



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

BETWEEN: CAUSE NO. OF 2022

BURNES BODDEN (1)

KIM BODDEN (2)

JESSE BODDEN (3)
(By his Next Friend Burnes Bodden)

DEBRA ANN BODDEN
(*Administratrix* of the Estate of
Antoinette Irene Bush deceased P&A 39 of 1989) (4)

DEBRA ANN BODDEN
(*Administratrix* of the Estate of
Myrtle Vernice Bodden deceased P&A 34 of 2018) (5)

Plaintiffs

-AND-

SAMUEL THEVASAEYAN (1)
ALFRED DALE EARL BODDEN (2)
SHEILA CHRISTIAN (3)
YARL TOWERS LTD. (4)
THE PROPRIETORS OF STRATA PLAN NO. 936 (5)

Defendants

WRIT OF SUMMONS

TO: KSG for the Defendants

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiffs, in respect of the claim set out on the next pages.

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 22nd day of May 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 unless renewed by order of the Court.

IMPORTANT

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

Statement of Claim

1. The First and Second Plaintiffs are husband and wife and parents of the Third Plaintiff. The Plaintiffs are aged 56, 39 and 10 respectively. The First Plaintiff and the Third Plaintiff have only ever had their home on the family land the subject of this action – 107 South Sound Road now known as Block 15E parcel 343 (“the land in dispute”). The lengths of time they have lived on the land are 56 years and 10 years respectively.
2. The Second Defendant is the brother of the First Plaintiff and Debra Bodden, Administratrix of the Fourth and Fifth Plaintiff Estates. The Mother of Burnes, Debra and Dale Bodden was Myrtle whose Estate is the Fifth Plaintiff.
3. The Fourth Plaintiff is the Estate of the deceased Grandmother of the First Plaintiff, the Second Defendant and Debra Bodden. This Estate is the beneficial owner of the land in dispute known as 107 South Sound Road and South Sound Registration Section Block 15E 343. When administered, this Estate will pass a pro-rata share of the land in dispute to the Fifth Defendant Estate and then on to the First Plaintiff, the Second Defendant and Debra Bodden as required by the Succession Act.

4. The Fifth Plaintiff is the Estate of the Mother of the First Plaintiff, the Second Defendant and Debra Bodden. This Estate when it receives its share of the Fourth Plaintiff Estate will hold same for the children of the deceased being inter alios the First Plaintiff, the Second Defendant and Debra Bodden.
5. The First Plaintiff and the Second and Third Defendants have been in litigation over the land in dispute
 - (a) from 2014 in GC 37 of 2014 and
 - (b) from 2019 in GC 202 of 2019 and
 - (c) from 2021 in GC 90 of 2021 and
 - (d) from 2021 in CICA 19 of 2021
6. The Third Defendant is the child of the deceased wife of the Second Defendant.
7. The last undisputed owner of the land in dispute was Antoinette Irene Bush who died in 1984 and whose Estate the family have been struggling to administer since her death – the last 38 years.
8. The Fourth Plaintiff has pending proceedings before the Grand Court and the Cayman Islands Court of Appeal known as GC 202 of 2019 and CICA No.19 of 2021. The Registrar of the Court of Appeal has been seeking to list the appeal in the 2022 summer or autumn sessions but the attorneys for the First¹, Second and Third Defendants have refused to engage with the Registrar and to assist with the listing. Until recently the motive for delay caused could not be understood by the Plaintiffs. It is now apparent the motive was part of a conspiracy to cause intentional emotional distress to the Plaintiffs, to destroy the dwellings on the land in dispute in May 2022, and to wrongly evict the First-Third Plaintiffs and to render the relief sought in the appeal and the causes set out in paragraph 5 above nugatory. To date two attempts at putting the said conspiracy into action were attempted on 13 and 19 May and a third attempt is threatened for Monday, 23 May 2022. To prevent these continuing unlawful acts and torts², and to preserve the *status quo* (by Court Order from 2014³) while the above causes continue to make their way through the Courts, injunctive relief is sought against the Defendants as the co-conspirators together with their legal advisors.

¹ The First Defendant is the Third Party Funder that is funding the Second and Third Defendants and paying his attorneys KSG Attorneys to defend in the names of Dale Bodden and Sheila Christian for the benefit of the First, Fourth and Fifth Defendants. If this is proper behavior it is new to the law of the Cayman Islands.

² Trespass to property and to goods, causing intentional emotional distress, harassment, intimidation and conduct risking assault and battery, attempting to pervert and/or perverting the course of justice and deliberate contempts of Court and contumelious breach of an injunction

³ Order Hon Justice Henderson made 18th day of December 2014 and filed 5th day of January 2015

9. The First Defendant is the mind and control of a conspiracy being worked upon the Plaintiffs and the Second Defendant to deny them their lawful interest in the land in dispute that passes to them under the Succession Act through the Fourth and Fifth Plaintiffs when administered. The goal of the conspiracy is to prevent such lawful and proper administration. The further goal is to take advantage of a fraud on the Fourth and Fifth Plaintiff Estates carried out by Ramona Bush in 2000. The Second Defendant is being used as a pawn and apparent co-conspirator in the conspiracy together with legal advisors to the First Defendant and his web of companies.
10. The First Defendant is a “developer” and beneficial owner of companies named variously Yarl Towers Ltd and/or Pro Plus xxxx Ltd in different variations of name. The attorneys for the First, Third and Forth Defendants are KSG Attorneys Ltd. They are the only visible and admitted link between the Defendants.
11. The Fourth Defendant was, and now the Fifth Defendants is, the registered proprietor of Block 15E 351. This is the parcel to the west of the land in dispute and was sold by the Fourth Plaintiff Estate to the First Defendant. On this parcel (351) is the First and Fourth Defendants’ condo development known as “The Mantras”. The common property of The Mantras was owned by the Fourth Defendant during the development phase (2018-2021) and is now the property of the Fifth Defendant as the development nears completion.
12. The land in dispute is “*officially*”, for the First, Fourth and Fifth Defendants an integral part of their The Mantras development and included in the planning permission and application for the development.
13. When the First Defendant bought from the Fourth Plaintiff parcel 351 in 2018 he also wanted to buy the land in dispute (parcel 343) from the Fourth Plaintiff and that was refused by the Fourth Plaintiff.
14. Knowing of :
 - (a) **the dispute** over the land (parcel 343) between the First Plaintiff and the Second and Third Defendants pending before the Grand Court in cause GC 37 of 2014 and the First Plaintiff’s March 2019 Caution; and
 - (b) **the claims to prior beneficial ownership** of parcel 343 by the Fourth Plaintiff in GC Cause 207 of 2019 and
 - (c) that the latter Cause 207 of 2019 had been brought by the Fourth Plaintiff Estate by **the Order of the Hon Justice McMillan made 30th August 2019** in Cause no 37 of 2014

- (d) that the apparent legal ownership of parcel 343 in the name of the Second Defendant [and now jointly with the Third Defendant] had only been achieved by **the fraud(s) of the Second Defendant and his Aunt Ramona Bush in 2000** by way of forged death certificates, a false Grant of Letters of Administration and using same to alter the land register – thereby defrauding the heirs of the Fourth and Fifth Plaintiffs – one of whom is the Second Defendant himself;

the First Defendant, nevertheless, and despite the above factors, claims to have “bought”, and the Second Defendant asserts verbally that he “sold”, the land in dispute “in September 2019” to the First Defendant. No document of any kind has been produced to evidence/establish such alleged “sale” of land.

15. The source of the knowledge of the First, Fourth and Fifth Defendants is James Kennedy now of KSG as Attorney to those 3 Defendants. Mr Kennedy has also represented at all material times that he is also the attorney for the Second and Third Defendants in all actions while he was at both Samson & McGrath and KSG Attorneys. The knowledge of the agent is imputed to all principals of the agent. How the principals were not adverse to each other and hence the agent not conflicted and obliged to not act for any of the principals is not yet known.
16. The First Plaintiff from 13th March 2019 has had a Caution on the Land Register of the land in dispute (parcel 343) to protect his interest and that of the Fourth and Fifth Plaintiff Estates.
17. If, as is alleged, the First Defendant, (a) bought parcel 343 in September 2019 from the Second and Third Defendants, and (b) thereby claims to be the beneficial owner thereof, then (c) his equity therein ranks after that of the Fourth Plaintiff and/or the First Plaintiff. It is a matter of grave and serious concern to the Plaintiffs that their Second-Defendant-brother may be unfit mentally, cannot read or write, and requires a Guardian *ad Litem* and/or Grand Court section 14 Guardian and Receiver, to assist/protect him given he has not had any independent legal advice in at least two land transactions where his attorney, Mr Kennedy, also represented the First and Fourth Defendants “against” him. The Plaintiffs have to support the Second Defendant and “re-home” him if/when he is rendered homeless and penniless by the actions of the First and Fourth Defendants.
18. The First Plaintiff and the Second Defendant having lived on parcel 343 for almost 70⁴ and 56 years respectively and the Fourth Plaintiff accepts they are beneficiaries of the Fifth Plaintiff entitled to so remain for life when the title is restored to the Fourth Plaintiff Estate.

⁴ The Second Defendant moved off the land permanently, he says, for the first time since his birth (about 70 years ago) on Friday, 13th May 2022

19. It is accepted that the Fourth Plaintiff's rights identified by Hon Justice McMillan in August 2019 and brought before the Court in GC 207 of 2019 have been struck out for "limitation" in 2021 by Hon Justice Williams who granted leave to appeal. The said strike out breaches the equitable maxim that "limitation cannot be used as a cloak for fraud". The matter is on appeal to determine if the view of Hon Justice McMillan is correct, as the Plaintiffs assert – and the summary strike out by Hon Justice Williams wrong. Until events in the last days (13 and 19 May and now threatened for the 23 May 2022) the Plaintiffs assumed it was accepted by the Defendants that the Defendants would (i) wait for the Courts to rule, and (ii) not seek to wrongfully assert ownership of the disputed land and (iii) wrongfully try to evict the First – Third Plaintiffs and (iv) seek to destroy the buildings and (v) take over parcel 343 in an illegal attempt to render the appeal largely nugatory while intimidating, harassing, and causing intentional emotional distress to the First to Third Plaintiffs.
20. In addition to the First-Third Plaintiffs, Messrs Schister Ebanks and Martin Dalley also live on the parcel. In the last days an illegal conspiracy to inflict emotional distress and attempt to wrongly evict all 5 occupants of the land was launched by the Defendants and all 5 are entitled to the protection of the law against the torts visited upon them and further threatened against them until they are driven from their homes without due process of law.
21. The Defendants appear to have had some sophisticated legal advice in their conspiracy and attempts (2 at the date hereof : 13 May and 19 May) at wrongful eviction and in their seeking to "navigate" (i) the current injunction against the Second and Third Defendants protecting the First Plaintiff (Order of Hon Justice Henderson filed 5th January 2015) and (ii) the Caution on parcel 343 from 13 March 2019 in favour of the First Plaintiff:
- (a) The day (Friday, 13th May 2022) the Second Defendant moved from the premises permanently, someone, in an act of wrongful eviction to cause distress and homelessness, cut off the CUC to the property – in an attempt to deny CUC over the weekend and beyond. The CUC account was in the name of the deceased wife of the Second Defendant who died 9th November 2019, and had been paid since her death by the First Plaintiff. CUC restored the power to the land in dispute late on 13 May 2022⁵, before the weekend, when the First Plaintiff attended CUC with his receipts, his caution and his injunction. This episode on 13 May 2022 caused, and was intended by the Defendants to cause , the First-Third Plaintiffs severe emotional distress, facing nowhere to live, with no warning, and dreading all day that evening, when the Second Plaintiff would return from work, and the Third Plaintiff would return from school, with nowhere to live, their food melted and destroyed, etc.

⁵ For a period of 6 months to allow the First Plaintiff to "sort matters out"

- (b) The First Defendant was said to be “off island” but returning on Wednesday 18th May, and, duly on the morning of 19th May, he attended the land in dispute with a team of workers and one or two bulldozers to evict the occupants unlawfully and destroy the houses on it. The First Defendant ordered his workers to rip out the CUC connection first and then to take the roofs off the buildings and to remove the windows. When confronted by the First Plaintiff, who was at home, the First Defendant asserted that he was not in charge and was only acting on the instructions of the Second Defendant – thereby cynically and falsely misrepresenting his true role and “painting” the Second Defendant as being in contempt of Court and breach of the injunction from December 2014. In addition to the two alleged land transactions, taking advantage of the disabilities of the Second Defendant, this is the **third** aspect that leads the Plaintiffs to believe that their brother-Second-Defendant needs a Guardian and independent legal advice;
- (c) The Second Defendant was attending the fracas in (b) above and was VERY drunk and drinking bottles of beer throughout. It is believed by the Plaintiffs that the Defendants know of his alcoholism and deliberately ply him with drink from morning to night to take advantage of him – a **fourth** aspect of concern and need for a Guardian. The Second Defendant stated, by yelling at anyone present, including the police, that, “*he had sold to Sam in September 2019*” that “*he [Dale] had nothing to do with*” the eviction or destruction and “*anyone unhappy had to ask Sam and Kennedy*”. The Second Defendant further yelled at the police that the First Plaintiff “*Burnes has a Caution with no right and should just take a few thousand dollars from Sam and get out, like I [Dale] have done*”.
- (d) The First Defendant at no time said he had purchased parcel 343 or was in any way the owner of same in an apparent denial of the assertions by the Second Defendant that he [Dale] and the Third Defendant “sold to Sam” in September 2019.
- (e) The Second and Third Defendants have been moved off parcel 343 as part of the scheme of the Defendants
- (i) to evict the First-Third Plaintiffs and Messrs Schister and Dalley; and
 - (ii) to cause intentional distress to the First to Third Plaintiffs, Mr Schister and Mr Dalley, and
 - (iii) to seize parcel 343 and
 - (iv) to trespass upon the land and

- (v) to convert the property's materials (the fabric of the buildings) to their [the Defendants'] own use.
 - (f) The First and Fourth Defendant and Mr Kennedy, to get the Second Defendant to move out, have created a false impression in the minds of the Second and Third Defendants that they "own" a parcel of land known as parcel 108 on Gregory Street on "Rackley Canal". The Second and Third Defendants moved to this new house without being told by the First Defendant that their⁶ apparent legal ownership on the front of the land register is negated by the Fourth Defendant's charge for over KYD 321,000 odd registered on the charges section of the Land Register on the back of the form. This is the **Fifth** area of concern for the Plaintiffs on the Second Defendant needing a Guardian and independent legal advice.
22. The First Defendant has further caused his servants and agents including the Fourth and Fifth Defendants to remove, by digging up, or bulldozing out of the ground, the concrete Lands & Survey boundary marker(s) between parcel 351 and 343 so as to trespass on to parcel 343 and build enclosures thereon for dumpsters and locate the dumpsters for all 50 condos of the Fifth Defendant not on parcel 351, now owned by the Fifth Defendant from 15th May 2021, but on the land beneficially owned by the Fourth Plaintiff and occupied by the First to Third Plaintiffs (from 1966 as to the First Plaintiff) [parcel 343]
- (a) without their permission and
 - (b) to harass and intimidate and cause intentional distress to the Plaintiffs, Mr Schister and Mr Dalley and
 - (c) to further seek to wrongfully force all 5 of them from their only home by creating a nuisance and health hazard on parcel 343 mere feet from where they live and sleep and eat.

And the Plaintiffs claim:

- (1) Damages`;
- (2) An injunction that prohibits the Defendants or any of them and/or their servants or agents from
 - (i) continuing to threaten, harass, intimidate the Plaintiffs and disturb their quiet enjoyment of their home at 107 South Sound Road;
 - (ii) damaging the buildings at 107 South Sound Road;

⁶ Second and Third Defendants are registered as joint legal owners

- (iii) taking apart any of the buildings at 107 South Sound Road and/or taking away any part(s) of the buildings and converting them to their own use
 - (iv) continuing their intentional infliction of emotional distress on the Plaintiffs by tearing down or threatening to tear down the Plaintiffs' home at 107 South Sound Road
 - (v) continuing using 107 South Sound Road as a rubbish tip in an effort to make the property not fit for human habitation and drive the Plaintiffs from their home;
 - (vi) damaging and removing the Lands & Survey markers for the property boundaries by bulldozer or otherwise;
 - (vii) interfering in any way at all with the utilities used by the Plaintiffs, and paid for by them, at 107 South Sound Road.
 - (viii) altering, by unilateral and extra-judicial "self-help", and risking breaches of the peace, or seeking to cause same deliberately, the *status quo* in all the legal cases, and on the land in dispute, from at least the injunctions granted in 2014 to allow the Court(s) to rule upon the respective rights of the parties in their pending causes/litigation over the land in dispute
- (3) An injunction ordering the First, Fourth and Fifth Defendants to forthwith:
- (i) Remove all the rubbish, and construction materials, and structures/walls, including for dumpsters, and dumpsters, from 107 South Sound Road and clean it up as suitable for a residential home fit for human habitation in the neighbourhood;
 - (ii) pay for and ensure the forthwith replacement by licensed and approved surveyors, to the requirements of Lands & Survey, the government boundary markers (brass core and cap set in concrete cylinder) that the First Defendant had the Fourth Defendant, its servants or agents bulldoze/rip/dig out of the ground and throw/push into the parcel to the east of 107 South Sound Road/Block 15E parcel 343.

- (4) The Defendant pay the costs hereof, and the Court fees to bring this action and paid for throughout the action, and the *ad valorem* fee payable on the judgment sum herein to be awarded.

Dated this 22nd May 2022



CHAPMANS
Attorneys for the Plaintiffs

THIS WRIT OF SUMMONS was issued by CHAPMANS, Attorneys for the Plaintiffs, 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 installments 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 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO. OF 2022

BETWEEN:

BURNES BODDEN (1)

KIM BODDEN (2)

JESSE BODDEN (3)
(By his Next Friend Burnes Bodden)

DEBRA ANN BODDEN
(*Administratrix* of the Estate of
Antoinette Irene Bush deceased P&A 39 of 1989) (4)

DEBRA ANN BODDEN
(*Administratrix* of the Estate of
Myrtle Vernice Bodden deceased P&A 34 of 2018) (5)

Plaintiffs

-AND-

SAMUEL THEVASAEYAN (1)
ALFRED DALE EARL BODDEN (2)
SHEILA CHRISTIAN (3)
YARL TOWERS LTD. (4)
THE PROPRIETORS OF STRATA PLAN 936 (5)

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.

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

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.