

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION

6336  
CAUSE NO. ~~FAM~~ OF 2013

BETWEEN: NAOMI EMILY TAPE-MARSHAL

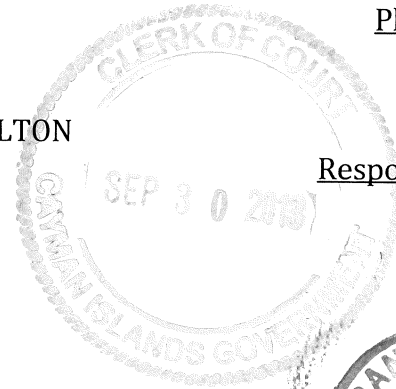
Plaintiff

AND: DARLING FREDRICA SMITH CHARLTON

Respondent

**WRIT OF SUMMONS**

TO: Darling Frederica Smith  
c/o Campbells  
Floor 4, Willow House  
Cricket Square  
George Town, Grand Cayman



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 28 days after the service of the 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, Cayman Islands, 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 Acknowledgement without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgement may be entered against you forthwith without further notice.

Issued this 30<sup>th</sup> day of September 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 renewed by order of the Court.

**IMPORTANT**

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

## STATEMENT OF CLAIM

1. On 19<sup>th</sup> February 2003, Mr. Gilbert Sylvester Smith executed his Will. ("the Will"). A copy is attached.
2. On 29<sup>th</sup> September 2003, Mr. Gilbert Sylvester Smith died.
3. The named Executrix of the Will is Darling Frederica Smith Carlton who is the sister of the testator and the Defendant named herein this matter.
4. The Defendant was granted Probate of the Will of the Testator on 30<sup>th</sup> December 2003. A copy is also attached herewith.
5. The Plaintiff is a beneficiary under the Will. In accordance with the Will the Plaintiff is entitled to a "dwelling house" located at 96A Red gate Road, Off North Sound Road in George Town being Block 20B Parcel 127 ("the Property"). The Testator referred to the dwelling house in Paragraph 5 of the Will as 96A.
6. In accordance with the Will, there are also nine lease/rent rooms on the Property. The Testator referred to these rooms at Paragraph 6 of the Will as "building B & C".
7. A copy of an aerial view of the Property conducted by Patrick Broderick & Co. Ltd., Licensed Land Surveyor in Grand Cayman is also herewith attached. The aerial view shows a structure labelled "Marshall Residence". This is the structure where the Testator resided prior to his death. This is the structure in which the Plaintiff resided with the Testator since 23<sup>rd</sup> December 1993 until his death and the Plaintiff is still in unbroken occupation of this structure.
8. At paragraph 6 of the Will, the Testator declared that "the Executrix is solely responsible to rent and collect the revenue from the nine lease/rent rooms and the revenue is to be used to pay C.I.B.C. loan and all other outstanding debts".
9. Since Probate was granted to the Executrix, the Plaintiff suffered verbal abuse from the Executrix and never had peaceful enjoyment of the property.
10. On 25<sup>th</sup> October 2010, the police were summoned by the Plaintiff. The Plaintiff reported that the Executrix stated to the Plaintiff's spouse that she was planning to kill the Plaintiff and her spouse. A copy of the police report is also attached hereto.
11. In an around June 2010, The Plaintiff retained Attorney at Law, Mr. Keith Collins to assist her in securing her beneficial interest in the Property. Counsel filed an Exparte Application and an Order was granted on 3<sup>rd</sup> June 2010 restraining the Executrix "from obtaining any further loans on the Property".
12. On 25<sup>th</sup> June 2010, Counsel registered an Inhibition against the Property at the Land Registry to try to secure the value of the beneficial interest of the Plaintiff. A copy of the land register is herewith attached.

13. The Property size being area approximately 0.24 Acre does not meet the permitted size for subdivision. The land is too small to be sub-divided.
14. It has been thirteen (13) years since Probate has been granted to the Defendant/Executrix.
15. The Defendant is in breach of Trust as the Executrix of the estate of Gilbert Sylvester Smith;
16. That Defendant/Executor has failed to administer the estate within one year of the Grant of Probate.
17. The Defendant/Executor has failed to administer the affairs of the estate and to give specific effect to the specific devise made to the Plaintiff under the Will.
18. The Defendant/Executor has failed to account to the Plaintiff in relation to her administration of the estate generally;
19. The Defendant/Executor has failed to account to the Plaintiff rental income from the nine lease/rent rooms;
20. The Defendant/Executor has failed to account to the Plaintiff of bank loan(s) against the Property;
21. The Defendant/Executor has failed to account to the Plaintiff any and all statement of accounts of the estate.

AND THE PLAINTIFF CLAIMS:

1. Damages;
2. Benefits under a Will
3. Costs; and
1. Further or other relief as the Court deems fit.



Sonia Bush & Associates Law Firm  
Attorneys for the Plaintiff

**This Writ** is filed by Sonia Bush & Associates, Attorneys-at-Law for and on behalf of the Plaintiff herein whose address for service and correspondence is Grand Pavilion Commercial Center, 802 West Bay Road, P.O. Box 11139, Grand Cayman, KY1-1008 Cayman Islands.

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICES  
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 "Statements of Claim" appear on the top of page 2) the Defence must be served within 28 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgement is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 28 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 judgement 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.

## Notes for Guidance

1. Each Defendant (if there is 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 28 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 (.....)" 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 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION

CAUSE NO. ~~FAM~~ OF 2013

BETWEEN: NAOMI EMILY TAPE-MARSHAL

Plaintiff

AND: DARLING FREDRICA SMITH CHARLTON

Respondent

**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 Delay may result in judgment being entered  
directions and notes for guidance carefully against a Defendant whereby he may have  
before completing this form. If any to pay the costs of applying to set it aside.  
information required is omitted or given  
wrongly, THIS FORM MAY HAVE TO BE  
RETURNED.

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 this Writ is acknowledged accordingly

(Signed) \_\_\_\_\_  
Defendant/Attorney for the Defendant

**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 communication 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.

Sonia Bush & Associates Law Firm  
Attorneys-at-Law  
Grand Pavilion Commercial Center,  
802 West Bay Road,  
P.O. Box 11139  
Grand Cayman, KY1-1008  
Cayman Islands.

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

(Physical location)

Telephone:

# In the Name of God. Amen

THIS IS THE LAST WILL AND TESTAMENT OF ME, GILBERT SYLVESTER SMITH being of sound mind and resides at 96A,B and C at Red Gate Road, off North Sound Road in GEORGE TOWN, GRAND CAYMAN, CAYMAN ISLANDS.

1. I HEREBY REVOKE all former WILLS and TESTAMENTARY dispositions heretofore made by me and I DECLARE this to be my LAST WILL AND TESTAMENT.
2. I APPOINT my sister, DARLING FREDERICA SMITH CHARLTON of 95 Garvin Road, Morgan's Harbour, West Bay, Grand Cayman as my sole Executrix of this my WILL, and Trustee thereof for all the purposes of the Settled Land Law.
3. I DIRECT my sister namely DARLING FREDERICA SMITH CHARLTON to give me a good decent Christian burial and my body laid to rest at the Prospect cemetery (George Town), and that a marble headstone should mark the final resting place where I am laid at a suitable time so to be erected. My Executrix should oversee to pay all my just debts and funeral and Testamentary Expenses.
4. IN THE EVENT of my sister DARLING FREDERICA SMITH CHARLTON pre-deceasing me, I HEREBY APPOINT Mr. DENNIS EVERTON BRADY of 56 Bayfield Crescent, in Newlands, Grand Cayman, Cayman Islands to be my Executor with all the powers vested in my original Executrix.
5. I GIVE, DEVISE AND BEQUEATH, my dwelling house and land (portion) situated at 96A Red Gate Road, off North Sound Road in George Town to **Naomi Emily Tape** who shall become owner of the said dwelling house and land (portion) with all of its contents, all furnitures and fixtures of whatsoever nature (said Land situated in George Town East, Grand Cayman, Block 20B Parcel 127) or howsoever the same may be described at the Land Registry for her sole use and benefit absolutely. This is being given to her because of caring for myself and my wife during our illness since 1993. Naomi gave up her fiancée to accept and care for me and my wife, and is hereby included in this my Will as a beneficiary.
6. The other building 96 B & C contains nine rooms which are rented to tenants. The Executrix/or is solely responsible to rent and collect the revenue from the nine lease/let rooms. The revenue from all the rooms (being nine) must be used to pay CIBC loan and all other outstanding debts. **After all my debts are settled in full** thereafter, I GIVE, DEVISE AND BEQUEATH the rented rooms being nine to the following persons:- one room to my son CLIFF SMITH, one room to my son CLAYBOURNE EBANKS. The other SEVEN rooms I GIVE, DEVISE and BEQUEATH to my sister DARLING FREDERICA SMITH CHARLTON.

*Gilbert Smith*

Continue on next page 2 of 2

THIS IS THE LAST WILL AND TESTAMENT OF ME GIBLERT SYLVESTER SMITH of 96A, B and C at Red Gate Road, off North Sound Road in GEORGE TOWN, GRAND CAYMAN, CAYMAN ISLANDS.

(THIS PAGE IS THE CONTINUATION OF PAGE ONE)

6. continued..

My sons Cliff Smith & Claybourne Ebanks, and my sister Darling Frederica Smith Charlton shall become vested as owners of(96 B and C) of the said rooms and land (portion) of (said land situated in George Town East, Grand Cayman, Block 20B Parcel 127) or howsoever the said may be described at the Land Registry for their sole use and benefit absolutely.

7. My son Carson Ebanks is not included in this my Last Will and Testament since he was given a parcel of land in Newlands (Rackley Canal) in the year 1980 by me Gilbert S. Smith. I made abundantly clear to my son Carson Smith, that this was his share and no more to get from me Gilbert S. Smith. He then build his dwelling home on the said parcel of land.

8. I DECLARE that in the event of Cliff, Claybourne, and Darling mentioned herein pre-decease each other, then the survivors should share the room(s) with land(portion) (Block 20B Parcel 127) situated in George Town East, Grand Cayman, until the last survivor shall become vested as owner of the said rooms and land (portion) whatsoever nature (said land situated in George Town East, Block 20B Parcel 127) or howsoever the same may be described at the Land Registry for his/her benefit absolutely.

9. The dwelling house (96A) and the nine rooms (96B & C) are two structures situated on Block 20B Parcel 127 in George Town East, Grand Cayman, and the said land must be shared so that all may enjoy; unless other negotiation between the parties is sorted otherwise.

10. All my children did not care for me when I was alive, and although they did nothing for me Gilbert S. Smith they are left with a small portion of my real estate.

IN WITNESS whereof; I the said GILBERT SYLVESTER SMITH have hereunder signed my name on this 19th day of February, in the year two thousand and three.

Gilbert S. Smith  
Name of Testator  
GILBERT SYLVESTER SMITH

The above written INSTRUMENT was signed by the said Testator GILBERT SYLVESTER SMITH as his LAST WILL AND TESTAMENT, in the presence of us, who at his request, and in his presence, and in the presence of each other have hereunder subscribed our names as WITNESSES:-

1. Witness [Signature] 2. Witness [Signature]  
Address 31 Hill Side GT Address 30 Silkory Clarke  
Beddome Town PO Box 205 GT  
Occupation Janitor Occupation Apprentice

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
HOLDEN AT GEORGE TOWN, GRAND CAYMAN.

CAUSE NO.            OF  
PROBATE AND ADMINISTRATION

IN THE ESTATE OF GILBERT SYLVESTER SMITH

AFFIDAVIT OF ATTESTING WITNESS

I, DANIEL McKENZIE, of George Town, Grand Cayman, make oath and say that I witnessed the execution of the LAST WILL AND TESTAMENT of the above-named. The said WILL bearing the date being 19th February 2003; having been produced to me, and that I saw the above-named execute the said WILL by signing his name at the foot or end thereof and saw GIFFORD HENRY and myself subscribing witness to the said WILL, both present at the time of execution thereof, attest and subscribe the same in the presence of the Testator.

*Daniel McKenzie*  
Daniel McKenzie

Sworn on this 19<sup>th</sup> day of February, 2003  
before me:-

*Philip N. Stewart*  
Philip N. Stewart Sr.  
Notary Public in and for the Cayman Islands

STEWART ADMINISTRATIVE  
AND NOTARIAL SERVICES  
P.O. BOX 11047 APO  
139 NORTH SOUND WAY  
SOUND WAY CENTRE #6  
Tel. 946-1250 Fax. 949-0337


In the Grand Court of the Cayman Islands  
Probate and Administration Application No. 115/03  
In the Estate of Gilbert Sylvester Smith

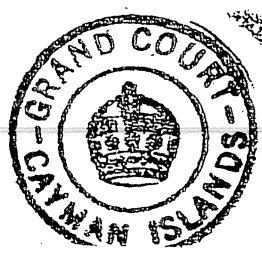
Cause No. 115/03

GRANT OF PROBATE

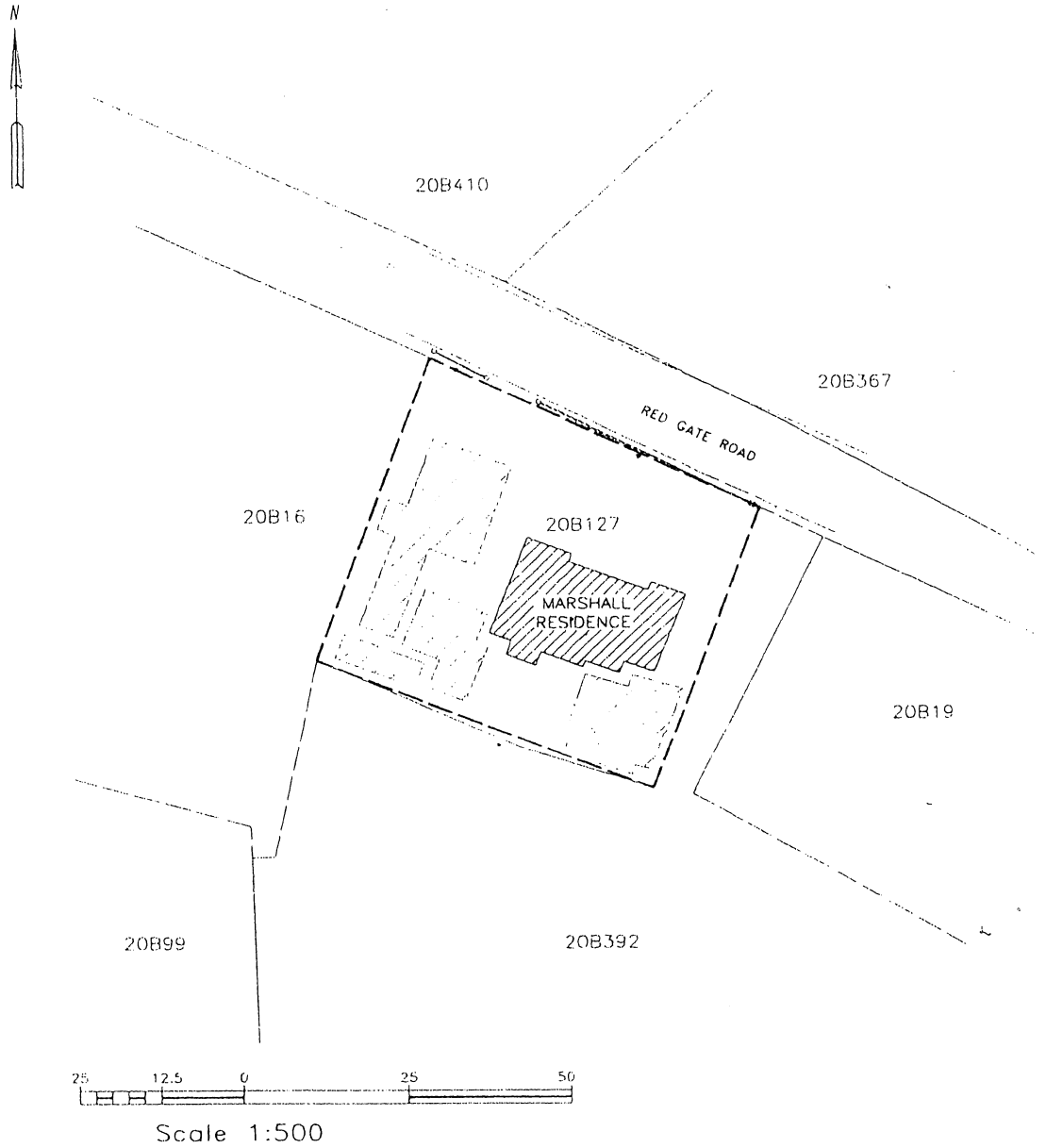
BE IT BE KNOWN that on the 30th day of December 2003 the last Will and testament a true copy whereof is hereunto annexed of Gilbert Sylvester Smith late of West Bay, Grand Cayman of the Cayman Islands who died on or about the 29th day of September 2003 was proven and registered in the said court and that administration of all the estate which by law devolves and vests in the personal representation of the said deceased was granted by the aforesaid court to Frederica Charlton the executrix named in the will, she having been first sworn well and faithfully to administer the same, by paying the just debts of the deceased and the legacies contained in his Will and to exhibit a true and perfect inventory of all and singular the said estate and effects, of the said deceased, and to render a just and true account thereof whenever required by law so to do.

DATED this 30th day of December 2003.

  
\_\_\_\_\_  
Clerk of the Court



LOCATION PLAN OF MARSHALL RESIDENCE ON BLOCK 20B, PARCEL 127



PATRICK C. BRODERICK & CO. LTD.  
LICENSED LAND SURVEYOR  
P.O. BOX 11719 A.P.O. GRAND CAYMAN.  
PH. 949-6868 FAX. 949-6767

DRAWING # 0874M2

# Royal Cayman Islands Police Service



## Incident Report

Date & Time Printed: 25/10/2010 16:09  
Officer Printing: Vilma BAILEY  
URN: CACI00069276

### Complainant Details

Name: Dwaynian MARSHALL  
Date of Birth: 112<sup>th</sup> August 1978  
Address: 96A, Red Gate Road, George Town  
Cell Number: 345-322-9337

### Incident Details

Type: Civil Dispute  
Location: Red Gate Road, George Town  
Date: 25<sup>th</sup> October 2010  
Time: 3:30p.m.  
  
Date Reported: 25<sup>th</sup> October 2010  
Time Reported: 12:23p.m.  
  
Received Via: Walk In

### Incident Summary Received:

Complainant **Dwaynian MARSHALL** reported that the accused Fredericka CHARLTON of a Garvin Road address in West Bay, 345-325-1581 went to his above address around 3:30p.m. yesterday 24<sup>th</sup> October 2010 and stated to him that he is planning to kill his wife Naomi MARSHALL (date of birth 1<sup>st</sup> April 1962, 345-322-0810) so that he can get her property that has been willed to her (victim) by her (accused) deceased brother. Complainant stated that he believes the accused is plotting to commit such an act, and then frame it to appear as if it was him in order to get the property. He requested the report to be logged due to the matter in court at this time.

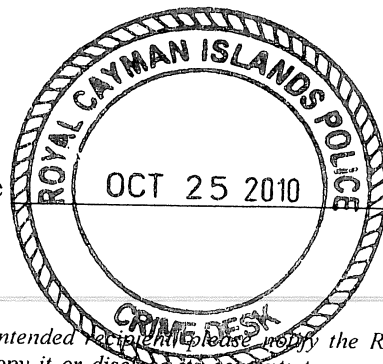
### Action Taken:

The report logged was logged as requested.

Seen and verified: \_\_\_\_\_ Date/ Time

*Name-Rank and Number*

Disclaimer



*This document is confidential and may also be privileged. If you are not the intended recipient please notify the Royal Cayman Islands Police Service – Crime Manager immediately. You should not copy it or disclose its contents to any other person.*

