

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO: 21 OF 2020

BETWEEN:

KEITH DAVID WONG

PLAINTIFF

AND:



SCOTIABANK (CAYMAN) LIMITED



DEFENDANT

WRIT OF SUMMONS

TO: ScotiaBank (Cayman) Cayman Islands.

THIS WRIT OF SUMMONS has been issued against you by the above named Plaintiff, of 87 Mary Street, 4th Floor, George Town, Grand Cayman in respect of the claims set out on the next page.

Within 14 days after service of this Writ on you, (or where this Writ is served on you out of the jurisdiction pursuant to an Order of the Court, within 28 days) counting the day of service, you must either satisfy the claim or return to the Courts Office, P.O. Box 495, George Town, Grand Cayman, KY1-1106, Cayman Islands 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 any 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 day of February 2020.

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 original issuance unless renewed by order of the Court.

IMPORTANT

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

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

CAUSE NO: OF 2019

BETWEEN:

KEITH DAVID WONG

PLAINTIFF

AND:

SCOTIABANK (CAYMAN) LIMITED

DEFENDANT

STATEMENT OF CLAIM

1. The Plaintiff is was at all material times a natural person, resident in the Cayman Islands.
2. The Defendant is a company duly incorporated according to the law of the Cayman Islands, and carrying on business as a retail bank.
3. The Plaintiff is and was at all material times a customer of the Defendant company.
4. By virtue of the relationship of customer and banker, the Defendant owes the Plaintiff a duty to take reasonable care in management of the Plaintiff's affairs, insofar as the Defendant is able to affect the interests of the Plaintiff.
5. On or about May 1998, the plaintiff entered into a, with Thomas Henry Edlin Merrin, for the purchase of vacant land, more properly described as registration section Lower Valley, Block 30 8B, parcel 62 ("the First Property Property").
6. In order to purchase the property, the plaintiff entered into a mortgage agreement with the defendant, whereby the defendant would loan to the plaintiff and the sum of CUS\$275,000.
7. The proceeds of the loan were to be distributed as follows:
 - a. CUS\$40,000.00 for the purchase of the Property;
 - b. CUS\$215,000.00 for construction costs; and
 - c. CUS\$20,000.00 for miscellaneous establishment costs, such as legal expenses and stamp duty payments on the mortgage and the purchase of the Property.

8. In or about May 1998, the plaintiff executed all necessary documents in order to purchase the property and secure the loan from the Defendant, including the Transfer of Land, dated 15 May 1998, and a Charge instrument.
9. Due to the passage of time, and the failure by the Defendant to provide documentation, the Plaintiff has limited records of his dealings as outlined above.
10. Notwithstanding provision by the Plaintiff to the Defendant of all relevant documents to effect the transfer of registration of the Property to the Plaintiff, the Defendant failed to lodge any documents with the Lands & Survey Department.
11. It was an implied term of the contractual relationship between the Plaintiff and the Defendant that the Defendant would take all reasonable steps to secure the transfer of the Property to the Plaintiff.
12. The Defendant's failure to take any steps to protect the Plaintiff's interests constitutes a breach of the implied term of that contract.
13. On 21 December 1998, the plaintiff commenced repayment of the loan, in the sum of \$2700 per month. Since that time, the plaintiff has regularly paid his mortgage repayments, as dictated by the defendant.
14. Notwithstanding the making of consistent payments, the Defendant alleges that the Plaintiff remains indebted to it in the sum of \$133,821.52.
15. The Defendant has failed to make proper accounting of all payments towards his mortgage. Numerous payments were characterized by the Defendant as being entirely attributable to interest, and did not reduce the principal sum at all.
16. The accounting procedure adopted by the Defendant does not constitute the expected standard of a reasonable bank, taking care of the interests of its client.
17. In or about March 1997, the plaintiff purchased a block of vacant land, properly described as Block 44B, Parcel 61 Bodden Town ("Second Property"). The plaintiff obtained a loan of CI\$9,300 from the defendant for the purchase of the Second Property.
18. On or about 14 April 1997, the defendant registered a charge over the Second Property.
19. In consideration of that charge, the plaintiff regularly repaid the loan to the defendant. The plaintiff discharged all indebtedness to the defendant in respect to that charge.
20. In or about December 2019, the plaintiff secured an offer to purchase the Second Property, for the sum of CI\$150,000. The plaintiff requested that the defendant provide a Discharge and Release of charge, to allow the sale to be finalized.
21. Without adequate explanation, the defendant failed to comply with such request. The defendant has failed to provide any or any adequate accounting of the sums said to be owed to the defendant. Further, and without clear explanation, it is inferred that the defendant is treating the charge over the Second Property as bearing an "all monies clause".

22. Despite repeated requests, the defendant has provided no evidence of any sums owing by the plaintiff, including:
- a. Copies any mortgage instruments;
 - b. Reconciliation of payments made in respect either to the First Property or the Second Property; and
 - c. A clear and unequivocal accounting of the sums owed.
23. The defendant has been invited to provide the documentation referred to in paragraph 22 above on numerous occasions, and has failed or refused to comply with any such request.
24. As a consequence of the defendant's failure, the plaintiff has suffered loss and damage as follows:
- a. The Plaintiff has been exposed to significant interest and penalty payments in respect to the late lodgement of documents;
 - b. The Plaintiff has been deprived of his rights and interests as proprietor of the land; and
 - c. The Plaintiff has been deprived of the opportunity to effect a sale of both properties, and has suffered economic loss as a consequence, full particulars of which will be provided at trial.

AND the Plaintiff therefore claims:

- a) Damages for breach of contract;
- b) In the alternative, damages in negligence;
- c) A declaration that the plaintiff is entitled to a full accounting on the mortgage of the First Property;
- d) A Release and Discharge of Mortgage on the Second Property;
- e) Interest on all outstanding sums at a rate of 13.5%; and
- f) His costs of this action on a full indemnity basis; and
- g) Such further and other relief as to this Honourable Court may seem just.

DATED at Grand Cayman this 3rd day of February 2020.


Hampson and Company
Plaintiff

THIS WRIT OF SUMMONS AND STATEMENT OF CLAIM are filed by Hampson and Company, attorneys whose address is 87 Mary Street, 4th Floor, George Town, P.O. Box 698, Grand Cayman KY1-1107, Cayman Islands.

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

CAUSE NO: OF 2020

BETWEEN:

KEITH DAVID WONG

PLAINTIFF

AND:

SCOTIABANK (CAYMAN) LIMITED

DEFENDANT

ACKNOWLEDGMENT OF SERVICE OF AMENDED 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.

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

ScotiaBank (Cayma) Limited

2. State whether the Defendant intends to contest the proceedings (tick 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 Plaintiff (tick box)3.

Yes

No

Service of the Writ is acknowledged accordingly

Signed

Address for service:

Please complete overleaf

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

Hampson and Company
Attorneys-at-Law
Citrus Grove, 5th Floor, Goring Avenue
P.O. Box 698
Grand Cayman KY1-1107
Cayman Islands

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

[Empty box for defendant's attorney indorsement]