

**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION**

CAUSE NO. 134 OF 2020

In the Matter of the Estate of Robert Ariel Ebanks P&A 20 of 2019

BETWEEN:

**EMILY DELIA SMITH**

Plaintiff

**-AND-**

**MR. RENE THURSTON TIMOTHY (1)**

**ALICE DENICE NARANJO**  
as *EXECUTRIX* OF THE ESTATE OF  
**ROBERT ARIEL EBANKS (deceased) (2)**

Defendants



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**WRIT OF SUMMONS**

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TO: **MR. RENE THURSTON TIMOTHY**, 40 Kings Road and/or Joe & Ima  
Wayside Store, Boatswains Bay, West Bay, Grand Cayman

AND TO: **ALICE DENICE NARANJO** as EXECUTRIX OF THE ESTATE OF  
ROBERT ARIEL EBANKS (deceased) c/o H. P. Ebanks. Attorney-at-law,  
Walkers Road, Grand Cayman

And with notice to:

Robert Kennedy Ebanks  
Thomas Ariel Ebanks  
Ekkers Smith Alexander Ebanks  
Alice Denice Naranjo

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 495GT, 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 7th day of September 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 Acknowledgement of Service are given with the accompanying form.

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## STATEMENT OF CLAIM

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1. Robert Ariel Ebanks died 13<sup>th</sup> October 2018. His Last Will and Testament was executed as a deed on 30<sup>th</sup> May 2018 and was probated herein on 10<sup>th</sup> May 2019 ("the Will"). His 5 children from his only marriage are his heirs in the Will and their names are set out at clause 3 thereof in order of their births.

### The Family Parties

2. The Second Defendant is the current *Executrix* of the Estate of the deceased and youngest child and younger of the two daughters of the deceased.
3. The Plaintiff is
  - (a) the eldest child and elder of the two daughters of the deceased and named-alternate *Executrix* in clause 1 of the Will; and
  - (b) the Applicant in P&A 20 of 2019 to remove the current *Executrix* and to become the replacement *Executrix* in that matter.

### The Land

4. The former family home of the deceased, first registered in his legal name from 1974, is at West Bay North West, Block 2C, parcels 16 and 179, both together known as 382 North West Point Road, West Bay, Grand Cayman ("the Land"). By clause 5 of his Will the whole of the Land, at the same time, was gifted to all his 5 said children (the "devisees") for all of them to own completely, hence jointly.
5. In breach of section 28 of the Succession Law the Second Defendant has failed and refused to convey the Land to the devisees and/or to provide the Assent (section 28(3)) to "authorize the Registrar of Lands to register the person(s) named in the Assent as proprietor(s) of the land".
6. In breach of trust the *Executrix* has failed to rent the Land to produce income for the Estate and heirs causing loss and damage while acting as if she owned the Land legally and beneficially and can sell same and pass good title to third party purchasers not the devisees in/by the Will.

Bare Legal Title of the Executrix as Trustee

6. The *Executrix* became registered legal owner of the Land as bare trustee on 30<sup>th</sup> January 2020 .

Void or Voidable Sale of the Land

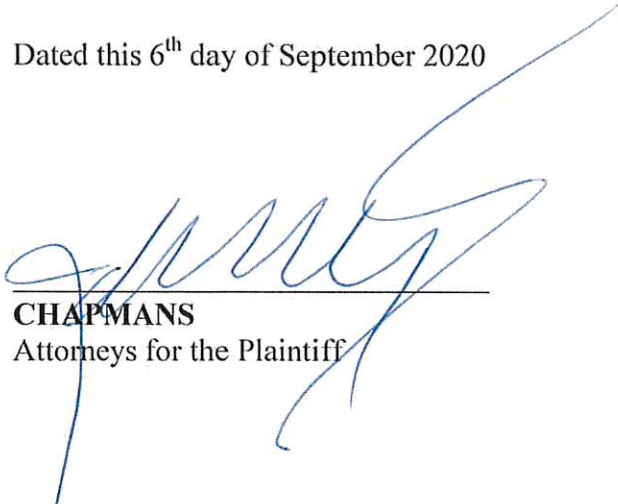
7. In breach of trust the *Executrix* has or threatens to :
- (a) sold/sell the Land to the First Defendant and/or has let him in to possession, from in or about 5<sup>th</sup> August 2020, if not earlier
  - (b) sold/sell the Land, owned by the deceased for over half a century, in a matter of weeks/months in a lockdown/pandemic without listing it for sale, to the First Defendant at an undervalue of CI\$50,000, if not more;
  - (c) authorize(d) a sales commission of 4.5% of the undervalue sale price of CI\$150,000 to her attorney paid from the Estate/beneficiaries;
  - (d) pay to herself a commission of CI\$4,000 on the said purported sale
8. So soon as the Plaintiff became aware of the threatened breaches of trust by the *Executrix*/Trustee by threatened sales of the Land to non-family third parties, including the First Defendant, she gave them Notice that the *Executrix* as bare Trustee had no beneficial title to sell to them and that she did not consent to any sale and was a joint beneficial owner.
9. In the premises the First Defendant cannot be and is not a *bona fide* purchaser for value without Notice of the pre-existing beneficial title/equity in the 5 heirs per the Will. At 31<sup>st</sup> August 2020 the purported transfer of the legal title to the First Defendant had still not completed but the First and the Second Defendant by her attorney had and has refused to halt the misrepresented sale and in fact have sought to fashion an estoppel as a sword, and not as a shield, by creating "detriment" by the First Defendant and damaging the house and all the contents thereof on the Land causing loss and damage.

AND the plaintiff claims:

1. Orders and/or declarations to carry out the gift/devise of the Land as per the Last Will and Testament of her Father Robert Ariel Ebanks (deceased) so the five beneficiaries are registered as the owners of the Land jointly;
2. Damages and interest thereon in the discretion of the Court;
3. Any consequential orders and/or necessary accounts and inquiries;

4. Further or other relief as meets the case;
5. Orders for costs and an Order that the Second Defendant's costs of these proceedings not fall upon the Estate.

Dated this 6<sup>th</sup> day of September 2020



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**CHAPMANS**  
Attorneys for the Plaintiff

**THIS WRIT OF SUMMONS** was issued by CHAPMANS, Attorneys for the Plaintiff, whose address for service is:  
Commonwealth House, PO Box 742, 81 West Church St, West Bay, Grand Cayman KYI-1303

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, 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.

## 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.

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Plaintiff

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**ALICE DENICE NARANJO**  
as *EXECUTRIX* OF THE ESTATE OF  
**ROBERT ARIEL EBANKS (deceased) (2)**

Defendants

**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).....

Defendant / Attorney for the Defendant

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

**Chapmans  
Commonwealth House  
81 West Church St, West Bay,  
Grand Cayman KY1-1303  
Cayman Islands**

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