



IN THE GRAND COURT OF THE CAYMAN ISLANDS

CIVIL DIVISION

CAUSE NO. of 2025

BETWEEN: PAULA EBANKS-POWERY PLAINTIFF

AND: BEN J. EBANKS DEFENDANT

WRIT OF SUMMONS

TO: **BEN J EBANKS** of P.O. Box 10038, Grand Cayman KY1-1001, off Powell Smith Drive, West Bay, 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 Courts Office, P.O. Box 495, 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 18th day of June, 2025.

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.

STATEMENT OF CLAIM

1. The Plaintiff is the registered owner of Registration Section West Bay South Block 5B Parcel 204 ("Parcel 204"). This property is landlocked and it is the Plaintiff's home where she resides with her children. The locus is a residential area in the vicinity of Powell Smith Drive, West Bay, Grand Cayman.
2. The Defendant is the Plaintiff's immediately adjacent neighbour and the sole proprietor of Block 5B Parcel 203. The Defendant and his spouse are the occupants of that property.
3. The Plaintiff and Defendant are both landlocked. As the Plaintiff's property is landlocked, and based on the geographical location of the adjoining properties, it is a dominant tenement to servient tenement properties registered at Block 5B Parcel 205 and Block 5B Parcel 203 among others. Apart from the Defendant, the Plaintiff has had no issues with the owners or occupants of any other servient parcels of land over which she has to traverse to access her home.
4. The Plaintiff's Land Register at the Appurtenances section records that she holds:
"a pedestrian right of way as indicated on the Registry Map."
It also records:
"a 12ft vehicular Right of Way along the western boundary of 5B 205 as indicated on the Registry Map...."
The Rights of Way in favour of the Plaintiff are also shown on the Land Registry Index map over the relevant area.
5. The Plaintiff is successor in title from Gloria Ebanks, the former proprietor of Block 5B Parcel 204. On November 1, 1984, a Grant of Easement is recorded in the office of the Registrar of Lands Cayman Islands whereby a 12 foot Right of Way was given over Block 5B Parcel 205 for the benefit of Parcel 204. The Plaintiff acquired the benefit of this easement when she purchased Parcel 204 from Gloria Ebanks in 2012. The Plaintiff purchased the property with the understanding that the rights attendant to the easement would continue to be observed.

6. The Defendant is antagonistic towards the Plaintiff and has prevented her from the peaceful and reasonable enjoyment of the user of her property. In particular, the Defendant has actively prevented the Plaintiff from exercising her statutory rights to use the easement so that she can have vehicular access to her landlocked property.
7. As the property is landlocked, the only vehicular access in which to enter unto and exit the Plaintiff's property is either through usage of the Right of Way along Block 5 B Parcel 205 which is situated to the southern boundary of the Defendant's property or along the northern boundary of the Defendant's property.
8. By necessity, for vehicular access, the Plaintiff must traverse across the Defendant's property. The alternatives are either a path covering a distance of approximately 10 - 12 feet of the Defendant's property at it's southern boundary so that there is access to the Plaintiff's Right of Way along Parcel 205 or a path covering a distance of approximately 40 feet along the northern boundary of the Defendant's property. At present the Plaintiff is able to obtain pedestrian access only as the Defendant is resistant to the Plaintiff's vehicular access, thereby perpetuating her hardship.
9. The Plaintiff has been deprived of the 12 foot vehicular access to her property and by the actions of the Defendant she has been forced to use a pedestrian pathway approximately 2,650 ft in distance over terrain which is similar to a bush path. The bush pathway that the Plaintiff is forced to use has no lighting, no covering, and is a rugged and uneven ground. During periods when there is bad weather, the Plaintiff's safety is further compromised as she must walk through mud and water on an unpaved and uneven ground.
10. The Plaintiff is employed to a restaurant and her working hours vary by shifts which at times commences at 4:00 am or which may end late at night. The discomfort and dangers of having to traverse through the dark bush path to get to and from her home is a source of stress and discomfort to the Plaintiff.

11. Despite the notation on the Plaintiff's Land Register concerning her Rights of Way, as a result of the Defendant's actions, the Plaintiff has no access to emergency medical services or even police assistance as the Defendant creates physical blockages to her access.
12. The Defendant himself is landlocked but has obtained permission to use an easement from an adjoining property owner to facilitate his entrance and exit to his property. The Defendant's Land Register records in the Appurtenances section that he has a 6 foot Right of Way to access his property.
13. The Defendant's actions cause injury to the Plaintiff in preventing her use and enjoyment of her land and in exposing her to harm and danger when she is forced to gain access to her home on foot using the bush path.
14. The Defendant is hostile to the Plaintiff and after receiving a letter from the Plaintiff's Attorney which sets out that the Plaintiff must pass over his property by necessity, his resistance to the Plaintiff has not abated. Therefore, the wrongful interference with the Plaintiff's right to have an easement of necessity to cross over a portion of his land continues. The deliberate actions of the Defendant have caused a nuisance and consequent hardships to the Plaintiff.

Particulars of Nuisance

- i. The Defendant has amassed garbage, derelict vehicles and other debris in the pathway of the Plaintiff's Right of Way over Block 5B Parcel 205 which has prevented the Plaintiff from any vehicular access to her property.
- ii. The Defendant has used threatening, harassing and intimidating language towards the Plaintiff whenever she attempts to use the Right of Way of necessity over his property.
- iii. The Defendant has also, along with his spouse, thrown garbage which includes foul smelling waste in the path of the Right of Way owned by the Plaintiff.

- iv. In being prevented from using the Rights of Way, the Plaintiff has no access to emergency medical services such as an ambulance, if needed. Everyday amenities such as delivery of gas cylinder for cooking is not possible and the Plaintiff, a female, must traverse a hazardous and unlit bush path approximately 2,650 ft while physically lifting the gas cylinder and other heavy or cumbersome objects.
15. The Plaintiff has reviewed a Registry Index Map and a General Boundary Survey of the area surrounding her property. From these documents it is clear that there are marked pedestrian and vehicular accesses intended to grant ingress and egress for her land.
16. The Plaintiff is constrained to seek relief from the Grand Court and without the court's orders the situation will continue whereby the Plaintiff is prevented from reasonable enjoyment of her property. The Plaintiff is afflicted by the nuisance created or allowed by the Defendant and requires a Right of Way by necessity from the said Defendant.

AND THE PLAINTIFF CLAIMS:

1. A Declaration that the Plaintiff is entitled to an easement for a vehicular Right of Way over the servient property registered at West Bay South Block 5B Parcel 203, by reason of necessity.
2. An injunction with a penal notice restraining the Defendant by himself, his agents or otherwise whosoever from restricting, preventing or otherwise interfering with the Plaintiff's reasonable enjoyment of such Grant of Easement.
3. An Order with a penal notice compelling the Defendant to permanently remove the derelict vehicles, equipment, garbage and other debris blocking the path of the vehicular Right of Way created by the Grant of Easement.
4. An injunction with a penal notice permanently restraining the Defendant from interfering with the Plaintiff or her agents whenever they are using the easement to enter the property.
5. Damages for the Nuisance caused by the Defendant.
6. Interest on all sums due to the Plaintiff pursuant to S. 34 Judicature Law (2007 Revision) at the prescribed rates.

7. Legal fees and costs.
8. Such further or other relief as may be deemed just by this Honourable Court.

Dated this 18th day of June, 2025

S Thompson

Stacy Thompson
Attorney-at-Law for the Plaintiff

This Writ of Summons and Statement of Claim is filed by Stacy Thompson, Attorney-at-Law for the Plaintiff whose address for service is 2nd Floor, Zephyr House, 122 Mary Street, George Town, PO Box 12133APO, Grand Cayman KY1-1010.

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 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 "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

Please complete overleaf

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 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

IN THE GRAND COURT OF THE CAYMAN ISLANDS**CIVIL DIVISION****CAUSE NO.** **of 2025****BETWEEN:** **PAULA EBANKS-POWERY****PLAINTIFF****AND:** **BEN J. EBANKS****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

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).....

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.

Stacy Thompson, Attorney at Law
2nd Floor, Zephyr House
122 Mary Street
George Town
Grand Cayman
E: stacythompson@thompsonlegal.info

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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