

IN THE GRAND COURT OF THE CAYMAN ISLANDS

829

CAUSE NO. OF 2003

IN THE MATTER of the Cotorro Trust originally constituted by a Trust Agreement dated the 1st day of June 1979 between Maria Ernestina Bacardi y Gaillard and RoyWest Trust Corporation (Cayman) Limited, now named Coutts (Cayman) Limited, ("the Trust Agreement")

AND In the matter of section 48 of the Trusts Law (2001 Revision)

BETWEEN: COUTTS (CAYMAN) LIMITED PLAINTIFF

AND: (1) ELENA GOMEZ DEL CAMPO DE LINDZON  
(2) MARIANA ELENA PESSINO DE QUIRCH  
(3) MARIA EUGENIA PESSINO DE ROTHWELL DEFENDANTS



\_\_\_\_\_  
ORIGINATING SUMMONS  
\_\_\_\_\_



LET THE DEFENDANTS attend before the Judge in Chambers, at the Law Courts, George Town, Grand Cayman on the 9<sup>th</sup> and 10<sup>th</sup> February 2004 at o'clock in the fore/afternoon on the hearing of an application by the Plaintiff, the Trustee of the Cotorro Trust, ("the Trust"), of P.O. Box 707GT, Coutts House, West Bay Road, Grand Cayman, Cayman Islands or c/o their Attorneys, Charles Adams, Ritchie & Duckworth, Zephyr House, Mary Street, P.O. Box 709GT, George Town, Grand Cayman, Cayman Islands:

1. THAT this Honourable Court may give its opinion, advice or direction as to whether the Plaintiff should comply without inquiry with the directions of the Management Committee of the Trust set out in their letter dated 1<sup>st</sup> December, 2003 and in the circumstances to be set before this Honourable Court in an affidavit intended to be filed in these proceedings notwithstanding the existence of an unauthorized conflicting duty on the part of some Committee Members and a possibly unauthorized conflicting interest.

2. **THAT**, if the answer to (1) is in the negative, the Court give directions as to the future conduct of this action, the parties to be joined or noticed to the proceedings, the manner in which service is to be effected and all necessary and consequential directions.
3. Such further or other relief as to this Honourable Court may seem just and expedient.
4. **THAT** there be liberty to apply.
5. **THAT** the Plaintiff be indemnified out of the Trust Fund against any costs of and incidental to this Originating Summons and any adverse costs against the Plaintiff by the Management Committee.

**AND LET THE DEFENDANTS** within [14 days] after service of this summons on each of them counting the day of service, return the accompanying Acknowledgment of Service to the Courts Office.

Dated this        day December, 2003.



**CHARLES ADAMS, RITCHIE & DUCKWORTH**  
**ATTORNEYS-AT-LAW FOR THE PLAINTIFF**

**NOTES:**

- (1) This Summons 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 above date unless renewed by order of the Court.
- (2) If a defendant does not attend personally or by his attorney at the time and place above-mentioned such order will be made as the Court may think just and expedient.

**IMPORTANT**

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

This Originating Summons was issued by Charles Adams, Ritchie & Duckworth, Attorneys-at-Law for the Plaintiff herein whose address for service is that of their Attorneys, P.O. Box 709GT, Zephyr House, Mary Street, George Town, Grand Cayman, Cayman Islands, B.W.I.



**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 the Plaintiffs attorney (or by Plaintiff if suing in person) of his name, address and reference, if any, in the box below.

Charles Adams, Ritchie & Duckworth  
PO Box 709  
George Town  
Grand Cayman

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

Filed by Charles Adams, Ritchie & Duckworth, Attorneys-at-Law for and on behalf of the Plaintiffs herein whose address for service is that of its said Attorneys-at-Law, P.O. Box 709, Zephyr House, Mary Street, George Town, Grand Cayman, B.W.I.

## **DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE OF ORIGINATING SUMMONS**

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 495G, George Town, Grand Cayman.

### **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. If you wish to defend claims made in the originating summons, or intend to attend the proceedings and to participate in them so far as necessary (although not necessarily in an adversarial manner) you should tick the "Yes" box in paragraph 2 of the acknowledgment of service.
3. 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.
4. 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 Originating Summons)".
5. 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.
6. 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.
7. 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 its behalf.
8. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a *guardian ad litem*.
9. A Defendant acting in person may obtain help in completing the form at the Courts Office.