

**Writ of Summons (O.6, r.1)**

IN THE GRAND COURT OF THE CAYMAN ISLAND  
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. 330 OF 1999

BETWEEN

HALCY DARCIA LOFTERS

1<sup>ST</sup> PLAINTIFF

MICHELLE SOLOMON

2<sup>ND</sup> PLAINTIFF

AND:

HERBERT SOLOMON

DEFENDANT

CHARMAINE P SWABY SOLOMON

2<sup>ND</sup> DEFENDANT

**SPECIALLY ENDORSED WRIT OF SUMMONS**

TO: The Defendant whose address is Mount Pleasant, West Bay, Grand Cayman, Cayman Island.

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 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 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 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 21 day of May 1999.

NOTE - This Writ may not be served later than 4 calendar 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

1. The land known as West Bay North West, Block 4D, Parcel 169 (“the property”) on which the former matrimonial home is situated originally belonged to the 1<sup>ST</sup> Plaintiff’s parents, namely Mr. and Mrs. Harvey A Smith, Sr.
2. The 1<sup>ST</sup> Plaintiff married the Defendant on or about 6 June 1973. On 23 May 1974, the 1<sup>ST</sup> Plaintiff’s parents transferred the property by way of a gift to the 1<sup>ST</sup> Plaintiff and Defendant to hold as joint tenants.
3. The 1<sup>ST</sup> Plaintiff’s parents gave her CI\$8,000.00 so that she could build a house on the property. The 1<sup>ST</sup> Plaintiff’s father and brother helped her to build the house presently on the property.
4. The 1<sup>ST</sup> Plaintiff and the Defendant lived together as man and wife for approximately 5 years at the property. The 1<sup>ST</sup> Plaintiff separated from the Defendant in or about 1978.
5. The Defendant divorced the 1<sup>ST</sup> Plaintiff in or about 1986. It was agreed between the 1<sup>ST</sup> Plaintiff and Defendant that she would transfer her share in the matrimonial home to the Defendant for him to hold on trust along with his share for the benefit of the 2<sup>ND</sup> Plaintiff, their daughter, Michelle Solomon, upon her reaching 18 years of age. It was agreed that the property would be transferred to the 2<sup>ND</sup> Plaintiff at any time after her 18 birthday.
6. Pursuant to the above agreement and not otherwise, the 1<sup>ST</sup> Plaintiff transferred her interest in the said property “in consideration of natural love and affection for my Husband”. The 1<sup>ST</sup> Plaintiff and Defendant were formerly divorced in or about 1986. The property was conveyed into the name of the Defendant, which as he at all times well knew was merely for the sake of convenience and appearance. The 2<sup>ND</sup> Plaintiff continued to live in the property until
7. The Defendant has since remarried and the property is the subject of divorce proceedings in cause no D122 of 1997. The Petitioner in those proceedings has claimed that she has an interest in the matrimonial property. The Defendant has indicated by way of an affidavit dated 24 July 1998 that the property was left in trust as stated above for his daughter, Michelle Solomon.
8. By reasons of the matters aforesaid, the said property was to be held on trust for the beneficiary, Michelle Solomon, but the Petitioner in cause no D122 of 1997 has claimed and is claiming an interest in the property.

And the Plaintiff claims:

- (i) a declaration that the Defendant holds the said property on trust for 2<sup>nd</sup> Plaintiff as the sole beneficiary;
- (ii) a declaration that the 2<sup>nd</sup> Plaintiff is entitled to the sole interest in the said property and thus the sale proceeds in the event of the said property being sold, subject to repayment of the mortgage and other outgoings and costs of such sale;
- (iii) an order for the sale of the said premises;
- (iv) further or other relief;
- (v) costs

THIS WRIT was issued by Clyde H. Allen BSc whose address for service is Brooks & Brooks, Attorneys-At-Law, PO Box 1355, Grand Cayman, Cayman Islands.



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CAUSE NO. ~~330~~ OF 1999

BETWEEN HALCY DARCIA LOFTERS 1<sup>ST</sup> PLAINTIFF  
MICHELLE SOLOMON 2<sup>ND</sup> PLAINTIFF  
AND: HERBERT SOLOMON DEFENDANT  
CHARMAINE P SWABY SOLOMON 2<sup>ND</sup> 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

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3. If the claim against the Defendant is for a debt or a 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

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Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for

Address for service: (please see overleaf)

*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.*

C. H. Allen BSc  
Brooks & Brooks  
Attorneys-At-Law  
PO Box 1355 GT  
Grand Cayman  
Cayman Islands  
BWI

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

[Empty box for defendant's attorney indorsement]