

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2020

BETWEEN:

CHRISTOPHER D. JOHNSON

Plaintiff

-AND-

CHARLES MORGAN WOOD

First Defendant

ROBERT PREDERGAST

Second Defendant

LINDO MCGOWAN

Third Defendant

PERSONS UNKNOWN

Other Defendants

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WRIT OF SUMMONS

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**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, Grand Cayman KY1-1106, Cayman Islands the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

**If you fail** to satisfy the claim or to return the Acknowledgement of Service within the time stated, or if you return the Acknowledgment of Service without stating therein your 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 12<sup>th</sup> November 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.

**See overleaf for particulars of the Plaintiff's claim**

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## STATEMENT OF CLAIM

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1. The Plaintiff is and has at all material times been the owner and entitled to the possession of property located opposite 42 North Church Street, George Town, more specifically being registered in the Land Registry as Registry Section George Town Commercial Block/Parcel(s) OPY 5 (the “**Property**”).
2. The Property consists of an undeveloped beachfront parcel of land in George Town, locally known as ‘Red Spot Bay’. The Property does not include any residential property.
3. The First Defendant is known to the Plaintiff. The other Defendants (both those named and unnamed) are not known to the Plaintiff.
4. On or about 29 October 2020, the Defendants entered on to the Property without the licence or consent of the Plaintiff and took possession of it.

### **Particulars**

The Defendants have erected a tent and table on the Property from which they purchase fish, process those fish for sale, and then seek to sell the fish to the general public.

5. The said acts amount to a trespass by the Defendants and the trespass is continuing.
6. In addition to the trespass, the Defendants are in breach of both the Trade & Business Licensing Law (2019 Revision) and the Public Health Law (2002 Revision), in that:
  - 6.1. The Defendants are engaged in business of the resale of fish on the Property (the Defendants do not catch the fish that they seek to sell on the Property). They do not possess the requisite trade and business license permitting them to engage in this business;
  - 6.2. As part of the business of the Defendants, the Defendants process the fish by cutting them on the wooden table on Property. The Property does not contain running water or electricity and there are no bathroom facilities. The Defendants who are handling food for the purpose of sale to the public are accordingly committing a statutory nuisance pursuant to section 7(2) of the Public Health Law (2002 Revision), as well as being in violation of the Department of Environmental Health's Guidelines for the Operation of Temporary / Itinerant Food Facilities dated May 2013;
  - 6.3. Given the unsanitary conditions, the actions of the Defendants are a public health hazard.

7. As a result of the matters referred to above, the Plaintiff has suffered and continue to suffer loss and damage, more particularly the loss of use of the Property, damage to the Property and the risk of claims arising from the Defendants' unlawful actions on the Property.
8. The Defendants threaten and intend to repeat the trespass referred to above unless restrained by the Court.

**AND THE PLAINTIFF CLAIMS:**

- A. A declaration that the Defendants are not entitled to enter or remain on the Property;
- B. An order for possession of the Property;
- C. An injunction restraining the Defendants, their servants or agents or otherwise, howsoever, from entering or using the Property;
- D. Damages;
- E. Such other relief as this Honourable Court sees fit; and
- F. Costs.

Dated this 12<sup>th</sup> November 2020



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**BROADHURST LLC.**

This Writ of Summons and Statement of Claim is filed by Broadhurst LLC, Attorneys-at-Law for the Plaintiff, whose address for service is 40 Linwood Street, PO Box 2503 GT, Grand Cayman, KY1-1104, Cayman Islands, B.W.I.

**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE  
OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgement 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, PO Box 495, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement 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 endorsed on the Writ (i.e. the words “Statement of Claim” appear on the top of page 2). The defence must be served within fourteen (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 endorsed on the Writ, the defence need not be served until fourteen (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 fourteen (14) days after his Acknowledgement, 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.

## **Notes for Guidance**

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement of Service and return it to the Courts Office.
2. For the purpose of calculating the period of fourteen (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, 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 steps in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL HEALTH 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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First Defendant

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Third Defendant

PERSONS UNKNOWN

Other Defendants

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ACKNOWLEDGEMENT OF SERVICE  
OF WRIT OF SUMMONS

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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 proceeding (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 proceeding, 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 the Defendant

Signed: \_\_\_\_\_  
Defendant in person

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**Notes on address for service**

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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 or  
PO BOX 2503  
GRAND CAYMAN 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.*