



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

CAUSE NO. 175 OF 2021

In the Matter of the Cause 154 of 2001

BETWEEN:

DONOVAN DARL EBANKS

Plaintiff

-AND-

**TABITHA PHILANDER as Guardian ad Litem and
Interim Receiver for Daric Donan Ebanks**

Defendant

WRIT OF SUMMONS
(Generally Indorsed)

TO: Tabitha Philander c/o KSG Attorneys, Grand Cayman,

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 13th day of August 2021

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.

General Indorsement
of relief claimed


1. The Plaintiff is the Father of Daric Ebanks (“Daric”) who was the Plaintiff in GC 154 of 2001. That cause was a personal injuries action and Daric “won” and recovered millions of dollars in damages.
2. The Defendant prior to the 2016 trial told the Plaintiff that (a) she was acting as interim Receiver and Guardian *ad Litem* for his son in the said proceedings and (b) would, at the said trial, recover for the Plaintiff his historic costs and expenses for care and assistance looking after Daric. The sums claimed were over \$200,000 but the exact sums claimed, awarded, and paid to the Defendant for the Plaintiff are not known because the Defendant will not tell him.
3. Five years after the end of the trial and the Judgment in favour of Daric, and assumed payment to the Defendant, the Plaintiff, despite consistent demands, has not been paid.

And the Plaintiff claims:

- (1) An Order that the Defendant not have recourse to Daric’s damages Fund to pay for her defence of this claim and be ordered to seek a *Beddoe’s* Order should she elect to defend it;
- (2) An Order for forthwith payment to the Plaintiff of all monies recovered for him by, and paid to, the Defendant under the judgment of Mr Justice Swift QC in GC 154 of 2001, and that the sums claimed and collected and paid over to the Plaintiff be verified on oath by the Defendant and that a Penal Notice be attached to this Order as claimed;
- (3) That the Defendant, having not invested the Fund, personally pay interest on the sums due to the Plaintiff calculated at the rates paid by the CI Co-op Credit Union to its members on their shares;

(4) The Defendant personally pay the costs hereof and the Court fees and *ad valorem* fee payable on the judgment sum herein awarded.

Dated this 13th August 2021



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 (jchapman@chapmanslegal.com)

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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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.

-
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

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).....

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
jchapman@chapmanslegal.com

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