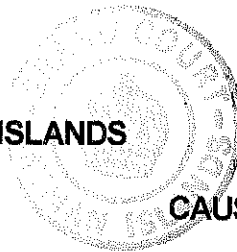


IN THE GRAND COURT OF THE CAYMAN ISLANDS



695
CAUSE NO. of 2002



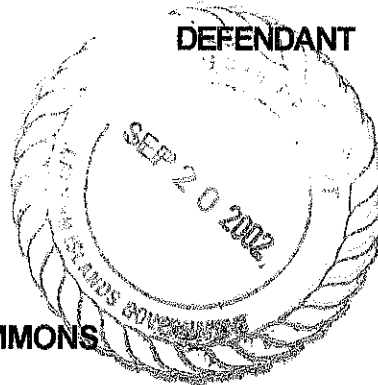
BETWEEN: VERNA RUTHERFORD
 as the legal representative of
 ETHEL CLIFTON

PLAINTIFF

AND; HENRY CLERICY BODDEN

DEFENDANT

TO; Henry Clericy Bodden
220 Andrew Quay
Snug Harbour
West Bay Road
Grand Cayman



WRIT OF SUMMONS

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 495 George Town, Grand Cayman, the accompanying Acknowledgement of Service stating therein 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 20th day of September, 2002.

NOTE: This Writ may not be served later than 4 calendar months beginning with the date of the 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 a resident of Port Arthur Texas, USA, with close Caymanian connections, who brings this action on behalf of her mother, ETHEL CLIFTON, the sister of the Defendant, on the basis of a Power of Attorney which was executed by the said Ethel Clifton in favour of the Plaintiff and which Power of Attorney has been duly registered with the Registrar of Lands as PA 335/01. The said Ethel Clifton, who is 75 years old, also resides in Port Arthur, Texas, USA.

2 The Defendant, is a former Administrator of the Estate of Thomas Bennie Bodden, the father of the Plaintiff and the Defendant, and the Defendant resides at Snug Harbour on West Bay Road, Grand Cayman.

3 Mr. Thomas Bennie Bodden, the father of the Plaintiff and the Defendant died intestate in the Cayman Islands on or about 14th January, 1978 leaving 4 children all of whom were equally entitled to share in his estate. The Defendant and his brother, Vallee Bodden (now deceased) took out Letters of Administration in the Estate of the said Thomas Bennie Bodden which letters of Administration were granted on 9th June, 1989 in Cause No. 36 of 1989.

4 The property located at Registration Section: George Town Central Block 14BG Parcel 2 was owned by the said Thomas Bennie Bodden, immediately prior to his death so that at the date of his death title to same fell into his estate. As a result of the Grant of the said Letters of Administration to the Defendant and Mr. Vallee Bodden, the property was subsequently transferred by transmission on 23rd June, 1989 to the said Vallee Bodden and the Defendant, as Administrators of the Estate of the said Thomas Bennie Bodden. Subsequently on 20th May, 1997 the title to the said property was transferred to the four children of the deceased, Thomas Bennie Bodden, namely: Vallee Bodden, Clericy Bodden, Velona Woods and Ethel Clifton each child owning 1/4 share.

5 During the period 14th January, 1978 (date of death of Thomas Bennie Bodden) to 23rd June, 1989 (date of Grant of Letters of Administration) and during the period 24th June, 1989 to 20th May, 1997 (date of transfer of properties to the beneficiaries) (approximately 19 years) the beneficiaries, including the Plaintiff, were entitled to share equally in any income derived from the said property.

6 At the date of the death of the said Thomas Bennie Bodden on 14th January, 1978 there was located on the said property a structure which was used as the family home and another smaller structure. Some time after the date of death of the Deceased, the Defendant has, himself, operated a boat repair business on the said property, which activity ceased on or about June, 2001 as a result of a letter which was sent by registered post to the Defendant on 19th June, 2001 by the Plaintiff's attorneys at law. The Plaintiff will rely on the terms and conditions in the said letter for their full legal terms and effect.

In breach of his fiduciary duties, during the time that the Defendant operated the boat repair business on the said property, both during the time that he was a trustee of the Estate and subsequently, the Defendant did not make any rental payments for his use of the property to the beneficiaries of the estate to the knowledge and/or benefit of the Plaintiff.

7 Subsequently Mr. Vallee Bodden, during his lifetime and who died without issue, transferred his share in the said title to the Defendant so that the Defendant is currently entitled to 1/2 share of the title and the Plaintiff together with her sister, Velona Woods are each entitled to 1/4 share.

8 The said property has been for some time and continues to be rented out to a Dive Shop and a Chocolate Factory each of whom pay a monthly rent in the amount of CI\$800.00 (the Dive Shop) and CI\$1,200.00 (the Chocolate Factory). The Dive Shop has been making the said rental payments to the Defendant for at least 9 years now and the Chocolate Factory has been making payments to the Defendant for at least 4 years now. The Plaintiff has received no benefit from these rental payments nor has she received any money in relation thereto.

9 Despite demands to the Defendant for an accounting in relation to funds collected and funds owed by himself in relation to the use of the property, by the Plaintiff, the Defendant has neglected and/or refused to provide same.

10 Despite various demands to the Defendant to have the property listed for sale at a realistic sum by the Plaintiff, the Defendant has insisted on placing the price at unrealistic levels which has resulted in the property not being sold and the Defendant's continued enjoyment of the proceeds obtained from the rent of the property. At the time that the Defendant listed the property for sale, after demands to do so by the Plaintiff, the price chosen by the Defendant to sell the said property was higher than that recommended by his own realtors and higher than any appraisals obtained in relation to the value of the said property. The Plaintiff has offered to sell her share of the said property to the Defendant but he has refused and/or neglected to purchase same although he continues to enjoy the rental income without providing any of same to the Plaintiff, despite her obvious entitlement.

WHEREFORE THE PLAINTIFF CLAIMS

(a) An account of what sums are outstanding to the Plaintiff by the Defendant in respect of his carrying out a boat repair business on Registration Section: George Town Central Block 14BG Parcel 2 as from the date of the Plaintiff's mother i.e. 25th January, 1989 .

(b) An account as to what sums are outstanding to the Plaintiff by the Defendant in respect of rental income collected in respect of the property located at Registration Section George Town Central Block 14 BG Parcel 2 for the period 14th January, 1978 to date.

(c) An order for the payment by the Defendant to the Plaintiff of the sum, if any, found due to the Plaintiff from the Defendant on the taking of such accounts.

(d) Further and in the alternative a liquidated sum of CI\$ 75,000.00 which amount is reduced in consideration of the fact that the second structure was built by the Defendant and during the mother's lifetime he may have obtained her consent to carry on his business and collect rent from the said premises.

(e) Interest on the said CI\$75,000.00 at a rate of 2% per annum or CI\$4.11 per day until the amount is paid in full.

(f) Further and in the alternative, damages for breach of statutory and fiduciary duties.

(g) Costs of and incidental to this application.

Dated this 20th day of September, 2002.

Brooks & Brooks
BROOKS & BROOKS
Attorneys At Law for the Plaintiff

To: The Clerk of the Courts

And To: The Defendant

THIS WRIT OF SUMMONS was filed by Brooks & Brooks Attorneys At Law for and on behalf of the Plaintiff herein whose address for service is that of her said Attorneys At Law One, Artillery Court, P O Box 1355GT GRAND CAYMAN

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. of 2002

BETWEEN: **VERNA RUTHERFORD**
 as the legal representative
 of ETHEL CLIFTON

PLAINTIFF

AND; **HENRY CLERICY BODDEN**

DEFENDANT

**ACKNOWLEDGEMENT 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 judgement being entered against a Defendant whereby he 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 judgement entered by the Plaintiff (Please tick box)

Yes

No

Service of Writ is acknowledged accordingly

Signed _____

Please complete overleaf

(Attorney) for

(Defendant in Person)

Address for service:

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 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.

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

**Brooks & Brooks
Attorneys At Law
P O Box 1355 GT
GRAND CAYMAN**

(One, Artillery Court, George Town, Grand Cayman)

Endorsement by the defendant's attorney (or by the defendant if suing in person) of his name, address and residence, if any in the box below