

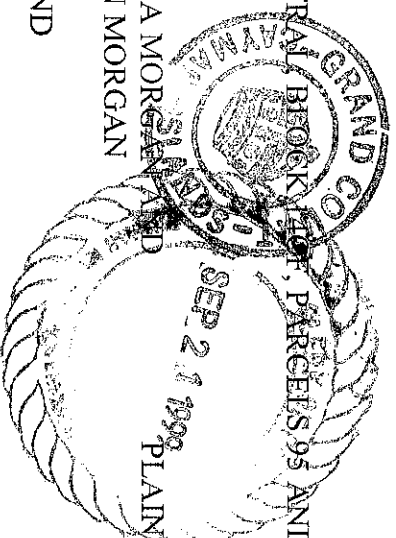
IN THE GRAND COURT OF THE CAYMAN ISLANDS

IN THE MATTER OF GEORGE TOWN CENTRAL BLOCK 14CF, PARCELS 95 AND 98
BETWEEN

PHYLLIS ALIDA MORGAN
JOSELYN MORGAN

AND

JULIETTE FAGAN AND LEEROY FAGAN DEFENDANTS



ORIGINATING SUMMONS

TO: Juliette Fagan and Leeroy Fagan of and whose address for service is PO Box 1877 GT,
George Town, Grand Cayman

LET THE DEFENDANTS, within 14 days after service of this Summons on them, counting the day of service, return the accompanying Acknowledgement of Service to the Courts Office, PO Box 495 GT, George Town, Grand Cayman.

BY THIS SUMMONS which is issued on the application of the Plaintiffs, Phyllis Alida Morgan and Joseclyn Morgan of PO Box 1669 GT, George Town, Grand Cayman the Plaintiffs seek the determination of the Court in connection with the following:-

1. The Plaintiffs are the owners of the land registered at the Lands & Survey Department as George Town Central, Block 14CF, Parcel 98 ('Parcel 98').
2. The Defendants are the owners of the land registered at the Lands & Survey Department as George Town Central, Block 14CF, Parcel 95 ('Parcel 95').
3. The Plaintiffs will aver that they have an easement by prescription to pass and cross over, either with or without vehicles, Parcel 95 in order to gain access to Parcel 98.
4. On Thursday 19 August 1999 a fence was erected by or on behalf of the Defendants, around the perimeter of Parcel 95. A gate was placed at that part of the perimeter fence where Parcel 95 abuts School Lane but there was no gate where the fence abutted Parcel 98. The gate was heavily padlocked and as far as the Plaintiffs are aware has remained so since the fence was erected on Thursday 19 August 1999.
5. As a consequence of the perimeter fencing around Parcel 95 the Plaintiffs were denied their vehicular access to Parcel 98. There is access to Parcel 98 on foot by a footpath but this footpath is inadequate for use by the Plaintiffs and their family to use on foot for a

number of reasons. At its widest point the footpath is approximately 7 feet wide but in places it is much narrower. The footpath is overgrown and littered with refuse. When it rains the footpath becomes very muddy and it does not have the benefit of lighting, so is dangerous at night.

6. When the fencing around the perimeter of Parcel 95 was erected on Thursday 19 August 1999 the Plaintiffs immediately sought legal advice and on Friday 20 August 1999 the attorneys instructed by the Plaintiffs wrote to the Defendants requesting that they reinstate vehicular access to Parcel 98.
7. As a result of subsequent negotiations the Defendants repositioned the perimeter fence to allow the Plaintiffs vehicular access to Parcel 98, although not along the access route which the Plaintiffs had previously used across the middle of Parcel 95.
8. However, the Defendants have again taken steps to fence the entire perimeter of Parcel 95 and thereby prevent vehicular access to Parcel 98.
9. In the circumstances, the Plaintiffs request a declaration by the Court as to the existence or otherwise of an easement in favour of the Plaintiffs over Parcel 95 and an order that the Defendants allow the Plaintiffs access across Parcel 95, either with or without vehicles, in exercise of that easement.
10. The Plaintiffs also require an interim order that the Defendants allow the Plaintiffs to continue to pass over Parcel 95, either with or without vehicles, until the Court is in a position to decide the merits of this application after having given consideration to the evidence of both the Plaintiffs and the Defendants.

If the Defendants do not acknowledge service, such judgement may be given or order made against or in relation to them as the Court may think just and expedient.

Dated the 21st day of September 1999

Ritch & Conolly
Messrs. Ritch & Conolly Attorneys at Law for the Plaintiffs

NOTE – This Summons may not be served later than 4 calendar beginning with that date unless renewed by order of the Court.

IMPORTANT

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