

IN THE GRAND COURT
CAYMAN ISLANDS
CAUSE NO. 466 OF 2006

BETWEEN: **CHARMAINE MELLAD**

AS THE ADMINISTRATRIX OF THE
ESTATE OF EVERED EARL MELLAD
AKA EARL MELLAD - DECEASED

PATRYEE ANNE MELLAD

AS TRUSTEE OF PRESCILLA MELLAD

AND EARLESLIA MELLAD

1st DEFENDANT

2nd & 3rd DEFENDANTS

AND:

To: **Patryee Anne Mellad**
Prescilla Mellad

And to: **Earlesia Mellad** all of West Bay

WRIT OF SUMMONS

THIS WRIT OF SUMMONS has been issued against you by the above named Plaintiff in respect of claim set out in the next page.

Within fourteen (14) days of 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, KY1-1101 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 judgment may be entered against you forthwith without further notice.

Issued this 9th day November, 2006.

NOTE: This Writ may not be served later than 4 calendar months (or, is leave is required to effect service out of the jurisdiction, within 6 months) beginning with the date of issue unless renewed by the order of the Court form.

IMPORTANT

Directions to Acknowledgement of service are given in the accompanied form

STATEMENT OF CLAIM

1 The plaintiff is and was all material times the wife of the Evered Earl Mellad aka Earl Mellad
– the deceased

2 The deceased was married to Patryee Anne Mellad, hereinafter called the 1st Defendant, who
were divorced in 1994. There were two daughters of the marriage, Prescilla and Earlesia
Mellad, hereinafter after called the two daughters the 2nd and 3rd Defendants, who were
minors but are now over the age of twenty one years.

3 As settlement of the matrimonial property, .35 of an acre of land known as Parcel 196 Block
38B in Lower Valley the matrimonial property was divided in the ratio of 1/3 share to the
children but registered in the name of the mother, the 1st Defendant, as trustee on their
behalf and the remaining 2/3 was registered in the name of Earl Mellad, as sole owner.

4 On the 20th August in 1994 the deceased marry to Charmaine Mellad, hereinafter called the
Plaintiff, who had a young son by the name of Kahlil who lived together in a house on the
said parcel of land while the 1st defendant and her daughters lived elsewhere.

5 In March 1997, the deceased left Grand Cayman in a canoe with his first son to go fishing
but neither of them have returned, neither have they been seen since despite extensive search
for days.

6 On the 9th September, 2004 the deceased was declared dead by Order of the Grand Court
and the Plaintiff was granted Letters of Administration of her husband's estate on the 7th
April, 2005.

7 By 2004, the house was in such a rundown condition, worsened by Hurricane Ivan and
became uninhabitable. The Plaintiff sought a loan from the Credit Union and commenced
repairs on the house but was later advised that the daughters could claim 1/3 of the value of
the estate even when they had put no money in the repairs.

8 On further investigation the plaintiff discovered that the 2nd and 3rd defendants has obtained a loan on their 1/3 share of the property but were not paying the installments as had been agreed.

9 By letter dated the 10th April 2005, the plaintiff asked the 1st Defendant to transfer the 1/3 share of the property to the 2nd and 3rd Defendants so that the plaintiff could deal with them regarding their share but the 1st Defendant refused to transfer the 1/3 share to the daughters.

10 By letter dated the 8th May 2005, the plaintiff wrote to the 2nd and 3rd defendants seeking to buy their 1/3 share as the property was too small to be legally sub-divided or offering them to sell her 2/3 share to them while pointing out inter alia, the condition of the house and the difficulties that she and the child were having to live in the house, each time the rain fell but the defendants have refused to sell or to buy.

WHEREFORE THE PLAINTIFF SEEKS AN ORDER THAT:

1. That the property be valued by a reputable valuator and that 1/3 of the costs be paid by the Defendants.
2. That the property be sold and the plaintiff be given 2/3 share for her and her child.
3. That the plaintiff be given first choice to buy the property at the marked value
4. That any monies owed on the 1/3 share by the defendants be deducted from their share
5. That the Honourable Court makes an order that all legal costs involved in this case be paid out of the 1/3 share of the 2nd and 3rd defendants
6. That this Honourable Court make any further order that it thinks may be just in the circumstances.

Dated this 9th November, 2006


NEVILLE W. LEVY & ASSOCIATES

Filed by Neville W. Levy & Associates for and on behalf of the Plaintiff herein whose address for service is the Nevlaw Building Suite 1 at 180 Shedden Road, George Town.

**DIRECTIONS OF ACKNOWLEDGEMENT OF SERVICE
OF WRIT OF SUMMONS**

1. The accompanying form of Acknowledgement 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 Court. PO Box 495G 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 endorsed 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 acknowledgement of service of the writ, unless in the meantime a summons for judgment is served on the defendant.

If the Statement of Claim is not endorsed 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 of liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to question 3 in the acknowledgement of service that he intends to apply for a stay, execution will be stayed for 14 days after his acknowledgement, but he must within that time, issue a Summons for a stay of execution, supported by an affidavit of 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

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 acknowledgment of Service, as writ served on the Defendant personally is treated as having been 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, he must complete the form 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 authorized 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, an Attorney acting for a guardian ad litem must complete the form.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.

IN THE GRAND COURT
CAYMAN ISLANDS
CAUSE NO. *466* 2006

BETWEEN: CHARMARINE MELLAD Plaintiff
As Executrix of the Estate of Evered Earl
Aka Earl Mellad – Deceased.

AND: PATRYEE ANNE MELLAD 1st Defendant
As trustee for Prescilla Mellad
And Earlesia Mellad 2nd & 3rd Defendants

**ACKNOWLEDGEMENT HAVE
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 defendants whereby they may have to pay the costs of applying to set it aside.

1. Patryee Anne Mellad
Prescilla Mellad and
Earlesia Mellad
- 2 State whether the Defendants intend to contest the proceedings. (tick “yes” or “no”).
- 3 State whether the Defendants intend to apply for a stay of execution of judgment entered by the Plaintiff (tick “yes”)

Service of the Writ is acknowledged accordingly.

Signed

Attorney for Defendants

Defendant in Person

Address for service:

Notes on address for service

Attorney: Where an Attorney represents the defendant, 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, she must give her post office box number and the physical address of his residence or, if she does not reside in the Cayman Islands, she must give an address in Grand Cayman where communications for her should be sent. In the case of a limited company, "residence" means its registered or principal office.

Neville W. Levy & Associates
NevLaw Building,
180 Shedden Road,
George Town.
P. O. Box 2178.

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

