

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 307 OF 1995

Between:

CURTIS JOSEPH CONOLLY
(hereinafter "Curtis")

First Plaintiff

-and-

SAMANTHA DAWN CONOLLY

BY

HER LAWFUL GUARDIAN

ELEANOR CONOLLY

(hereinafter "Samantha")

Second Plaintiff

-and-

ELIZABETH HERNANDEZ-FURNEZ CONOLLY

AS PERSONAL REPRESENTATIVE

OF

JOSEPH BYRON CONOLLY, DECEASED,

AND PERSONALLY

Defendant

(hereinafter "Elizabeth")

WRIT OF SUMMONS

TO: ELIZABETH HERNANDEZ - FURNEZ CONOLLY
East End, Grand Cayman, Cayman Islands, B.W.I.

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

Within fourteen (14) days after the service of this Writ, including the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495, G.T., 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 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 day of July, 1995

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

IMPORTANT

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

INDORSEMENT

- (a) The Plaintiffs, Curtis and Eleanor (as the lawful guardian of Samantha), are the next-of-kin and residuary legatees of the above-named Joseph Byron Conolly, deceased, and sue the Defendant, Elizabeth, as the personal representative of the deceased, and personally.
- (b) A Caveat has been filed by Curtis and Eleanor (as the lawful guardian of Samantha), as Probate and Administration No.9 of 1995, and an application for a Grant of Letters of Administration has been made on behalf of Elizabeth, as Probate and Administration No. 23 of 1995.

STATEMENT OF CLAIM

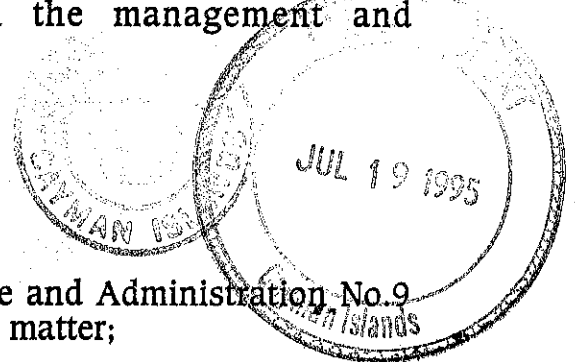
1. Curtis is the son of the late Joseph Byron Conolly, deceased, ("Conolly"), was born on the 9th day of August, 1974 , is Caymanian, and resides in the Town of George Town, Grand Cayman.
2. Samantha is the daughter of Conolly, was born on the 23rd day of June, 1978, is Caymanian, and resides with her mother, Eleanor Conolly, ("Eleanor"), in the Town of George Town, Grand Cayman.
3. Eleanor is the divorced spouse of Conolly, is Caymanian, is the mother and lawful guardian of Samantha, and resides in the Town of George Town, Grand Cayman.
4. Elizabeth is the lawful widow of Conolly, is Honduranian, and resides in the village of East End, Grand Cayman.
5. Conolly was a Caymanian, who died on or about the 17th day of January, 1995, at the village of East End, Grand Cayman.
6. Conolly died without a will. At the time of his death he was the Petitioner in Cause No D137 of 1993, wherein he had commenced divorce proceedings against Elizabeth, wherein the Petition had been proved and the pronouncement of the Decree had been deferred pending the resolution of ancillary matters. The divorce proceeding was last dealt with on the

18th day of October, 1994, at which time the Court ruled that Conolly was entitled to an order that he was not the natural father of a child, Jennifer Conolly, born on the 17th day of May, 1992, during the subsistence of the marriage between Conolly and Elizabeth. The Court did not proceed to adjudicate the issue of whether the child, Jennifer Conolly, was a child of Conolly's family pending further submissions from Neville Levy, Esq., as Guardian ad Litem of the child, Jennifer Conolly.

7. Elizabeth, during the course of the divorce proceedings, indicated that she did not intend to oppose the petition, and was claiming nothing from Conolly for herself or the child, Jennifer Conolly.
8. At the time of Conolly's death, Elizabeth was residing in the matrimonial home, having left prior to the divorce proceedings having been commenced, and then having been permitted to re-enter the matrimonial home by Conolly, as a result of her stating that she was unable to meet living expenses. Conolly gave her access to one room in his residence and the use of one of his vehicles.
9. Curtis and Eleanor are concerned that the estate of Conolly will not be administered properly by Elizabeth. They have reviewed the list of assets of the estate filed by Elizabeth, and are of the opinion that the list is not accurate or complete. In particular, the land is listed at a sum which is believed to be considerably lower than the market value, the vehicles listed are not the vehicles owned by Conolly at his death, and there is no mention of any interest in the estate of Conolly's father, the late Samuel Chesley Conolly. In addition there is no mention of any pension monies due and owing to the estate, no statement of funds at the Credit Union belonging to Conolly and no listing and evaluation of household contents and personalty.
10. Of particular concern to Eleanor as the lawful guardian of Samantha, is the complete absence of any liability accrued for the Consent Order made in Cause No. 15 of 1988, wherein Conolly, the Respondent in that divorce proceeding, agreed to pay the monthly sum of C\$200 per child, by way of maintenance, in respect of the two children of that marriage, namely Curtis and Samantha, until they attained the age of sixteen years, or until they completed their formal education, whichever was the later.
11. The Consent Order went on to state that Conolly would pay one-half of any school fees incurred with respect to Curtis and Samantha, and should either of them commence higher education at an overseas institution, then Conolly would contribute one-half of all reasonable fees relating to such higher education. Samantha has completed her high school education and has been accepted at a Canadian University.
12. Despite an initial indication that Eleanor should be joined as the Co-Administrator of the estate of Conolly, this has now been repudiated by

counsel for Elizabeth. In addition counsel for Elizabeth does not acknowledge that the maintenance payments and the agreement to provide one-half of the higher education expenses for Samantha are an obligation of the estate of Conolly which must be satisfied prior to any distribution of the estate pursuant to *The Succession Law, 1995 (1995 Revision)*.

13. Both Curtis and Eleanor believe that it will be in the best interest of the beneficiaries to have Elizabeth removed as the personal representative of Conolly's estate. Based on the activities they have witnessed to date they are of the opinion that Elizabeth is not dealing with the assets of the estate in good faith, and is, in fact, acting contrary to the best interests of the lawful beneficiaries of the estate of Conolly. In particular Elizabeth has not recognized the funeral expenses incurred by Curtis in the sum of CI\$4405.40 as being a just debt of the estate, has not listed a Toyota wagon, license number 38015, as being an asset of the estate, and, as referred to hereinabove, does not seem to have an accurate inventory of the assets of the estate, nor an accurate assessment of the just and proper liabilities of the estate which must be provided for prior to any distributions taking place. Accordingly, Elizabeth is conducting herself in a neglectful and irresponsible fashion in the management and administration of the estate.



AND THE PLAINTIFFS CLAIM;

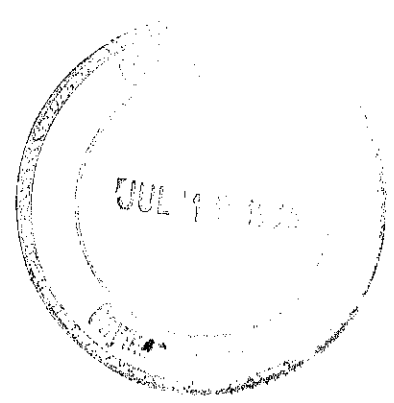
- (1) an extension of the Caveat filed as Probate and Administration No. 9 of 1995, pending the determination of this matter;
- (2) an Order directing the removal of Elizabeth as the personal representative of the estate and to have the real and personal estate of Conolly be administered by Curtis;
- (3) an Order directing that Elizabeth furnish and verify accounts;
- (4) an Order directing that provision be made by way of a first charge on all of the assets of Conolly to ensure that the maintenance payments as called for pursuant to Consent Order filed in Cause No D 15 of 1988 and one-half of all reasonable higher education expenses be secured for the benefit of Samantha;
- (5) an Order directing the estate to pay all arrears of any such maintenance payments due to Eleanor, and to continue to pay the maintenance payments due and owing with respect to Samantha to Eleanor, together with an order directing the estate to pay one-half of

the reasonable costs of a higher education at an overseas institution for Samantha to Eleanor for the benefit of Samantha;

- (6) interest on all sums found due and owing in accordance with the Judicature Law at such rate and for such period as the Court deems appropriate;
- (7) such further and other relief as to this Honourable Court may seem appropriate;
- (8) costs.

Dated this 19th day of July, 1995.

Collins Broadhurst & Furniss
Collins Broadhurst & Furniss
Attorneys-at-Law for the
Plaintiff herein



STATEMENT AS TO INTEREST:

- (i) The Prescribed Rate is 8 3/8 %;
- (ii) The date from which the interest is calculated is the 19 th day of July, 1995;

THIS WRIT AND STATEMENT OF CLAIM WAS ISSUED BY COLLINS BROADHURST & FURNISS, ATTORNEYS-AT-LAW FOR THE PLAINTIFF HEREIN, WHOSE ADDRESS FOR SERVICE IS ELIZABETHAN SQUARE, P.O. BOX 2503, GEORGE TOWN, GRAND CAYMAN.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 1995



Between:

CURTIS JOSEPH CONOLLY
(hereinafter "Curtis")

First Plaintiff

-and-

SAMANTHA DAWN CONOLLY
BY HER LAWFUL GUARDIAN
ELEANOR CONOLLY
(hereinafter "Samantha")

Second Plaintiff

-and-

ELIZABETH HERNANDEZ-FURNEZ CONOLLY
AS PERSONAL REPRESENTATIVE
OF
JOSEPH BYRON CONOLLY, DECEASED,
AND PERSONALLY
(hereinafter "Elizabeth")

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 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 []

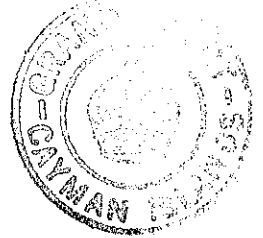
Service of the Writ is acknowledged accordingly

(signed) _____

[Attorney] for

[Defendant in Person]

Address for service:



Notes on address for service

Attorney: where 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 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 Plaintiff's Attorney:

*COLLINS BROADHURST & FURNISS,
ATTORNEYS- AT - LAW,
ELIZABETHAN SQUARE, P.O. BOX 2503,
GEORGE TOWN, GRAND CAYMAN
PER: PETER A. BROADHURST*

*Endorsement by Defendant's Attorney (or by Defendant if defending in person)
of his name, address and reference, if any, below:*

**DIRECTIONS FOR 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 Courts, P.O. Box 495, G.T. Grand Cayman.
2. A Defendant who states in his Acknowledgement 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 not endorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2). the defence must be served within fourteen (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 endorsed on the Writ, the defence need not be served until fourteen (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 within 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 Acknowledgement of Service, that he intends to apply for a stay, execution will be stayed for fourteen 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.

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement 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.