

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

ADVOCACY PROGRAMME

YEAR II

CIVIL BRIEF

BENNY CAMERON v. JOHN CAMERON

NANCY ANDERSON

PARTICULARS OF CLAIM

**IN THE SUPREME COURT OF JUDICATURE OF GIMMIE
CLAIM NUMBER ABC 2009/ 1413**

BETWEEN BENNY CAMERON CLAIMANT

AND JOHN CAMERON DEFENDANT

1. The Claimant is aged 45 years and is the younger brother of the Defendant.
2. On April 24, 2004 the Claimant transferred to the Defendant the two parcels of land set out below:
 - (a) Lot #2 in Cameron Estates, registered at Volume 1234 Folio 543 of the Register Book of Titles, and
 - (b) Lot # 4 in Cameron Estates, registered at Volume 1234 Folio 545 of the Register Book of Titles.
3. The transfers of these properties by the Claimant were procured by the actual undue influence of the Defendant over the Claimant.

PARTICULARS OF ACTUAL UNDUE INFLUENCE

- (a) The Defendant is the older brother of the Claimant.
- (b) The Claimant is known by the Defendant to be an alcoholic and had been drinking before the transfers were signed.
- (c) The Defendant came to the Claimant in Grenada with the transfers and found the Claimant sleeping outside, ill and without money to purchase food or shelter.
- (d) The Claimant was partially sighted and without glasses and therefore could not read the documents and relied on the Defendant to read them to him.
- (e) The Defendant used the Claimant's poverty and conditions to persuade him to accept a grossly undervalued sum for the two properties.

- (f) The Claimant had no opportunity to consult independent legal advice and the documents were signed in a bank.
4. The actual undue influence of the Defendant caused the Claimant to sign the transfers of the titles for the two properties.
 5. The transaction was manifestly disadvantageous to the Claimant in that the value of the two properties far exceeded the price paid by the Defendant.
 6. The Claimant is entitled to and does claim that the transfers be set aside and the said properties be transferred back into his name.

AND THE Claimant claims:

- (1) A declaration that the transfers of the two properties ought to be set aside as having been procured by actual undue influence of the Defendant over the Claimant.
- (2) An order that the Defendant do deliver up the titles to the said properties to be transferred in to the name of the Claimant;
- (3) An order that the Defendant transfer the titles for the said properties to the Claimant;
- (4) An account of the dealings by the Defendant with the properties and of the income received by the Defendant from the properties and payment to the Claimant of all sums found due to the Claimant as a result of the taking of the account plus interest on the said sum(s);
- (5) Damages;

- (6) All further accounts directions and inquiries as may be necessary.
- (7) Interest.
- (8) Costs.

Dated the 27th day of October, 2009

Signed John Fitzgerald
Attorney-at-law

I certify that all the facts set out in this Particulars of Claim are true to the best of my knowledge, information and belief.

Signed: Benny Cameron

The Claimant's address for service is that of his Attorney-at-law, John Fitzgerald, of 13 Duke Street. Kingston whose telephone number is 123-4567/ fax - 234-5678.

DEFENCE

IN THE SUPREME COURT OF JUDICATURE OF GIMMNIE

CLAIM NUMBER ABC 2009/ 1413

BETWEEN BENNY CAMERON CLAIMANT
AND JOHN CAMERON DEFENDANT

1. Paragraph one of the Particulars of Claim is admitted.
2. The Defendant admits that the Claimant transferred to him on April 24, 2004 the properties set out in paragraph two of the Particulars of Claim.
3. It is denied that the transfers were procured by the undue influence of the Defendant. The Defendant did not at any time abuse the Claimant or act in the manner alleged in the Particulars of Claim and the Defendant denies paragraph three of the Particulars of Claim and the Particulars of Actual Undue Influence set out therein.
4. The Claimant executed the transfers exercising his own free will in doing so and after he had had the benefit of having the transactions explained to him by a third party and the Defendant denies paragraphs four and five of the Particulars of Claim.
5. It is therefore denied that the Claimant is entitled to set aside the transfers as alleged in paragraph six of the Particulars of Claim or at all.
6. The Defendant denies that the Claimant is entitled to the relief claimed in the Particulars of Claim.

Dated the 12th day of November, 2009

Signed: Michelle Barer
Attorney-at-law

I certify that all the facts set out in this Defence are true to the best of my knowledge, information and belief.

Signed; John Cameron

The Defendant's address for service is that of his Attorney-at-law, Michelle Barer, 14 Mercury Road, Kingston in the Parish of Kingston whose telephone number is 987-1234/ Fax number - 987-5432.

EXPERT MEDICAL REPORT

**IN THE SUPREME COURT OF JUDICATURE OF GIMMIE
CLAIM NUMBER ABC 2009/ 1413**

| | | |
|----------------|----------------------|------------------|
| BETWEEN | BENNY CAMERON | CLAIMANT |
| AND | JOHN CAMERON | DEFENDANT |

CONFIDENTIAL PSYCHIATRIC REPORT

Re: Mr. Benny Cameron,
D.O.B. 12/03/64

1. My name is Dr. Jonathan Grey and I reside at 123 Orange Street, Cameron Estate on the island of Gimmie and I am a registered Medical Doctor. My qualifications include a MBBS degree from George University in Grenada in 1982 and a DPM degree in psychiatry from the Institute of Medicine, University of Eassier, Bosnia.

2. I am currently employed to the Belgravia Mental Hospital (BMH) in Gimmie as Senior Medical Officer. I have worked at BMH from 1983 to the present.
3. I am advised by John Fitzgerald, Attorney-at-law, for the Claimant, Benny Cameron and do verily believe that I was named as an expert witness in this matter by virtue of an order of this Honourable Court on July 30, 2010 and that permission was granted for my report to be submitted by February 3, 2011.
4. I received a phone call from Mr. John Fitzgerald on September 14, 2010 requesting a report on the subject herein, Benny Cameron, and I was asked to set out his condition and treatment at BHM. I also received a written consent from Mr. Benny Cameron dated September 12, 2010, later the same day, September 14, 2010. I received no other instructions regarding the purpose for the report.
5. I understand that it is my duty to help the court impartially on all matters relevant to my expertise and that duty overrides any obligation to the person by whom I was instructed or paid and I have read Part 32, in particular Rules 32.3 and 32.4 of the CPR and state that I believe that I have carried out my duty in the manner set out in the rules.
6. Mr. Benny Cameron was admitted to BMH on May 13, 1995 in a highly distressed state: he was incoherent, had outbursts of excitement, hyperactivity and restlessness. He was diagnosed with severe and prolonged alcoholism.
7. At the time of his admission to the hospital, the following was noted on the admission record: "31 year old male, height -5 feet 10 inches, weight - 123 lbs., wearing glasses, no other disability, unclean and smelling of alcohol."
8. Mr. Cameron spent 3 months in the hospital on this occasion and during this time his physical dependence on alcohol was manifested by severe withdrawal symptoms when he stopped using alcohol. He was released on August 22, 1995.
9. During the year 1996, Mr. Cameron was admitted to the hospital four times for various periods, between 14-22 days. On each of these occasions he came in with the same or similar symptoms: drunkenness, incoherence, hyperactivity and restlessness. All were diagnosed to be attributed to chronic and prolonged consumption of alcohol.
10. On each occasion, Mr. Cameron would stay until he had "sobered up" and then would request a discharge. As he was admitted voluntarily, he had to be allowed to leave although medically it would have been advisable for him to stay for a longer period of time.

11. In 1997, October 14th, Mr. Cameron was brought to the BMH by the police in a drunken state and was again admitted. He was released after two nights as the police had not charged him with an offence and he did not want to stay.

12. In my opinion, Mr. Cameron was accustomed to frequent and heavy alcohol use, he was unable to control his drinking once it has begun. He had a physical dependence on alcohol manifested by withdrawal symptoms when he stopped using alcohol; over the years he has built up a tolerance, so that he has the need to use more and more alcohol to achieve the same effects.

13. I certify that the matters contained in this Expert Report are true to the best of my knowledge and belief and outlines all matters within my knowledge and area of expertise relevant to the issue on which the expert evidence is given.

I understand that it is my duty to help the Court impartially on all matters relevant to my expertise and that duty overrides any obligation to Mr. Cameron who instructed me and paid me for the report. I have read Part 32, in particular Rules 32.3 and 32.4 of the Civil Procedure Rules and state that I believe that I have carried out my duty in the manner set out in the Rules.

I have included all matters within my knowledge and area of expertise relevant to the issue on which my expert evidence is given. There is nothing to my knowledge which affects the validity of this report.

I certify that the matters contained in this Expert Report are true to the best of my knowledge and belief and outlines all matters within my knowledge and area of expertise relevant to the issue on which the expert evidence is given.

DATED THE 2th DAY OF February, 2011

Jonathan Grey-----

Dr. Jonathan Grey
MBBS (Grenada) DPM (Bosnia)

Filed by John Fitzgerald, Attorney- at- law for the Claimant of 13 Duke Street.
Kingston whose telephone number is 123-4567/ fax – 234-5678.

WITNESS STATEMENT OF CLAIMANT – BENNY CAMERON

**IN THE SUPREME COURT OF JUDICATURE OF GIMMIE
CLAIM NUMBER ABC 2009/ 1413**

**BETWEEN
AND**

**BENNY CAMERON
JOHN CAMERON**

**CLAIMANT
DEFENDANT**

1. I am the currently unemployed, but am trained as a teacher of Spanish and have taught at two high schools in the past and I currently live with my brother Junior at 64 Homer Road, Cameron Estate.
2. I am 45 years of age and the fifth child and third son of my parents Frederick and Olive Cameron who had eleven children, 4 sons and 7 daughters. My family is from Gimmie Island. Both my parents are deceased: my father died in 1999 and my mother died in 2000, exactly one year apart. My parents jointly owned 23.58 acres of land on Gimmie Island know as Cameron Estate.
3. I started drinking heavily from around my sixteenth birthday and would drink so much I would black out for days and could not be found for some time. My parents were concerned about my behavior and I was sent to live with a maternal aunt in Grenada in 1983. I never made it to Grenada and my aunt, as I went to Curacao

instead, where I continued to drink more alcohol than was good for me.

4. After about three years there I went to Aruba where I went to a Teacher's College and learned to teach Spanish. Despite my drinking, I was able to hold down a job teaching part-time.
5. In 1988, my father sent for me and I returned to Gimmie Island and my parent's home there. After my return in 1978, my drinking continued and I again left Gimmie Island and this time went directly to Grenada. I taught Spanish part-time only in a high school there as my drinking continued and started to have serious effects upon my health. I started hear strange voices telling me to go places and do things and I saw strange people.
6. In 1995, I was admitted to Belgravia Mental Hospital and spent three months there. After I was discharged I had four subsequent admissions, in 1996, spending on each occasion about two or three weeks.
7. I went home again in 1997 but was not welcomed by my parents who were both ailing and had handed over most of their affairs to my brother John, the defendant who is the first son and oldest child of my parents. I was still drinking very hard and John got me arrested by the police and locked up for a night and sent to the local hospital for two days.
8. I left immediately I was released and returned to Grenada. My condition deteriorated as I continued drinking and because of this I could no longer work and had to sleep in a bus shelter as I could not afford to rent anywhere.
9. I heard that my father and then my mother died, but I did not have any money to go home for their funerals and although I wrote and begged my brother John for funds to come home he never responded.
10. In April 2004, my brother John came to see me in Grenada at a construction site where I was sleeping with a friend who had a job there as a night watchman. He said that he wanted to buy the land my parents had left me and asked me to meet him the next day at a bank.
11. I had several drinks before I met my brother the next day, April 24, 2004, at the bank. John said he was going to give me a

good price for the land and he said he would look after me and I should trust him and believe him.

12. At the bank I signed some documents that John gave me, but I did not read them as the print was very fine and my eyesight was bad and I could not afford glasses. I am now shown two documents and with my new glasses I can see that they bear my signature. Documents attached and marked exhibits 1 and 2.
13. I have been told by my Attorney-at-law and verily believe that these exhibits are transfers of land from me to John. At this time I did not know how much land I was entitled to from my parents' estates or the value of the land.
14. John told me he would put \$75,000.00 in a bank account for me and that I could draw out \$1,500.00 per month. He left the same day to return to Gimmie Island.
15. In June 2008, my brother Junior came to Grenada and found me and told me I had inherited 2 parcels of land from my parents worth about \$7M
16. With Junior's help I returned to Gimmie and retained a lawyer to get my land back.
17. John never told me the real value of the land. I was unable to read the documents he gave me to sign. No one explained what I was signing. I had been drinking before I met John at the Bank and I was not feeling well.
18. John is my older brother and I believed he would take care of me. I never thought he would cheat me out of my inheritance and take advantage of his power over me.
19. I want my property back or some more money for the two parcels of land.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true.

Signed: **Benny Cameron**

Date - November 20, 2009

for lands which were worth a lot more. I also received two parcels of land adjoining Benny's two parcels and I sold them in 2004 for \$1M each.

5. I went to Grenada in 2008 to find Benny and found him sleeping outside in a public park, sick and drunk. I told Benny that I was shocked when I learnt that John had only paid him \$75,000 and that John had stolen the land from him. I encouraged him to get a lawyer and I agreed to assist him.
6. Benny returned to Gimmie in 2009 and now lives with me and my family. He can live with me until this matter is cleared up.
7. John has built houses on the two lots he bought from Benny and he rents them out to tenants.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true.

Signed: *Frederick (Junior) Cameron*

Date - November 20, 2009

FILED BY Attorney-at-law, John Fitzgerald, of 13 Duke Street. Kingston whose telephone number is 123-4567/ fax - 234-5778

Defendant's Witness statement - John Cameron

IN THE SUPREME COURT OF JUDICATURE OF GIMMIE

CLAIM NUMBER ABC 2009/ 1413

| | | |
|----------------|----------------------|------------------|
| BETWEEN | BENNY CAMERON | CLAIMANT |
| AND | JOHN CAMERON | DEFENDANT |

1. I live at 32 Homer Road, Cameron Estate on the Island of Gimmie and am the oldest son of Frederick and Olive Cameron and a Dentist by profession.
2. My parents died in 1999 and 2000, exactly one year apart, both leaving wills naming my brother Junior (Frederick) and I as their executors. Probate was granted in both wills on May 24, 2002 to Junior and me.
3. My parents owned Cameron Estate which is a total of 23.58 acres of land, comprised of eighteen lots with registered titles. In the Oath of Executors for my mother's estate (she died in 2000) the value of these lots was set out as \$720,000.00 or \$40,000.00 each. I am shown a copy of the Oath of Executors signed by Junior and me and filed in the Court in the application for Probate.
4. Junior and I, as executors, transferred the various parcels of land to the various children. My parents had eleven children, 4 sons and 7 daughters. They were survived by 4 sons and 5 daughters and all

of these children were given gifts of two parcels of land each under their wills.

5. All the children, except for my brother Benny, live in Gimmnie. Benny lives in Grenada. In April 2004, I travelled to Grenada and found Benny. He was sleeping at a construction site and looked like he was ill. He asked me to assist him.
6. Benny was a heavy drinker from early in his teenage years. My father sent him away to our aunt in Grenada in 1973. I heard that he also lived in Curacao and later in Aruba, but I never visited him there.
7. He returned to Gimmnie about 1988, but he was still drinking heavily and my father did not want him to stay, so he left again.
8. He returned again in 1995 and stayed until 1997 and during this time he was admitted several times to Belgravia Mental Hospital for short periods of time. He left again in 1997.
9. In April 2004 I went to Grenada and searched for Benny. When I found him he was ill and without any job or money and no place to live.
10. When I saw Benny in 2004, I had the titles to his two parcels of land with me as I intended to give them to him. However, he asked me to assist him with money to live on and he told me he wanted to sell his land in Gimmnie. I suggested to Benny that he transfer the two parcels of land to me and I would deposit money into an account at the Bank for Benny. He agreed.
11. I had a lawyer prepare the transfers. I spoke to Jermaine Hoover, the bank manager, at the National Savings Bank in

Grenada. I had met Mr. Hoover a few years before in Gimmie at a conference.

12. Benny met me at the bank on April 24, 2004. Mr. Hoover explained to Benny the nature of the transaction and how he could access the money in the account. It was agreed that I would give him \$35,000 for one of the parcels of land and \$40,000 for the other.
13. I gave Benny \$2,500 on the spot and explained that the arrangements with the bank were for him to withdraw \$1,500 per month. I told him that this was so he could not get all the money one time and spend it. My name is also on the account. Benny agreed to this and signed the two transfers in the presence of Mr. Hoover and Mr. Wallace a Justice of the Peace from Gimmie who was visiting Mr. Hoover. Mr. Hoover has told me that Mr. Wallace is now deceased and I believe this to be true.
14. I left Grenada the same day taking the transfers with me back to Gimmie where I had them finalised. I send money to the bank in Grenada every three months thereafter. Although the purchase price of \$75,000.00 has already been sent to Benny from 2008, I have continued to send \$4,500.00 every three months.
15. Benny was not drinking the day we met at the bank and I did not take advantage of him. I did not pressure him to sell the land and he never took issue with the price.
16. I recently, in 2008, sold a parcel of land part of my inheritance abutting Benny lands for US\$400,000.00. This lot is a corner lot with a view of the city and so is worth much more than the other lots.
17. As the oldest sibling in the family, I try to take care of the others, including the younger generation. I would never do

anything to hurt or cheat any member of my family. Benny is sick and in need of help and that is all I have ever tried to do; help him.

18. I have built residential homes on both lots I purchased from Benny and rent these houses out to tenants. It costs me \$2M to build each house. I rent each of them out for \$95,000.00 per month.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true.

Signed: *John Cameron*

Date - December 04, 2009

FILED BY Michelle Barer, Attorney-at-law, of 14 Mercury Road, Kingston in the Parish of Kingston whose telephone number is 987-1234/ Fax number - 987-5432.

Witness statement - **Jermaine Hoover** (for the Defendant)

would be sent by John as payment for the transfer of two lots from Benny to John.

6. After explaining these things to Benny, I called into my office another friend from Gimmie who was visiting with me and who was a Justice of the Peace in Gimmie. His name was Jimmy Wallace. Mr. Wallace witnessed Benny execute the transfers. Mr. Wallace died in 2007 and I attended his funeral in Gimmie.
7. Since April 2004 I have seen Benny several times when he would come in to the Bank to withdraw money from the account. Once or twice he appeared to be ill and unsteady on his feet. Once I offered him a chair and got the money for him as he was shaking and incoherent. I have never seen him with a drink or bottle in the Bank.
8. John continues to deposit money into this account every three months. Benny has not withdrawn any funds for several months now. The last withdrawal was on February 14, 2009.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true.

Signed: *Jermaine Hoover*

Date - December 04, 2009

FILED BY Michelle Barer, Attorney-at-law, of 14 Mercury Road, Kingston in the Parish of Kingston whose telephone number is 987-1234/ Fax number - 987-5432.

OATH OF EXECUTORS
FORM P.1

IN THE SUPREME COURT OF JUDICATURE OF GIMMIE

SUIT NO.

WE, the undersigned, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the records of the Court.

Witness my hand and the seal of the Court at the City of Gimmie, this _____ day of _____, 20__.

Clerk of the Court

Notary Public

Judge

Deputy Clerk

Recorder

Deputy Recorder

Deputy Deputy Clerk

Deputy Deputy Recorder

Deputy Deputy Deputy Clerk

000 000 00000 00000000 000000 00 000 00000000 00000000
00000 000 00000 00000000 00 000 000 000 000 00000000
0000000 00000000 00 0000 000

000 000 00000 0000 000000 00 000 00000000 00000000
00000 000 00000 00000000 00 0 00000000000 000 000
0000000 00000 00 000 0000 0000000 00000000 00
000000000000

000000 00 00 *Cameron Estates* 0
00 000 000000 00 000 00000000 0
00 000 00⁰⁰ 000 00000000000000000000
0000000 000 000 0

John Cameron

000000000000
00000000 00 000 000000
000 000 0000000 00 000 00000000

000000 00 00 *Cameron Estates* 0
00 000 000000 00 000 00000000 0
00 000 00⁰⁰ 000 00 000000000000000000
0000000 000 000 0

Frederick Cameron

000000000000
00000000 00 000 000000
000 000 0000000 00 000 00000000

000000 00 0000000 000000000 00 000 00000 00000000 00000000
000000000000000000000000 000 000 00 0000000 00 000 0000000000 00000000

0000000000 00 0000

00 00000 000000000 00 00000000 00000000 000000000 0000000 000000
000000000000 00 000 000000000000 00 00 0000000 00 000 0000000 00
0000000000000 00 000000 000000 000 00⁰⁰ 000 00 0000000000 000000 00
000000000000000000 00 000 000 00 000000000000 00000 00 00 00 0000
000000000 00000000 00 00000000 00000000 00000000 00 0000000
0000000000 00 000 0000 0000 00000000 000 0000 0000000 00 0000
0000000000 00000000

000 0000 0000000 00 0000 000000000 000 0 00 00000000
0000000000 000000 000 00 000 0000 000000000000 00

□□□□□□ □□ □□□ □□□□ □□□□ □□□□□□□□ □
□□ □□□ □□□□□□□□ □□ □□□□□ □□□□□□□□ □

John Cameron

James Wallace

□□□□□□□ □□ □□□ □□□□□□ □□□□□□□□