

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO: 12 OF 2016 ()

IN THE MATTER OF THE POULTON FAMILY TRUST

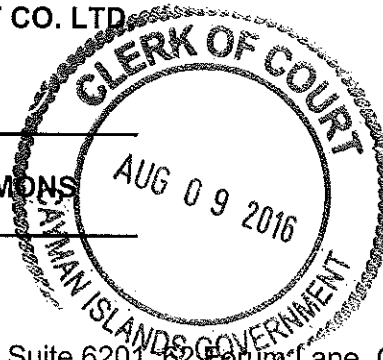
BETWEEN:

- (1) MICHELE ALEXIA CANHAM
- (2) JAMES ALEXANDER POULTON
- (3) NICHOLAS JAMES POULTON
- (4) JAMES MICHAEL POULTON
- (5) DAISY ELIZABETH HOUGHTON-POULTON

Plaintiffs

- (1) CUTTY SARK LAND COMPANY
- (2) DEBORAH MCMULLAN POULTON
- (3) WILSON MALCOLM MCMULLAN
- (4) CHRISTINE JANE MCMULLAN
- (5) CAYMAN NATIONAL TRUST CO. LTD
- (6) CNT NOMINEES LTD

Defendants



WRIT OF SUMMONS

TO: (1) CUTTY SARK LAND COMPANY

At its registered office Cayman National Trust Co Ltd., Suite 6201, 62 Forum Lane, Camana Bay, PO Box 30239, Grand Cayman KY1-1201, Cayman Islands

AND TO: (2) DEBORAH MCMULLAN POULTON

24605 Deer Trace Drive, Ponte Vedra Beach, Florida, 32082, United States of America

AND TO: (3) WILSON MALCOLM MCMULLAN

24605 Deer Trace Drive, Ponte Vedra Beach, Florida, 32082, United States of America

AND TO: (4) CHRISTINE JANE MCMULLAN

24605 Deer Trace Drive, Ponte Vedra Beach, Florida, 32082, United States of America

AND TO: (5) CAYMAN NATIONAL TRUST CO. LIMITED

Suite 6201, 62 Forum Lane, Camana Bay, PO Box 30239, Grand Cayman KY1-1201, Cayman Islands

AND TO: (6) CNT (NOMINEES) LIMITED

At its registered office Cayman National Trust Co Ltd., Suite 6201, 62 Forum Lane, Camana Bay, PO Box 30239, Grand Cayman KY1-1201, Cayman Islands

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

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, P.O. Box 495G, George Town, Grand Cayman, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiffs may proceed with an action and judgment may be entered against you forthwith without further notice.

Issued: 8 August 2016

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.

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STATEMENT OF CLAIM

Introduction and parties

1. The Plaintiffs are the adult children of the late James Alan Poulton (“**Alan**”). They are referred to herein by their first names, with the exception of the Second Plaintiff, who is known as “**Jamie**”. The Plaintiffs are all resident in the United Kingdom.

2. Alan was born, and for many years worked, in the United Kingdom. His business interests included buying, selling and retail trading from properties in central London. On 18 August 1981, he incorporated in the United Kingdom a limited company called Alan Poulton Limited (“**APL**”), which subsequently served as the trading entity for certain of his business interests. At all material times:
 - 2.1 the shareholders of APL have been Michele (1 share), Cutty Sark Land Company (599 shares), a John Sheridan (300 shares) and Pauline Cornwell (300 shares);
 - 2.2 the directors of APL have been Michele, Nicholas and Victoria Cornwall (Pauline Cornwall’s daughter) and, prior to his death, Alan. On 12 July 2016, Pauline Cornwall was also appointed as a director of APL.

3. APL’s current assets include eight Central London properties (of which APL is either the freehold or long leasehold owner):
 - 3.1 APL runs shops from two properties in Brewer Street, Soho, and occupies office space in connection with its business;
 - 3.2 Jamie runs a successful seafood restaurant from one property (which is rented by him from APL);
 - 3.3 the other properties contain residential flats, office and retail space which are let out by APL; and

- 3.4 the current value of APL's assets is estimated to be in the order of £40-50m.
4. In or around June 2004, Alan married the Second Defendant, "**Deborah**". Deborah is an American citizen who had a background as a real estate agent.
 5. Alan and Deborah resided together in Florida until Alan's death on 6 June 2016.
 6. The Third and Fourth Defendants ("**Wilson**" and "**Christine**") are, respectively, the son and daughter-in-law of Deborah. Wilson and then Wilson together with Christine have resided at Alan and Deborah's home in Florida for many years.
 7. The First Defendant, Cutty Sark Land Co ("**CSLC**") is an Exempted Company incorporated by Alan in the Cayman Islands with limited liability on 16 May 1997. To the best of the Plaintiffs' knowledge, its sole asset is the 49% shareholding in APL (i.e. 599 shares in APL):
 - 7.1 Its directors at all material times prior to 31 May 2016 were Alan, Michele and Nicholas.
 - 7.2 CNT (Nominees) Ltd and CNT (Directors) Ltd. were added as directors in addition in December 2015.
 - 7.3 Its directors are now Deborah, Wilson and Christine. They were added as directors on or around 1 June 2016, upon the removal of Michele and Nicholas and the resignation of CNT (Nominees) Ltd and CNT (Directors) Ltd.
 - 7.4 Alan remained a director until his death.
 8. As set out below, the Fifth Defendant (the "**Trustee**") is the trustee of the Poulton Family Trust (the "**Trust**"). The Sixth Defendant was (to the best of the Plaintiffs' current knowledge) the sole shareholder of the shares in CSLC prior to 12 May 2016, the Plaintiffs assume as nominee for the Trustee.

The Poulton Family Trust

9. By deed dated 23 November 2003 (or, alternatively, 23 December 2003 as the document bears both dates) (the “**2003 Trust Deed**”), drawn up by the law firm Solomon Harris on Alan’s behalf, Alan settled the entire issued share capital of CSLC (being 10,000 ordinary shares of US\$1.00 each) (the “**CSLC Shares**”) on the discretionary trusts provided for by that deed (the “**Trust**”).

9.1 The Trust was established under the laws of the Cayman Islands, and the proper law and forum for the administration of the Trust was and remains the Cayman Islands (clause 2).

9.2 The original trustee of the Trust was AALL Trust and Banking Corp Ltd. The current trustee is the Fifth Defendant, the Trustee.

9.3 The beneficiaries of the Trust (as set out in the Second Schedule) were Alan, the Plaintiffs, Daisy’s mother Vivian Rose Houghton-Norris, and the Plaintiffs’ lineal descendants.

9.4 The original protector of the Trust (as provided for by clause 22(a) and the Fourth Schedule of the 2003 Trust Deed) was Michele.

10. The 2003 Trust Deed further provided:

10.1 By Clause 4, that:

“The Trustees shall stand possessed of the Trust Fund and the income thereof upon the trusts following that is to say:-

(a) Upon trust during the Trust Period to pay appropriate or apply the whole or such part of the income of the Trust Fund as the Trustees may in their absolute discretion think fit for the benefit or advancement of all or such one or more exclusive of the other or others of the Beneficiaries on such shares and proportions if more than one and otherwise in such manner as the Trustees shall in their absolute discretion think fit.

(b) Upon trust to pay or apply any income appropriated to a Beneficiary under the provisions of paragraph (a) of this clause to or for the benefit of such Beneficiary with power to declare such other trusts

in respect of the same (without infringing any rule against perpetuities applicable hereto) for the benefit of such Beneficiary as the Trustees may in their absolute discretion determine, including but without prejudice to the generality of the foregoing, provisions for maintenance education or advancement or for the accumulation of income whether during minority or otherwise and with such discretionary trust and powers exercisable by such Persons as the Trustees shall determine.

- (c) *Notwithstanding the trusts aforesaid during the Trust Period to accumulate the whole or any part or parts of the income of the Trust Fund as the Trustees may in their absolute discretion think fit and add the accumulations to the capital of the Trust Fund.*
- (d) *Upon the expiration of the Trust Period UPON TRUST as to both capital and income of the Trust Fund for all or such one or more exclusive of the other or others of the Beneficiaries as shall then be living and entitled in such shares and proportions if more than one and generally in such manner as the Trustees shall prior to or on the date of such expiration their absolute discretion determine and in default of and subject to such determination UPON TRUST for such of the Beneficiaries as shall then be living or in existence and if more than one in equal shares absolutely."*

10.2 By Clause 5, that the Trustees should have powers of appointment and advancement.

10.3 By Clause 8(a), that:

"The Settlor or the Protector may by declaration in writing made at any time or times during the Trust Period declare that the Person or Persons or members of a class named or specified (whether or not ascertained) in such declaration who are, would or might be but for this Clause become a Beneficiary or Beneficiaries or be otherwise able to benefit hereunder as the case may be:

- (i) shall be wholly or partially excluded from future benefit hereunder;*
- (ii) shall cease to be a Beneficiary or Beneficiaries;*
- (iii) shall be an Excluded Person or Persons;*

and any such declaration may be irrevocable or revocable during the Trust period and shall have effect from the date specified in the said declaration provided that this power shall not be capable of being exercised so as to derogate from any interest to which any Beneficiary has previously become indefeasibly entitled whether in possession or in reversion or otherwise."

10.4 By Clause 9, that:

“(a) The Settlor and the Protector shall have power at any time or times during the Trust Period to add to the class of Beneficiaries such Person or class of Persons (not being an Excluded Person or Excluded Persons) as the Settlor shall in their absolute discretion determine.

(b) Any such addition shall be made by a declaration in writing signed by the Settlor and:-

(i) naming or describing the Person or Persons to be thereby added to the class of Beneficiary, and

(ii) specifying the date (not being earlier than the date of the declaration but during the Trust Period) from which such Person or Persons shall be so added.”

10.5 By Clause 22(b), that:

“In the event that the First Protector dies, resigns from the position of Protector, is determined by the Settlor or the Trustees as unable to fulfil their duties as Protector or the Settlor removes the First Protector as Protector, unless the Settlor otherwise determines, the second Protector (“the Second Protector”), being the Person or Persons specified as such in the Fourth Schedule hereto, shall immediately be deemed to be the Protector in place of the First Protector and the Trustees shall cause a memorandum to that effect to be endorsed on this Deed.”

10.6 By Clause 24:

“(i) This Trust shall be irrevocable;

(ii) Without prejudice to any other powers expressly contained herein to amend or alter this Deed of Settlement the trustees may be deed amend or alter this Deed of Settlement but only at the written request or with the written consent of the Protector.”

11. At around the time of the establishment of the Trust (or alternatively, at some point thereafter), Alan wrote a letter of wishes indicating that, after his death, his children should benefit equally from the Trust. On 7 June 2007, Alan wrote an amended letter of wishes indicating that:

11.1 during Alan’s lifetime, all of the income should be distributed to him;

- 11.2 upon Alan's death, the income should be distributed in specified proportions amongst Michele, James, Nicholas, Jamie, Daisy, Daisy's mother and Deborah;
- 11.3 the capital of the Trust should not be distributed until the expiry or termination of the Trust; and
- 11.4 no income or capital should be distributed to any of Alan's children who the trustees are reliably informed are taking drugs or involved in dealing in drugs (otherwise than for normal medical purposes).

The 2012 Will

12. By 2011, Alan's health was beginning to deteriorate significantly. His health issues at the time included:
 - 12.1 eye complaints including infections, glaucoma and retinitis pigmentosa, which imposed a serious risk of blindness, and left him unfit to drive (so Deborah communicated at the time to the Plaintiffs); and
 - 12.2 excessive alcohol consumption.
13. Deborah, by that time and at all material times thereafter, had assumed responsibility for oversight and control of Alan's medical and domestic care. In assuming that role, a relationship of trust and confidence arose in relation to Deborah's management of Alan's affairs.
14. A document dated 2 August 2012, and purportedly executed by Alan in Florida in the presence of two witnesses and a Notary Public in the State of Florida, has been produced by Deborah following Alan's death as being the "Last Will and Testament of James Alan Poulton" (the "**2012 Will**").

15. The 2012 Will purportedly records Alan's testamentary wishes as follows:

"I am married to Deborah Poulton and all reference in this Will to my wife are references to her.

In the event that my wife shall die simultaneously with me or there is no direct evidence to establish that my wife and I died other than simultaneously, I direct that I shall be deemed to have survived my wife, notwithstanding any provision of law to the contrary, and that the provisions of my Will shall be construed on such presumption. If my wife does not survive me, then I give, devise all my estates to her lineal descendants.

I direct that no expert appraisal be made of my estate unless required by law. I hereby waive the necessity of preparing or filing any inventory, accounting, appraisal, reporting and approval of my estate.

I give, devise, and bequeath all of my estate, of whatever kind and character, to my loving wife."

16. By Petition dated 15 June 2016 and filed in the Probate Division of the Circuit Court of the Seventh Judicial Circuit in and for St John's County with case number 2016-CP-0344, Florida, Michele, Jamie and Nicholas have challenged the validity of the 2012 Will on the basis that Alan lacked capacity to make the same and/or executed it in the form he did as a result of coercion or undue influence brought to bear upon him by Deborah.

The August 2013 Instructions

17. By email from Deborah's email account on 20 August 2013, Solomon Harris were sent certain written instructions or requests concerning the Trust.
18. Those instructions were contained in an attached letter (which resembles an email printed from Deborah's email account), apparently signed and dated in manuscript by Alan on 20 August 2013 (the "**August 2013 Instructions**").
19. The August 2013 Instructions contained the following comments and requests concerning the 2003 Trust Deed:

"1. The Fourth Schedule (Protectors) I thought I was going to be the existing protector and then Nicholas James Poulton second protector, then Michele Alexis Canham (nee Poulon) then James Alexander Poulton.

2. The Second Schedule (The Beneficiaries) Please remove Vivian Rose Houghton-Norris as Daisy is now 21 years of age.

3. *I am really concerned about your suggestion in your covering letters Clause 3 that the Trust could be broken up. One of the principle reason of the Trust as I have five children and my wife as beneficiaries. I have a partner who has been trying to get equal voting rights and should the Trust be broken up he would be able to buy one person out which would totally devalue the shares of the others. For this reason the Trust must always be kept intact and in the event it does get dissolved and Deborah, of course, I want to get 40% of the income. However, I can't see the value of this as all the assets are interlinked. How can her heirs challenge the Trust? Would you please revise this item."*

Purported Removal of Michele as Protector

20. By a "Deed of Removal and Appointment of Protectors" dated 23 September 2013 (the "**September 2013 Variation Deed**"), and purportedly executed as a deed by Alan and the Trustee:

20.1 Michele was removed as the Protector of the Trust;

20.2 Alan was appointed as the Protector of the Trust;

20.3 The 2003 Trust Deed was further amended so that the subsequent order of the Protectors of the Trust as provided for in the Fourth Schedule of the 2003 Trust Deed was changed so as to provide that:

(i) the Second Protector should be Nicholas (in place of Jamie);

(ii) the third should be Michele (in place of Nicholas);

(iii) the (new) Fourth Protector should be Jamie; and

(iv) the (new) Fifth Protector should be James.

Addition of Deborah as a Beneficiary

21. By a Deed of Revision and Amendment dated 24 October 2013, and executed as a deed by the Trustee (the "**October 2013 Variation Deed**"), the Trustee:

21.1 amended (by replacement) Clause 4 of the 2003 Trust Deed, so that:

- (i) the provisions of Clause 4(a) of the 2003 Trust Deed were amended so as to apply only during the lifetime of the Settlor.
- (ii) new sub-clauses 4(d) and (e) were added, as follows:

“(d) Upon trust during the Trust Period and after the lifetime of the Settlor, to pay, appropriate or apply forty percent (40%) of the income of the Trust Fund for the benefit or advancement of Deborah Poulton for her lifetime and not thereafter, PROVIDED THAT Deborah Poulton survives the Settlor and is at the time of the death of the Settlor validly married to the Settlor and is not at that time an Excluded Person, and to pay, appropriate or apply the part of the Trust Fund then remaining after such appropriation of the Trust Fund to Deborah Poulton as the Trustees may in their absolute discretion think fit for the benefit or advancement of all of such one or more exclusive of the other or others of the Beneficiaries other than Deborah Poulton on such shares and proportions if more than one and otherwise in such manner as the Trustees shall in their absolute discretion think fit.

(e) Upon trust during the Trust Period after the lifetime of the Settlor and after the lifetime of Deborah Poulton, to pay, appropriate or apply the whole or such part of the income of the Trust Fund as the Trustees may in their absolute discretion think fit for the benefit or advancement of all or such one or more exclusive of the other or others of the Beneficiaries, other than Deborah Poulton, on such shares and proportions if more than one and otherwise in such manner as the Trustees shall in their absolute discretion think fit.”

- (iii) consequential amendments were made (by replacement) to the original 4(d) (now 4(f)) for the distribution of the Trust Fund upon the expiration of the Trust Period.

21.2 amended the power of exclusion contained at Clause 8(a) of the 2003 Trust Deed (by replacement) so as to provide:

"The Settlor may, during his lifetime and while he has mental capacity, and the Protector may, with the consent in writing of the Settlor during his lifetime and while he has mental capacity or after the lifetime of the Settlor, by declaration in writing made at any time or times during the Trust Period declare that the Person or Persons or members of a class named or specified (whether or not ascertained) in such declaration who are, would or might be but for this Clause become a Beneficiary or Beneficiaries or be otherwise able to benefit hereunder as the case may be:

(i) shall be wholly or partially excluded from future benefit hereunder;

(ii) shall cease to be a Beneficiary or Beneficiaries;

(iii) shall be an Excluded Person or Persons;

and any such declaration may be irrevocable or revocable during the Trust period and shall have effect from the date specified in the said declaration provided that this power shall not be capable of being exercised so as to derogate from any interest to which any Beneficiary has previously become indefeasibly entitled whether in possession or in reversion or otherwise, including, without limitation, Deborah Poulton's entitlement in and to forty percent (40%) of the income of the Trust Fund on the provisions described in Clause 4(d) above."

21.3 revised the list of beneficiaries at the Second Schedule of the 2003 Trust Deed to add Deborah Poulton to the list and to remove Vivian Rose Houghton-Norris.

Position as at October 2013

22. As at 24 October 2013, therefore, and purportedly in accordance with Alan's wishes and instructions as contained in the August 2013 Instructions, the original terms of the 2003 Trust Deed had been varied so that:

22.1 Alan was the Protector of the Trust, as well as the Settlor;

22.2 he had power in that dual capacity to exclude any person or class of persons as beneficiaries of the Trust;

22.3 Deborah was a beneficiary of the trust in addition to the Plaintiffs (and their lineal descendants);

22.4 Deborah was entitled to 40% of the income of the Trust following Alan's death;

22.5 Vivian Rose Houghton-Norris was removed as a beneficiary of the Trust.

IRS liabilities

23. In late 2014/early 2015, Alan came to learn that he would or may have to pay substantial tax arrears and penalties to the United States Inland Revenue Service (“**IRS**”). Such arrears and penalties related to: (i) income he had received, but not declared, from APL over several years; and (ii) the IRS’s apparent position that the assets of the Trust were, as a matter of United States tax law, assets which fell for Alan to declare and in relation to which Alan was liable for tax and penalties.
24. For much of 2015, Michele, Nicholas and Jamie attempted to gain an understanding of: the liabilities to the IRS Alan in fact faced; the professional advice Alan was taking in respect of those liabilities; how those liabilities could best be dealt with in a manner consistent with Alan’s own long-term intentions, in particular that the assets held by the Trust should be preserved for the long-term benefit of his family; and Alan’s own independent intentions about how his liabilities should be dealt with.
25. Despite their attempts, Michele, Nicholas and Jamie struggled to gain a full understanding of the above matters. Their attempts were frustrated by amongst other things:
 - 25.1 Deborah restricting their access to Alan so that they could discuss these matters with him fully and freely and thereby understand his true intentions;
 - 25.2 Alan’s declining health and apparent inability to understand the liabilities he was facing and the consequences of proposals being made to deal with them;
 - 25.3 inconsistencies between their own understanding of Alan’s wishes and the instructions being given to those advising him and the steps being taken purportedly to deal with the IRS liabilities; and
 - 25.4 inconsistencies between statements made by Mr Kevin Packman (a tax attorney at the firm of Holland & Knight, who had been engaged by Deborah purportedly in order

to provide advice to Alan about his tax affairs, and whose firm is now acting for Deborah in the Florida proceedings referred to above) that the Trust had been terminated and statements made on behalf of the Trustee that it had not been.

26. It also appeared to Michele, Nicholas and Jamie that the approach towards dealing with Alan's IRS liabilities was being driven by Deborah rather than by Alan himself. During the latter half of 2015 in particular, where previously Alan had been open about his personal affairs with Michele, Nicholas and Jamie, this significantly changed as they were denied information, contact with Alan and were not properly involved in decisions about how the IRS liabilities were to be approached.

Jamie's August 2015 Visit

27. Jamie visited Florida for a week's holiday in August 2015, with the intention of seeing and spending time with his father. During the course of that trip, on about 9 August 2015, Jamie was asked by Alan whether he would travel to Miami to visit Mr Packman in order to discuss the extent of Alan's tax liabilities and ways in which they may be avoided or mitigated. Alan expressed the strong view to Jamie that he did want to pay tax to the IRS.
28. Jamie duly arranged a meeting with Mr Packman to take place on 11 August 2015. In an exchange of emails in advance, Jamie requested a copy of a power of attorney from Mr Packman for his father to sign. Mr Packman assured Jamie that none was needed, informing Jamie on 10 August 2015: *"I spoke with your father now. He authorized me to discuss much more, but we still do not need a power of attorney. I am able to discuss the IRS issue, the Cayman structure, the proposed new US trust, and related issues involving your siblings."*
29. This was the final occasion any of the Plaintiffs saw Alan.
30. On 10 August 2015:
- 30.1 Jamie and his family had arranged to meet Alan and Deborah for lunch, and in particular to speak with his father to obtain his more detailed wishes, comments and instructions in advance of Jamie's meeting with Mr Packman. That morning, Deborah emailed Jamie to inform him that she and Alan were unable to attend lunch.

- 30.2 Jamie therefore attended Alan and Deborah's home in order to spend time with his father and to understand Alan's wishes as regards the IRS matter.
- 30.3 Upon arriving at the home, Deborah refused to answer the door or permit entry and the security guards at the housing complex where Alan and Deborah live required Jamie to leave the premises.
31. Deborah purported to explain that refusal to permit Jamie to see Alan by email later that night: *"As you know your Dad has authorized the lawyer to speak to you about the trust and the IRS situation. When he spoke to you earlier he told you that he did not want to see anyone today... wanted a day off."*
32. During the meeting between Jamie and Mr Packman on 11 August 2015, Jamie was informed by Mr Packman that the Trust had been dissolved in Cayman, Alan had made voluntary disclosure to the IRS of his position and faced significant fines of up to 50% of the value of the Trust with further amounts to pay in subsequent years. The approach being suggested by Mr Packman appeared inconsistent with the views Alan had expressed to Jamie a couple of days previously. The Plaintiffs, as beneficiaries of the Trust, had also not received any communication from the Trustee to the effect that the Trust had been terminated or dissolved.
33. Immediately following Jamie's visit to see Mr Packman, Deborah wrongly informed Alan that Jamie had complained to Mr Packman that Deborah had not been taking care of Alan. Alan was so angry that the allegation had been made, that Jamie was unable to speak with him concerning his conversation with Mr Packman. Mr Packman subsequently confirmed in an email to Jamie that Jamie had made no such complaint.
34. On or around 12 August 2015, Alan, Michele and Nicholas, in their capacity as directors of CSLC received a letter purportedly signed by Alan Poulton requesting that they sign a written resolution approving: (i) the transfer of the entire issued share capital of CLSC from CNT (Nominees) Ltd to Alan; and (ii) the issuance by the Trustee of a share certificate for the entire issued share capital in CSLC in Alan's name, and for the register of members to be updated accordingly. The letter threatened that *"[i]f I have not received this document by*

August 14, 2015 I will take all measures necessary to achieve this documents purpose. Please govern yourself accordingly."

35. This request was queried by Jamie with Mr Packman. On the morning of 13 August 2015, Mr Packman emailed Jamie to say:

"While the letter could have been more artfully written, the request is consistent with what we discussed. The trust was terminated and Cayman National wants a resolution signed by the Cutty Sark directors approving it's delivering the trust asset (Cutty Sark) to dad. In truth, I'm confident they will do it with only dad's signature but I explained I was comfortable seeking your siblings sign off. I was going to follow up with everyone on my return."

36. By reply on 15 August 2015, Jamie commented that Alan appeared to be *"pushing this through without much conversation how to deal with it best or what the net outcome will be."* He further enquired *"[i]s there some outside reason other than perhaps pressure at home to sign the trust over in such a hurry ?"*

37. By email of 20 August 2015, Mr Packman informed Alan, Deborah, Jamie, Nicholas, Michele and Mike French (Alan's long standing accountant in the UK) that:

"There is absolutely NO tax or penalty in the US associated with terminating the Cayman Trust. Whether the structure remains unchanged or is terminated, the asset penalty is the same. The asset based penalty is premised upon the fact that the Cayman structure exists and was unreported."

38. In fact, the Trust had not by this date been "terminated". The shares in CSLC remained vested in the Trustee (either directly or through CNT (Nominees) Ltd, the Trustee's nominee) on the terms of the Trust.

39. On 25 August 2015, an email was sent from Alan's email address and signed off as 'Daddy' to Michele, Jamie and Nick complaining that they had run up substantial bills with Holland & Knight and asking how they were going to be paid. The tone and content of this email was inconsistent with Alan's request that Jamie meet with Mr Packman. It should be inferred that this email was in fact written by Deborah without Alan's fully informed and freely given consent.

40. From late August 2015, communications on behalf of the Plaintiffs with Mr Packman ceased.

Alan's declining health

41. By around August 2015, Alan's health had declined to the extent that:

41.1 his eyesight had deteriorated to the point that he could barely see;

41.2 he was physically frail and unable to walk unassisted;

41.3 he was continually under the influence of alcohol and/or medication; and

41.4 Deborah was regularly providing Alan with alcohol, which he was too frail to obtain himself.

42. Since Jamie's visit in August 2015, and despite very regular attempts to contact Alan via Deborah by telephone, email and text message, the Plaintiffs were unable to speak with him save on a very small number of occasions for limited durations, during which time Deborah remained present. During those brief conversations, when the matters with the IRS was raised, Alan appeared to be confused about the situation.

43. On or around 19 October 2015, Alan was diagnosed with cancer. The Plaintiffs learnt of the same during a short telephone call from Deborah to Nicholas on or around that date. Nicholas was able to speak on the telephone briefly with Alan on or around that occasion, at which time he was told that Alan missed him and wanted to see him. The Plaintiffs later discovered from a medical report received via the Trustee that the cancer was terminal.

Involvement of Joseph Knecht in September/October 2015

44. On 17 September 2015, Mike French received an email purporting to be from Alan giving authorisation for Mr French to communicate with a Mr Joseph Knecht. Mr Knecht has held himself out as being a "CPA" (i.e. Certified Public Accountant) in Ponte Vedra, Florida. The email stated:

"...consider this letter your authorization to communicate and provide information to Joseph Knecht, CPA. Debbie and I have known Joe for 13 plus years and is a savvy, savy astute and seasoned CPA here in ponte verde. Joe is fully aware of the entire IRS situation and the famial situation as well, and is in contact with all the professionals assisting in the resolution of this situation."

Given the state of Alan's health and that the language used in the email was not the style of language Alan was accustomed to using, it should be inferred that this email was sent by either Deborah or Mr Knecht without Alan's fully informed and freely given consent.

45. On 3 October 2015, Mr Knecht, claiming to be a CPA assisting Alan with his *"affairs and issues"*, contacted Jamie requesting details of Jamie's proposed expansion of his seafood restaurant.
46. Jamie enquired as to why Alan would not get in touch himself, to which Mr Knecht replied *"[t]hese are your fathers express wishes and desires."*
47. Mr Knecht was engaged in email correspondence with Nicholas, arising in approximately mid-October 2015 concerning Alan's supposed wishes to sell one of the premises owned by APL.
48. On 22 October 2015, Nicholas emailed Mr Knecht to ask him to request Alan to call him, noting *"I have no idea what he is referring to selling a shop for £380,000 – this is the first I have heard of it."*
49. Mr Knecht's response was that *"[Alan] really cannot talk on the phone, and does not want visitors. I will see him in while, and will be happy to convey anything you wish."* In fact, Jamie was briefly able to speak with Alan on or around 24 October 2015, on which occasion Alan asked why his children had not been trying to get hold of him. It should be inferred this was because Deborah and Mr Knecht had not been passing on to Alan his children's attempts to contact him and, on the contrary, Deborah had been preventing contact being made.
50. Following a further request from Nicholas to Mr Knecht as to the latest status of Alan's health and wellbeing, Mr Knecht replied on 26 October:

"I see your father on a regular if not a daily basis. I have no control over what he says or his actions. I will tell you that your and your sisters defiance and refusal to sign the Cayman documents makes him ballistic. You have no idea of the repercussions of your flawed actions. I would strongly suggest and recommend that you children reconsider your actions and execute the documents. This will not end well for all of you children."

51. The "Cayman documents" being referred to was the draft written resolution approving the transfer of the entire issued share capital of CLSC to Alan.
52. By response dated 27 October 2015, Nicholas explained his confusion about why Alan was apparently refusing to speak with him and emphasised that *"I have no idea who you [Joseph Knecht] are other than the information I can find on the internet"*.
53. On 28 October 2015, Mr Knecht purported to instruct Nicholas to cease authorising any payments from the HSBC bank into which Alan's salary as managing director of APL had been paid (and which Alan authorised Nicholas to operate on his behalf) to anyone other than Alan's health insurer and demanded copies of bank statements. Mr Knecht continued to insist that Alan did not wish to speak with his children.
54. Whilst Nicholas complied with those requests, he thereafter declined to deal with Mr Knecht in lieu of his father. He informed Mr Knecht by email of 28 October 2015:

*"I want to speak to my Father I do not believe my Father doesn't want to talk to me. You are a ruthless evil person to not allow me to talk to speak to him especially as you are telling me he is ill.
The debit card and access details are in the post – you guys can deal with any payments etc.
I have no idea who you are and you seem to enjoy sending me threatening emails.
Going forward I am not taking any further directions from you – I am only taking them from my Father Please do not email me again."*

55. Mr Knecht's response of the same day was *"No worries Nick. Best of luck to you!!"*
56. In the event:

- 56.1 None of the Plaintiffs complied with the requests of Deborah or Mr Knecht to sign documents providing for the transfer of shares in CSLC to Alan personally.

56.2 None of the Plaintiffs was able to verify directly with Alan that he had authorised Mr Knecht to act on his behalf in relation to any of his affairs.

57. The Plaintiffs have since established that Mr Knecht:

57.1 is, in fact, a certified public accountant in Florida (with license number AC0008457);

57.2 appears to be the same Joseph Knecht who is reported in the press as having been arrested in 2002 for his suspected role in a \$1.4m credit card fraud; and

57.3 also appears to be the same Joseph Knecht who was reportedly behind the failed development a hotel at Vilano Beach, Florida. Media reports record that the hotel entered bankruptcy in May 2002, with creditors alleging that Mr Knecht and his wife had wrongfully diverted \$1m to their own use; and

57.4 has a high number of civil judgments against him and also a significant criminal record.

Purported removal of the Plaintiffs as Beneficiaries

58. By letter dated 24 February 2016, addressed to the Trustee, and purportedly signed by Alan in his capacity as Protector and Settlor of the Trust, Alan is recorded as declaring that all beneficiaries of the Trust, save for himself and Deborah, should be excluded as beneficiaries of the Trust (the "**February 2016 Letter**").

59. The February 2016 Letter further records that:

59.1 the said declarations were to be irrevocable;

59.2 Alan had considered the effect and consequences of the declarations on those effected;

- 59.3 Alan had obtained advice from attorneys where he had *“considered it desirable to do so”*; and
- 59.4 the contents of the letter had been read over to Alan by the Notary Public Harold Griffin, whose stamp appears upon the letter.
60. Mr Griffin has since informed a private investigator hired by the Plaintiffs in connection with proceedings in Florida that he and Deborah attended the Mayo clinic and *“woke up the old man”* (i.e. Alan) in order to read him the document and have him sign it.
61. The Plaintiffs understand that representatives of the Trustee met with Alan and Deborah on 2 March 2016 in Florida. Michele had asked for the meeting to be scheduled on date so that she or her siblings might attend (given that they had been trying properly to communicate with their father for many months), however, her request had not been met. Michele had also asked the Trustee to read out a short email to Alan which she had prepared and asked that he call his children. So far as the Plaintiffs understand, these steps were not taken.
62. Michele then emailed Deborah on 3 March 2016 to raise her concern that *“you are making a bid to remove us as Beneficiaries and dissolve the trust”* and plead that Deborah should not do so in the interests of the family.
63. By response dated 7 March 2016, Deborah maintained that the February 2016 Letter was in accordance with Alan’s wishes and that Alan had *“commented that he found it unsurprising that you should be in touch now that you consider your inheritance to be in jeopardy, rather than to enquire how his health and well-being”*. Given the attempts that had been made by Michele, Nicholas and Jamie to contact Alan over many months, which Deborah had prevented, it should be inferred that this comment was either not made by Alan or, if made, was the product of Deborah’s influence over him in an attempt to turn Alan against his children and exclude them from benefitting from the Trust.
64. On 23 March 2016, Deborah sent to Walkers (then acting for the Plaintiffs), amongst other things, two recorded voice messages from Alan, one intended for Nicholas and one for Michele. In those messages, Alan, whilst having difficulty breathing, stated:

"Michele, this is your father speaking, I hate to say this but you are a liar and a thief and you stuffed me for my money again and I do not wish to speak to you anymore or ever again until I get my shares back and my money back so perhaps you could actually arrange to do that as soon as possible

Nicky, we got your email and frankly I don't want to hear anymore from you at all until we have got the shares you promised to give us and paid the money you owe me and we will call it an end when you have paid me the money and we will discuss where we go from there."

65. With those voice messages, were documents entitled, "Narrative of Wrongdoing" which purported to set out alleged wrongdoing on the part of Nicholas and Michele respectively. The allegations contained in those documents were false and Alan, were he to be acting freely and of sound mind, would have known that they were false given that they concerned matters that he knew of and had approved.
66. Accordingly, it should be inferred that the alleged wrongdoing involved allegations made by Deborah (and not by Alan) and that Alan's voice messages were the product of Deborah's influence over him in an attempt to turn Alan against his children and exclude them from benefitting from the Trust.

Subsequent Developments

67. By written transfer agreement dated 12 May 2016, and purportedly signed by representatives of CNT (Nominees) Ltd, Alan and Deborah, CNT (Nominees) Ltd purported to transfer the entire issued share capital in CSLC to Alan and Deborah jointly (the "**Share Transfer Instrument**").
68. On or around 19 May 2016, the then directors of CSLC received "Notice of a General Meeting" (which the Plaintiffs understand in fact to have been a board meeting) to take place on 31 May 2016 with an agenda to include:
- 68.1 updating the register of members of the company;
- 68.2 the appointment of Deborah, Wilson and Christine as directors of the company; and

- 68.3 the acceptance of the resignations of CNT (Nominees) Ltd and CNT (Directors) Ltd as directors of the company.
69. During the meeting (which Nicholas and Michele attended by telephone) Nicholas and Michele were advised by the Chairman of the meeting that Wilson had been appointed to act as Alan's proxy. Upon request by Nicholas and Michele, the Chairman provided them with a copy of the proxy by email after the meeting. The notice of a proxy, purportedly signed by Alan, nominated Wilson as his proxy with authority to vote on his behalf as director at *"the General Meeting to be held on 19 May 2016 and at any adjournment thereof"*. Alan, as was well known to the Plaintiffs, had a very low opinion of Wilson. Accordingly, it should be inferred that Alan did not, or did not freely, give his consent to this proxy nomination.
70. At the 31 May 2015 meeting, the register of members was updated. CNT (Nominees) Ltd and CNT (Directors) Ltd resigned as directors without the need for a vote. The resolutions to appoint Deborah, Wilson and Christine as directors of the company did not pass.
71. By letter dated 8 June 2016, and sent by Christine purportedly in her capacity as secretary of CSLC to Michele and Nicholas, Christine advised that:

"[O]n 1 June 2016, the shareholders of Cutty Sark Land Co. (the "Company") with the right to vote at general meetings of the Company (as of 1 June 2016) unanimously agreed the following written resolutions pursuant to Article 42 of the Articles of Association of the Company:

1. The following persons are immediately removed as directors of the Company:

- a) Michele Alexia Canham (nee Poulton); and*
- b) Nicholas James Poulton*

2. The following persons are forthwith appointed as directors of the Company:

- a) Deborah McMullan Poulton;*
- b) Wilson Malcolm McMullan; and*
- c) Christine Jane McMullan.*

The written resolutions were notified to the Registered Office, who accepted them as valid on 3 June 2016, and updated the Register of Directors and Officers accordingly."

Alan's death

72. Despite repeated requests of Deborah by telephone, text message and email, none of the Plaintiffs was permitted to see Alan after August 2015. With a few brief isolated exceptions, the Plaintiffs were prevented from speaking with Alan on the telephone. On the few occasions Deborah permitted the Plaintiffs to speak with Alan on the telephone, Deborah would monitor the call and would determine when the call should come to an end by removing the telephone from Alan.
73. By a stand-alone verified emergency petition for a temporary injunction dated 27 May 2016 filed by Michele, Jamie and Nicholas in the Circuit Court of Florida, Seventh Judicial Circuit, in and for St John's Country shortly thereafter, those Plaintiffs sought urgent injunctive relief requiring Deborah to grant them access to Alan before he died (the "**Access Petition**").
74. Alan died, aforesaid, on 6 June 2016, and before the Access Petition had been heard.

Undue Influence

75. In the premises, Alan's purported exercise of powers vested in him as Settlor and Protector by the February 2016 Letter was void, invalid and/or it and the steps taken pursuant to it are liable to be, and should be, set aside on the basis that they were procured by the undue influence of Alan by Deborah. In particular:
 - 75.1 By reason of: (i) their relationship as husband and wife; (ii) Alan's severe ill-health as at the date of the February 2016 Letter; (iii) Alan's vulnerability due to his failing eye-sight, terminal cancer and excessive alcohol consumption; (iv) Deborah's ability to control his medical treatment and care, diet and alcohol consumption; and (v) Deborah's ability to control Alan's access to and communications with his family, friends and professional advisers, Deborah assumed a position of trust, confidence and control in relation to Alan's personal and financial affairs.
 - 75.2 The effect of the declarations contained in the February 2016 Letter was for the financial benefit of Deborah, and for her almost immediate financial benefit in

circumstances where Alan had terminal cancer, to the detriment of the Plaintiffs (and their lineal descendants).

75.3 The effect of the declarations contained in the February 2016 Letter further calls for explanation in circumstances where:

- (i) Alan's apparent wishes therein contained were at odds with his apparent wishes contained in the August 2013 letter to the effect that a principal reason for setting up the trust was to benefit his five children, and that it was his wish that "the Trust must always be kept intact". These earlier wishes accorded with the Plaintiffs' own understanding of Alan's original motivation for establishing the Trust and his long-standing wishes held thereafter as expressed from time to time, including in his letters of wishes.
- (ii) The production of the February 2016 Letter came a number of months after the Plaintiffs were erroneously told by Mr Packman that the Trust had already been "dissolved", whereas it had not been. The exclusion of all of the Plaintiffs as beneficiaries, whilst Deborah remaining as a beneficiary, was also inconsistent with the proposals put forward by Mr Packman and the letter received on or around 12 August 2015 by the directors of CSLC, under which the shares in CSLC would be distributed to Alan alone.
- (iii) On the few occasions on which the Plaintiffs were able to speak with Alan, he did not appear to understand the extent of his IRS liabilities or to support the termination of the Trust.
- (iv) Deborah deprived the Plaintiffs of any opportunity to discuss the February 2016 Letter with Alan, or of any opportunity to communicate with him at all between the date of the February 2016 Letter and Alan's death, notwithstanding the Access Petition. This followed a period going back to around August 2015 since which time Deborah had almost entirely deprived the Plaintiffs the means of communicating with Alan.

- (v) Shortly after the February 2016 Letter, the voice messages and allegations of wrongdoing were made against Michele and Nicholas which, for the reasons stated above, should be inferred were the produce of Deborah's influence and would not have freely been made by Alan.

75.4 In those circumstances, it is to be presumed alternatively to be inferred that Deborah caused the February 2016 Letter to be produced and signed by Alan by undue influence.

Lack of Capacity

76. Further and alternatively, Alan's purported exercise of powers vested in him as Settlor and Protector by the February 2016 Letter was void, invalid and/or it and the steps taken pursuant to it are liable to be, and should be, set aside on the basis that he, as at February 2016, lacked mental capacity to exercise those powers.

77. In particular, Alan's mental faculties were significantly impaired by *inter alia*:

77.1 excessive alcohol consumption and/or other medication he was taking; and

77.2 distress and confusion caused by:

- (i) his diagnosis of terminal cancer;
- (ii) his failing eye-sight; and
- (iii) isolation from his family and friends.

Wrongful exercise of power and/or Estoppel

78. If (which is denied) Alan's purported exercise of powers vested in him as Settlor and Protector by the February 2016 Letter was not void, invalid or otherwise liable to be set aside by reason of undue influence or lack of capacity, they are otherwise void, voidable and/or liable to be set aside on the grounds that:

78.1 Alan's decision as to whether he should exclude the Plaintiffs was a fiduciary or limited power, which he exercised:

- (i) in breach of duty in that he failed to have sufficient regard to the interests and expectations of the Plaintiffs in continuing to be beneficially interested in the family business run via APL (particularly, in light of the matters set out in paragraph 80.2 below); and/or
- (ii) in breach of his duty and/or for an improper, capricious or irrational purpose in seeking, without good or proper reasons or justifications, to prefer the interests of himself and Deborah over those of the Plaintiffs.

78.2 Alan was in any case estopped from exercising his powers to exclude the Plaintiffs in circumstances where:

- (i) The property portfolio owned by APL was initially built up since the company's incorporation by Alan with his business partner John Sheridan.
- (ii) Alan included his children closely in the business, and represented to the Plaintiffs throughout their lives that 'his' share of the business was a family asset held on trust for beneficiaries including the Plaintiffs and would continue to be so held following Alan's death.
- (iii) In reliance on those representations, and in order to continue the success of APL for the benefit of its shareholders and the Plaintiffs in their capacity as beneficiaries of the Trust:
 - (1) Michele has worked for her father and APL for approximately 30 years, on a modest salary;
 - (2) Nicholas has worked closely with his father since approximately 1999, when he commenced university, and has worked for APL since his graduation, again on a modest salary; and

(3) Jamie has built up and run a successful restaurant business from one of APL's properties.

(iv) In those circumstances, it would be unconscionable for Alan to exercise his powers as Settlor and Protector to exclude the Plaintiffs as beneficiaries, and any purported attempt to do so is liable to be, and should be, set aside.

Conspiracy

79. Further and alternatively, Deborah, Wilson and Christine are liable in damages to the Plaintiffs, in an amount to be assessed, for the torts of unlawful means conspiracy and/or conspiracy to injure.

80. It should be inferred that Deborah combined together with Wilson and Christine, them having established or suspected the value of the assets held in the Trust were substantial, so that they should together take steps to remove the Plaintiffs as beneficiaries of the Trust, to the financial detriment of the Plaintiffs, leaving the assets of the Trust for Deborah (and indirectly for the benefit of Wilson and Christine) upon Alan's death which they knew would occur in the near future.

81. In support of that common design, Deborah, it should be inferred assisted by Wilson and Christine given their close relationship and that they were living together with Deborah and Alan and have subsequently been appointed as directors of CSLC, together and with the assistance, cooperation or involvement of third parties (or some combination of the same), took the following unlawful steps (though the use of the overt acts set out above) with the intention of causing financial harm to the Plaintiffs:

81.1 Producing or causing to be produced the following documents which appeared on their face to have been authorised and signed by Alan and in accordance with his wishes, in circumstances where they knew and/or had procured that Alan had signed those documents by reason of undue influence exerted upon him, or in circumstances where he lacked capacity to sign and/or in circumstances where he did not know and did not understand the document or its effect:

- (i) the 12 August 2015 letter requesting Michele and Nicholas to authorise the transfer of the CSLC shares to Alan;
- (ii) the February 2016 Letter;
- (iii) the Share Transfer Instrument;
- (iv) the 24 May proxy nomination in favour of Wilson.

81.2 Using the February 2016 Letter to deceive third parties, including the Trustee and CNT (Nominees) Ltd, into believing that Deborah and Alan were properly entitled to call for the transfer of the Shares in CSLC to them personally.

81.3 Procured and accepted their appointments as directors of CSLC by way of shareholders' resolution in circumstances where they knew, by reason of the matters aforesaid, that they had no proper entitlement to such office.

82. Further and alternatively Deborah has procured that she is the sole owner of the entire issued share capital in CSLC by reason of her wrongful actions set out above and has received the same with knowledge of the matters aforesaid.

83.

In the premises, she holds those shares on trust for the Trustee (or its nominee CNT (Nominees) Ltd) in its capacity as trustee of the Trust and/or is liable to restore the same to any newly appointed trustee of the Trust.

84. The Plaintiffs further claim interest pursuant to the Schedule of the Judgment Debts (Rates of Interest) Rules 2012 and Section 34 of the Judicature Law (2013 Revision)

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AND THE PLAINTIFFS CLAIM:

- (1) Appropriate declarations to the effect that the Plaintiffs' purported removal as beneficiaries of the Trust was void, voidable and now avoided, or otherwise of no effect.
- (2) Appropriate declarations that the purported transfer of the shares in CSLC to Alan and Deborah jointly was invalid and/or should now be set aside.
- (3) Appropriate declarations that the purported removal of Michele and Nicholas as directors of CLSC and the appointment of Deborah, Wilson and Christine as directors of that company was invalid and/or should now be set aside.
- (4) Rectification of the Register of Members of CLSC.
- (5) Rectification of the Register of Directors of CLSC.
- (6) Appropriate injunctive relief requiring the shares in CLSC to be restored to the Trustee, alternatively its nominee, alternatively a new trustee to be appointed by the Court, to be held on the Trust.
- (7) All necessary accounts and enquiries.
- (8) Further and alternatively, damages from Deborah, Wilson and/or Christine in an amount to be determined.
- (9) Statutory Interest on all sums due and owing as at the date of Judgment herein.
- (10) Further and other relief.
- (11) Costs.

Dated: 8 August 2016



TRAVERS THORP ALBERGA
Attorneys-at-Law for the Plaintiffs

TO: THE REGISTRAR OF THE FINANCIAL SERVICES DIVISION

AND TO: (1) CUTTY SARK LAND COMPANY
At its registered office Cayman National Trust Co Ltd., Suite 6201, 62 Forum Lane,
Camana Bay, PO Box 30239, Grand Cayman KY1-1201, Cayman Islands

AND TO: (2) DEBORAH MCMULLAN POULTON
24605 Deer Trace Drive, Ponte Vedra Beach, Florida, 32082, United States of
America

AND TO: (3) WILSON MALCOLM MCMULLAN
24605 Deer Trace Drive, Ponte Vedra Beach, Florida, 32082, United States of
America

AND TO: (4) CHRISTINE JANE MCMULLAN
24605 Deer Trace Drive, Ponte Vedra Beach, Florida, 32082, United States of
America

AND TO: (5) CAYMAN NATIONAL TRUST CO. LIMITED
Suite 6201, 62 Forum Lane, Camana Bay, PO Box 30239, Grand Cayman KY1-
1201, Cayman Islands

AND TO: (6) CNT (NOMINEES) LIMITED
At its registered office Cayman National Trust Co Ltd., Suite 6201, 62 Forum Lane,
Camana Bay, PO Box 30239, Grand Cayman KY1-1201, Cayman Islands

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**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 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, Grand Cayman, KY1-1106.

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 for Guidance

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 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
FINANCIAL SERVICES DIVISION

CAUSE NO: OF 2016 ()

IN THE MATTER OF THE POULTON FAMILY TRUST

BETWEEN:

- (1) MICHELE ALEXIA CANHAM
- (2) JAMES ALEXANDER POULTON
- (3) NICHOLAS JAMES POULTON
- (4) JAMES MICHAEL POULTON
- (5) DAISY ELIZABETH HOUGHTON-POULTON

Plaintiffs

AND:

- (1) CUTTY SARK LAND COMPANY
- (2) DEBORAH MCMULLAN POULTON
- (3) WILSON MALCOLM MCMULLAN
- (4) CHRISTINE JANE MCMULLAN
- (5) CAYMAN NATIONAL TRUST CO. LTD.
- (6) CNT NOMINEES LTD

Defendants

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

NO

Service of the Writ is acknowledged accordingly

(Signed)

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 communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

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

Travers Thorp Alberga
Attorneys-at-Law
P.O. Box 472
Grand Cayman, KY1-1106
Cayman Islands
Phone: +1 (345) 949-0699
Facsimile: +1 (345) 949-8171
ATTN: Neil McLarnon
Ref: P0856-001

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