

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO. 115 OF 2020



BETWEEN:

MICHAEL THOMAS ADAM
AND
LISSA ANN ADAM

PLAINTIFFS

AND:

WILSON JONATHAN MENDOZA
AND
DEAVEN ANN MENDOZA

DEFENDANTS



WRIT OF SUMMONS

TO: WILSON JONATHAN MENDOZA AND DEAVEN ANN MENDOZA of P.O.
Box 510, Grand Cayman KY1-1106, 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 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 Courts Office, P.O. Box 495 G, 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 day of August, 2020.

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 of Summons and Statement of Claim is issued by Waide DaCosta, LLB, Attorney-at-Law for the Plaintiff whose address for service is P.O. Box 591, Unit #1 3rd Floor, Thompson Building, George Town, Grand Cayman KY1-1502, Cayman Islands.

STATEMENT OF CLAIM

1. The Plaintiffs are the registered owners of Registration Section West Bay North West Block 4B Parcel 2 ("Parcel 2") which they purchased in June 1989 from British West Indies Recreational Corporation Ltd.
2. The Defendants are the registered owners of Registration Section West Bay North West Block 4B Parcel 3.
3. That at the time of purchase there was already an existing house built on Parcel 2 which was accessed by a sandy road that ran through principally sea grape trees on/over Registration Section: West Bay North West Block 4B Parcel 3 ("Parcel 3"). The previous owners used the same sandy road to enter and exit their home.
4. That there is already an Easement registered in favour of Parcel 2 and recorded on the land register of the Parcel on 16/10/1973 which is a vehicular right of way as indicated on the Registry Map in which the Plaintiffs pass on/over parcel 3 and unto the first exiting registered easement.
5. The Defendants purchased Parcel 3 in 2016 and were registered as owners on 13th January, 2017 with the same easement being recorded on the register for Parcel 3.
6. That throughout the time the Plaintiffs owned Parcel 2 and they have entered and exited their house via the sandy road on/over Parcel 3. That the Plaintiffs did nothing to vary the route of this road. The Plaintiffs subsequently made an application for the right of way pursuant to section 138 of the Registered Land Law to be registered. This application was granted and Ordered on 3rd June, 2019 by the Registrar of Lands to be registered as an easement over Parcel 3 in favour of Parcel 2 also by recording it on the Land Registry Index Map. The Registration of this second easement is recorded as instrument No. 6036/19 and was entered on the register of Parcel 3 on 28th June, 2019.
7. That since the 28th June, 2019 the Defendants have unlawfully created a nuisance by obstructing these easements by installing a gate at the entrance of the easements on the boundary of Parcel 2 and Parcel 3 by closing (locking) the said gate with a padlock and also depositing rubble and debris in the roadway and are refusing to allow the Plaintiffs uninterrupted passage over this 2nd recorded easement over Parcel 3 by Registrar of Lands Order made on the 28th June, 2019 in accordance with section 138 (2) of the Registered Land Law.
8. The Defendants have encouraged their children to throw rocks at the Plaintiffs house.

9. The Defendants are extremely hostile and continually berate the Plaintiffs and intimidate the Plaintiffs, their children and guests in an effort to get the Plaintiffs to abandon the legal easements registered on the title of Parcel 3.
10. The Defendants have also placed a chain and padlock across the easement blocking the same at the east boundary of Parcel 3 and Parcel 4 in Registration Section West Bay North West Block 4 B. The Defendants have also placed a machete next to the east boundary in an effort to intimidate the Plaintiffs and their guests and invitees.
11. The Defendants have also installed flood lights and cameras, placed a sea container on a portion of the easement, parked vehicles on the easements, placed utilities including water and electric on the easement, constructed gate posts, fences and driveway and trash enclosure on the easement. All of these obstructions impede the registered easements granted in favour of the Plaintiffs.
12. That on 30th July, 2020 another incident with the Defendants transpired where the Defendants blocked the road, Lissa Lane, with their vehicles, a Mercedes Benz and a Toyota Fortuner SUV so that no car could leave or enter the residence. It was impeding access to emergency vehicles should the same need access to the Plaintiff's property. The RCIPS and Police Commissioner were called to the incident and the Toyota SUV was towed by the Police and the Defendants were warned for prosecution.
13. The Plaintiffs fear if the situation is allowed to continue it will further get out of control where it is likely that some harm could come to the Plaintiffs and their family by threats made by the Defendants. With the present situation it leaves the Plaintiffs no choice but to seek relief from the Grand Court of the Cayman Islands.

And the Plaintiffs claim:

1. a declaration that the Plaintiffs are entitled to two vehicular rights of way and uninterrupted passage over the residential premises known as Registration Section West Bay North West Block 4B Parcel 3 by virtue of section 138 (2) of the Registered Land Law (2018 Revision) in the form of the plan hatched in blue and green attached to this Writ and Statement of Claim.
2. an injunction with a penal notice restraining the Defendants by himself, his agents or otherwise howsoever from restricting, preventing or otherwise interfering with the Plaintiffs' reasonable enjoyment of such right of way at Registration Section West Bay North West Block 4B Parcel 2;
3. an injunction with a penal notice compelling the Defendants to permanently remove the gate, padlocks and a portion of the fence installed at the boundary of Parcel 3 and Parcel 2 where the same encroaches on the easements;

4. an injunction with a penal notice compelling the Defendants to permanently remove the installed flood lights and cameras, sea container, vehicles, utilities including water and electric, gate posts, fences driveway and trash enclosure that impedes the easements;
5. an injunction with a penal notice compelling the Defendants to permanently remove the chain and padlocks that is secured across the easement at the boundary of Parcel 3 and Parcel 4;
6. damages with respect to the Nuisance caused by the Defendants;
7. Interest on all sums due found to the Plaintiff pursuant to S. 34 Judicature Law (2007 Revision) at the prescribed rates from the date of the injury and for such period as may be just.
8. Costs.
9. Filing and Bailiff Fees.
10. Such Further or other relief as may be deemed just by this Honourable Court.

Dated this ^{4th} day of August, 2020



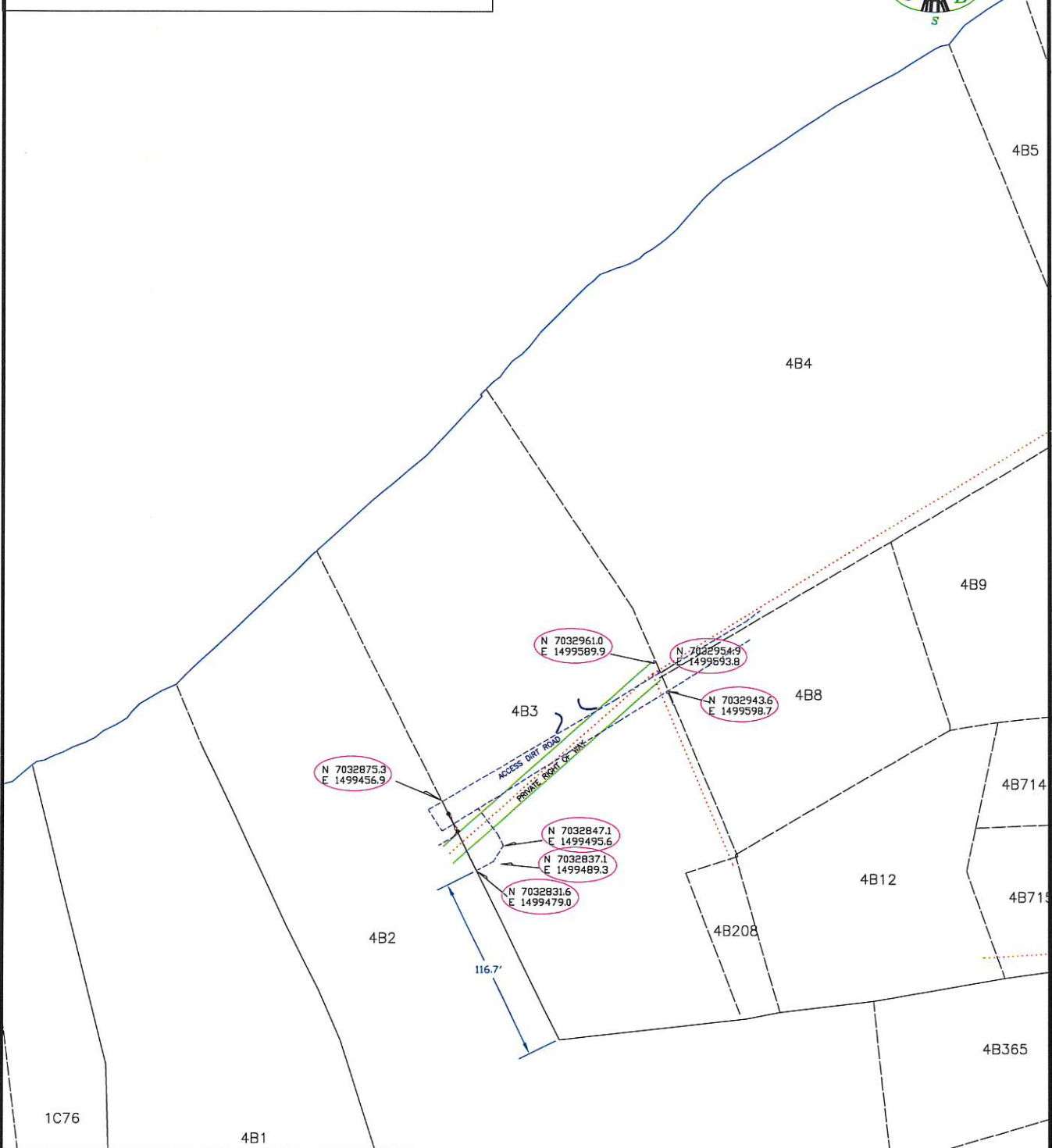
Waide DaCosta
Attorney-at-Law for the Plaintiffs

SITE PLAN OF
BLOCK 4B, PARCEL 2
 GRAND CAYMAN
 BRITISH WEST INDIES

ROLAND BODDEN & CO. LTD.

SCALE: 1" = 40'

AREAS AND DIMENSIONS ARE APPROXIMATE



ROLAND BODDEN & CO. LTD.
 LICENSED LAND & ENGINEERING SURVEYORS
 P.O. BOX 2313, GRAND CAYMAN
 KY1-1106, CAYMAN ISLANDS

TEL: 916-3813
 EMAIL: rjb1@candw.ky

DRAWN BY: ORSINO PINK
 DATE DRAWN: JULY 26, 2019

THIS PLAN WAS PREPARED EXCLUSIVELY
 FOR MIKE ADAM AND NO
 PERSON MAY COPY, REPRODUCE OR ALTER THIS
 PLAN WITHOUT THE WRITTEN PERMISSION OF
 ROLAND BODDEN & CO. LTD.

4B2SITE.dwg JOB #: 17-*****

NOTE

BOUNDARIES SHOWN ON THIS
 PLAN ARE NOT FINAL UNTIL
 FIXED IN ACCORDANCE WITH
 SECTION 18 OF THE
 REGISTERED LAND LAW.

ALL AREAS AND DIMENSIONS
 ARE APPROXIMATE.

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 Defendants or by the Defendants if acting in person.

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495, 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 leaf 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 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**, 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 be represented 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.

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

**Waide DaCosta
Attorney-at-Law
P.O. Box 591
Unit #1, 3rd Floor, Thompson Bldg.
George Town
Grand Cayman KY1-1502
CAYMAN ISLANDS**

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