

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. G 88 of 2021

IN THE MATTER OF THE STRATA TITLES REGISTRATION LAW AND THE
BY-LAWS OF STRATA PLAN 49

BETWEEN:

HEIDI ANNE KISS

First Plaintiff

JONATHAN PAUL KISS AND HEIDI ANNE KISS

Second Plaintiffs

AND

THE PROPRIETORS, STRATA PLAN NO. 49

Defendant



ORIGINATING SUMMONS

TO: The Proprietors, Strata Plan No 49
PO Box 1594
Cayman Islands

LET THE DEFENDANT, within 14 days after service of this Originating Summons on it, counting the day of service, return the accompanying Acknowledgment of Service to the Court Office, P.O. Box 495, George Town, Grand Cayman.

By this Summons, which is issued on the application of the First and Second Plaintiffs, c/o their attorneys Broadhurst LLC at 4th Floor Monaco Towers, 54 Edward Street, George Town, Cayman Islands,

the First Plaintiff seeks:

1. Declarations that:

- a. Pursuant to section 6(2) of the Strata Titles Registration Law (2013 Revision) together with clause 22 of the Defendant's by-laws, every member of the

Defendant's executive committee, at any given time, is entitled to unrestricted access to the Defendant's financial information.

- b. That pursuant to clause 31(1)(b) and/or 31(1)(c) of the Defendant's by-laws, every member of the Defendant's executive committee, at any given time, is entitled to have unrestricted access to the Defendant's financial information.
- c. That the "Defendant's financial information" (referred to above) includes but is not limited to:
 - i. The Defendant's full financial statements;
 - ii. The primary documentation used to prepare the Defendant's financial statements;
 - iii. copies of bank statements for all accounts in the name of, or under the control of, the Defendant;
 - iv. records of all monies held, received in and/or paid out by the Defendant for or on behalf of individual proprietors of strata lots within Strata Plan No 49; and
 - v. owner statements for every strata lot that forms part of Strata Plan No. 49, including owner statements reflecting transactions relating to the lease or rent of strata lots by the Defendant for or on behalf of proprietors of strata lots within Strata Plan No 49.

together referred to as the "Defendant's Financial Documents".

- d. The Defendant has breached its obligations under its By-Laws by refusing or failing to take the steps necessary to facilitate the First Plaintiff gaining access to the Defendant's Financial Documents within a reasonable time.
2. An injunction requiring the Defendant to provide the First Plaintiff with unrestricted access to the Defendant's Financial Documents, within 21 days of being so ordered;

the Second Plaintiffs seek:

3. Declarations that:

- a. The Second Plaintiffs, as the registered proprietors of the property described as registration section West Bay Beach South, Block 13B, Parcel 143H14, are entitled to inspect or have inspected the Defendant's books of account, pursuant to clause 31(1)(d) of the Defendant's by-laws;

- b. The term “*books of account*” in clause 31(1)(d) of the Defendant’s by-laws, includes the documents defined above as the Defendant’s Financial Documents;
 - c. The Defendant has breached its obligations under clause 31(1)(d) of its By-Laws by refusing or failing, within a reasonable time after application being made by the Second Plaintiffs, to provide them with reasonable access to the Defendant’s Financial Documents for the purpose of inspecting same or having them inspected.
4. An injunction requiring the Defendant to forthwith take all steps necessary to facilitate the Second Plaintiffs obtaining access to the Defendants books of account, for the purpose of inspecting same or having them inspected;

the First and Second Plaintiffs seek:

- 5. An order requiring the Defendant to pay the Plaintiffs’ costs of and arising from this summons; and
- 6. Such further and/or other orders or relief as the Court sees fit.

If the Defendant does not acknowledge service, such judgment may be given or order made against or in relation to it, as the Court may think just as expedient.

Dated the 28 day of May 2021



Broadhurst LLC

Attorneys-at-Law for the First and Second Plaintiffs

NOTE - 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 that date unless renewed by order of the Court.

IMPORTANT - Directions for Acknowledgement of Service are given with the accompanying form.

**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE
OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgement 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, PO Box 495, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement 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 endorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2). The defence must be served within fourteen (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 endorsed on the Writ, the defence need not be served until fourteen (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 fourteen (14) days after his Acknowledgement, 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.

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement of Service and return it to the Courts Office.
2. For the purpose of calculating the period of fourteen (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, 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 authorized to act on behalf of the Company, but the Company can take no further steps in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL HEALTH 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.

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BETWEEN:

HEIDI ANNE KISS

First Plaintiff

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Second Plaintiffs

AND

THE PROPRIETORS, STRATA PLAN NO. 49

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 proceeding (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 proceeding, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (tick box)

Yes [] No [] N/A []

Service of the Writ is acknowledged accordingly

Signed: _____

Name:

Position:

Notes on address for service

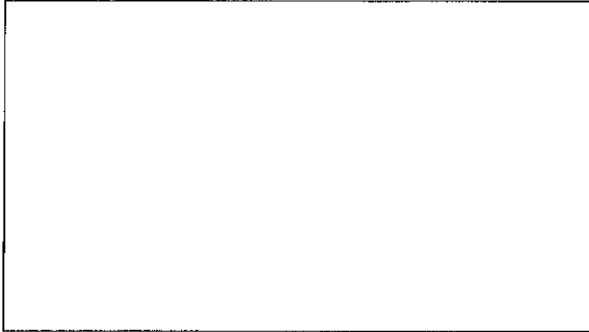
Attorney: where the Defendant is represented by an Attorney, state the Attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign Attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and 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.

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

BROADHURST LLC.
ATTORNEYS-AT-LAW
4th FLOOR, MONACO TOWERS
54 EDWARD STREET
GRAND CAYMAN
CAYMAN ISLANDS

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

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