

IN THE GRAND COURT OF THE CAYMAN ISLANDS



CAUSE NO: 124 OF 2020

BETWEEN

DIANNE PATRICE PARSONS



Plaintiff

AND

MICHELE LENORE FLEIGER

Defendant



WRIT OF SUMMONS

TO: Michele Lenore Fleiger, the Administratrix of the estate of Frank George Fleiger (deceased), c/o Priestleys, 2nd Floor, Caribbean Plaza, 878 West Bay Road, George Town, PO Box 30310, Grand Cayman KY1-1202, Cayman Islands

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 of service of this Writ on you, including the day of service, you must either satisfy the claim or return to the Court Office, PO Box 495G, 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 of Service 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 19th day of August 2020.

NOTE – this Writ may not be served later than four calendar months (or if leave is required to effect service out of the jurisdiction, six 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

The Parties

1. The Plaintiff and Frank George Fleiger ("**Mr Fleiger**") were divorced on 30 September 2015.
2. Mr Fleiger died on 17 December 2017.
3. His sister, the Defendant, was granted Letters of Administration on 12 February 2018. As Administratrix, she is liable to pay the debts of his Estate.

Mortgage Obligations

4. The Plaintiff and Mr Fleiger agreed that following their divorce, they would each remain jointly and severally liable on certain mortgages with the Royal Bank of Canada ("**RBC**"), and that they would continue sharing the repayment of those mortgages (the "**Agreement**").
5. The Agreement is evidenced by a Consent Order dated 30 September 2015 (the "**Divorce Decree**").
6. In particular, the Divorce Decree stipulates that the Plaintiff and Mr Fleiger would remain jointly and severally liable on
 - a. A mortgage with RBC in respect of their former marital home located at 15 Pleasant Drive, West Bay (the "**Marital Home**");
 - b. A mortgage with RBC in respect of the property at Registration Section WBNE, Block 9A, Parcel 511 (the "**Shores Land**");
 - c. A mortgage with RBC in respect of the property at Registration Section WBNW Block 4C, Parcel 259 ("**Frank's Apartment**").
7. Following the entry into the Divorce Decree, Mr Fleiger and the Plaintiff made payments via direct debits taken from their joint accounts. Payments continued to be made by the Plaintiff following Mr Fleiger's death.

Breach of the Agreement

8. In breach of the Agreement, since Mr Fleiger's death, the Defendant has not made any payments toward the aforementioned three mortgages. The Plaintiff has suffered loss as a result of the breach in the sum of CI \$51,305.73, representing 50% of the payments that the Plaintiff has made in order to meet the payment terms of each respective mortgage.

9. The Parties' will continue to have to meet the payment terms of each mortgage until the balance of the mortgages outstanding have been settled. Under the terms of the Divorce Decree, this is a total payment of CI \$3,775 of which the Defendant is obligated to pay 50%. The Plaintiff seeks an order that the Defendant be made to comply with its obligation for these future payments in order to avoid any future breaches of the Agreement.

AND THE PLAINTIFF claims:

1. CI \$51,305.73;
2. An order that the Defendant pay the sum of CI \$1,887.50 per month to the Plaintiff until such time that the outstanding balance due on each mortgage has been settled, or in the alternative, that the Defendant do pay the sum of CI \$116,849.58 to the Plaintiff;
3. Interest in accordance with S. 34 Judicature Law 2013;
4. Costs.

Dated this 19th day of August 2020

Travers Thorp Alberga

**Travers Thorp Alberga
Attorneys-at-law for the Plaintiff**

TO: Michele Lenore Fleiger, the Administratrix of the estate of Frank George Fleiger (deceased), c/o Priestleys, 2nd Floor, Caribbean Plaza, 878 West Bay Road, George Town, PO Box 30310, Grand Cayman KY1-1202, Cayman Islands

AND TO: Watler Law, 2nd Floor, Zephyr House, 122 Mary Street, George Town, PO Box 11540, Grand Cayman, Cayman Islands (Attorneys-at-law for the Defendant)

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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, Grand Cayman, KY1-1106.

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 installments or otherwise.

See over for Notes for Guidance

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. 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2020

BETWEEN

DIANNE PATRICE PARSONS

Plaintiff

AND

MICHELE LENORE FLEIGER

Defendant

**ACKNOWLEDGEMENT 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

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

This **WRIT OF SUMMONS AND STATEMENT OF CLAIM** is filed by Travers Thorp Alberga, attorneys for the Plaintiffs, whose address for service is Harbour Place, 103 South Church St., Grand Cayman, Cayman Islands (Ref: P1171-003)

Service of the Writ is acknowledged accordingly

(Signed)

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

Travers Thorp Alberga
Attorneys-at-Law
P.O. Box 472
Grand Cayman, KY1-1106
Cayman Islands
Phone: +1 (345) 949-0699
Facsimile: +1 (345) 949-8171
ATTN: Bhavesh Patel
Ref: P1171-003

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