

IN THE GRAND COURT OF THE CAYMAN ISLANDS

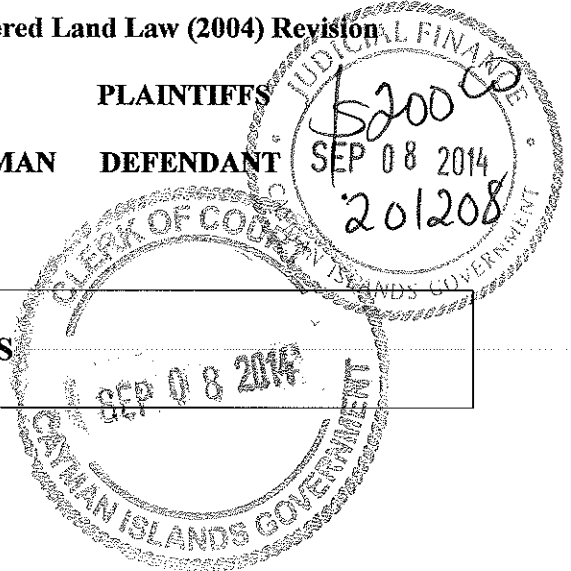
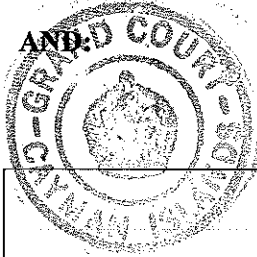
CIVIL DIVISION

CAUSE NO: *G0202* OF 2014

IN THE MATTER OF Section 64 (2) 72(1) and 75(1) of the Registered Land Law (2004) Revision

BETWEEN: DENNIS BRADY and CLAUDIA BRADY PLAINTIFFS

AND: NATIONAL BUILDING SOCIETY OF CAYMAN DEFENDANT



ORIGINATING SUMMONS

TO: National Building Society of Cayman  
71 Eastern Ave,  
P.O. Box 504  
Grand Cayman, KY1-1106  
Cayman Islands

THIS ORIGINATING 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 Originating Service 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 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 judgment may be entered against you forthwith without further notice.

Issued this *8th* day of *Sept* 2014


IMPORTANT


Directions for acknowledgment of service are given with the accompanying form.

NOTE: This Originating Summons 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.

## INDORSEMENTS

- (a) The Plaintiffs claim is for an Injunction restraining and prohibiting the Defendant whether by himself, his servants or agents or otherwise, from any and all actions, pursuant to Section 64(2) of the Registered Land Law (2004 Revision) the objective of which is to proceed to list and sell the properties more specifically identified as Registration Section- Spotts, Block 25C Parcel 319 and South Sound Block 15C Parcel 252H5 (“**the Properties**”), owned by the Plaintiffs and which Properties the Defendant holds the first Legal Charge over, as any such action on the part of the Defendant, his servants or agents; will be in breach of the Defendant’s obligations under Section 75(1) of the Registered Land Law (20004 Revision) to act in good faith and unreasonable .
- (b) The Plaintiffs in addition to Paragraph (a) claim that the proposed or any listing and sale of the properties, or any act by the Defendant, his servants or agents designed to achieve any such objective, would prove a detriment to the Plaintiffs and the Plaintiffs further are of the settled opinion, that there exists a conflict of interest and malfeasance on the part of an employee of the Defendant, which employee prior to, expressed openly to the Plaintiffs and indeed the Defendant, an interest in acquiring the said property identified as South Sound Block 15C Parcel 252 H5, and that the said employee was and remains for all intents and purposes, the person assigned to oversee, administer and had or else continues to have significant conduct and influence over the said Property, and any related affairs, on behalf of the Defendant, in relation to the said Property and has unequivocally and significantly influenced and has eventually participated in the processes associated with the Defendant’s current position as relates to the Plaintiffs Properties, and by inescapable inference, engineered the state of affairs which has led up to the Letters of Demand dated May 22 2014 being issued and ultimately, the decision by the Defendant, to list the said Properties owned by the Plaintiffs ;which the Defendant holds the first Legal Charge over.
- (c) The Plaintiffs seek and Order of Mandamus restraining and preventing the Defendant from listing and selling the Properties and directing the Defendant on equitable grounds, to grant to the Plaintiffs, the period of a further three months, which is to commence upon the expiry of the period ending September 8 2014, in order that the Plaintiffs might be afforded the opportunity to continue the process of actively seeking to resolve the matter of the arrears and or acquire a mortgage takeover; by another lending institution.

  
\_\_\_\_\_  
DENNIS BRADY  
PLAINTIFFS

  
\_\_\_\_\_  
CLAUDIA BRADY  
PLAINTIFF

This **Originating Summons** was prepared and issued by Dennis Brady and Claudia Brady, the Plaintiffs herein whose address for service is Building A3 Trinity Square, Eastern Ave, George Town, Grand Cayman, P. O. Box 11740 APO, Grand Cayman, KY1-1009, Cayman Islands

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

**CIVIL DIVISION**

**CAUSE NO: OF 2014**

**IN THE MATTER OF Section 64 (2) 72(1) and 75(1) of the Registered Land Law (2004) Revision**

**BETWEEN: DENNIS BRADY and CLAUDIA BRADY PLAINTIFFS**

**AND: NATIONAL BUILDING SOCIETY OF CAYMAN DEFENDANT**

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE OF  
ORIGINATING SUMMONS**

**Important:** Read the accompanying direction 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 Originating Summons is being acknowledged.

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2. State whether the Defendant intends to contest the proceedings (tick the 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 Plaintiffs (tick the appropriate box)  
 Yes                       No

Service of the Originating Summons is acknowledged accordingly

(Signed) .....  
[Attorney] for

[Defendant in person]

This **Originating Summons** was prepared and issued by Dennis Brady and Claudia Brady, the Plaintiffs herein whose address for service is Building A3 Trinity Square, Eastern Ave, George Town, Grand Cayman, P. O. Box 11740 APO, Grand Cayman, KY1-1009, Cayman Islands.

**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 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:

Dennis and Claudia Brady  
Building A3 Trinity Square, Eastern Ave,  
P. O. Box 11740 APO, Grand Cayman,  
KY1-1009, Cayman Islands

Indorsement by Defendants’ attorney (or by Defendants if suing in person) of his name, address and reference, if any, in the box below:

The **Originating Summons** was issued and prepared by Dennis Brady and Claudia Brady, the Plaintiffs herein whose address for service is Building A3 Trinity Square, Eastern Ave, George Town, Grand Cayman, P. O. Box 11740 APO, Grand Cayman, KY1-1009, Cayman Islands.

**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 14 days for acknowledging service, an Originating Summons 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 Originating 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 NAME, 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.

**NOTE:** This **Originating Summons** 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.

## STATEMENT OF CLAIM

### DENNIS BRADY & CLAUDIA BRADY v NATIONAL BUILDING SOCIETY OF CAYMAN

1. In August of 2006 the Plaintiffs (“we”) entered into a mortgage arrangement in relation to property identified as Registration Section: Spotts, Block 25C, Parcel 319.
2. In February of 2013 we entered into a further mortgage arrangement, in respect of property identified as Registration Section: South Sound, Block 15C Parcel 252H5.
3. I first encountered the individual who hitherto and very likely currently, services our mortgage at NBS Ms Jewel Ebanks, when she worked at CIDB. On that occasion, I had gone there to seek a loan, by virtue of a facility that was then advertised for small Caymanian owned businesses. My two sons, who were both pursuing tertiary education at the time, had established a small restaurant and I was seeking to assist them with financing their operations.
4. I kept an appointment to see her, and as I introduced myself to her, she remarked “oh, you are Brady, I have heard a lot about you”. I responded by saying “hopefully good things”. She immediately retorted by saying “not really” and I responded, “well I guess it depends on who you have been talking to, as criminals would probably not have anything good to say but the law abiding people of these islands I’m sure would”.
5. This represented the “opening remarks” by this said lady, a Loans Officer at the time, to me a potential client; that she was meeting for the very first time. Needless to say, I was **NOT** granted the loan and the reasons advanced were at best spurious. This person subsequently obtained employment at NBS and was the person assigned to our mortgage. During the period that she was thus employed, the Apartment which is also subject to this mortgage, Block 15C Parcel 252H5, was up for sale and I was offered the opportunity to acquire the said property, by the then Manager of NBS, Mr. Dunbar McFarlane.
6. My understanding at the time was that it had previously been foreclosed on and had remained locked up for years unoccupied. She also had an interest in the said property and had made overtures to acquire it, by going to inspect the said property, after Mr. McFarlane requested that I supply her with the keys for that purpose. The apartment was entirely mold infested at the time and I had to undertake major remedial work to make it fit for human occupation. In the end, I acquired that property, and it was as a

consequence of this acquisition, that my total mortgage payments were increased. That property has been rented for CI\$1,000.00 per month.

7. In the middle of the year 2013, I underwent surgery to clear partially blocked arteries, overseas. Being aware that I would have been off work for a while recuperating, I proactively wrote to NBS, requesting a mortgage holiday; until I would have returned to the Island and re- started my law practise.
8. By an email dated October 1 2013, she informed me, after I had telephoned the NBS office to enquire whether a response was forthcoming, that she had passed on my request to Jewel Ebanks. At this time I was already off island and undergoing treatment. I produce the record of that email communication as Exhibit ("DB1")
9. During my time away and whilst in hospital, I spoke personally to Jewel Ebanks on the phone, regarding the written request I had made, and the fact that I had received no reply. I also re-sent via email, the said request, re-emphasising the reason I was away and repeating the request for the mortgage holiday. To those emails and the request for a mortgage holiday, I have yet to receive a response from her, excepting to ask whether my wife might be able to take over the payments, which I responded to by declaring that I considered it my responsibility as the man in my home to be responsible for this payment and the fact that by agreement; she already saw to certain related expenses. No further communication on the request was received from Ms Ebanks, until I telephoned her and she apologized for not getting back and explained that my request was being reviewed. I produce the record of these emails as Exhibit ("DB1A")
10. I returned to the Cayman Islands in January of 2014, having concluded my overseas medical treatment. At my initiative, I sought and attended a meeting with her and went to NBS for the purpose of that meeting. I spoke personally with Ms Ebanks, and asked for a reason that my request had not been responded to. I was told then that it was being "reviewed" and I was asked how did I propose to pay down the arrears. I offered to initially start out by paying CI\$2,500 per month, with the promise to increase this payment in the immediate months following; as I fully expected my practice to continue as it did prior to my going off on sick leave, to facilitate heart surgery and prostate cancer treatment.

11. I in fact kept my word in this regard and in March 2014, made three (3) separate payments, which amounted to CI\$4,000.00 and in the second week of April, a payment of CI\$4,000.00 and in May a payment of CI\$4,500.00 . I produce copies of the relevant payment receipts as Exhibit ("**DB2**")
12. It was while overseas that I was informed by my wife the Second Plaintiff, that she had been in receipt of Letters of Demand, sent by the Defendant's attorneys Higgs and Johnson, demanding full payment of the outstanding balances or in alternative the properties would be listed for sale. These letters were dated May 22 2014 and are produced and exhibited as Exhibit ("**DB3**")
13. On June 30 2014, the Second Plaintiff wrote to Ms. Ebanks via email requesting the full payout figure in relation to the properties, as we were seeking alternate sources to finance the mortgage as well as a copy of the most recent valuation. There was no response so therefore on July 10 2014 the Second Plaintiff sent another email reminding her that she had by email dated June 30 made the request as well as she spoke to her by telephone repeating the request, having received no response previously; which was at best inexplicable but was consistent with the prior and continued conduct of Ms. Ebanks as related to our mortgage. Indeed the intervention was sought from senior management based in Jamaica, at which point there was some movement in satisfying the request. A record of this email communication is marked produced and exhibited as Exhibit ("**CB1**")
14. On the 21<sup>st</sup> of July 2014 I wrote to the Defendant's attorneys outlining the background to what they may or may not be aware of regarding the state of my mortgage with the Defendants. This letter is marked produced and exhibited as Exhibit ("**DB3A**")
15. On August 13 2014, I made another payment to the Defendants in the sum of CI\$10,000.00 and produce a copy of the relevant receipt as Exhibit ("**DB4**") My most recent payment in the sum of CI\$5,000.00 was made on September 4 2014 and I produce a copy of that receipt as Exhibit ("**DB4A**")
16. Ironically, I later received a letter dated August 13 from the Defendant's attorneys which made reference to my letter of July 20 2014, by which it was sought to traverse the matters I raised in my letter but re-iterating that the decision arrived at previously would stand. In addition this letter made clear, that our request for a further three months to commence... "when the statutory notices expire to resolve the issue of the arrears or to acquire a mortgage takeover by another lending institution...our client is

unable to accept the proposal to delay listing the properties" ... This letter is marked produced and exhibited as Exhibit("DB5")

17. I communicated to the Defendants that I am aged 61 years, but an active Sole Practitioner in the Legal Profession, with my law offices located at Building B-3 Trinity Square, Eastern Avenue, George Town, Grand Cayman, and that I have been so engaged since November of 2012, having retired from the Civil Service as a Crown Counsel in the Office of the Director of Public Prosecutions.
18. I communicated as well to the Defendants, that I am currently employed as the Chief Immigration Consultant, at Integrated Immigration and Concierge Services, Eastern Avenue George Town, having previously held the position of Deputy Chief Immigration Officer, for Ports, Enforcement and Intelligence, with the Cayman Islands Department of Immigration. I am also a former Chief Inspector of the Royal Cayman Islands Police Service.
19. I specifically mentioned my work history, for the reasons of highlighting to the Defendants, the fact that, I have over the years striven to unswervingly maintain, a reputation for honesty, decency, integrity and respect; as regards my obligations at all times.
20. The house in which I reside at Spotts, is the "single" reward/achievement gleaned from my years of dedicated civil service to the people and government of this country.
21. Significantly, upon my retirement from the Civil Service, I proactively deposited the bulk of my pension payout to the current mortgage, in satisfaction of a pledge for a facilitation, as I had previously arranged for a "mortgage holiday", with the then Manager Mr. Dunbar McFarlane, in order to assist my sons with the financing of a business project, a restaurant; that they had embarked upon. As a consequence of this deposit, for several months thereafter, the mortgage payments were simply deducted from my account by agreement; as there was surplus funds deposited and made available for that purpose.
22. In addition, my wife is a Chief Inspector, in charge of the Financial Crimes and Joint Intelligence Units of the Royal Cayman Islands Police Service but I have always considered it my responsibility to make all payments regarding our mortgage arrangement.

23. I verily believe that the facts and circumstances which has led to this “apparent” breakdown of the customer/client relationship, that currently assails our interaction with the Defendants is **personal** in its motivation, and fueled by the influences of Jewel Ebanks, the employee of the Defendant, with whom I have not enjoyed the most accommodating reception in relation to my mortgage account and generally, and in respect of whom I submit; the inescapable inference of bias and conflict of interest remains apparent .
24. I verily believe that the service of the “demand” letters is unconscionable, and motivated by malice and conflict of interest as well as specifically designed to frustrate and embarrass. This action I perceive is not only the clearest demonstration of insensitivity to my human plight, condition and petition, by a lending institution, in relation to a customer of long standing, but even more disconcerting, is the fact that I perceive it as being motivated by personal malice.
25. Indeed following upon the receipt of the Letters of Demand, we requested from Jewel Ebanks, information that was crucial and required by a lending institution, which we had approached for alternative financing. An email was sent to her requesting the required information on June 30 2014 and up to July 10 2014, no response had been received in relation to that request. It took the sending of a further email on July 10 and blind copied to a senior official of the Defendant in Jamaica, in order for some movement to occur, in relation to the request.
26. This further act by Jewel Ebanks of the Defendant, has undoubtedly provided confirmation which makes apparent, efforts which are conspiratorial at best, and designed to adversely affect our interests in relation to our mortgages, and the inescapable inference must be, that the objective is to embarrass, frustrate and disenfranchise us of our dwelling and single investment, particularly so when the conduct of the Defendant’s Jewel Ebanks, flew in the face of our deliberate efforts; to satisfy the “demands” contained in the letters issued by the Defendant.


**AND THE PLAINTIFFS CLAIM:**

1. The Plaintiffs claim is for an Injunction restraining and prohibiting the Defendant whether by himself, his servants or agents or otherwise, from any and all actions, pursuant to Section 64(2) of the Registered Land Law (2004 Revision) the objective of which is to proceed to list and sell the properties more specifically identified as Registration Section- Spotts, Block

25C Parcel 319 and South Sound Block 15C Parcel 252H5 (“the Properties”), owned by the Plaintiffs and which Properties the Defendant holds the first Legal Charge over, as any such action on the part of the Defendant, his servants or agents; will be in breach of the Defendant’s obligations under Section 75(1) of the Registered Land Law (20004 Revision) to act in good faith and unreasonable .

2. The Plaintiffs in addition to Paragraph (a) claim that the proposed or any listing and sale of the properties, or any act by the Defendant, his servants or agents designed to achieve any such objective, would prove a detriment to the Plaintiffs and the Plaintiffs further are of the settled opinion, that there exists a conflict of interest and malfeasance on the part of an employee of the Defendant, which employee prior to, expressed openly to the Plaintiffs and indeed the Defendant, an interest in acquiring the said property identified as South Sound Block 15C Parcel 252 H5, and that the said employee was and remains for all intents and purposes, the person assigned to oversee, administer and had or else continues to have significant conduct and influence over the said Property, and any related affairs, on behalf of the Defendant, in relation to the said Property and has unequivocally and significantly influenced and has eventually participated in the processes associated with the Defendant’s current position as relates to the Plaintiffs Properties, and by inescapable inference, engineered the state of affairs which has led up to the Letters of Demand dated May 22 2014 being issued and ultimately, the decision by the Defendant, to list the said Properties owned by the Plaintiffs ;which the Defendant holds the first Legal Charge over.
3. The Plaintiffs seek an Order of Mandamus restraining and preventing the Defendant from listing and selling the Properties and directing the Defendant on equitable grounds, to grant to the Plaintiffs, the period of a further three months, which is to commence upon the expiry of the period ending September 8 2014, in order that the Plaintiffs might be afforded the opportunity to continue the process of actively seeking to resolve the matter of paying down the arrears and or acquire a mortgage takeover; by another lending institution.

4. No Order as to costs.

  
\_\_\_\_\_  
Dennis Brady (Plaintiff)

  
\_\_\_\_\_  
Claudia Brady (Plaintiff)