

IN THE GRAND COURT OF THE CAYMAN ISLANDS



CAUSE NO. ⁶⁰³⁸⁴ OF 2012

BETWEEN:

(1) GORDON RICHENS

(2) DR. ENOKA RICHENS

Plaintiffs

-AND-

AVENDELL INVESTMENTS INC

SEP 11 2012

Defendant



WRIT OF SUMMONS

TO: AVENDELL INVESTMENTS INC
Bodden Corporate Services Ltd.
P O Box 10335
Grand Cayman
KY1-1003
Cayman Islands

THIS 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 Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495GT, 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 Acknowledgement 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 day of September 2012

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.

GENERAL INDORSEMENT

The Plaintiffs entered into a contract with Robertson Design Build Limited ("RDBL") to purchase a condominium unit at a development known as "The Bluffs at Pedro" (the "Agreement"). The development was to be constructed on land know as Registration Section Savannah Block 28D Parcels 276 - 280 (the "Land"). The Defendant at all material times was the registered owner of the Land

In entering into the Agreement, RDBL was the agent of the Defendant. Alternatively, RDBL and the Defendant were partners and RDBL entered into the Agreement in the course of their partnership business.

The Plaintiffs paid US\$ 165,000 in accordance with the Agreement (the "Funds"). The Funds were paid to an agent of the Defendant, Doug Sell (and/or Butler Properties) as Stakeholder.

In breach of the Agreement the Funds were paid from the Stakeholder to RDBL and then subsequently to the Defendant.

The condominium unit was never constructed and the Plaintiffs rescinded the Agreement. In further breach of the Agreement the Funds were not repaid to the Plaintiffs.

The Plaintiffs seek damages against the Defendant for breach of contract, alternatively, for the tort of procuring a breach of contract. Alternatively, the Plaintiffs seek the return of the Funds on the basis of the common law rescission of the contract, alternatively on the basis of a constructive trust, alternatively for moneys had and received.

The Plaintiff seeks the following relief:

- (1) Damages in the amount of US\$ 165,000;
- (2) Alternatively the return of the Funds;
- (3) A declaration that the Plaintiffs are entitled to a lien and/or charge against the Land to secure the repayment of the Funds;
- (4) Alternatively, injunctive relief restraining the Defendant from selling the Land until the Plaintiffs have been repaid the Fund;

- (5) All necessary consequential orders, accounts and inquiries;
- (6) Interest;
- (7) Costs

Dated this 10th day of September 2012



Broadhurst LLC

Attorneys-at-Law for the Plaintiffs

This Writ of Summons was issued by Broadhurst LLC, Attorneys-at-Law for the Plaintiffs, whose address for service is 40 Linwood Street, P.O. Box 2503 GT, George Town, Grand Cayman, Cayman Islands, British West Indies.

**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, PO Box 495, 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 Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is endorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2). The defence must be served within fourteen (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 endorsed on the Writ, the defence need not be served until fourteen (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 fourteen (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 installments or otherwise.

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 fourteen (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 authorized to act on behalf of the Company, but the Company can take no further steps in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL HEALTH 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.

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Plaintiffs

-AND-

AVENDELL INVESTMENTS INC

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 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 []

Service of the Writ is acknowledged accordingly

(Signed) _____

[Attorney] for

[Defendant in Person]

Address for service:

Please see 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 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.

BROADHURST LLC
ATTORNEYS-AT-LAW
40 LINWOOD STREET
PO BOX 2503 GT
GEORGE TOWN, GRAND CAYMAN
CAYMAN ISLANDS, BRITISH WEST INDIES

Endorsement 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 Attorney endorsement]