

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO: 440 OF 2013

BETWEEN:

PERRY A EBANKS

PLAINTIFF

AND:

WASHINGTON EBANKS

DEFENDANT

ORIGINATING SUMMONS

TO:

Washington Ebanks

LET THE DEFENDANT, within 14 days after service of this Summons on him, counting the day of service, return the accompanying Acknowledgment of Service to the Courts office, P.O. Box 495G, George Town, Grand Cayman.

By this Summons, which is issued on the application of Perry A Ebanks, c/o Samson & McGrath, George Town, Grand Cayman, seeks the following relief and orders of the Court;

1. A declaration as to the respective interests of the parties in Registration Section George Town Central, block 13D, Parcel 390.
2. An Order for the sale and distribution of the proceeds of sale of Registration Section George Town Central, block 13D, Parcel 390 to the plaintiff and the defendant in shares in accordance with their determined interest in the property pursuant to The Partition Law (1997 Revision).
3. And upon the Orders being made at 1 and 2, the following orders are made pursuant to Order 31 of the GCR:
 - 3(a) That the plaintiff's Attorney shall be appointed to have conduct of the sale.
 - 3(b) That the parcels of land be placed for sale on the MLS with a realtor in the Cayman Islands by public auction or private treaty to be sold at the best price that can be obtained with the interest of both parties in mind.
 - 3(c) The net proceeds of any sale be deposited to the account of the Plaintiff's Attorney to be held on trust with the proceeds to be distributed in accordance with paragraph 1 of this Order.

- 3(d) That the Plaintiff's Attorney shall file a certificate and verifying affidavit in accordance with Order 31 r.3 of the GCR subsequent to any sale of the property.
- 3(e) That upon an unconditional contract for sale being entered into for any of the parcels, the Plaintiff does have leave pursuant to the Grand Court Rules Order 45 Rule 3(1) and (2) to issue a Writ of Possession in this matter in respect of the said parcel.
4. Costs.

Particulars of Cause of Action

1. The Plaintiff and the Defendant are father and son.
2. Since 1998 the defendant has resided at Registration Section George Town Central, block 13D, Parcel 390 (the 'property'). The said property is legally owned by the plaintiff.
3. On the property is situated 4 one bedroom apartments in which the defendant resides in one. The other 3 apartments are controlled, managed and maintained by the plaintiff. This has been the state of affairs since 1998.
4. The property is abutted by Registration Section George Town Central, block 13D, Parcel 55 which is also owned by the plaintiff.
5. In 2006 the plaintiff brought an Originating Summons by Cause 9 of 2006 in the Grand Court of the Cayman Islands against the defendant in this action seeking possession of the property on the ground that the defendant was in occupation without licence or consent of the property.
6. At a hearing held on the 29th July 2008 the Grand Court dismissed the originating summons, it I believed such order was made on the basis that the defendant had established a beneficial interest in the property. The Court made no order as to the extent of the beneficial interest of the defendant.
7. Since the 29th July 2008 the parties have not been able to agree the extent of the beneficial interest of the defendant nor have they reached agreement as to the sale of the property which is desired by the plaintiff.
8. The plaintiff seeks the determination and orders of the Court to allow the land to be sold and the parties suitably compensated.

If the Defendant does not acknowledge service, such judgment may be given or order made against or in relation to him as the Court may think just and expedient.

Dated the 17 day of December 2013



Samson and McGrath
Attorneys at Law for the Plaintiff

NOTE - 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 that date unless renewed by order of the Court.

IMPORTANT

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

Acknowledgement of service of originating summons (0.10, r.5)

**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

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

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 acknowledgment of service.

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.

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 Originating Summons)".

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.

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.

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.

Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.

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: OF 2013

In the Matter of The Partition Law (1997 Revision)

BETWEEN:

PERRY A EBANKS

PLAINTIFF

AND:

WASHINGTON EBANKS

DEFENDANT

**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.

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

State whether the Defendant intends to contest or otherwise participate in the proceedings (tick appropriate 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

Samson & McGrath
5th Floor Genesis Building
P.O. Box 446
Grand Cayman KY1 – 1106
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.

[Empty box for defendant's attorney indorsement]