

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 51

OF 2013

BETWEEN:

BEVERLY BANKS

PLAINTIFF

AND:

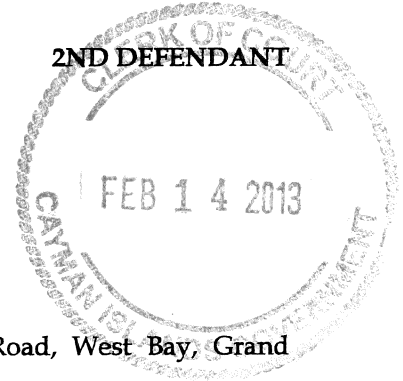
ALTHEA JUANITA RHODEN

1ST DEFENDANT

JEFFREY DENNIS RHODEN

2ND DEFENDANT

WRIT OF SUMMONS



To:

- (1) ALTHEA JUANITA RHODEN - 114 Reverend Blackman Road, West Bay, Grand Cayman, Cayman Islands.
- (2) JEFFREY DENNIS RHODEN - 114 Reverend Blackman 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 Fourteen days [14] 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 Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 14th day of February 2013

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.

This WRIT was filed by Mourant Ozannes Attorneys-at-Law for and on behalf of the Plaintiff herein, whose address for service is 94 Solaris Avenue, Camana Bay, PO Box 1348, Grand Cayman KY1-1108, Cayman Islands (Ref: 8004775/56617479/1)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2013

BETWEEN:

BEVERLY BANKS

PLAINTIFF

AND:

ALTHEA JUANITA RHODEN

1ST DEFENDANT

JEFFREY DENNIS RHODEN

2ND DEFENDANT

STATEMENT OF CLAIM

1. The Plaintiff is a Caymanian resident of Britannia Apartments, Seven Mile Beach. The First and Second Defendants are Jamaican nationals, who at all material times were married to one another and working in the Cayman Islands. They presently reside together at 114 Reverend Blackman Road, West Bay.
2. From sometime in 1994 until late 2004, the First Defendant provided services through an agency to the Plaintiff as a cleaner and housekeeper.
3. In September or October 2004, the Plaintiff employed the First Defendant directly and held her work permit. There was no written contract of employment, instead the terms of the employment contract were agreed orally. The First Defendant's duties were to provide services to the Plaintiff as a cleaner and housekeeper. The First Defendant always had Thursdays and Sundays off unless otherwise agreed in advance. The arrangement was very flexible and the First Defendant would assist the Plaintiff as and when necessary. Initially the First Defendant was paid

CI\$1,000 per month, but this was later increased to CI\$1,200 per month with effect from early 2005.

4. During the period of the First Defendant's employment with the Plaintiff, the First Defendant resided with the Plaintiff in the Plaintiff's home at Britannia Apartments. For the purposes of and in connection with the the First Defendant's employment, the Plaintiff provided the First Defendant with a luxury private bedroom and ensuite bathroom.
5. At the commencement of the First Defendant's employment with the Plaintiff, the Second Defendant was permitted by the Plaintiff to reside with the First Defendant at the Plaintiff's home. However, the Plaintiff was troubled by frequent boisterous arguments between the Defendants and became increasingly suspicious that the Second Defendant was subjecting the First Defendant to domestic violence. The Plaintiff required the Second Defendant to leave (and he did leave) in early 2012.
6. On 4 October 2012, the Plaintiff terminated the First Defendant's employment, and required her to leave her home. The Defendant has not lived in the Plaintiff's residence since 6 October 2012.

RETENTION OF VEHICLE IN BREACH OF TRUST

7. The Plaintiff is not a confident driver, and through her own choice, has not driven for approximately twenty years.

8. At the commencement of the First Defendant's employment with the Plaintiff, the First Defendant was unable to drive and did not hold a drivers' licence.
9. In early 2005, the Plaintiff agreed to pay for the First Defendant's driving lessons and examinations. The Plaintiff agreed to pay for the lessons and examinations in consideration for the First Defendant's oral agreement that, upon the First Defendant obtaining her licence, an additional employment duty would be for the First Defendant to drive the Plaintiff from place to place at the Plaintiff's request.
10. Pursuant to this arrangement, the Plaintiff paid for the First Defendant's driving lessons and her examinations. The First Defendant passed her driving test at the second attempt on a date sometime before 16 June 2005.
11. On 16 June 2005, for the purpose of the First Defendant's new employment duty as the Plaintiff's driver, the Plaintiff purchased a brand new white Toyota Land Cruiser vehicle (VIN# JTEBU25J105014367, registration 111 426) (the "**Vehicle**") from Vampt Motors for CI\$41,000.
12. At the time the Vehicle was purchased, it was orally agreed between the Plaintiff and the Defendants that the Vehicle would be registered with the Vehicle & Drivers Licensing Department in the Second's Defendant's name for the sole and specific purpose of allowing the First Defendant to drive the Plaintiff from place to place in accordance with the First Defendant's employment duties with the Plaintiff (the "**Agreement**").
13. The Plaintiff was mistakenly of the understanding that the Vehicle could not be registered in her own name, as she did not have a licence. The Vehicle was registered to the Second Defendant for reasons of convenience only.

14. In accordance with and pursuant to the Agreement, the Vehicle was registered in the name of the Second Defendant by the Department of Vehicle & Drivers' Licensing with a plate number 111 426. Until the Plaintiff terminated the First Defendant's employment, the Plaintiff paid for the Second Defendant to be insured as a driver of the Vehicle, with the First Defendant as a named driver under the policy.
15. From 16 June 2005 until the termination of the First Defendant's employment the Plaintiff paid for the petrol and the maintenance of the Vehicle.
16. In the premises it was the common intention of the Plaintiff, the First Defendant and the Second Defendant, or alternatively, it is to be inferred from the facts pleaded at paragraphs 7 to 15 above that:
 - i) During the course of the First Defendant's employment with the Plaintiff, the Second Defendant would hold the Vehicle in trust for the Plaintiff to be used for the purpose of and in connection with the First Defendant's employment; and
 - ii) in the event of the termination of the First Defendant's employment the Second Defendant would deliver up the Vehicle to the Plaintiff upon the direction of the Plaintiff.
17. The First Defendant's employment with the Plaintiff came to an end on 4 October 2012. On or about the time of the termination of the First Defendant's employment, the Defendants (or others acting on their behalf) without the Plaintiff's knowledge, permission or consent, drove the Vehicle away from the Plaintiff's driveway and have not returned it.

18. The Plaintiff's attorneys wrote to the Second Defendant on 10 January 2013 demanding that the Second Defendant deliver up the Vehicle to the Plaintiff. The Second Defendant has failed or otherwise refused to comply with this demand.
19. In breach of the Agreement, the Defendants have refused to deliver up the Vehicle to the Plaintiff and continue to enjoy the use of the Vehicle without the permission of the Plaintiff.

PARTICULARS OF LOSS FOR BREACH OF TRUST

20. The value of the Vehicle as at 4 October 2012 was CI\$14,000.

AND the Plaintiff Claims

- i) a Declaration that the Vehicle is held by the Second Defendant upon trust for the Plaintiff;
- ii) an Order directing the Second Defendant to deliver up the Vehicle and the keys to the Plaintiff's attorneys;
- iii) an Order directing the Second Defendant to sign and execute all vehicle registration documents necessary to effect the transfer of the Vehicle to the Plaintiff;
- iv) in the alternative to (iii) above, an Order directing the Director of the Department of Vehicle & Drivers' Licensing to effect the transfer of the Vehicle to the Plaintiff upon service on him of a Judgment or Order to that effect by this Honourable Court;

- v) an Order that the Second Defendant account to the Plaintiff for the cost of any repairs, servicing or other work that may be required to restore the Vehicle to the condition it was in on 4 October 2012 as determined and quoted by Vampt Motors or their agents, or alternatively to pay CI\$14,000 in damages to the Plaintiff being the value of the Vehicle at that time should it be deemed to be beyond economical repair by Vampt Motors or their agents;
- vi) In the alternative to (ii), (iii), (iv) and (v) above, damages in the sum of CI\$14,000 being the value of the Vehicle as at 4 October 2012;
- vii) Interest in accordance with section 34 of the Judicature Law (2007 Revision) for such period and at such rates as to this Honourable Court seems just;
- viii) Costs; and
- ix) Further or other relief.

Dated this 14th day of February 2013



MOURANT OZANNES

Attorneys-at-Law for the Plaintiff

THIS STATEMENT OF CLAIM was filed by Mourant Ozannes, Attorneys-at-Law for and on behalf of the Plaintiff whose address for service is 94 Solaris Avenue, Camana Bay, P.O. Box 1348, Grand Cayman, KY1-1108. 8004775/56618031/1

BETWEEN:

BEVERLY BANKS

PLAINTIFF

AND:

ALTHEA JUANITA RHODEN

1ST DEFENDANT

JEFFREY DENNIS RHODEN

2ND 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

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.

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

Mourant Ozannes
Attorneys-at-Law
94 Solaris Avenue
Camana Bay
P.O. Box 1348
KY1-1108
George Town
GRAND CAYMAN, KY1-1108)

Indorsement 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.

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.