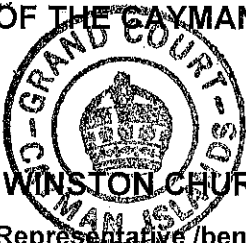


IN THE GRAND COURT OF THE CAYMAN ISLANDS

G0288

CAUSE NO: OF 2008

BETWEEN:



MR. WINSTON CHURCHILL MILLER

(Suing as Joint Personal Representative/beneficiary of the Estate of Tyler Welcome deceased and on behalf of other beneficiaries of the Estate.)

Plaintiff

AND

Mr. JOHN ALFREDO MILLER

Joint Personal Representative/beneficiary of the Estate of Tyler Welcome deceased

Defendant



WRIT OF SUMMONS



TO: John Alfredo Miller
P.O. Box 5 BT, Beach Bay Road, Grand Cayman KY1-1601, Cayman Islands

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 Courts Office, PO Box 495GT, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment of Service within the time stated, or if you return the Acknowledgement of Service 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 13th June 2008

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.

**DIRECTIONS FOR ACKNOWLEDGEMENT 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, PO Box 495, 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 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 installments or otherwise.

See over for Notes of Guidance

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/her.
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 authorized to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on his 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2008

BETWEEN:

MR. WINSTON CHURCHILL MILLER

(Suing as Joint Personal Representative /beneficiary of the Estate of Tyler Welcome deceased and on behalf of other beneficiaries of the Estate.)

Plaintiff

AND

Mr. JOHN ALFREDO MILLER

Joint Personal Representative/beneficiary of the Estate of Tyler Welcome deceased

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 of Summons is acknowledged accordingly

(Signed) _____
Attorney for

NOTE 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/she must give his post office box number and the physical address of his/her residence or, if he/she does not reside in the Cayman Islands, he/she must give an address in Grand Cayman where communications for him/her 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/her name, address and reference, if any, in the box below.

Irvin Banks STUARTS WALKER HERSANT Attorneys-at-law Cayman Financial Centre 36A Dr. Roy's Drive P.O. Box 2510 GT George Town Grand Cayman, Cayman Islands Tel: 345 949 2648 Fax: 345 949 8613 Ref: IRB/1341

Endorsement by Defendant's Attorney (or by Defendant if responding in person) of his/her name, address and reference, if any, in the box below.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2008

BETWEEN:

MR. WINSTON CHURCHILL MILLER

**(Suing as Joint Personal Representative /beneficiary of the Estate of Tyler
Welcome deceased and on behalf of other beneficiaries of the Estate.)**

Plaintiff

AND

Mr. JOHN ALFREDO MILLER

**Joint Personal Representative/beneficiary of the Estate of Tyler Welcome
deceased**

Defendant

STATEMENT OF CLAIM

The Parties

1. Tyler Welcome died intestate on 4 January 1951 and is the Plaintiff's grandfather.
2. The Plaintiff is and was at all material times a joint personal representative of the Estate of Tyler Welcome (the "Estate").
3. The Defendant (who is the brother of the Plaintiff) is and was at all material times also a joint personal representative of the Estate.

Beneficiaries

4. Beneficiaries of the Estate include the three living children of the late Lepercica Avinel Welcome Miller (**daughter** of Tyler Welcome, deceased), namely (1) granddaughter Lilith Dolene Welcome Miller Johnson, (2) the Defendant (grandson) and (3) the Plaintiff (grandson), and numerous great grand children.

Background

5. On 1 November 2004, the Governor of the Cayman Islands, after granting a request from the Plaintiff and the Defendant to return 'Crown lands' known as Registration Section North East Coast, Block No.65A, Parcel 47 (the "**Property**") back to the Estate, executed a Land Registry Transfer document transferring the Property to the Plaintiff and the Defendant as joint proprietors.
6. The Property consists of land of approximately 23.85 acres in size and was valued, on behalf of the Cayman Islands Government, at between CI\$720,000 and CI\$861,000 at the time of the granting of the transfer.

Letters of Administration

7. Previously, in anticipation of the transfer of the Property by the Cayman Islands Governor, letters of administration were filed at the Grand Court of the Cayman Islands on 9 July 2004.
8. As joint holders of the Letters of Administration, both the Plaintiff and Defendant are entrusted as Trustees of the Estate for the persons by law beneficially entitled thereto and owe fiduciary duties to act properly in the administration of the Estate.

Execution of Land Transfer Documentation

9. Subsequently, in or about late July of 2004, both the Plaintiff and the Defendant orally agreed that the Defendant was in a better posititon and had more

available time than the Plaintiff to administer and organise the sale of the Property on behalf of all the beneficiaries of the Estate, albeit the Plaintiff would retain his responsibilities as joint personal representative of the Estate.

10. Consequently, the Plaintiff and Defendant orally agreed that the Plaintiff would grant a power of attorney (or enter into an equivalent document or arrangement) to the Defendant to enable the Defendant to administer and organise the affairs of the Estate and to sell the Property for the benefit of all the beneficiaries and thereafter produce an account thereof.
11. It is the Plaintiff's understanding that for the purpose set out in paragraph 10 above, both the Plaintiff and the Defendant attended the offices of Woodward Terry & Co, Attorneys-at-Law, on 23 July 2004.
12. Acting in reliance on the Defendant's representations that he was executing a power of attorney (or equivalent document) and induced thereby, the Plaintiff mistakenly executed a "Transfer by Personal Representative to Person Entitled Under a Will or an Intestacy" (the "**Transfer Document**").
13. In the premises, the Plaintiff executed the Transfer Document in the belief that the Transfer Document only provided the Defendant with a power of attorney (or equivalent) in respect of administering and organising a sale of the Property.
14. The Defendant's representations were untrue in that in fact the Transfer Document transferred the Plaintiff's joint legal ownership of the Property to the Defendant.
15. Further, the Plaintiff will aver that the Defendant's representations were made as a result of either a common mistake or alternatively constituted an innocent or negligent misrepresentation.
16. Over the past few months, despite numerous correspondence from the Plaintiffs attorneys to Woodward Terry and Associates, the Plaintiff has been unable to ascertain whether the law firm Of Woodward Terry & Associates were

acting purely as notaries for the Plaintiff and or Defendant or were actively involved in giving advice to either the Plaintiff or Defendant, or both.

17. No consideration was paid by the Defendant to the Plaintiff upon entry into the Transfer Document or subsequently in connection thereto.

18. The Cayman Islands Land Registry by way of an instrument number 11375/04 dated 7 December 2004 currently reflects the status of the Defendant as being absolute proprietor of the Property.

Transfer Document prima facie void ab initio

19. Neither the Plaintiff or the Defendant as joint personal administrators of the Estate had capacity to execute the Transfer Document as described in paragraph 12 above, because the Transfer Document is reserved for personal representatives to transfer property to persons entitled under a will or intestacy.

The Defendant is not entitled under a will or intestacy to ownership of the whole of the Property, only to his beneficial portion of the Estate thereof, and then only in the interim, i.e. before settling the Estate for all of the beneficiaries.

Breaches of Trust

20. In or about February 2008, the Plaintiff conducted a search at the Cayman Islands Land Registry and was informed that the sole ownership of the Property was registered in the Defendant's name, and subsequently confronted the Defendant.

21. The Defendant orally confirmed to the Plaintiff that he intended to transfer two acres of land from the Property to the Defendant's own children without reference to the Plaintiff or to any other of the beneficiaries of the Estate.

22. When the Plaintiff expressed his concern and asked that the Property be transferred back into joint proprietorship with the Defendant, the Defendant

refused.

23. The Plaintiff now fearing that the Property would, in breach of Trust, be divided up and sold purely for the benefit of the Defendant, disregarding the other legal beneficiaries of the Estate including the Plaintiff, sought legal advice and a Restriction was placed on the Property by the Registrar of Lands until 11 April 2008.
24. In or about April 2008, the Defendant stated to the Plaintiff that he intended to sell off or give away the entire Property to anyone he wanted and that there would be nothing left for the Plaintiff or his family.
25. In fact new listings for the property on the web site "Cayman Luxury Properties", indicate that the Property is now worth \$4,500,000.
26. Wrongfully, the Defendant has refused to allow the Plaintiff to exercise his functions and duties as a joint personal representative of the Estate.
27. In the premises, the Defendant, by:-
 - (i) refusing to provide the Plaintiff, as Joint Administrator with details of his plans to dispose of the Property and/or Estate;
 - (ii) transferring or attempting to transfer portions of the Property to close family members of the Defendant without the knowledge and/or agreement of the Plaintiff;
 - (iii) stating that he intended to disregard the interests of the beneficiaries of the Estate; and
 - (iv) failing to provide accounts,

has breached his said fiduciary duties as a joint Trustee of the Estate and is in breach of his obligations under the Letters of Administration.

28. The Plaintiff in his capacity as a joint personal representative of the Estate, seeks relief from the Court in order to fulfill those duties and obligations on behalf of all of the beneficiaries of the Estate.
29. By reason of the matters complained of above, and despite requests to the Defendant for regular and proper accounting from the Plaintiff as a joint personal representative of the estate, the Defendant is liable to account as a Trustee and personal representative of the Estate.
30. By reason of the matters aforesaid the Plaintiff has suffered loss and damage.

AND THE PLAINTIFF CLAIMS:

- (1) An order that the Defendant be removed as a Joint Personal Representative of the Estate;
- (2) An order that an Inhibition be placed immediately on the Land Register in respect of the Property preventing the sale of the Property and/or any part thereof by the Defendant, unless by order of the Court;
- (3) An order that the Transfer Document (FORM RL7) described above is null and void ab initio and the Land Registry be rectified accordingly so that the Property currently held in the name of the Defendant is re-registered in the name of the Plaintiff as Personal Representative of the Estate;
- (4) An account of all of the Defendant's financial dealings with the Estate to date including, without limitation, an account and full details of any contracts and/or obligations entered into by the Defendant with third parties regarding the sale and/or management of all assets of the Estate;
- (5) An order that the Defendant be held liable to account for any sales or gifts of the Estate undertaken to date by the Defendant, which have not been condoned and ratified by the Plaintiff as joint personal representative of the Estate;

- (6) All other necessary accounts, directions and enquiries;
- (7) Further or other relief;
- (8) Costs on an Indemnity Basis; and
- (9) Interest in accordance with the Judicature Law on any sums due under the Court's inherent jurisdiction.



STUARTS WALKER HERSANT

Dated 12th June 2008

Filed June 2008