



IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO. FSD ²⁴⁸ OF 2019 ()

IN THE MATTER OF a settlement known as the Andrea Trust made by deed dated 15 January 1982 (the "Settlement")

AND IN THE MATTER of the Trusts Law (2018 Revision) and GCR O.85, r.2

BETWEEN:

JESSICA OZBERKER

Plaintiff

AND:

- (1) G WARREN WHITAKER
- (2) THE ROYAL BANK OF CANADA TRUST COMPANY (BAHAMAS) LIMITED
- (3) FRANCOISE HERRMANN
- (4) ALEXANDRA GRACE OZBERKER (a minor)

Defendants



ORIGINATING SUMMONS



To:

- (1) Conyers Dill & Pearman, PO Box 2681, Boundary Hall, Cricket Square, Boundary Hall, Grand Cayman KY1-1111, Attorneys at law for the Plaintiff
- (2) Royal Bank of Canada Trust Company (Bahamas) Limited, Lyford Cay House, 3rd Floor, Western road, Lyford Cay, Nassau, Bahamas
- (3) Francoise Herrmann, 130 Belgrave Ave, San Francisco, Ca 94117, USA
- (4) Colin Shaw and Co, PO Box 10173, Alamander Way, Grand Pavilion, West Bay Road, Grand Cayman KY1-1002

LET THE DEFENDANTS within 14 days (if service is effected in the Cayman Islands), or 28 days (if service is effected in the United States of America or the Bahamas) after service of this Originating Summons on them, counting the day of service, return the accompanying Acknowledgement of

Service to the Registrar, Financial Services Division, Court Office, PO Box 495, George Town, Grand Cayman, KY1-1106, Cayman Islands.

By this Originating Summons which is issued on the application of the Plaintiff in her capacity as a beneficiary of the trusts of the Settlement known as the Andrea Trust, the Plaintiff seeks the following orders from the Court pursuant to the Trusts Law (2018 Revision) and GCR Order 85, r.2, namely:

- 1 That the First Defendant be removed from office as Protector of the Andrea Trust and replaced as Protector by such fit and proper person approved of by the Plaintiff and the Third Defendant and on behalf of the Fourth Defendant;
- 2 That the First Defendant be ordered to provide an account to the beneficiaries of the Andrea Trust for all fees and expenses charged to and paid from the trust funds of the Andrea Trust whether by him in his capacity as Protector of the Andrea Trust during his time in office as such or by the law firm of which he is a partner, Day Pitney LLP of New York whether in its capacity as legal adviser to the First Defendant or the trustee of the Andrea Trust or otherwise;
- 3 That the First Defendant be restrained from exercising his powers to replace the trustee or to change the governing law of the Andrea Trust without the agreement of the Plaintiff, pending the final determination of these proceedings;
- 4 That a Cayman Islands trustee be appointed by the Court as trustee of the Andrea Trust in place of the Second Defendant pending the final determination of these proceedings;
- 5 Such further or other directions or orders as the Court may think fit; and
- 6 That provision be made for the costs of this application.

DATED this 13th day of December 2019



Maples and Calder

NOTE: (1) This Originating Summons may be served not 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.

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

IMPORTANT:

Directions for acknowledgement of service are given with the accompanying forms.

Acknowledgment 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

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 [x] 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.

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Defendants

**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.

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

yes no

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.

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

Maples and Calder
PO Box 309
Ugland House
George Town
Cayman Islands
KY1-1104
(Ref: MOR/ADH/747752.02)

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