

IN THE GRAND COURT OF THE CAYMAN ISLANDS

PROBATE DIVISION

52  
CAUSE NUMBER: of 2020

LACV0213/2017

BETWEEN

PHILIP MCNAIL LEVY

PLAINTIFF

AND

SEDRIC LEVY IN HIS PERSONAL CAPACITY AND AS ADMINISTRATOR OF THE ESTATE

OF MARY ANTIONETTE LEVY (AKA NETTY LEVY)

DEFENDANT

TO:

Mr. Sedic Levy  
#8 Cumber Avenue  
Bodden Town  
Cayman Islands.



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 495G, 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 of 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 <sup>12</sup> day of *March* 2020

The Defendant is sued in his personal capacity and as administrator of the estate of Mary Antoinette Levy (deceased)

**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.

THIS WRIT was issued by McGrath Tonner, Attorneys for the Plaintiff whose address for service is 5<sup>th</sup> floor, Genesis Building, Genesis Close. P.O. Box 446 GT, George Town, Grand Cayman

## STATEMENT OF CLAIM

### Background

1. Mary Antoinette Levy ("the Deceased") died on or about the 10<sup>th</sup> June 1994, with no spouse and Intestate.
2. The deceased's daughter, Donet Christian was granted Letters of Administration of the personal estate (the "Estate") on the 11<sup>th</sup> April 1995.
3. The Defendant was appointed as replacement administrator by an Order of the Grand Court dated 12<sup>th</sup> February 2015.
4. The Estate, according to the Defendant's Inventory, dated the 22 November 2016, consisted solely of real property at Registration Section Bodden Town Block 44B Parcel 95. (the "Property")
5. In the Inventory prepared and filed by the defendant, it was declared the value of the property to be CI\$30,000.
6. Elwood Levy was a son of the deceased who died in 2008 Intestate, leaving a spouse, Arlene Levy, who died intestate in 2013.
7. The Plaintiff was a beneficiary on behalf of his later father, Elwood Levy, as issue and entitled to the share which his late father, Elwood would have taken, if living at the death of the Deceased. The Succession Law (2006 Revision) (the "Law")

### Particulars

8. The Defendant has breached his fiduciary duty to the plaintiff in failing to administer the Estate diligently and in accordance with the Law.

9. The Defendant failed to identify beneficiaries and distribute the proceeds of sale of the Property in accordance with the Law.
10. The Defendant failed to carry out a valuation of the property prior to its sale to his daughter Trilby Lingard, for CI\$25,000 consideration.
11. The Plaintiff will maintain the correct value of the property was in the region of CI\$80,000
12. The Defendant in selling the property at an under value has caused a loss to the Estate.

### **PRAYER**

13. AND THE PLAINTIFF CLAIMS REMEDIES AGAINST THE DEFENDANT;

- i. The court under its Equitable Jurisdiction declare void the transfer of the property to Trilby Lingard and so set aside.
- ii. The Court remove the Defendant as being the Administrator.
- iii. The Court appoint a new Administrator.
- iv. Interest
- v. Costs
- vi. Further or other relief



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Signature of plaintiffs' Attorney

**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 instalments or otherwise.

**See over for notes for guidance**

**Please complete overleaf**

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION

CAUSE NO: OF 2020

BETWEEN: PHILIP MCNAIL LEVY PLAINTIFF

AND: SEDRIC LEVY DEFENDANT

ACKNOWLEDGMENT OF SERVICE  
OF WRIT OF SUMMONS

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

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

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

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2. State whether the Defendant intends to contest the proceedings (tick appropriate box)

yes  no

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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

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Service of the Writ is acknowledged accordingly

(Signed).....

Attorney for

Please complete overleaf

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.

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

McGrath Tonner  
Attorneys at Law  
5<sup>th</sup> Floor Genesis Building  
Genesis Close  
PO Box 446  
George Town  
Grand Cayman  
Attn: Mr. Gregory Burke

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

Mr Sedic Levy  
#8 Cumber Avenue  
Bodden Town  
Grand Cayman