

IN THE GRAND COURT OF THE CAYMAN ISLANDS

510383
CAUSE NO: OF 2008

B E T W E E N:

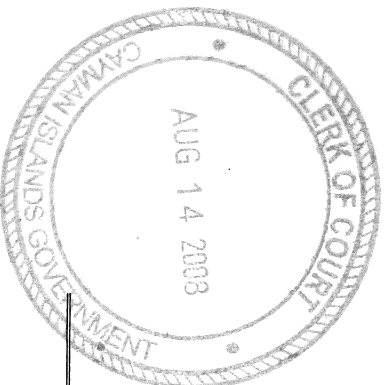
ALFRED SOLOMON

Plaintiff

AND

VERNON VIGILANT

Defendant



WRIT OF SUMMONS

TO: Vernon Vigilant
235 Bodden Town Road
Bodden Town
Grand Cayman



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 Court Office, PO Box 495, Grand Cayman, KY1-1106, Cayman Islands, 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 day of August 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 Acknowledgement of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiff is the registered proprietor in common of a one-third share of a property located at Bodden, Town Block, 44B Parcel 217 (the "Property").
2. The Defendant is the registered co-proprietor of the other two-thirds share of the Property.
3. The single domicile located on the Property was built by the Plaintiff's grandfather, Robert Conwell Solomon, who died intestate on 16 March 1957. Shares in the Property were divided between his wife and six children.
4. As a result of the death of various members of the Solomon family, shares of the interest in the Property were reduced to three.
5. Hazel Adith Solomon McDonald, who was the Plaintiff's aunt and who held one share of the Property, gifted her one share of the Property to the Plaintiff in January 1997. Hazel Adith Solomon McDonald was a resident of the Property intermittently from her teenage years until her death in or around 4 April 1999 at the age of 92.
6. Leolin Adina Solomon Vigilant, the Plaintiff's aunt, and her husband, the Defendant, jointly owned the two remaining shares of the Property until the death of Leolin Adina Solomon Vigilant in or around 2 March 2006.
7. The remaining two Shares of the Property are now owned by the Defendant and the Defendant currently remains a resident of the Property and has done so for 26 years since his marriage to Leolin Adina Solomon Vigilant.
8. Since the one third share was gifted to the Plaintiff in January 1997, the Defendant has been in exclusive possession of the Property.


9. The Plaintiff has made numerous requests to the Defendant to gain access to the Property. The Defendant has denied the Plaintiff such access by means of a restraining order, litigation challenging the Plaintiff's ownership and the Defendant has denied the Plaintiff a functional key.
10. The Plaintiff has effectively been ousted from the Property and is entitled in law and in equity to a one-third share of the occupation rent.
11. The Plaintiff had been a frequent visitor to the Property since his birth in 1937 until he was denied access to the Property by the Defendant.
12. The Plaintiff has made numerous requests to the Defendant for payment of occupation rent. No such rent has yet been paid to the Plaintiff.
13. The Plaintiff has also requested all information relevant to the costs of maintenance paid by the Defendant towards the upkeep of the Property. No such information has yet been provided to the Plaintiff.
14. Alternatively, by denying the Plaintiff access to the Property, the Defendant is trespassing on the Property and the Plaintiff is therefore entitled to damages in the amount of the value of his interest in the Property.
15. Disputes between the Plaintiff and the Defendant as to ownership, possession, rent and maintenance of the Property have been ongoing and for several years and the Property has been the subject of litigation.
16. The Plaintiff respectfully submits that the sale of the Property is the only means available to resolve the long-standing disputes.
17. The Property has on it a single domicile and is therefore incapable of partition. Alternatively, partition would adversely affect the proper use of the land.

18. The Property was built by Robert Conwell Solomon and, until the death of Leolin Adina Solomon Vigilant, has been in the possession of one or more members of the Solomon family. The Plaintiff respectfully submits that a right of first refusal should accord to him in order to allow the Plaintiff to regain possession by his family and to protect his family heritage.

19. As a result of the above, the Plaintiff is entitled to the relief claimed in this proceeding.

AND THE PLAINTIFF claims:

- a) An Order for the sale of the Property for reasonable value;
- b) an Order that the Plaintiff be given a right of first refusal with respect to the sale of the Property;
- c) an equitable accounting and Order that the Defendant pay to the Plaintiff an amount equal to the difference between the reasonable occupation rent and income generated by the Property and the maintenance costs or, alternatively, an Order that the Defendant pay to the Plaintiff an amount equal to the value of his interest in the Property;
- d) pre and post judgment interest in accordance with the *Judicature Law (2004 Revision)* and the Judgment Debt (Rates of Interest) Rules as amended from time to time;
- e) costs on an indemnity basis or standard basis in accordance with the Court Costs Rules 2001; and
- f) Such further and other relief as this Court may deem just.


APPLEBY
 Attorneys-at-law for the Plaintiff

TO: The Clerk of the Court

AND TO: Vernon Vigilant

235 Bodden Town Road
 Bodden Town
 Grand Cayman

This WRIT OF SUMMONS was filed by Appleby, Attorneys-at-Law for the Plaintiff whose address for service is Clifton House, 75 Fort Street, PO Box 190, Grand Cayman, KY1-1104, Cayman Islands (ref: NB/09130.003)

Acknowledgment of service of writ of summons (O.12, r.3)

**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 each Defendant or by each Defendant if acting in person.
After completion it must be delivered or sent by post to the Law Courts, PO Box 495 GT, 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 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2008

B E T W E E N:

ALFRED SOLOMON

Plaintiff

AND

VERNON VIGILENT

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**

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

HAVE TO BE RETURNED.

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

(Signed).....

[Attorney] for

[Defendant in person]

Address for service:

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 communication 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.

Appleby
Attorneys-at-Law
75 Fort Street
PO Box 190
Grand Cayman KY1-1104
CAYMAN ISLANDS
Ref: NB/09130.003

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

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