



IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 190 of 2021

IN THE MATTER OF SECTION 14 OF THE GRAND COURT ACT (2015 REVISION)

AND IN THE MATTER OF SECTIONS 18 AND 19 OF THE MENTAL HEALTH ACT (2021 REVISION)

AND IN THE MATTER OF GRAND COURT RULES, ORDER 80

AND IN THE MATTER OF AN APPLICATION FOR THE APPOINTMENTS OF A RECEIVER AND A GUARDIAN FOR BB

BETWEEN:

AA

Applicant

AND:

BB

First Respondent

CC

Second Respondent

ORIGINATING SUMMONS

TO: BB

AND TO: CC

LET THE RESPONDENTS, attend before a Judge of the Grand Court in Chambers at the Law Courts, George Town, Grand Cayman on the day of 2021 at o'clock on the hearing of an application by the Applicant for the following relief:

1. An order pursuant to O.80, r.30 and O.80, r.21 of the Grand Court Rules 1995, dispensing with service of the Originating Summons herein upon the First Respondent

(the *Patient*) and also dispensing with the need for the Patient to file an acknowledgment of service.

2. A determination or declaration for the purposes of section 14 of the Grand Court Act and section 18(b) of the Mental Health Act that the Patient is a person incapable of managing his own affairs by reason of the fact that he is a person who lacks mental capacity to do so.
3. An order pursuant to O.80, r.17 of the Grand Court Rules, section 14 of the Grand Court Act and section 19 of the Mental Health Act, appointing the Applicant as the Receiver of the Patient, by reason of his incapacity as aforesaid, whereby the Receiver shall have all power and authority for administering the Patient's personal affairs, property and estate situate in the Cayman Islands as more particularly set out at section 19(a) of the Mental Health Act, but in particular the Receiver shall additionally have the following specific powers and authority:
 - a. To sign and/or execute any and all documentation and/or to give instructions in relation to the Patient's financial and business affairs.
 - b. To sign and/or execute any and all documentation and/or to give instructions in relation to the Patient's property (including any bank accounts and real estate).
 - c. To pay or make application for payment of any salaries, expenses, hospital and medical charges relating to services or treatment provided to the Patient and/or to pay all and any other bills and debts of whatsoever nature.
 - d. To carry out and execute any and all other necessary or required actions, instructions or decisions which the Receiver considers necessary in respect to the Patient's property and/or in respect to any interests the Patient has in property, now or in the future.
4. An order that the Receiver shall keep proper accounts of income and expenditure of the administration and management of the assets of the Patient and shall henceforth be maintained and filed in this Honourable Court every twelve (12) months from the date hereof.
5. An order pursuant to O.80, r.28 of the Grand Court Rules, section 14 of the Grand Court Act and section 18 of the Mental Health Act, appointing the Second Respondent as the Guardian of her father, the Patient, in the Cayman Islands, by reason of his incapacity as aforesaid, whereby the Guardian shall have the following specific powers and/or authority:

- a. To provide the required consent for and on behalf of the Patient for medical treatment (as defined in the Mental Health Act) or other medical procedures which he may require, and all follow-up medical procedures which may become necessary in the future.
 - b. To sign and/or execute any and all documentation and/or to give instructions in relation to the Patient's medical affairs.
 - c. To hire nursing or home care assistance for the Patient, as and when required.
 - d. To carry out and execute any and all other necessary or required actions, instructions or decisions which the Guardian considers necessary for the Patient's wellbeing and care, now or in the future.
6. Until further order of the Court:
- a. The parties be hereafter referred to on the face of all Court documents filed in these proceedings by pairs of identical initials, in the case of the Applicant/Receiver as "AA", the First Respondent/Patient as "BB" and the Second Respondent/Guardian as "CC".
 - b. The Clerk of Court be directed only to place on the Register of Writs and Other Originating Process only an anonymised version of the that conforms to subparagraph 6(a) above.
 - c. The Court file in relation to these proceedings be sealed and not open to inspection by any other party other than the parties to these proceedings and their attorneys, except with prior leave of the Court on an application of which not less than 14 days' written notice shall have been given to the attorneys for the Applicant.
 - d. There be no publication of the names of any parties to these proceedings nor any reference to the address of any of the parties or to any matter which would allow any of the parties to be identified.
 - e. Any hearing in relation to these proceedings be held in private.
7. That the reasonable costs of this application and the reasonable costs of the Receiver and/or Guardian incidental to and consequent upon this Order shall be paid by the Receiver from the accounts and/or property in the Cayman Islands in the name of the Patient.
8. Such further and other relief as this Honourable Court may deem appropriate.

9. Liberty to apply.

Dated this 20th day of October 2021

Harney Westwood & Riegels

Harney Westwood & Riegels

Attorneys-at-Law for the Applicant

TO: The Clerk of the Court

AND TO: The First Respondent

AND TO: The Second Respondent

THIS ORIGINATING SUMMONS was filed by Harney Westwood & Riegels, Attorneys-at-Law on behalf of the Applicant, whose address for service is 3rd Floor, Harbour Place, 103 South Church Street, PO Box 10240, Grand Cayman KY1-1002, Cayman Islands (**Ref:** HCM/CXM).

NOTES:

- (1) 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 the above date unless renewed by order of the Court.
- (2) If a respondent does not attend personally or by his attorney 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 form

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 Respondent[s] or by the Respondent[s] 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 KY1-1106, Cayman Islands

NOTES FOR GUIDANCE

- 1 Each Respondent (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 fourteen (14) days for acknowledging service, a writ served on the Respondent personally is treated as having been served on the day it was delivered to him.
- 4 Where the Respondent 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 Respondent 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 "Partner in the firm of (.....)" after his name.
- 6 Where the Respondent 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 Respondent 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 Respondent is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
- 9 A Respondent acting in person may obtain help in completing the form at the Courts Office.

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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 Respondent by whom or on whose behalf the service of the Originating Summons is being acknowledged.

2. State whether the Respondent intends to contest or otherwise participate in the proceedings (tick appropriate box)

YES

NO

Service of the Originating Summons is acknowledged accordingly.

Address for Service:

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. In the case of a limited company, "residence" means its registered principal office.

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

Harney Westwood & Riegels
3rd Floor, Harbour House
103 South Church Street
PO Box 10240
Grand Cayman KY1-1002
Cayman Islands
(Ref: HCM/CXM)

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