



IN THE GRAND COURT OF THE CAYMAN ISLANDS

**CAUSE NO. OF 2022
P90 OF 2020
LACV 0088/2021AND**

IN THE MATTER OF THE ESTATE OF OLICE ESTERMAE SMITH

BETWEEN:

HILARY SHENIKA FREDERICK

FIRST PLAINTIFF

AND:

MONICA VERONICA SMITH

SECOND PLAINTIFF

AND

CHRISTOBEL PATHRA SMITH

DEFENDANT

WRIT OF SUMMONS

**TO: CHRISTOBEL PATHRA SMITH
WEST BAY, GRAND CAYMAN**

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 28 days after the service of the Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495, George Town, Grand Cayman, 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 an intention to contest the proceedings, the Plaintiff may proceed with the action and judgement may be entered against you forthwith without further notice.

Issued this ____ day of _____ 2022.

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 renewed by order of the Court.

IMPORTANT

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

STATEMENT OF CLAIM

1. The First Plaintiff presently resides with her 8-year-old son in a property at 101 Finch Drive, Birch Tree Hill, West Bay, Grand Cayman, more properly described as: Registration section West Bay NW, Block 4B, Parcel 322 (“the Property”).
2. Also resident in the property are:
 - (a) Claudia Smith (The First Plaintiff’s sister, “Claudia”), and her one-year-old daughter;
 - (b) The Second Plaintiff, the First Plaintiff’s mother,; and
 - (c) George Seymour, the First Plaintiff’s partner.
3. The property was previously owned by Olice Estermae Smith (“the Deceased”), the First Plaintiff grandmother, and Second Plaintiff’s mother.
4. On 18 June 2012, the First Plaintiff and the Deceased each executed a Transfer of Land, pursuant to the (then) Transfer of Land Law (2004 Revision), whereby the Deceased transferred her legal and equitable interest in the Property to the First Plaintiff.
5. The consideration described on the Transfer of Land was “natural love and affection for my granddaughter”.
6. The Transfer of Land has not yet been lodged for registration with the Registrar of Land.
7. Upon the execution of the Transfer of Land, the Deceased’s beneficial interest in the Property was immediately assigned to the First Plaintiff. The First Plaintiff is entitled

This **Writ** filed by **CP Attorneys**, Attorneys-at-Law for the **Plaintiffs**, whose address for service is Unit 225, Elizabethan Square, 80 Shedden Road, George Town, P.O Box 30796, Grand Cayman KY1-1204, Grand Cayman, Cayman Islands, telephone 345-322-8088, 345-925-4621.

to effect registration of the Transfer of Land, subject to payment of any additional fees or charges imposed by the Cayman Islands government.

8. The Deceased passed away on 25 December 2015. She died intestate.
9. No action was taken in respect of the estate until August 2020, when the Defendant, the Second Plaintiff's sister, and the only other daughter of the Deceased, applied for Letters of Administration.
10. The Defendant did not provide any notice to the Second Plaintiff of her intention to apply for Letters of Administration.
11. Letters of Administration were granted on 6 November 2020.
12. Title to the Property was vested in the Defendant, as the Administratrix of the Estate of the Deceased, on 20 January 2021.
13. On 19 February 2021, the Defendant issued "Eviction Notices" to all residents of the Property, each demanding that the recipient vacate the premises within 30 days.
14. The Eviction notice issued to the First Plaintiff stated as follows:

This notice is effective immediately that you shall remove yourself, and all belongings and vacate this property within 30 days otherwise legal action shall be taken.

The property is under new ownership by myself, Christobel Pathra Smith, and you will no longer occupy these premises as the Grand Court has awarded my mother, Olice Smith's estate to me.

15. A similar notice was issued to the Second Plaintiff on the same day, in the following terms:

This notice is effective immediately that you shall enroll yourself in a rehabilitation program for your drug addiction, which was one of our mother's last wishes, as is

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causing a nuisance to yourself, your family and your community as a whole. Refusal to do so within 30 days otherwise legal action shall be taken.

The property is under new ownership by myself, Christobel Pathra Smith, and you will no longer occupy these premises as the Grand Court has awarded our mother, Olice Smith's estate to me, as you are not responsible nor able to make responsible decisions due to your issue mentioned above.

16. In the premises, the Defendant misrepresented the circumstances in the following material respects:
 - (a) That she was the legal and beneficial owner of the entirety of the estate of the Deceased; and
 - (b) That she was entitled, as the Administratrix of the estate of the Deceased, to force the Second Plaintiff to undertake specific conduct.
17. The Defendant took no steps to administer the estate in accordance with her statutory and equitable duties, between August 2020 and February 2021.
18. Further, the Defendant failed to inform the Second Plaintiff that she was beneficially entitled to a half share in the estate of the Deceased, in accordance with s. 32 of the Succession Law.
19. In all of the circumstances, the Defendant has misconducted herself in the management of the estate, and ought to be removed, pursuant to s. 8 of the Succession Act.
20. In order to protect their interests, the First and Second Defendants jointly commenced *ex parte* proceedings on 16 March 2021 in the Grand Court, seeking orders that:
 - (a) Monica be restrained from approaching within 100 feet of the Property;
 - (b) Monica be restrained from evicting the current residents;

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(c) Monica be restrained from interfering in any way with the current residents; and

(d) An Inhibition be placed upon the title to the Property.

21. These orders were made by Justice Richards QC on 18 March 2021. Those Orders were subsequently discharged by Justice Williams on 17 February 2022.

AND the Plaintiff claims:

(a) A declaration that the Transfer of Land, dated 18 June 2012 is a valid Transfer in favour of the First Plaintiff;

(b) Rectification of the Land Register, to restore the Deceased as the proprietor of the Property;

(c) In the alternative, an Order that the Defendant be removed as Administratrix of the Deceased's estate, due to her misconduct;

(d) Such further or other relief as the Court may deem meet; and

(e) Costs;

CP Attorneys

CP Attorneys

Attorneys-at-Law for the Plaintiffs

This **Writ** filed by **CP Attorneys**, Attorneys-at-Law for the **Plaintiffs**, whose address for service is Unit 225, Elizabethan Square, 80 Shedden Road, George Town, P.O Box 30796, Grand Cayman KY1-1204, Grand Cayman, Cayman Islands, telephone 345-322-8088, 345-925-4621.

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICES
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 495G, 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 "Statements of Claim" appear on the top of page 2) the Defence must be served within 28 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgement is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 28 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 judgement 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.

This **Writ** filed by **CP Attorneys**, Attorneys-at-Law for the **Plaintiffs**, whose address for service is Unit 225, Elizabethan Square, 80 Shedden Road, George Town, P.O Box 30796, Grand Cayman KY1-1204, Grand Cayman, Cayman Islands, telephone 345-322-8088, 345-925-4621.

See over for notes for guidance
Please complete overleaf

Notes for Guidance

1. Each Defendant (if there is 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 28 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 (.....)” his name.

This **Writ** filed by **CP Attorneys**, Attorneys-at-Law for the **Plaintiffs**, whose address for service is Unit 225, Elizabethan Square, 80 Shedden Road, George Town, P.O Box 30796, Grand Cayman KY1-1204, Grand Cayman, Cayman Islands, telephone 345-322-8088, 345-925-4621.

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.

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AND

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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.

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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.

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 this Writ is acknowledged accordingly

(Signed) _____
Defendant/Attorney for the Defendant

Please complete overleaf

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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 communication 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.

CP Attorneys
Unit 225, Elizabethan Square
80 Shedden Road
P.O. Box 30796
Grand Cayman, KY1-1204
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.

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