

IN THE GRAND COURT OF THE CAYMAN ISLANDS

Cause No: 139 of 2006

BETWEEN ANTHONY EBANKS and ALEXANDER
EBANKS, a minor, (by his next friend,
ANNETA EBANKS-BLYTHE) PLAINTIFFS
AND: CECILIA ESMERALDA EBANKS DEFENDANT

WRIT OF SUMMONS

TO: **CECILIA ESMERALDA EBANKS**
164 Victory Avenue, Prospect
Grand Cayman
Tel: 928-2750

THIS WRIT OF SUMMONS has been issued against you by the above-named 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 495GT, 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 11th day of April, 2006

NOTE - This Writ 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 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 Plaintiffs are the only children of Alan Anthony Ebanks who died intestate on 20th February 2006. The Defendant who married the deceased after he was diagnosed with cancer of the brain and lung, would be the person entitled to the estate of the deceased and would be first in priority to have a grant of letters of administration of the said estate.
2. The Plaintiffs are ages 18 and 14 and were living with the deceased at the time of his death. In addition, the deceased had custody care and control of the minor Plaintiff. Both Plaintiffs are students and were totally dependent on the deceased up until he died.
3. The Plaintiffs interest in the estate is that they are the only children of the deceased and had the Defendant not marry the deceased when the deceased was incapable of consenting to marriage, the Plaintiffs would be first in priority to have a grant of letters of administration of the deceased's estate.
4. **The Defendant's marriage to the deceased is one of convenience.** The Defendant had a very brief relationship with the deceased in 2002. The Defendant and the deceased never lived together during this time. The relationship broke down and in the summer of 2003, the Defendant returned to her native country, Santa Domingo. There was no communication between the Defendant and the deceased for about 2 ½ years after the relationship ended.
5. After the deceased was diagnosed with cancer, the Defendant returned to the Island in June, 2005 and married the deceased within 6 weeks of her return, to wit on 9th August, 2005. None of the Plaintiffs were informed about the marriage despite the fact that they lived in the same home with the deceased and the Defendant. The deceased died approximately 6 months after his marriage to the Defendant.

6. Shortly after the said marriage, the Defendant applied to the Immigration Department to reside permanently in the Cayman Islands on grounds of her marriage to the deceased. The Defendant also applied for and obtained a United States Visa shortly after the marriage.
7. Prior to the death of the deceased, the Defendant applied to the Grand Court for a declaration that the deceased was of unsound mind and could not attend to his personal affairs. The Defendant also applied to become guardian of the deceased and his estate.
8. **The Defendant has acted selfishly towards the children of the deceased, including the minor child.** The Defendant is collecting and keeping the rent from the deceased 2 bedroom apartment at 164 Victory Avenue, Prospect, Grand Cayman. The Defendant does not give any money or assistance to the Plaintiffs even when she knows that the Plaintiffs were solely dependent on the deceased for their survival.
9. The Defendant told the deceased's 18 year old son, Anthony Ebanks, that he should leave the home which forms the other portion of the 4 bedroom duplex house. Anthony refused to leave and the Defendant moved out of the said home.
10. The Plaintiffs who lived with the deceased took care of him during his period of illness.
11. By reason of what is stated above, the Plaintiffs claim that the Defendant be passed over by this Court and that letters of administration be granted to them jointly.
12. That the deceased is the sole owner of the 4 bedroom 4 bath duplex house located at 164 Victory Avenue, Prospect, Grand Cayman. The current value of the house is a approximately CI\$400,000.00. The deceased is also entitled to pensions benefit and life insurance.

13. **The Plaintiffs are experiencing financial hardship.** On 8th March, 2006, fire broke out at the said home a few days after the Defendant moved out of the house and the Plaintiffs were still in occupation.
14. The Plaintiffs were forced out of the house as a result of the fire. The deceased had property insurance coverage on the said home with British Caymanian Insurance Company Ltd. The insurance company paid for only two weeks hotel accommodation for the Plaintiffs. The Plaintiffs are still staying at a hotel at their own expense. The Insurance Company has refused to pay for any further accommodation pending an order or permission from this court.
15. By reason of the Defendant's behaviour in not providing financial assistance to the Plaintiffs, the Plaintiffs have suffered loss and damage. The Plaintiffs have to pay for accommodation and maintain themselves since the death of the deceased.
16. The Defendant has been acting selfishly in seeking to get the deceased pension for herself.
17. The Defendant knew or ought to have known that the deceased did not have very long to live. The only inference that can be drawn from the Defendant's behaviour is that she married the deceased in order to claim Cayman status and benefit from the deceased's estate. Considering the very short period of marriage and the Plaintiff's knowledge that the deceased was diagnosed with an incurable disease of the brain, and that the deceased was not in his right mind to have contracted to marriage, the marriage is void and the Defendant is not entitled to any of the deceased estate.
18. There is bad blood between the Plaintiffs and the Defendant. There is no communication whatsoever between the parties. It does not appear that there can be any amicable resolution of this matter.

19. By virtue of section 116 of the Supreme Court Act 1981, the court has powers to pass over the Defendant who would otherwise have been entitled to the grant of administration and appoint the Plaintiffs or any other person as joint administrators of the deceased's estate.
20. The Plaintiffs further claims interest on any sums due under this Writ.

AND THE PLAINTIFFS claim:

- (a) An order under section 116 of the Supreme Court Act 1981 that the court passes over the Defendant who would otherwise have been entitled to the grant of administration and appoint the Plaintiffs as joint administrators.
- (b) Alternatively, that that the court appoints as administrator, any other person as it thinks expedient.
- (c) That British Caymanian Insurance Company Ltd. be permitted to carry out all necessary repairs to the deceased's home at 164 Victory Avenue which was damaged by fire.
- (d) That the Plaintiffs be permitted to return to the said home after repairs have been effected pending the resolution of this matter.
- (e) That the insurance premium which becomes due in May, 2006 be paid for out of the proceeds of the rent monies from the deceased' apartment.
- (f) **Alternatively**, that there be a declaration that the Defendant's marriage to the deceased is void.

- (g) Damages
- (h) Pre & Post judgment interest
- (i) Costs

Dated this 11th day of April, 2006



Facey-Clarke & Associates
Attorneys-at-Law for the Plaintiffs

To: The Clerk of the Court

This Writ was issued by Facey-Clarke & Associates, Attorneys-at-Law for the Plaintiffs herein whose address for service is that of the said Attorneys-at-Law, Ground Floor, Unit 119, Elizabethan Square, 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 495GT, 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 instalments or otherwise.

See over for notes for guidance

Please complete overleaf

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 its 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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AND: CECILIA ESMERALDA EBANKS 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.

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 no

Service of the Writ is acknowledged accordingly

Dated:

(Signed).....

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.

Facey-Clarke & Associates
Attorneys-at-Law
Ground Floor, Unit 119, Elizabethan Square
Grand Cayman, Cayman Islands, B.W.I.
Tel: 946-8111 / Fax: 946-8141
Email: mclarke@candw.ky

Attn: Margeta Facey

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