

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. *G 0210* OF 2014

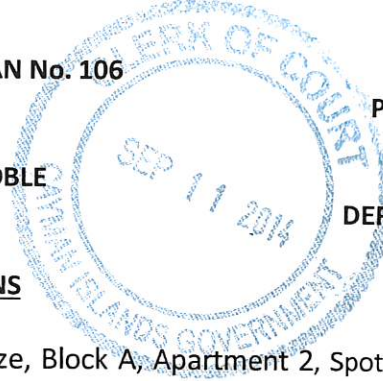
BETWEEN:

AND



THE PROPRIETORS, STRATA PLAN No. 106

MARSHA THOMPSON-NOBLE



PLAINTIFF

DEFENDANT

ORIGINATING SUMMONS

LET THE DEFENDANT Marsha Thompson-Noble of Lemon Breeze, Block A, Apartment 2, Spotts, Grand Cayman attend before the Judge in Chambers, at the Law Courts, George Town, Grand Cayman on the *4th* day *November* 2014, at *9:30a* o'clock on the hearing of this summons issued by the Plaintiffs of c/o Samson & McGrath, 5th Floor wherein the Plaintiffs seek the following relief and Orders pursuant to GCR Orders 30,31 and 45, namely;

1. A declaration that the plaintiff is entitled by virtue of Bye-law 56.3 to enter into possession of the property and appointed as receiver of rents and profits of the Strata Lot until such time as the payments due have been made or received.

Further and in the alternative

2. That pursuant to Order 31 r 1 of the GCR that property Spotts, Block 24E Parcel 262H2 be sold and the defendant and every other person in actual occupation of Spotts, Block 24E Parcel 262H2 do give up possession of the property to the plaintiff within 28 days of the service of this Order upon them.
3. That the plaintiffs are given leave to issue a Writ of Possession with respect to the property should the property not be vacated within 28 days of the date of service of this Order upon them.

AND FURTHER TAKE NOTICE that the grounds of this application are:

1. The Defendant is the registered proprietor of the property situated at Registration Section Spotts Block and Parcel 24E 262H2, also known as Apartment #2, Lemon Breeze, within a residential development situated in Spotts, Grand Cayman and the subject of Strata Plan No. 106.
2. The Plaintiff is a body corporate consisting of a collection of all the Strata Proprietors contained within Strata Plan #106 in accordance with Section 5(1) of the Strata Titles Registration Law (2005 Revision) (hereinafter 'the Law').

Bye-laws

3. Pursuant to the Plaintiff's registered Bye-Law 56.3 it is the Defendant's obligation to pay to the Plaintiff all contributions levied by the Plaintiff to the Defendant pursuant to Section 6(2) of the Strata Titles Registration Law for her share of the administrative expenses and insurance premiums incurred by the Strata within 14 days of demand.
4. The Plaintiff levied such contributions by issuing demands for payment on the Defendant and those demands were not met. As a result the plaintiff obtained judgment against the defendant in Summary Court Cause 60 of 2013 on the 8th April 2013 in the principal sum of CI\$18,708.38.
5. Bye-law 56.3 provides inter alia that in the event of the defendant being in default of payment of contributions for in excess of 90 days from demand that the plaintiff is irrevocably and exclusively authorised and permitted to enter into possession of the Strata Lot and is irrevocably and exclusively appointed as receiver of rents and profits of the Strata Lot until such time as the payments due have been made or received.
6. The defendant continues to refuse to pay strata contributions levied as they fall due and has failed or refused to pay any the sum due under the default judgment in SC 60 of 2013.
7. As a result the plaintiff wishes to exercise its right under Bye-law 56.3 to enter into possession of the property and to rent the property pending any sale.

Enforcement of Charging Order Absolute by Sale

8. In order to enforce the judgment debt the plaintiff obtained a charging order absolute over property Spotts, Block 24E Parcel 262H2 ("the property") by order of the Summary Court dated 6th September 2013.
9. Pursuant to the right conferred by GCR Order 50 r8(2) the plaintiffs exercised their power of sale by listing the property for sale by public auction.
10. Subsequent to listing the property the defendant has refused to co-operate with the Real Estate Agent tasked with selling the property by refusing to allow access to the property to prospective purchasers.
11. As a result the plaintiff avers that there is no realistic prospect of selling the property whilst the defendant is in occupation and the defendant is frustrating the enforcement the debt.
12. By virtue of Section 34 of the Summary Jurisdiction Law and Summary Court Rule 14, GCR Orders 31 and 45 are not available to the plaintiff in the Summary Court and the plaintiff and the plaintiff seeks the assistance of the Grand Court under Order 31 r1 of the GCR to obtain an order for sale of the property and vacant possession of the property whilst the sales process is on-going.

AND LET THE DEFENDANT within 14 days after service of this summons on them counting the day of service, return the accompanying Acknowledgment of Service to the Courts office.

Dated the 11 day of September 2014.


Samson & McGrath

NOTES:-

- (1) 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 the above date unless renewed by order of the Court.

(2) If a defendant does not attend personally or by his attorney at the time and place above-mentioned such order will be made as the Court may think just and expedient.

IMPORTANT

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

This Originating Summons was issued by Samson & McGrath whose address for service is 5th Floor Genesis Building, George Town, Grand Cayman, P.O. Box 446, KY1-1106.

**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

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. 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.
3. 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.
4. 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)".
5. 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.
6. 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.
7. 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.
8. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
9. A Defendant acting in person may obtain help in completing the form at the Courts Office.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2014

IN THE MATTER OF GCR ORDERS 30, 31 AND 45.

BETWEEN:

THE PROPRIETORS, STRATA PLAN No. 106

PLAINTIFF

AND

MARSHA THOMPSON-NOBLE

DEFENDANT

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.

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

2. 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:

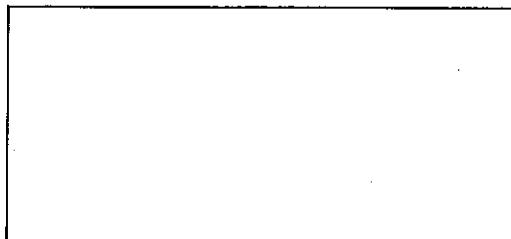
Notes on address for service

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.

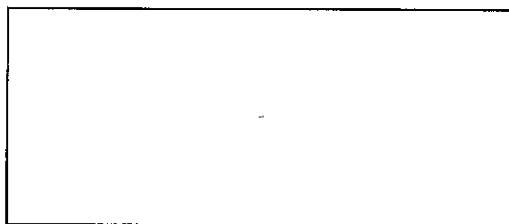
Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered principal office.

Please complete overleaf

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

An empty rectangular box with a black border, intended for the plaintiff's attorney to provide their name, address, and reference.

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

An empty rectangular box with a black border, intended for the defendant's attorney to provide their name, address, and reference.