

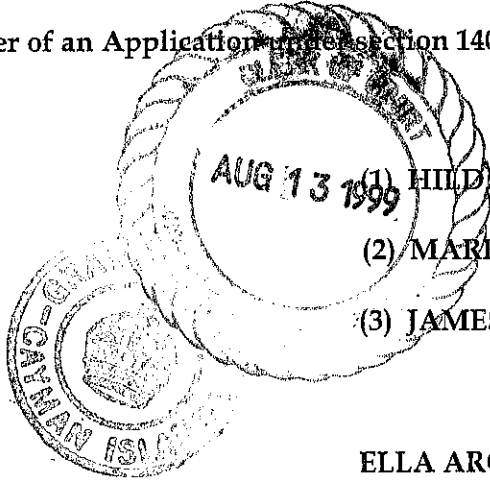
IN THE GRAND COURT OF THE CAYMAN ISLANDS

Case No. 488/99

In the Estate of Edward Ephraim Seymour deceased

In the Matter of an Application under section 140 Registered Land Law

BETWEEN:



(1) HILDA SEYMOUR
(2) MARK SEYMOUR
(3) JAMES SEYMOUR

Plaintiffs

-v-

ELLA ARCHBOLD

Defendant

WRIT OF SUMMONS

TO: ELLA ARCHBOLD
P.O. BOX 197
LOWER VALLEY
GRAND CAYMAN

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 twenty eight (28) 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 Acknowledgement of Service stating whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgement may be entered against you forthwith without further notice.

Issued this 13th day of August 1999.

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

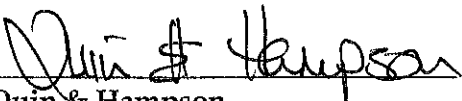
STATEMENT OF CLAIM

1. By his will dated 6th November ,1990 the above-named Edward Seymour appointed the defendant as the sole executrix of his estate. Edward Seymour died on 4th December, 1990.
2. Probate of the said will was granted out of this Honourable Court on 25th May, 1991 vesting all of the deceased's estate in the defendant, she having sworn well and faithfully to administer the same.
3. The third plaintiff is the father of the deceased. The first and second plaintiffs are the children of the deceased. The plaintiffs represent the only beneficiaries under the will of the deceased.
4. By item 3 of the said will the deceased bequeathed all his estate to the third plaintiff during the life of the third plaintiff.
5. By item 3 of the said will the deceased vested in the defendant a discretionary power during the life of the third plaintiff to assist the first and second plaintiffs from the deceased's estate if they find themselves in need.
6. By item 4 of the said will the deceased bequeathed to the first and second plaintiffs a remainder interest in his estate upon the death of the third plaintiff.
7. In accordance with the will, on 19th August, 1991 Block 14C, Parcel 91 and Block 14C, Parcel 24 were transferred to the defendant as executrix of the will.
8. The defendant has failed to account for the estate of the deceased.
9. In breach of fiduciary duty on 7th December, 1995 the defendant charged the land at Block 14C, Parcel 91 in the sum of CI\$25,000 to the Royal Bank of Canada.
10. In breach of her fiduciary duty on 2nd January ,1996 the defendant transferred the said Block 14C, Parcel 91 out of her name as executrix to her name absolutely.
11. In breach of fiduciary duty on 29th April, 1998 the defendant charged the said Parcel 91 in the sum of CI\$94,000.
12. On 18th March, 1999 the defendant increased the amount of the charge to CI\$95,000 against the said Parcel 91.
13. The defendant has used and continues to use the estate to her own benefit, and in the circumstances has acted in breach of trust.

AND the Plaintiffs seek the following relief :

- (1) An order that the defendant do account for the administration of the said estate ;
- (2) Removal of the defendant as executrix of the will ;
- (3) An order directing a replacement executor/executrix ;
- (4) An order under section 140 Registered Land Law for rectification of the land register of Block 14C, Parcel 91 ;
- (5) Costs against the defendant personally.

Dated this 12th August 1999.


Quin & Hampson
Attorneys-at-Law for the Plaintiffs

This Writ was issued by Quin & Hampson, Attorneys-at-Law for the Plaintiff herein, whose address for service is that of its said attorneys, Harbour Centre, Third Floor, P.O. Box 1348 George Town, Grand Cayman.

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.

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 his 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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BETWEEN: (1) HILDA SEYMOUR
(2) MARK SEYMOUR
(3) JAMES SEYMOUR Plaintiffs

-v-

ELLA ARCHBOLD 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 the Defendants whereby they 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

Service of the Writ is acknowledged accordingly

(Signed)

[Attorney] for

[Defendant in person]

Address for service:

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.

Messrs. Quin & Hampson
Attorneys-at-Law
Third Floor, Harbour Centre
P.O. Box 1348
George Town,
GRAND CAYMAN

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