

IN THE MATTER OF THE GRAND COURT RULES ORDER 29 RULES 1

AND IN THE MATTER OF SECTION 96 OF THE REGISTERED LAND LAW
(2004 REVISION)

CAUSE NO. ⁹¹¹⁰ OF 2016
LEGAL AID No. 0326 OF 2014

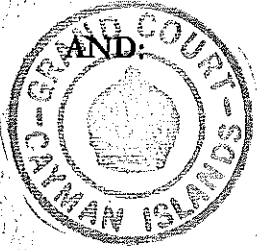
BETWEEN:

MIRIAM IONE EBANKS
HENRY BLODSIT EBANKS

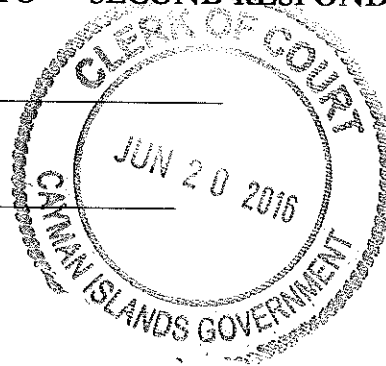
FIRST PETITIONER
SECOND PETITIONER

MIRIAM BENITO LINTON
JORGE ANGEL LIMONTA BENITO

FIRST RESPONDENT
SECOND RESPONDENT



PETITION



TO: The Grand Court

AND TO:

Miriam Benito Linton
Jorge Angel Limonta Benito
Captain Blodsit Road
West Bay
P.O. Box 30901
Grand Cayman KY1-1301

The humble petition of **MIRIAM IONE EBANKS** and **HENRY BLODSIT EBANKS** of Captain Blodsit Road, West Bay, P.O. Box 338, Grand Cayman KY1-1301, Cayman Islands shows that:-

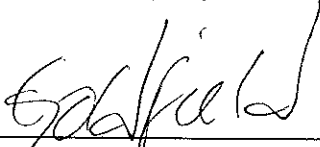
1. We are the registered owners of the property registered at West Bay South, Block 5B, Parcel 249 and 237 respectively.
2. The First and Second Respondents (hereinafter "the Respondents") are the registered owners of the property registered at West Bay South, Block 5B, Parcel 236. Parcels 249, 237 and 236 and the surrounding parcels including parcels 248, 84, 88 and 89 were part of a family owned subdivision located at Captain Blodsit Road, off West Church Street, West Bay.

3. Since on or about 1932, the owners of the surrounding parcels have enjoyed certain easements over Parcel 236. Our sister Icely Eldeen Ebanks (deceased) ("Icely"), the owner of both Parcel 236 and 237, resided at Parcel 237 in the family home. Parcel 236 was unoccupied bare land.
4. In or about 1974, Icely purchased the first vehicle in the subdivision; however, other than a 9 foot wide footpath at the entrance to the subdivision, there was no vehicular access into and out of the subdivision at the time. Icely therefore granted an easement over Parcel 236, which measured approximately 12 foot wide ("the 12 foot wide vehicular right of way") in favour of Parcel 237 "the dominant tenement" over Parcel 236 ("the servient tenement").
5. Parcel 236 boundary lines began on the right hand side at the entrance to the subdivision, accordingly the 12 foot wide vehicular right of way merged into the existing 9 foot wide footpath on the left hand side at the entrance to the subdivision thereby widening the footpath in a 21 foot access road.
6. In January 1983, Icely registered the 12 foot wide vehicular right of way as a formal easement in favour of Parcel 237 ("the dominant tenement") over Parcel 236 ("the servient tenement").
7. The access road was later named "Captain Blodsit Road". Thereafter, the road was paved and maintained by the National Roads Authority ("the NRA") and the Public Works Department for in excess of twenty years. To date, the road is maintained by the NRA utilizing public funds.
8. In or about 1984 Icely bequeathed Parcel 236 to our sister, Francis Bush ("Francis"). Francis built her home on Parcel 236 and erected a wire fence behind the easement so as not to encroach on the road.
9. In or about 1995 Frances sold Parcel 236 to the Respondents who in 2014, built a cement fence approximately 9 feet into the road, thus reducing the road to a mere 12 foot, thereby extinguishing the easement for the vehicular right of way.
10. The extinguishing of the easement deprives the dominant tenement and surrounding properties of the use of the only vehicular access to the main road. Moreover, the extinguishment of the easement has created significant inconvenience, loss of amenity and a situation where there is potential for injury to the surrounding property owners personally and to their properties.

11. Your Petitioners therefore humbly pray for:-

1. a declaration of an existing easement;
2. a declaration as to the correct position and access to the said easement;
3. a declaration that the Respondents are not entitled to extinguish the existing easement;
4. a mandatory injunction to restrain the Respondents whether by themselves or by their servants or agents or otherwise howsoever from obstructing or interfering with our lawful use of the said easement.
5. Such other orders as the Courts thinks fit;
6. Cost

Dated the day of June 2016



Goldfield Cayman Attorneys Ltd.

NOTE: This petition is intended to be served

Miriam Benito Linton; and
Jorge Angel Limonta Benito
Captain Blodsit Road
West Bay
P.O. Box 30901
Grand Cayman KY1-1301

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE OF DIVORCE PETITION

IF YOU INTEND TO INSTRUCT AN ATTORNEY TO ACT FOR YOU, GIVE HIM THIS FORM IMMEDIATELY

1. The accompanying form of Acknowledgment of Service should be completed by an attorney acting on behalf of the Respondent or by the Respondent if acting in person.
2. After completion it must be signed by the Respondent and his attorney (if any) and must be delivered or sent by post to the Law Courts, P.O. Box 495 GT, George Town, Grand Cayman, Cayman Islands.
3. The Acknowledgment of Service must be filed at Court and served on the attorney for the Petitioner (or on the Petitioner, if acting in person) within *fourteen days* after service of the Petition.
4. A Respondent who states in his Acknowledgment of Service that he intends to contest the proceedings must also serve an Answer on the attorney for the Petitioner (or on the Petitioner, if acting in person) within *fourteen days* after service of the Petition.
5. The Petition will be treated as an “undefended petition” in respect of which a decree of divorce may be pronounced without the need for any hearing in open court unless an acknowledgment of service form in which you have stated an intention to defend has been filed at the Court office within fourteen days of service of the Petition.
6. In the case of Petitions served outside the Cayman Islands, the periods within which the Respondent must file an Acknowledgment of Service and any Answer are extended by fourteen days.

Please complete overleaf

**IN THE MATTER OF THE GRAND COURT RULES ORDER 29 RULES 1
FAMILY DIVISION**

**CAUSE NO. FAM OF 2015
LEGAL AID No. 0326 OF 2014**

BETWEEN: **MIRIAM IONE EBANS**
 HENRY BLODSIT EBANKS **PETITIONER**

AND: **MIRIAM BENITO LINTON** **RESPONDENT**
 JORGE ANGEL LIMONTA BENITO

ACKNOWLEDGMENT OF SERVICE

**IF YOU INTEND TO INSTRUCT AN ATTORNEY TO ACT FOR YOU, GIVE HIM
THIS FORM IMMEDIATELY**

- 1) Have you received the Petition for divorce and copy of supporting affidavit delivered with this form? Yes No

- 2) On what date did you receive it?

- 3) Are you the person named as the Respondent in the Petition?
 Yes No

- 4) Do you intend to defend the case?
 Yes No

- 5) *(In the case of a Petition alleging two years separation coupled with the Respondent's consent to a decree being granted) Do you consent to a decree being granted?*
 Yes

- 6) *In the event that the petition being proved on the basis of two years separation*

coupled with Respondent's consent or five years separation). Do you intend to apply to the court for it to consider your financial position as it will be after the divorce?

Yes No

7) *(In any case in which there are children of the family)* Even if you do not intend to defend the suit, do you object to the petitioner's claim for custody and seek to make your own application for custody of the child?

Yes No Not applicable

Even if you do not object to the Petitioner's claim for custody, do you intend to make an application for access to the child?

Yes No Not applicable

Service of the petition is acknowledged accordingly

Dated: _____

Respondent

Respondent's Attorney-at-Law

Notes on address for service

Attorney: where the Respondent is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Respondent may not act by a foreign attorney.

Respondent in person: where the Respondent 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.

Indorsement by Petitioner's attorney (or by Petitioner if suing in person) of his name and address in the box below.

MIRIAM IONE EBANKS
HENRY BLODSIT EBANKS
C/o Goldfield Cayman
Attorneys-at-Law
Unit 310, Three Paddington Place
Paddington Lane, George Town
P.O. Box 10734
Grand Cayman KY1-1007

Indorsement by Respondent's Attorney (or by Respondent if acting in person) of their names and addresses in the box below.

