



**IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION**

CAUSE NO. _____ OF 2022

BETWEEN:

DARIC DONAN EBANKS

Plaintiff

-AND-

Donovan Darl Ebanks

Defendant

WRIT OF SUMMONS

TO: Donovan Ebanks, 26 Sunburst Lane, West Bay

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiffs, 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 495GT, 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 12th day of October 2022

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 Acknowledgement of Service are given with the accompanying form.

Statement of Claim

1. The Plaintiff is the son of the Defendant and sole beneficial owner of the land known as and situate at 49 Siberia Avenue, Spotts (Block 24E Parcel 36) (“the premises”).
2. The Plaintiff and the Defendant are registered on the land register for the premises as joint legal owners with the Defendant holding his registered legal interest as bare trustee for the Plaintiff.
3. A Mr Alton Garrick has told the Plaintiff and his attorneys that he has been in occupation of the premises since in or about 2018 under alleged tenancy agreement(s) granted to him by the Defendant as purported landowner and landlord.
4. The Plaintiff has asked Mr Garrick to vacate the premises but Mr Garrick has refused. The Plaintiff is accordingly in the process of obtaining possession of the premises from Mr Garrick through Notice(s) to Quit to be followed by judicial process for possession of his land if needed.

The Defendant Rents the Premises to Mr Garrick

5. The Defendant without the knowledge or authority of the Plaintiff rented the premises to Mr Garrick at a monthly rent of KYD 1,000 for the first year (2018) and then KYD 1,300 or 1,500 per month for the years 2019 - October 2022. These are the best particulars that the Plaintiff can give until discovery and/or administration of interrogatories herein.
6. The Plaintiff in or about February 2022 commissioned and paid for a report on the premises with the firm DDL for advice on how to gain an income therefrom and whether the premises could be renovated or needed to be demolished. The report came back in May 2022 and was supplemented in July 2022 with both stating that the premises had to be demolished and were unfit for human habitation.

7. In the course of obtaining the said report(s) the Plaintiff became aware of Mr Garrick living at the premises with at least 3 of his children. Upon speaking with Mr Garrick he told the Plaintiff that he [Mr Garrick] believed (i) the Defendant was his landlord and (ii) he had valid lease agreements with the Defendant to whom he had paid rent of about KYD50,000 over the course of his occupancy of the premises.

Failure of the Defendant to Account to the Plaintiff for Rents Received

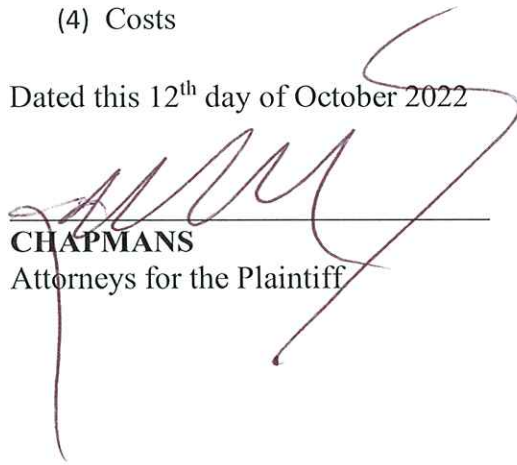
8. The Defendant concealed the detail of his relationship with Mr Garrick and the receipt of rent from him and the amount of rents received by the Defendant from Mr Garrick. The Defendant knew at all material times that all/any funds he received from the premises were held on trust for the Plaintiff absolutely.
9. The Defendant in breach of trust did not pay the rents over to the Plaintiff as he was obliged to do as the trustee of the Plaintiff in connection with the premises.
10. The Plaintiff is entitled to an account of all sums received by the Defendant from Mr. Garrick, and anyone else, for use and occupation of the premises.
11. The Plaintiff since discovering the true facts above has demanded an account from the Defendant but the Defendant has failed and refuses to render any account to the Plaintiff.
12. The failure to account by the Defendant to the Plaintiff has to the best of the Plaintiff's knowledge and belief caused him to suffer loss and damage being at least C\$50,000 in rent received by the Defendant in a fiduciary capacity for the Plaintiff but converted by the Defendant to his use and all misapplied trust funds fall to now be paid over to the Plaintiff by the Defendant after the account prayed for herein is completed.
13. The Plaintiff is entitled to interest on any sum(s) found due to him from the Defendant for such periods and at such rates as this Honourable Court may determine

And the Plaintiff claims:

- (1) An account of all rents and profits received by the Defendant from the premises from the 1 January 2018 to date;
- (2) An order for payment of the sum found to be due to the Plaintiff from the Defendant after the taking of the said account.

- (3) Interest pursuant to statute;
- (4) Costs

Dated this 12th day of October 2022



CHAPMANS
Attorneys for the Plaintiff

THIS WRIT OF SUMMONS was issued by CHAPMANS, Attorneys for the Plaintiff, whose address for service is:
Commonwealth House, PO Box 742, 81 West Church St, West Bay, Grand Cayman KY1-1303 (jchapman@chapmanslegal.com)

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 installments or otherwise.

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 authorized 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.

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CAUSE NO. OF 2022

BETWEEN:

DARIC DONAN EBANKS

Plaintiff

-AND-

Donovan Darl Ebanks

Defendant

**ACKNOWLEDGMENT 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.

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

Service of the Writ is acknowledged accordingly

(Signed).....

Defendant / Attorney for the Defendant

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.

Chapmans
Commonwealth House
81 West Church St, West Bay,
Grand Cayman KY1-1303
Cayman Islands
jchapman@chapmanslegal.com

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