



COURT OF THE CAYMAN ISLANDS

CIVIL DIVISION

Neutral Citation Number: [2026] CIGC (Civ) 16

CAUSE NO: G 0252 of 2023

BETWEEN:

CAYMAN FIRST INSURANCE COMPANY LIMITED

PLAINTIFF

AND:

BARRINGTON STULTZ

1ST DEFENDANT

AND:

CELINE MACKEN

2nd DEFENDANT

IN CHAMBERS

Coram: The Hon. Chief Justice

Appearance: Mr John Connole of Hampson & Company for the Plaintiff
Mr Kyle Broadhurst and Ms Tiziana Romano of Broadhurst LLC for the 2nd Defendant

Date of Hearing: 21 April 2026

Date circulated in
Draft: 22 April 2026

Date of Ruling: 23 April 2026

*GCR - Service - In limine objection - Notice of intention to proceed - Order 65, r.9 - Dispensing with service - Alternative service***RULING ON IN LIMINE SUBMISSION**

1. A short point arose *in limine* on the Plaintiff's application for interlocutory relief, namely the effect of the Plaintiff's failure to serve the First Defendant with (i) the Notice of Intention to

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Proceed and (ii) the present Summons and supporting affidavit. The point was taken on behalf of the Second Defendant, whose position is that her entitlement to indemnity will fall away if the Plaintiff succeeds in its claim against the First Defendant.

2. Mr Connole, for the Plaintiff, relied on the affidavit of Zachary McLaughlin to demonstrate that extensive efforts were made to effect personal service and to contact the First Defendant by telephone. Mr McLaughlin deposes to his belief that the First Defendant has returned to Jamaica. Counsel submitted that personal service of the present summons was not required and relied upon GCR O.65 r.9 to contend that no service was required.

3. O 65, r.9 provides:

“No service required in certain cases (O.65, r.9)

9. Where by virtue of these Rules any document is required to be served on any person but is not required to be served personally, and at the time when service is to be effected that person is in default as to acknowledgment of service or has no address for service, the document need not be served on that person unless the Court otherwise directs or any of these Rules otherwise provides.”

4. It is correct that, once a defendant has been duly served with originating process, subsequent documents in the proceedings do not require *personal service* unless expressly provided for by the Rules or ordered by the Court. Neither O.14 nor O.19 imposes any such requirement.

5. However, that does not mean that service may be dispensed with altogether. Order 65 r.9 provides that where a defendant has failed to acknowledge service or has not provided an address for service, the obligation to serve further process may be dispensed with unless the Court otherwise directs. It does not apply where a defendant has engaged with the proceedings and provided an address for service.

6. In the present case, the First Defendant filed an acknowledgment of service, gave notice of intention to defend and provided an address for service. In those circumstances, neither limb of O.65 r.9 is satisfied. In my view, the fact that the First Defendant later left the jurisdiction or ceased to reside at that address does not retrospectively negate the fact that he had acknowledged service and provided an address for service within the meaning of the Rules. The Plaintiff is not entitled to rely upon O.65, r.9 as dispensing with service of subsequent process.

7. That conclusion applies *a fortiori* to the notice of intention to proceed. O.3, r.6 provides that where a period of 6 months or more has elapsed since the last proceeding in a cause or matter, the party wishing to proceed must give to every other party not less than 1 months' notice of that party's intention to proceed. The rule is expressed in mandatory terms. Its evident purpose is to ensure that, after a substantial period of inactivity, the opposing party is given formal notice before the action is revived. In my judgment, that is a case in which the Rules themselves "*otherwise provide*" for service, with the consequence that O.65, r.9 has no application.
8. The same is true of the summons and supporting affidavit. Although personal service is not required, some form of service is still required unless dispensed with by an order of the Court.
9. The First Defendant is not shown to be evading service. Rather, the evidence indicates that he has left the jurisdiction following the loss of his immigration status. He had previously engaged with the proceedings by acknowledging service and indicating an intention to defend. In those circumstances, considerations of procedural fairness assume particular importance. This is not a case in which it would be appropriate to dispense with service altogether. The proper course is for the Plaintiff to seek an order for alternative service.
10. During the hearing, Mr Connole adopted a pragmatic approach and indicated that such an application would be made.
11. The matter is therefore adjourned, with costs of the adjournment to the Second Defendant.

DATED THE 21 APRIL 2026



**THE HON. JUSTICE MARGARET RAMSAY-HALE
CHIEF JUSTICE OF THE GRAND COURT**