

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
PROBATE AND ADMINISTRATION DIVISION

IN THE ESTATE OF EDUARDO G BODDEN

CAUSE NO: 68 OF 2019

SEBASTIAN BODDEN

PLAINTIFF

AND:

DEBRA MARIE BODDEN

FIRST DEFENDANT

AND:

JACQUELINE ANN BODDEN

SECOND DEFENDANT



WRIT OF SUMMONS

TO: Debra Marie Bodden

And

Jacqueline Ann Bodden

**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 495, 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 2nd day of May 2019

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 claims to be the executor in the true last will and testament of the deceased Eduardo G. Bodden ("the deceased") formerly of 251 Marina Drive, Prospect Park, George Town, Grand Cayman, executed on the 16<sup>th</sup> November 2017 ("the 2017 will").
2. The defendants are named as executrices appointed in an earlier will of the deceased which was executed on 12<sup>th</sup> January 2006 ("the 2006 will").
3. The deceased died on 4<sup>th</sup> September 2018. The cause of death was a cardiac arrest due to prostate, brain and abdominal cancer.
4. The plaintiff filed an application for grant of probate of the last will and testament on the 14<sup>th</sup> November 2018 in the Grand Court of the Cayman Islands under cause number 164 of 2018.
5. The defendants, through their attorney wrote to the plaintiff on 6<sup>th</sup> December 2018 stating that they were the executrices of the estate of the deceased and requesting amongst other things, all assets of the estate of the deceased and receipts in respect of any payments made with regards to the funeral expenses of the deceased.
6. The plaintiff requested the power or authority relied upon by the defendants to make these requests. In response the defendants informed the plaintiff that they had obtained a grant of probate of a will for the estate of the deceased.
7. The plaintiff requested and later received a copy of the grant of probate which was dated 11<sup>th</sup> October 2018, cause number 126 of 2018.
8. The plaintiff informed the court civil registry that he had now been made aware that there had been an earlier grant of probate in respect of the same estate as his pending application. The plaintiff's application for grant of probate was duly stayed.
9. The deceased had entered into marriage with Ms. Hillsey Bodden on 7<sup>th</sup> March 2017. Pursuant to section 13 of the Wills Law (2004 Revision) the 2006 will relied upon by the defendants in their application for grant of probate was revoked by the deceased's subsequent marriage.
10. Pursuant to section 15 of the Wills law (2004 Revision) the will relied upon by the defendants was revoked by the deceased's execution of the later 2017 will.
11. The plaintiff seeks the revocation of the probate of the 2006 will on the ground of the invalidity thereof.

12. The plaintiff seeks a decree of probate of the last will of the deceased, the 2017 will, in solemn form.

**AND THE PLAINTIFF claims:**

1. The grant of probate of the will dated 12<sup>th</sup> January 2006 made to the defendants in cause number 126 of 2018 be revoked;
2. The Court decrees probate of the last will and testament dated 16<sup>th</sup> November 2017 in solemn form;
3. Costs;
4. Such further and other relief as the Court may deem just.

Dated this <sup>2<sup>nd</sup></sup> day of May 2019

McGrath Tonner

**McGrath Tonner**

**Attorneys for the Plaintiff**

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE**  
**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 495, 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 "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 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 judgment 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.

**See over for notes for guidance**

**Please complete overleaf**

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. 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.
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 (.....)" after his name.
6. 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.
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.



**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.

McGrath Tonner  
Attorneys at Law  
5<sup>th</sup> Floor Genesis Building  
Genesis Close  
PO Box 446  
George Town  
Grand Cayman  
Attn: SH McConnell

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]