

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

CAUSE NO: 85 OF 2018

BETWEEN:

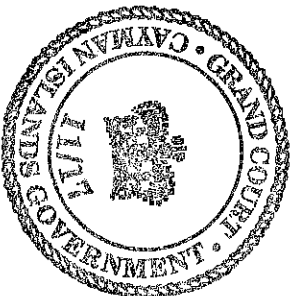
JOSEPH BONSU-AKOTO

PLAINTIFF

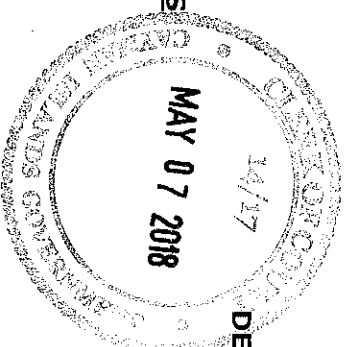
AND:

KENNETH HALL

DEFENDANT



WRIT OF SUMMONS



TO:
Kenneth Hall
Grand Cayman

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff of 4th Floor Harbour Centre, P.O. Box 2255, KY-1107, Grand Cayman 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 Court Office, P.O. Box 495G, 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 **7** day of May 2018

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 a businessman residing in the Cayman Islands with address for service c/o of his Attorneys at Law, 4th Floor Harbour Centre, George Town, Grand Cayman, P.O. Box 2255 KY1-1107.
2. In or around 2014 the plaintiff and defendant became known to each other; the plaintiff is a business consultant and the defendant is a businessman and more specifically a property developer.
3. In 2015 the plaintiff became aware of a business opportunity on land parcel identified as West Bay North West 4C Parcel 608 ("4C 608"). The land formed part of a partially completed residential strata complex registered as The Proprietors, Strata Plan 579 at the Cayman Islands Department of Lands and Survey and commonly known as Suelliis Estates.
4. At the time of purchase by the plaintiff of 4C Parcel 608, units H15-H20 as outlined on the Strata plan had not been subdivided and remained within 4C 608. The plaintiff's intention was to purchase 4C Parcel 608, complete the construction and development of units H15-H20 and sub-divide and sell the units to third party purchasers.
5. In order to fund the purchase and subsequent construction works and related costs the plaintiff entered into negotiations with the defendant to borrow the total sum of US\$400,000.
6. The defendant agreed to lend the plaintiff the said sum of US\$400,000 on the following terms:
 - (a) Interest was payable at 7% per annum
 - (b) Repayment of the loan and interest was due on or before March 31, 2017
 - (c) The plaintiff agreed to allow the defendant to place a charge for US\$170,000 over 4C 608
 - (d) The plaintiff's wife agreed to allow the defendant to place a charge for US\$230,000 over the plaintiff's matrimonial home, West Bay North West, Block 4C Parcel 608H14.
7. On or about 25th March 2015 the defendant did lend the plaintiff the sum of US\$400,000 and on 24th February 2016 the charge outlined at paragraph 6(d) was registered at the Cayman Islands Department of Lands and Survey.
8. The plaintiff progressed the development on the remaining Strata lots contained within Parcel 4C 608 and obtained individual registers for Units H15-H20 at the Strata and sub-divided these parcels from 4C H608 to form 6 individual land parcels called West Bay North West, Block 4C Parcel 608H15 - West Bay North West, Block 4C Parcel 608H20 ("H15-H20").

9. To allow the sub-division of land parcels, the defendant consented to the charge as set out above at paragraph 6(c) to be spread over H15-H20 with all other terms remaining the same.

10. In April 2017, the plaintiff secured a buyer for Unit H15 and at closing the purchasers bank provided a cheque in the sum of KYD\$216,900/USD\$271,125 made payable to the defendant. In exchange for this cheque the defendant agreed to release the charge held against H15.

11. As a result of this repayment the entire sum of USD\$170,000 was repaid with interest and an excess of \$76,479.40

12. was made and could be credited to the total lending of the defendant to the plaintiff. A table setting out the effect of the repayment is below.

| | |
|-------------------------------|--------------------|
| Date of Loan | 25 March 2015 |
| Amount of Loan | USD\$170,000 |
| Rate of Interest | 7% p.a. |
| Date of Repayment | 19 April 2017 |
| Days of loan | 756 |
| Daily Interest | \$32.60 |
| Total Interest | \$24,645.60 |
| Total Owning at 19 April 2017 | \$194,645.60 |
| Payment 19 April 2017 | USD\$271,125 |
| Balance Overpayment | \$76,479.40 |

13. In July 2017, the plaintiff procured a buyer for H19 with a sale price of CI\$232,000. On 27th July 2017, the property sold and at closing the purchaser's bank made a cheque payable to the defendant for the sum of CI\$227,075. The effect of this payment to the defendant extinguished the indebtedness of the plaintiff to the defendant in total and the effect on the loan secured over West Bay North West, Block 4C Parcel 608H14 was as follows:

| | |
|-------------------------------|--------------------|
| Date of Loan | 25 March 2015 |
| Amount of Loan | US\$230,000 |
| Rate of Interest | 7% p.a. |
| Date of Repayment | 27 July 2017 |
| Days of Loan | 855 |
| Daily Interest | \$44.11 |
| Total Interest | \$37,714.05 |
| Total Principal plus interest | \$267,714.05 |
| Overpayment applied | \$76,479.40 |
| Balance owing | \$191,234.65 |
| Payment made | \$283,843.75 |
| Overpayment | \$92,609.10 |

14. As a result of the above repayments made to the defendant by the plaintiff, the plaintiff sought to have the defendant release the charges held over properties H15, H17, H18 and H20 and the defendant has failed and refused to do so.

15. The plaintiff caused a formal demand to release the charges to be sent to the defendant on 4 October 2017 and the defendant has indicated that the charges will not be removed and that further sums were loaned to the plaintiff.

16. It is disputed by the plaintiff that the defendant is owed any sums secured by way of charge or otherwise and the defendant has failed to:

- (a) render to the plaintiff a true and full account of the sums alleged to be owing;
- (b) allow a discharge of the charge held by the defendant over the plaintiff's land.

17. By reason of the matters pleaded the plaintiff has suffered loss and damage, the particulars of which the plaintiff cannot give until after discovery and inspection and/or interrogatories in this action.

AND THE PLAINTIFF claims:

- 1. An Order that the defendant do sign a discharge of charge over properties West Bay North West Parcel 4C Block H15, H17, H18 and H20 forthwith;
- 2. An account as of the date of issue of proceedings of all sums owed by the defendant to the plaintiff or vice versa;
- 3. Damages for improper failure to remove the charge from the plaintiffs' land;
- 4. Interest;
- 5. Further or other relief, including all further necessary or appropriate accounts, inquiries and directions;
- 2. Costs.


KSG Attorneys-at-Law
On Behalf of the Plaintiff

**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 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 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 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 2018

BETWEEN:

| | | |
|---------------------------|-------------|------------------|
| JOSEPH BONSU-AKOTO | AND: | PLAINTIFF |
| KENNETH HALL | | 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. |
|---|--|

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

Notes on address for service

Please complete overleaf

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.

KSG Attorneys-at-Law
4th Floor Harbour Centre
42 North Church Street
George Town
Cayman Islands
P.O. Box 2255
KY1-1107

Indorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.