

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 00/2 OF 2018
LEGAL AID NO. LAC 0215/2015

BETWEEN:

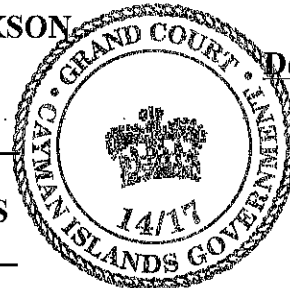
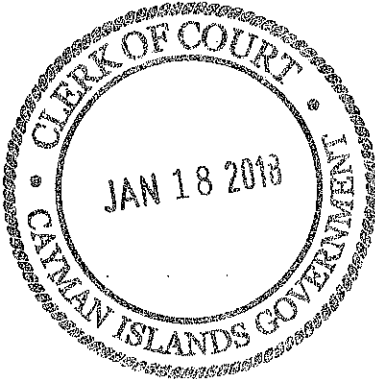
MIRIAN CRUZ DE JACKSON

Plaintiff

And

JEROME STEVEN JACKSON

Defendant



WRIT OF SUMMONS

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

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment 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 ^{17th} day of ~~June~~ ^{January} 2018.

NOTE – This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of 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.

STATEMENT OF CLAIM

1. The Plaintiff is an individual who resides at Ernest Jackson Drive, Jackson Pond, West Bay, Grand Cayman.
2. The Defendant is an individual who resides at Ernest Jackson Drive, West Bay, Cayman Islands.
3. The Defendant was the legal owner of 4 parcels of land at Jackson Pond in West Bay, namely Block 5C, Parcels 416, 419, 420 and 421 (“the Property”). In or about April 2015 the Defendant transferred Parcel 420 to a third party for the sum of CI\$1,500,000. The Defendant retains the legal title to the remainder of the Property. The Property is more particularly delineated in a map annexed hereto.
4. Prior to its current ownership the Property has undergone a number of changes in boundary, possession and description, which is more fully set out in the schedule annexed hereto (“Schedule A”).
5. The Plaintiff herein holds a beneficial interest in the Property, the basis of which is more fully particularized below. The said beneficial interest was acquired by way of constructive trust arising from a common intention between the Plaintiff, her deceased spouse Steven Jackson (“Steven”) and Grace Jackson (“Grace”), who is the Plaintiff’s sister-in-law.
6. Further or in the alternative the Property is subject to a Proprietary Estoppel in favour of the Plaintiff.

Particulars

- a. The Property was originally acquired by Steven and Grace’s father, Ernest Jackson. Ernest Jackson, his wife and Grace lived in a house built thereon;

- b. In 1997 Steven built another house (“the House”) on the Property;
- c. Upon the death of Ernest Jackson the Property was transferred into the sole name of Grace, who continued to reside in the location previously described;
- d. When the Plaintiff and Steven began dating he moved out of the House and into the Plaintiff’s apartment and began to reside with her;
- e. The Plaintiff and Steven got married on the 30th December 2002;
- f. In 2003 Steven evicted a squatter from the House and moved back into it with the Plaintiff and their oldest child. The House was in bad repair and Steven promised to paint it and get new furniture. These improvements were made;
- g. After Hurricane Ivan the Plaintiff and Steven did substantial renovations to the House, including replacing the carpet and replanting plants. The Plaintiff did most of this work herself as Steven was working with heavy equipment. The Plaintiff did all the work in the House;
- h. The Plaintiff, Steven and their 3 children resided in the House at the Property until 2014, when Steven died. The House was agreed to be and was treated as the Plaintiff’s and Steven’s matrimonial home throughout the entirety of this time;
- i. Steven derived an income for the family from his use of the Property. Specifically, he blasted and sold marl from the Property and sold it to third parties;
- j. The Plaintiff also derived an income from the Property from 2005 onwards by breeding and raising farm animals. The Plaintiff’s income contributed to the financial wellbeing of her family, including when Steven was incapacitated after surgery and during his final illness;
- k. The Plaintiff made domestic contributions such as raising her and Steven’s children, providing for their care and maintaining the House in good and proper manner;
- l. At all times the family’s finances (including Grace and the Plaintiff) were under the control of Steven;
- m. Between 2002 – 2014 Grace arranged and allowed for the registration of various charges against the Property, which secured Steven’s and the

Plaintiff's matrimonial debts, which were owed to various banks. The said charges are more fully set out in Schedule A;

- n. The said charges were used to purchase some earth moving equipment ("the Earth Moving equipment") for Steven in the blasting of marl;
 - o. In or about 2011 Steven entered into negotiations with DART to sell the Property or part thereof. He advised the Plaintiff that he intended that the proceeds would be used to discharge sums due and owing to the banks and that the remainder would be used to purchase a new matrimonial home for them or alternatively to extensively renovate both the House and Grace's home.
7. The common intention of the parties to create a constructive trust is inferred and implied from the foregoing and in the Plaintiff's and Steven's whole course of dealing throughout their marriage.
 8. Arising from the foregoing, and in particular their labour and financial investment, as well as their forbearance to arrange for registration of their interest in the Property, the Plaintiff and Steven relied to their detriment on this common intention. Arising therefrom a constructive trust under which Grace held the Property as a trustee for herself, Steven and the Plaintiff came into existence ("the Trust").
 9. Further or in the alternative the Plaintiff was induced, encouraged or allowed to believe that she would have a right or claim over the Property. The Plaintiff relied on these assurances to her detriment and any denial of same is unconscionable and is subject to a proprietary estoppel in favour of the Plaintiff.
 10. Further or in the alternative a Resulting Trust came into existence in favour of the Plaintiff.
 11. On or about the 14th January 2014 the legal title to the Property was transferred from Grace to Steven and immediately onto the Defendant. The purpose and intent of that transaction was to facilitate the sale of part of the

Property notwithstanding that Steven was seriously ill. No consideration was paid for the transfer of title, and the Defendant was not a bona fide purchaser for value. The Defendant was on notice of the existence of the Trust.

12. Accordingly the beneficial interest in the Property remained at all material times with the Plaintiff, Steven and Grace under the Trust. The Defendant holds the Property solely as trustee.
13. On or about 24th January 2014 Steven died, and his beneficial interest in the Trust passed into his estate.
14. In April 2015 the Defendant transferred parcel 420, which comprises a portion of the Property, to Crymble Holdings Ltd (a DART entity) for the sum of CI\$1,500,000. Notwithstanding demands from the Plaintiff, her servants or agents, the Defendant has not accounted for the proceeds of sale, or any part thereof.
15. The Plaintiff understands that the charges that were placed on the Property for the purchase of the Earth Moving Equipment have been discharged from the proceeds of sale. As such, the Earth Moving Equipment is beneficially owned by the Trust. The Defendant, in breach of his duties as trustee, has not accounted for the Earth Moving Equipment or any part of it, its use or any profit arising from its use.
16. The Defendant failed, refused and neglected to apply the proceeds of the sale of Parcel 420 or any part thereof to the Plaintiff's benefit, save for the sum of CI\$7,000.
17. The Defendant has had the sole use of the Earth Moving Equipment and has used to same to generate an income and profit, for which he has not provided any account to the Plaintiff.

18. Further, negligently and in breach of his duties as trustee the Defendant has allowed the House to fall into a state of serious dilapidation and disrepair. In particular:-

- a. There is exposed electrical wiring;
- b. Water ingress under glass doors;
- c. Very little functional air conditioning;
- d. Low electricity supply;
- e. No functional washer/ dryer;
- f. No doors on closets;
- g. No blinds/ covering/ hurricane shutters on the windows.

Accordingly, it is unsafe for habitation for the Plaintiff and her children.

19. In or about April 2015 the Defendant advised the Plaintiff that he was arranging for repairs to be done on the House from the proceeds of sale of parcel 420. No such repairs were carried out, and the Defendant later informed the Plaintiff that a third party had misappropriated the funds. The Plaintiff is unaware of any steps taken by the Defendant to recover the sums of money. Such misappropriation was negligent and a further breach of the Defendant's duty of care as trustee.

20. The foregoing breaches of duty and negligence on the part of the Defendant, his servants or agents, have occasioned to the Plaintiff, loss, damage, inconvenience and expense.

AND THE PLAINTIFF CLAIMS:-

1. A Declaration that the Property is held on trust for the benefit of the Plaintiff;
2. A Declaration that the Earth Moving Equipment is held on trust for the Plaintiff;
3. A Declaration that any profits generated from the Property and the Earth Moving Equipment are held on trust for the Plaintiff;

4. In the alternative, a Declaration that the Property and the Earth Moving Equipment are subject to a Proprietary Estoppel in favour of the Plaintiff;
5. An Order for Accounts and Inquiries to be taken;
6. An Order following and tracing trust assets, if necessary;
7. An Order directing that the Property and the Earth Moving Equipment be transferred into the Plaintiff's name;
8. An Order partitioning the Property, if necessary;
9. An Injunction preventing the Defendant disposing, charging or otherwise dealing with the Property, if necessary;
10. An Injunction mandating the dispersal of the proceeds of the trust to the benefit of the Plaintiff, if necessary;
11. Damages for negligence and breach of duty;
12. Any further Order that the Court deems just and necessary;
13. Costs

17th January 2018
Dated this day of ~~June 2017~~



BROADHURST LLC

Attorneys-at-Law for the Plaintiff

Schedule A

- a. In April 2002, Jackson Pond (then parcel 216) was transferred to Grace from the Estate of Ernest Jackson.
- b. Sometime between 2002 and 2006 the Department of Lands and Survey ("L&S") closed parcel 216, re-issuing it with parcel number 334.
- c. In April 2006, Grace registered a charge against Jackson Pond to secure a debt that Steve owed to the CICSA Co-Op Credit Union Ltd (the "Credit Union") (the "First Charge").
- d. In January 2007, Grace registered a variation of charge, the effect of which was to increase the amount secured by the First Charge.
- e. In August 2010, Grace registered a transfer of charge, the effect of which was to transfer the benefit of the First Charge from the Credit Union to Cayman National Bank Ltd. ("CNB").
- f. In July 2010, Grace registered a variation of charge, the effect of which was to further increase the amount secured by the First Charge.
- g. In October 2010, Grace registered a second charge against Jackson Pond, the effect of which was to secure a debt that Steve owed to CNB (the "Second Charge").
- h. In April 2011, Grace registered a third variation of charge, the effect of which was to further increase the amount secured by the First Charge.
- i. L&S closed parcel 334 and replaced it with parcel number 409.
- j. L&S closed parcel 409 and replaced it with parcel number 415.
- k. Parcel 415 sub-divided and replaced with parcels 415REM1, 416, 417 and 418.
- l. On 16 January 2014, all four parcels that comprised Jackson Pond (parcels 415REM1, 416, 417 and 418) were transferred from Grace to Steve to Jerome for "Natural Love and Affection".
- m. Three of the 4 parcels, being 415REM1, 417 and 418, were consolidated and sub-divided, becoming parcels 419, 420 and 421. The boundaries of parcel 416 were not changed in this process.
- n. In April 2015, parcel 420 was sold to Crymble Landholdings Ltd (a Dart affiliated company) for CI\$1,500,000.
- o. In April 2015, the First Charge and Second Charge were discharged.

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 495G, 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 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, he must complete the form 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 its behalf.
7. Where the Defendant is a MINOR or a MENTAL PATIENT, an Attorney acting for a guardian ad litem must complete the form.
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 2017
LEGAL AID NO. LAC0215/2015

BETWEEN:

MIRIAN CRUZ DE JACKSON

Plaintiff

And

JEROME STEVEN JACKSON

Defendant

ACKNOWLEDGEMENT OF SERVICE
OF WRIT OF SUMMONS

If you intend to instruct an Attorney to act for you, give her 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) _____

[Attorney] for

[Defendant in Person]

Address for service:

Please see 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 physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

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

BROADHURST LLC
ATTORNEYS-AT-LAW
40 LINWOOD STREET,
GEORGE TOWN,
PO BOX 2503
CAYMAN ISLANDS, KY1-1104

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