIETY OF CAYMAN of PO Box 504, Grand Cayman, KY1-1106.

AND LET THE DEFENDANTS within 14 days after service of this summons on them, counting the day of service, return the accompanying Acknowledgment of Service to the Courts office.

BY THIS SUMMONS the Plaintiff seeks relief pursuant to the provisions of the Registered Land Law (2004 Revision) as follows:

AS AGAINST THE FIRST DEFENDANT ONLY

1. Leave pursuant to Grand Court Rules Order 45 Rule 3(1) and (2) to issue a Writ of Possession in respect of the property located at South Sound, Block 15C, Parcel 252H4 (the "Property");

2. An order for sale by public auction or private treaty of the Property;
3. An Order that if, after any sale of the Property, there should be any shortfall in the amount due and owing to the Plaintiff, the Plaintiff be at liberty to enter Judgment for the said shortfall, together with interest and costs;

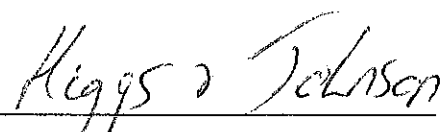
AS AGAINST THE SECOND DEFENDANT ONLY

4. Money Judgment in the sum of CI\$216,000.00 together with interest from 1 February 2011 up to the date of payment, in accordance with the terms of the Guarantee and Postponement of Claim entered into by the Second Defendant, in respect of the First Defendant, on 27 February 2007;

AS AGAINST BOTH DEFENDANTS

5. Such further Orders as this Honourable Court sees fit; and
6. Costs.

Dated this 25th day of November 2011
Filed this day of November 2011



Higgs & Johnson
Attorneys-at-Law for the Plaintiff

NOTES:-

- (1) This Summons 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 above date unless renewed by order of the Court.

(2) If a defendant does not attend personally or by his attorney at the time and place above-mentioned such order will be made as the Court may think just and expedient.

IMPORTANT:-

Directions for acknowledgement of service are given with the accompanying forms.

THIS ORIGINATING SUMMONS is issued by Higgs & Johnson, Attorneys-at-Law for the Plaintiff, whose address for service is that of its Attorneys-at-Law, being 5th Floor Anderson Square Building, Shedden Road, George Town, Grand Cayman, Cayman Islands.

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE
OF ORIGINATING SUMMONS**

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.

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. If you wish to defend claims made in the originating summons, or intend to attend the proceedings and to participate in them so far as necessary (although not necessarily in an adversarial manner) you should tick the "Yes" box in paragraph 2 of the acknowledgement of service.
3. For the purpose of calculating the period of 14 days for acknowledging service, An originating summons served on the Defendant personally is treated as having been served on the day it was delivered to him.
4. 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 named stated on the Originating Summons*)".
5. 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.
6. 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.
7. 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.
8. Where the Defendant is a **MINOR** or a **MENTAL PATIENT**, the form must be completed by an Attorney acting for a guardian *ad litem*.
9. A Defendant acting in person may obtain help in completing the form at the Courts Office.

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**ACKNOWLEDGMENT OF SERVICE
OF ORIGINATING 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 Originating Summons is being acknowledged.

2. State whether the Defendant intends to contest or otherwise participate in 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 Originating Summons 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 principal office.

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

Higgs & Johnson
PO Box 866GT
Anderson Square Building
George Town
Grand Cayman
Ref: JMH/501683-12

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

[Empty box for defendant's indorsement]