

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC 133 OF 2019

BETWEEN:

FRANK HALL HOLDINGS LTD

PLAINTIFF

AND:



TASHA M. LEMAY



DEFENDANT

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**AMENDED PLAINT**

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**To the Defendant:**

**Tasha M. Lemay**  
211 Watershed Circle  
Bodden Town, Grand Cayman

**THIS PLAINT** 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 service of this Plaintiff on you, counting the day of service, you must either satisfy the claim or return to the Court Office, PO Box 495, George Town, Grand Cayman, KY1-1106 the accompanying Acknowledgment of Service Form stating therein whether you intend to contest this action. If you intend to defend the action, in whole or in part, you must set out **full particulars of your defence** in the space provided in the Acknowledgment of Service form.

**If you fail** to satisfy the claim or fail to return the Acknowledgment of Service form containing full particulars of your defence, the Plaintiff may apply for a **default judgment** without any further notice to you.

Issued this 14<sup>th</sup> ~~June~~ 18<sup>th</sup> day of ~~June~~ July 2019.

**See overleaf for particulars of the Plaintiff's claim.**

## PARTICULARS OF AMENDED CLAIM

1. The Plaintiff is an ordinary resident company having its office at 67 Mary Street, George Town, Grand Cayman. The Plaintiff is a construction company that builds affordable houses.
2. The Defendant is Caymanian, resides at 211 Watershed Circle, Bodden Town, and is employed as an Executive Legal Secretary by Walkers Global in George Town, Grand Cayman.
3. In or around 11 May 2015, April 2016 the Defendant contracted with the Plaintiff company to for the purchase of a parcel of land legally described in the Land Registry of the Cayman Islands as Block 32B, Parcel 298, and to construct a dwelling house. Based on the Defendant's proposed budget, the Plaintiff indicated that it could construct a dwelling house comprising of 1,600 square feet on the parcel of land. The construction of the dwelling house was completed in April 2018.
4. In July 2015, the Defendant then contacted Mr. George Manderson Jr. ("the Architect"), the architect instructed by the Plaintiff, provided him with two floor plans, one comprising of 2,000 square feet and the other comprising of 1,875 square feet, and requested that these plans be modified to reduce the square footage to 1,600 square feet.
5. The Architect, in keeping with the Defendant's instructions, modified the proposed plans and provided her with the drawings. The Architect indicated to the Defendant that based on her requirement, the least amount of square footage would be 1,656 square feet. The Defendant consented to this, and the relevant drawings, which importantly included 10-foot ceilings, were sent to the Defendant for her approval. At this stage, the Defendant was informed that the Plaintiff would need to obtain the final plans and drawings from the Architect prior to providing the Defendant with the cost of the proposed modifications, and that the Plaintiff would, in the interim, apply to obtain approval from the Department of Planning to commence construction. The Plaintiff obtained approval from the Department of Planning to begin construction in November 2015.
6. Accordingly, the Defendant's approved plans included the following:
  - a) An additional 56 square feet; and
  - b) Raising the internal roof beam from the standard 8.4 feet to 10 feet. (Collectively referred to as "Modifications").
7. On 13 April 2016, the Defendant made contact with the Plaintiff's Manager, Mr. Alistair Cox ("Mr. Cox") via email asking for a breakdown of costs for the Modifications. Mr. Cox responded via email on 14 April 2016 providing the Defendant with the breakdown of costs as follows:

Cost of Land \$52,500.00

Cost of AC \$8,500.00

Included in the \$125 per sq. ft. is the cost of labor and materials from the foundation to the roof. Also included is \$1,500 for the increase in size of your cabinets as compared to our standard homes. .

The differences that were not priced in the original offer to purchase are:

the additional 56 sq.ft. \$7,000.00

The 10ft ceilings \$7,000.00

the cost to revise the building permit after it was issued re 2nd AC and add a gas appliance \$788.00

8. In addition to the Modifications, on the Defendant's insistence, the Plaintiff agreed to the Defendant taking direct responsibility for the installation of the air conditioning system and cabinetry in the dwelling house. Despite firm assurances to the contrary, the Defendant was unable to facilitate a timely completion of this work, which caused numerous delays in the construction of the dwelling house.
9. At closing, the Defendant owed the Plaintiff CI\$15,509.00 being ~~variety of~~ the costs arising from various the Modifications, and upgrades and structural changes in the course of construction of the dwelling house. In March 2018, the Plaintiff was ready, willing and able to complete the sale of the dwelling house.
10. The Defendant refused to pay for the costs of the Modifications, expressed her willingness to sue the Plaintiff in relation to the additional costs, and instructed legal counsel in relation to the the additional costs. The Defendant's attorney made contact with Mr. Cox seeking to mediate between the parties, which led to the The Plaintiff and the Defendant compromised compromising the sum, as a result of which compromise, the Defendant executed a Promissory Note ("the Note") in the sum of CI\$7,000.00 in favour of the Plaintiff.
11. The Note was drafted by the Defendant's attorney, and was presented to the Plaintiff by the Defendant.
12. The Note was executed on 30 April 2018, and pursuant to the terms of the Note, the Defendant agreed to pay the Plaintiff, the sum of CI\$7,000.00 on 30 April 2019.
13. By clause 1 of the Note, the Defendant:
  - a. Acknowledged a debt of CI\$7,000.000 ("the Debt") payable to the Plaintiff; and
  - b. Agreed to pay the Plaintiff the Debt within 1 calendar year of 30 April 2018.
14. The Plaintiff has made demand of the Debt to repay the Debt by email dated 30 April 2019.
15. In the premises, the Defendant is, by virtue of her execution of the Note, estopped from denying the indebtedness in the sum of CI\$7,000.00 plus costs and interest.
16. In the alternative, the Defendant has refused to, or is unable to repay the Debt, in accordance with the terms of the Note. The Defendant has failed to perform her obligations under the Note.
17. The consideration for the Plaintiff agreeing to the Debt is the execution and fulfillment of the Note by the Defendant. The Defendant, by refusing to repay the Debt, has breached her obligation under the Note.
18. Such breach by the Defendant constitutes a repudiation of the terms of the Note, including the compromise of the debt.
19. By reason of the repudiation of the Note and the compromise, the Plaintiff is entitled to the full amount of the debt owing at closing.
20. In the premises, the Defendant Plaintiff claims the uncompromised sum of CI\$15,509.00.

21. In the alternative, the Plaintiff claims is indebted to the Plaintiff in the sum of C\$~~7,678.30~~ 9,114.70, calculated as follows:

i.	The Debt:	\$7,000.00
ii.	Attorneys' fees:	<del>\$678.30</del> <u>2,668.80</u> (as at date of issuance of Amended Plaintiff)
	<b>Total</b>	<del>\$7,678.30</del> <u>9,668.80</u>

22. By clause 10 of the Note, the Defendant agreed to pay "*all costs for collection on this Note, including Court costs and attorney's fees*".

23. The Plaintiff, has to date, incurred the sum of C\$~~678.30~~ 2,668.80 in attorneys' fees in reaching to enforce the Note.

24. The Plaintiff pleads and relies on s.34 of the Judicature Law (2013 Revision) and the Judgment Debts (Rates of Interest) Rules 2008 and pleads that it is entitled to pre-judgment and post-judgment interest pursuant to s.34 of the Judicature Law (2013 Revision) and the Judgment Debts (Rates of Interest) Rules 2010 and 2012 at the prescribed rate of 2 $\frac{3}{8}$ % p.a. (C\$~~0.50~~ 0.62 per diem) from 1 May 2019.

**AND** the Plaintiff therefore claims:

a) Judgement in the sum of C\$15,509.00

Or in the alternative:

b) Judgment in the sum of C\$~~7,678.30~~ 9,668.80;

c) Pre-judgment interest from 1 May 2019 to ~~14 June~~ 18 July 2019 (44 78 days) in the sum of C\$~~22.00~~ \$48.36 and accruing thereafter at the rate of 2 $\frac{3}{8}$ % per annum (C\$~~0.50~~ 0.62 per diem);

d) Fixed costs of \$150.00, \$25.00 filing fee, and bailiff's \$60.00 fee for service pursuant to Summary Court Rule 11(1), or alternatively costs to be assessed, with interest thereon;

e) Such further and other relief as to this Honourable Court may seem just.

**DATED** at Georgetown, Grand Cayman this 14<sup>th</sup> 18<sup>th</sup> day of ~~June~~ July 2019.

  
\_\_\_\_\_  
Hampson and Company  
Attorneys for the Plaintiff

Plaintiff's address for service: Hampson and Company, Attorneys-at-Law, Apollo House East, 4<sup>th</sup> Floor, 87 Mary Street, George Town, P.O. Box 698 Grand Cayman KY1-1107

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ACKNOWLEDGMENT OF SERVICE OF AMENDED PLAINT

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1. State Defendant's name and address -

2. State whether the Defendant intends to contest the action.  
 Yes       No
3. If you do not intend to contest the action, do you want time in which to pay the claim?  
Yes       No
4. If you do intend to contest the action, in whole or in part, you must set out full particulars of your defence overleaf.

**Service of the Plaintiff is acknowledged accordingly.**

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Defendant's Signature

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

See Overleaf

**PARTICULARS OF DEFENCE**

(Here set out in numbered paragraphs the grounds upon which the Defendant says that he is not liable to the Plaintiff, or is not liable for the full amount claimed)

\_\_\_\_\_  
Defendant's Signature

**REMINDER -** This form must be taken or sent to the Court Office, PO Box 495, George Town, Grand Cayman KY1-1106, within 14 days of receipt otherwise a default judgment may be entered against you.