

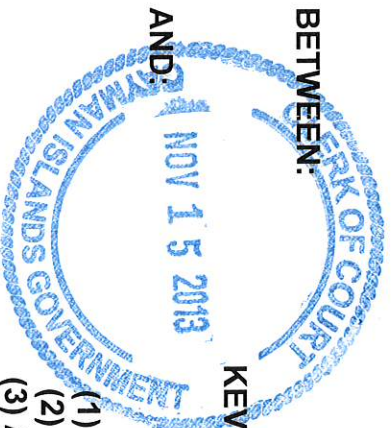
IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: *406* OF 2013

BETWEEN:

KEVIN AND HYUETE BOGLE

Plaintiffs



(1) FOX DEVELOPMENT LTD
(2) LORNA GUSCHELBAUER
(3) ATHENS ZELAYA-WATLER



WRIT OF SUMMONS

TO: Fox Development Ltd, Lorna Guschelbauer, and Athens Zelaya-Watler
c/o P.O. Box 2373, Grand Cayman, Cayman Islands.

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 (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, PO Box 495GT, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment of Service within the time stated, or if you return the Acknowledgement of Service 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 15 day of November 2013

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.

GENERAL INDORSEMENT

The Plaintiffs claim is for:

1. Damages arising from the Defendants fraudulent breach of a construction contract.
2. By a contract in writing, ("the Contract"), signed by the Plaintiffs and the Third Defendant who was acting on behalf of the First and Second Defendants on 24 November 2007, the Plaintiffs and the Defendants agreed to construct an addition to the Plaintiffs residence for the price of C1\$227,500.00.
3. The construction was to be financed by four draw-downs, C1\$73,000, C1\$73,000, C1\$73,000 and C1\$8,000 to be provided to the Defendants before each stage of construction, from First Caribbean Bank, George Town, Grand Cayman, a mortgage having been arranged by the bank with the Plaintiffs.
4. When it was time for the Third Draw down to be provided to the Defendants, the bank queried a shortfall of invoices which they required before releasing the third draw-down funds for the completion of the construction.
5. The Second and Third Defendants conspired to fraudulently produce false invoices in order for the third-draw down to be released from the bank, and did receive the sum of C1\$73,000 being the sum required to complete the construction at the Plaintiffs residence.
6. The Third Defendant was convicted of a charge of uttering a false document on 27 June 2012, and fined C1\$8,000.00.
7. The Second Defendant conspired with the Third Defendant to produce the false invoices to on order for the Third draw-down to be released, but never completed the final construction on the Plaintiffs residence. Meanwhile the Plaintiffs are liable to the bank to pay off the full mortgage facility plus interest.
8. The Plaintiff claims damages to be assessed resulting from either the Unlawful Means Conspiracy and or Simple Conspiracy, of the First, Second and Third Defendants who cannot hide behind the First Defendant.
9. Further, the Plaintiff claims pre-judgment and post-judgment interest on damages in accordance with the Judicature Law and at a daily rate of interest being at the discretion of this Honourable Court.
10. Court filing costs and legal fees

11. Such further and other relief as to this Honourable Court may deem just and equitable.



Irvin Banks
Attorneys-at-Law

This Writ was filed by Irvin Banks attorney-at-law for the Petitioner, of 14 Rosemont Close, P.O. Box 1643 George Town, Grand Cayman KY1-1109, Cayman Islands. Tel 345 325 6395 Fax 345 945 9169, irvin_banks@candw.ky

IN THE GRAND COURT OF THE CAYMAN ISLANDS

BETWEEN: **CAUSE NO:** **OF 2013**

AND: **Plaintiff**

(1) FOX DEVELOPMENT LTD
(2) LORNA GUSCHELBAUER
(3) ATHENS ZELAYA-WATLER

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 of Summons is acknowledged accordingly

(Signed) _____
Attorney for _____

NOTE 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/she must give his post office box number and the physical address of his/her residence or, if he/she does not reside in the Cayman Islands, he/she must give an address in Grand Cayman where communications for him/her 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/her name, address and reference, if any, in the box below.

Ivin Banks
Attorney-at-Law
14 Rosemont Close
George Town Box 1643
Grand Cayman KY1-1109
Cayman Islands
Cell Phone 325 6395
Fax 945 9169
ivin.banks@candw.ky

Endorsement by Defendant's Attorney (or by Defendant if responding in person) of his/her name, address and reference, if any, in the box below.

**DIRECTIONS FOR ACKNOWLEDGEMENT 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, PO 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.

See over for Notes of Guidance

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/her.
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 his 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.