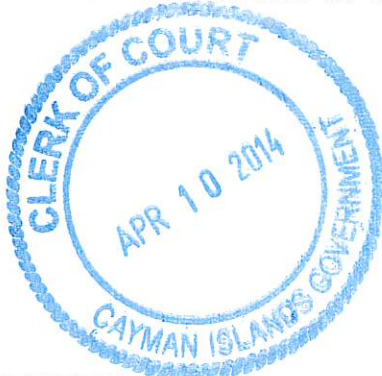


IN THE GRAND COURT OF THE CAYMAN ISLANDS



CAUSE NO: 53 OF 2014

PROBATE AND ADMINISTRATION NO: P0015 OF 2014
LEGAL AID NO. 0046 OF 2014

BETWEEN: ROBERT WILLIAM SCOTT

PLAINTIFF

AND: RUTH LEOLIN RUTH WHITEMAN nee EBANKS

1ST DEFENDANT

AND: LEORNARD NORMAN EBANKS

2ND DEFENDANT

AND: ANGELINA LULIN PARTRIDGE

3RD DEFENDANT

AMENDED WRIT OF SUMMONS

Mrs. Leolin Ruth Whiteman nee Ebanks
170 Boltins Avenue
P.O. Box 97
West Bay, Grand Cayman
Cayman Islands

Mrs. Angelina Lulin Partridge
George Town, Grand Cayman

Mr. Leonard N. Ebanks
The Shores, West Bay
Grand Cayman

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 [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 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 Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 9th day of April, 2014

Re-Issued this 10th day of April, 2014

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.

STATEMENT OF CLAIM

1. The Plaintiff was at all material times the step-son of the late Mr. William Watson Nixon who died on 29th January, 2006 ("The Testator"). The Testator left a Will dated 2nd May, 2001 and a Codicil to that Will dated 18th December, 2001, hereinafter referred to as ("the Will").
2. The 1st Defendant was at all material times the sister of the 2nd Defendant.
3. The 2nd Defendant is the Executor of the Will who assisted the 1st Defendant by concealing the fraud described herein.
4. The 3rd Defendant is the daughter of the 1st Defendant who paid no valuable consideration for the Property in dispute.
5. The property in dispute which is described below is currently registered in the names of the 1st and 3rd Defendants as joint proprietors.
6. The Testator lacked mental capacity at all material times, in particular, when he made the Will and the Codicil, and when the 1st Defendant coerced, tricked, bribed and/or influenced him to add her to his bank account, pension and/or other benefits in 2001.
7. The Testator also lacked mental capacity at the time of giving instructions and signing all supporting documents which gave effect to the transfer of the Property described below, into the name of the 1st Defendant.
8. Alternatively, the Testator was at all material times, coerced, tricked, bribed and/or influenced by the 1st Defendant into (i) making the Will and Codicil; (ii) adding her to his bank account; allowing her to access his pension and/or other benefits; and transferring the said Property into her name as joint proprietor.

9. The 1st Defendant is not related to the Testator. The Testator was married to the 1st Defendant's late grandmother Mrs. Ruth Olympia Nixon, nee Ebanks (first wife) on 24 January, 1946.
10. The Testator's first wife died on 21st December, 1971.
11. The Testator subsequently remarried Mrs. Zelma Lee Nixon ("the Plaintiff's mother") on 30 June 1973. There were no biological children born to the Testator, however the Testator raised the Plaintiff, his two younger brothers, Carson Scott and Wayne Ebanks, his sister Vernita (Juanita) Pinnock nee Ebanks and Vernita's daughter Tishan Scott as if they were his biological children. The Plaintiff was about 12 years old when the Testator entered into a relationship with his mother. Carson was about 8, Vernita was about 7, Wayne was about 4 years old and the Testator raised Tishan from birth. Vernita and Tishan continued to live with the Testator at the time of his death.
12. On 2 June 1992, the Testator and the Plaintiff's mother purchased land as joint proprietors and build a 3 bedroom 2 bath house thereon. The house which is the main subject of this claim, is situated at 81 Templewood Drive, Windsor Park, George Town, Grand Cayman and is described in the land register as Registration Section George Town South, Block 14D, Parcel 397 ("the Property").
13. After the death of the Testator, Vernita converted the house into 4 bedrooms.
14. The Plaintiff's mother died intestate on 23rd March, 2001.

15. On 2nd May, 2001, the Testator made a Will and named the Plaintiff and the 1st Defendant as well as Tishan Scott and Vernita Ebanks-Pinnock as the beneficiaries. Paragraph 4 of the Will states:-

“I give the whole of my estate to my Trustees who shall hold my estate upon trust for sale upon the following terms:

- (a) To pay my debts, funeral and executorship expenses;
 - (b) To pay any taxes and duties in respect of property passing under this Will;
 - (c) To divide the residue of my estate (“my Residuary Estate”) into 6 shares and to distribute my Residuary Estate in accordance with the following provisions:-
 - (i) 3 shares of my Residuary Estate shall be paid to the said LEOLIN RUTH WHITEMAN, ...
 - (ii) 1 share of my Residuary Estate shall be paid to ROBERT SCOTT of 122 Templeton Pine Lake, George Town, Grand Cayman, ...
 - (iii) 1 share of my Residuary Estate shall be paid to TISHAN SCOTT of 81 Templewood Street, George Town, Grand Cayman, ...
 - (iv) 1 share of my Residuary Estate shall be paid to JUANITA EBANKS of 81 Templewood Street, George Town, Grand Cayman, ...
16. On 18th December, 2001, the Testator made a Codicil to his Will which deleted Tishan Scott and Vernita Ebanks-Pinnock as beneficiaries under the Will. The remaining beneficiaries are therefore the Plaintiff and the 1st Defendant and they would have been entitled to the residuary estate in equal shares.
17. The 1st Defendant coerced, tricked, bribed and/or influenced the Testator in removing Vernita and Tishan from the Will.
18. Alternatively, the Will is invalid due to the Testator’s lack of mental capacity and/or coercion and undue influence by the 1st Defendant.

19. On 5th April, 2001, some 13 days after the death of the Testator's wife (Plaintiff's mother), the 1st Defendant coerced, tricked, bribed and or influenced the Testator in submitting an application for Deletion on Death of Joint Proprietor to the Registrar of Lands which effectively removed his wife's name from the land register, making him the sole proprietor.
20. In early 2003, the Testator suffered with dementia and psychosis and was hospitalized for several weeks in February, 2003. He was suffering from a history of memory impairment, disruptive behaviour, visual and audiorary hallucinations, personal delusions, psychosis, confusion, and multi infarct dementia.
21. During the Testator's sickness and/or detention at the Cayman Islands Health Services Authority formerly known as George Town Hospital, the 1st Defendant visited with the Testator and held herself out as the person with care and control of the Testator and/or his next-of-kin.
22. The 1st Defendant had discussions with the Testator's doctors in regards to his mental illness and treatment.
23. On 17th February, 2004, the 1st Defendant coerced, tricked, deceived and/or influenced the Testator to swear an Affidavit, that she is his adopted child, so the that Property could be transferred in her name as Joint Proprietor by way of natural love and affection without having to pay the requisite stamp duty.
24. The swearing of the said Affidavit was to the benefit of the 1st Defendant.
25. On 24th February, 2004, the 1st Defendant coerced, tricked, deceived and/or influenced the Testator to sign the transfer of land document effectively making her the Joint Proprietor of the Property.

26. The 1st Defendant knew or ought to have known that the Testator was not mentally able or capable of entering into any legal transactions such as swearing an affidavit in support of an application for waiver of stamp duty on 17th February 2004 and signing the land transfer document on 24th February, 2004.
27. The Testator was mentally incapable and did not, and could not be expected to understand the legal ramifications behind the transactions that he entered into.
28. The transfer of the Property to the 1st Defendant is therefore invalid and/or fraudulent.
29. Sometimes in mid 2005, the Plaintiff's sister, Ms. Vernita Pinnock, being aware of the Testator's declining mental capacity, contacted Dr. Marc Lockhart, a Consultant Psychiatrist in psychiatry and behavioral medicine, to examine the Testator and provide a psychiatric assessment to assist her in her attempt to apply to the Court for guardianship of the Testator. Dr. Lockhart consulted with the Testator and provided a psychiatric assessment dated 27th October, 2005. Dr. Lockhart recommended that any major financial decisions made by the Testator over the past several years should be reviewed in light of his findings and diagnosis that the Testator had been suffering from Dementia Alzheimers Type disease for several years.
30. The Testator died on 29th January, 2006.

ALTERNATIVELY, on the assumption that the Will is valid:-

31. The Plaintiff is entitled to 50% of the residuary estate of the Testator.
32. The 1st Defendant knew or ought to have known that from around February 2003 that the Testator was unable to give any form of instructions or remember anything including the fact that he had left half of the residue of his estate to the Plaintiff under his Will in December 2001 when he transferred the property to her in 2004.

33. At the time of the said transfer, the 1st Defendant knew that the Plaintiff was entitled to fifty percent (50%) of the residuary estate of the Testator.
34. The Testator did not intend for the 1st Defendant to benefit the whole of the residue of his estate.
35. On 27th February, 2006 (10 days after the burial of the Testator), the 1st Defendant, knowing that the Plaintiff was entitled to 50% of the residuary estate, caused the Property to be transferred in her sole name by way of deletion on death of a joint proprietor. This was a deliberate act on the part of the 1st Defendant and her intention was to deprive the Plaintiff of his entitlement under the Will.
36. The Will was not probated and the Plaintiff had no knowledge of the bequest to him. The Plaintiff had no knowledge of the existence of the Will until around 19th December, 2013.
37. Shortly after the death of the Testator, the 1st Defendant gave the Plaintiff the sum of CI\$15,000.00. The 1st Defendant told the Plaintiff that the Testator had left the money for him but made no mention whatsoever, about his entitlement under the Will.
38. Upon receiving the money, the Plaintiff asked the 1st Defendant about the Property and the 1st Defendant threatened the Plaintiff that if he did not take the money, he would not get anything because Vernita and Tishan did not get anything.
39. The Plaintiff felt threatened and accepted the CI\$15,000.00. The Plaintiff also signed a document at the offices of the 1st Defendant then attorney's office. He was not provided with a copy of that document.
40. The 1st Defendant told the Plaintiff that he should not tell Vernita or Tishan anything about the money he received because the Testator did not leave anything for them.

41. The transfer of the Property into the sole name of the 1st Defendant was due to her deceptive, dishonest and/or fraudulent behavior.
42. The 1st Defendant's deceptive and fraudulent actions have caused the Plaintiff loss and damage and is liable to the Plaintiff for damages, interests and costs.

THE 2ND DEFENDANT

43. In 2001, the Testator asked the 2nd Defendant if he would be the Executor of his Will and the 2nd Defendant accepted that responsibility.
44. The Will was in the Possession of the 2nd Defendant and/or he was aware of the existence of the said Will since 2001 and knew or ought to have known that the Plaintiff was entitled to 50% of the residuary estate.
45. There is conflict of interest in the sense that the 1st Defendant and the Second Defendant are closely related and the 2nd Defendant has acted impartially by allowing his sister to transfer the Property in her sole name at a time when he knew that the Plaintiff was entitled to half of the residuary estate.
46. The 2nd Defendant is unsuitable to act as the Executor as he has failed to carry out his fiduciary duties in a manner that is in the best interest of the Plaintiff.
47. The 2nd Defendant is in breach of his fiduciary duty to the Plaintiff in that he:-
 - (a) acted in conflict of his fiduciary duties;
 - (b) failed to obtain a copy of the will, read it, understand it and probate it;
 - (c) failed miserably to inform the Plaintiff of the existence of the Will;
 - (d) deliberately concealed the Will from the Plaintiff for almost 8 years;
 - (e) failed miserably to administer the estate Property and with all due expediency;

- (f) failed to file a detailed inventory of the assets of the estate with the court;
- (g) failed to distribute the assets according to the wishes expressed in the Will, in particular, failed to give the Plaintiff 50% of the residuary estate;
- (h) deprived the Plaintiff of his entitlement under the Will;
- (i) deprived the Plaintiff of his entitlement of income from rent of the Property since around November, 2006; and
- (j) failed to exercise such care and skill as is reasonable in all the circumstances.

48. The 2nd Defendant's willful concealment of the Will was his intention to deprive the Plaintiff and to make a gain for himself and/or for the 1st and 3rd Defendants.

THE 3RD DEFENDANT

49. On 24th November, 2006, the 1st Defendant transferred the Property into the joint names of herself and the 3rd Defendant. The Property was transferred to the 3rd Defendant in consideration of natural love and affection. The said transfer was a deliberate act of the 1st Defendant to deprive the Plaintiff of his entitlement under the Will.

50. The 3rd Defendant visited and or/came in contact with the Testator during the times he was suffering from dementia and/or confusion and knew or ought to have known that the Testator was incapable of attending to his affairs including transferring the Property to the 1st Defendant on 24th February, 2004.

51. The Plaintiff will rely on the psychiatric reports of Dr. Marc Lockhart, and any other medical reports that may become available and relevant, at the trial of this action.

52. The 1st and 3rd Defendants have been collecting rent from the property since around October, 2006.
53. Should the Will held to be valid, the Plaintiff is entitled to fifty percent (50%) of the value of the property.
54. Should the Will held to be valid, the Plaintiff is also entitled to 50% of all rent collected from the Property.
55. As a result of the above fraud and breaches, the Plaintiff has suffered loss and damage and the 1st, 2nd and 3rd Defendants are liable to the Plaintiff in damages and costs.
56. The Plaintiff claims interest on all sums due pursuant to the Judicature Law.

AND THE PLAINTIFF claims:

1. Rectification of the land register
2. Damages
3. Pre and Post-Judgment Interest
4. Costs
5. A declaration that the Plaintiff is entitled to register a lien on the said Property for his damages, interest and costs awarded in this action.
6. Further and other relief.

ALTERNATIVELY, THE PLAINTIFF CLAIMS

1. 50% of the current value of the Property
2. 50% of all profits from rent of the Property
3. Damages
4. Pre and Post-Judgment Interest
5. Costs
6. A declaration that the Plaintiff is entitled to register a lien on the said Property for his damages, interest and costs awarded in this action.

7. Further and other relief.

Dated this 9th day of April, 2014
Re-dated this 10th day of April, 2014

Facey-Clarke & Associates
FACEY-CLARKE & ASSOCIATES
Attorneys-at-Law for the Plaintiff

This Amended Writ of Summons was filed by Facey-Clarke & Associates, Attorneys-at-Law for the Plaintiff herein whose address for service is that of the said Attorneys-at-Law, Ground Floor, Unit 119, Elizabethan Square, George Town, Grand Cayman

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 53 OF 2014

PROBATE AND ADMINISTRATION NO: P0015 OF 2014
LEGAL AID NO. 0046 OF 2014

BETWEEN:	ROBERT WILLIAM SCOTT	PLAINTIFF
AND:	RUTH LEOLIN RUTH WHITEMAN nee EBANKS	1ST DEFENDANT
AND:	LEORNARD NORMAN EBANKS	2 ND DEFENDANT
AND:	ANGELINA LULIN PARTRIDGE	3 RD 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
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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
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Service of the Writ is acknowledged accordingly

(Signed).....
Defendant (if in Person) or 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 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.

Facey-Clarke & Associates
Barristers & Attorneys-at-Law
P.O. Box 2545, Grand Cayman KY1-1104
Unit 119, Ground Floor, Elizabethan Square,
80 Shedden Road, George Town, Grand Cayman
Cayman Islands, B.W.I.
Email: mclarke@candw.ky
Tel: 345 946 8111 or 917 6351)

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