

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. ²²⁰ OF 2021
PROBATE AND ADMINISTRATION NO. 163 OF 2021

IN THE ESTATE OF DR. DAVID BARRY WOLFE DECEASED

BETWEEN:

MICHAEL GONZALEZ



PLAINTIFF

AND:

ELSITA TORREGOSA WOLFE

DEFENDANT

WRIT OF SUMMONS

TO: **ELSITA TORREGOSA WOLFE** of 161 Palm Heights Drive, snug Harbour, George Town, PO Box 2027, Grand Cayman, KY1-1105, Cayman Islands

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff, of 1000 N. Ashley Drive, Suite 520, Tampa, Florida, United States of America, in respect of the claims set out on the next page.

Within 14 days after 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, George Town, 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 within the time stated, or if you return the Acknowledgement without stating therein any 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 15th day of October 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 that date of original issuance unless renewed by order of the Court

IMPORTANT

Directions for the Acknowledgement of Service are given with the accompanying form.

ORDER 76 RULE 2, INDORSEMENT

1. The Plaintiff claims as the sole executor named in the true last will and testament, dated the 29 July 2019 of Dr David Barry Wolfe Deceased late deceased, who died on the 27 day of August 2021, to have the probate of the pretended will of the said deceased, dated the 28 day of September 2018, granted to you on the 6 October 2021 revoked and the said will pronounced against, and further to have the said will dated the 29 July 2019 pronounced for in solemn form of law.
2. This claim is issued against you as the executor named in the pretended will dated the 28 September 2018.
3. The Probate Registry File number of the estate of the said deceased is number 163 of 2021.

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STATEMENT OF CLAIM

1. The Plaintiff claims as the sole executor named in the true last will and testament bearing date the 29 July 2019 of Dr David Barry Wolfe deceased (**the Deceased**), who died on the 27 day of August 2021, domiciled in the United States of America.
2. The said will was executed in accordance with the laws and constitutions of the United States of America.
3. The said true will and testament dated 29 July 2019 revoked all other wills and codicils previously made by the Deceased.
4. On 6 October 2021 probate of an alleged will of the said deceased, bearing date 28 September 2018 was granted to the Defendant, as sole executor therein named, at the Civil Registry of the Grand Court of the Cayman Islands.

AND THE PLAINTIFF THEREFORE CLAIMS: -

- (i) That the Court shall revoke the said grant of probate and pronounce against the force and validity of the said alleged will dated 28 September 2018.

- (ii) That the Court shall pronounce for the force and validity of the said true last will and testament dated the 29 July 2019 in solemn form of law.
- (ii) A grant of letters of probate to the Plaintiff
- (iii) Such further or other relief as the Honourable Court deems just; and
- (iv) Costs.

Dated the 15th day of October 2021.

Nelsons

NELSONS
Attorneys-at-law for the Plaintiff

TO: The Clerk of the Courts

AND TO: The Defendant

This **Writ of Summons and Statement of Claim** was issued by Nelsons, Attorneys-At-Law for the Plaintiff, whose address for service is 31 The Strand, 46 Canal Point Drive, P.O. Box 30069, Grand Cayman, KY1-1201, Cayman Islands.

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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.

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

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

Service of the Writ is acknowledged accordingly

Signed

Attorney for the Defendant
Address for service:

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

Nelsons
Attorneys at Law
PO Box 30069
31 The Strand
46 Canal Point Drive
Grand Cayman KY1-1201

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

[Empty box for Defendant's Attorney indorsement]

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.

See over 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 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.