

IN THE GRAND COURT OF THE CAYMAN ISLANDS

592
CAUSE NO. OF 2007



CAYMAN NATIONAL BANK

Plaintiff

ROLAND SCHOEFER

Defendant



WRIT OF SUMMONS

To: Roland Schoefer, P.O. Box 524, George Town, Grand Cayman KY1-1107

THIS WRIT OF SUMMONS 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 Writ on you, counting the day of service, you must either satisfy the claim or return to the Court office, PO Box 495 GT 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 judgement may be entered against you forthwith without further notice.

ISSUED this 5th day of Dec 2007.

NOTE – this Writ may not be served later than 4 calendar months beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

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

STATEMENT OF CLAIM

1. The Plaintiff is a Bank which is licensed under the Banks and Trust Companies Law (2003 Revision) to undertake banking business.
2. The Defendant is a customer of the Bank and has been such for a number of years.
3. The Defendant has been in persistent breach of his obligations under the terms of his loan accounts with the Plaintiff and has been given ample opportunity to perform his obligations, which he has failed to do. The Plaintiff therefore now seeks to enforce its rights pursuant to its security.
4. By a Charge dated the 2 June 1995 (the "First Charge"), the Defendant charged his interest in Registration Section High Rock, Block 64A, Parcel 64 to the Plaintiff for the principal sum of US\$195,000.00.
5. On 30 January 1997, the Land Registry changed Parcel 64 to Parcel numbers 129 and 130. The Plaintiff now holds as security a First Charge over Parcel 129.
6. By clause 11 of the Schedule to the First Charge, it was agreed as follows:

"11 – s. 72 of the above Law shall be varied in its application to this Charge and of any instrument of variation executed pursuant to this Charge so as to entitle the Chargee immediately upon default upon the Chargor in payment of the principal sum of any interest payable hereunder or any performance or observance of any agreement expressed or implied herein to serve on the Chargor notice in writing to pay the monies owing or due or to perform or observe the agreement as the case may be and further so as to provide that if the Chargor does not comply within one month of the date of service of such notice, the Chargee may thereupon either appoint a receiver of the income of the charged property or sell the charged property by private treaty as well as by public auction or by tender."

The Charge will be adduced in evidence so as to establish its true terms and effect.

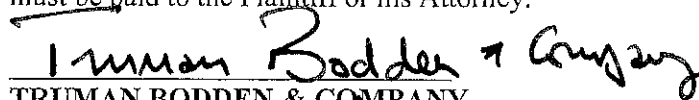
7. By a Variation of Charge dated 3 October 1997, the First Charge was varied inter alia by increasing the principal sum from US\$195,000.00 to US\$335,000.00.
8. By a Variation of Charge dated 4 August 1998, the First Charge was further varied by inter alia increasing the principal sum from the outstanding amount of US\$330,902.00 to a total of US\$480,000.00.
9. By a Collateral Charge (ie. Collateral to the First Charge) dated 3 September 1997, the Defendant and his ex-wife Laure Faust Schoefer charged their interest in Registration Section High Rock, Block 64A, Parcel 121 to the Plaintiff.
10. The Collateral Charge over Registration Section High Rock, Block 64A, Parcel 121 at clause 11 of the Schedule contained a term identical to the term in paragraph 6 above.

11. By a Variation of Collateral Charge dated 4 August 1998, the Defendant and Laure Faust Schoefer varied the Collateral Charge over High Rock 64A, Parcel 121.
12. By a Collateral Charge to the First Charge dated 3 September 1997, the Defendant and Laure Faust Schoefer charged their interest in Registration Section High Rock, Block 64A, Parcel 124 to the Plaintiff.
13. By clause 11 contained in the Schedule to the Collateral Charge, the Defendant agreed to the term as contained in paragraph 6 above.
14. By a Variation of Collateral Charge dated 4 August 1998, the Defendant varied the Collateral Charge granted to the Plaintiff over Registration Section High Rock, Block 64A, Parcel 124.
15. By Transfer dated 15 October 2002, Laure Faust Schoefer (the Defendant's ex-wife) transferred her interest in Parcel 129 to the Defendant in consideration of natural love and affection.
16. The Defendant has persistently been in arrears with payments under the First Charge and Collateral Charges despite repeated requests made by the Plaintiff for him to make the payments. The Defendant has failed to clear off all the arrears and to make proper payments on the proper dates. The Defendant has failed and continues to fail to observe the terms and conditions of the first Charge and the collateral Charges.
17. On the 28 February 2006, the Plaintiff served on the Defendant Notices under s. 64(2) of the Registered Land Law (2004 Revision) and also under s. 72 of the Registered Land Law (1995 Revision).
18. By letter dated 31 May 2007, the Plaintiff's attorneys-at-law wrote to the Defendant by Registered Mail granting him 14 days within which to discharge the debt, failing which Court proceedings would be issued. The Defendant did not claim the letter and so it was returned to the sender.

AND THE PLAINTIFF CLAIMS:

- (1) Payment of US\$379,243.34 for principal and US\$111,369.13 for interest and further interest at the rate of 2% above US dollar prime effective 9.75% at the date of the issue of this Writ.
- (2) In default of payment sale of the charged property by private treaty.
- (3) Costs.
- (4) Further or other relief.

If, within the time for returning the Acknowledgement of Service, the Defendant pays the total amount claimed of US\$490,612.47 (including interest and costs) further proceedings will be stayed. The money must be paid to the Plaintiff or his Attorney.


TRUMAN BODDEN & COMPANY
 For and on behalf of the Plaintiffs

THIS WRIT was issued by Truman Bodden & Company, Attorneys for Plaintiff, PO Box 866, Anderson Square Building, Shedden Road, Grand Cayman KY1-1103, Cayman Islands, B.W.I.

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS

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 495G, George Town, Grand Cayman.

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. If you wish to defend claims made in the originating summons, or intend to attend the proceedings and to participate in them so far as necessary (although not necessarily in an adversarial manner) you should tick the "Yes" box in paragraph 2 of the acknowledgement of service.
3. 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.
4. 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 named stated on the Writ of Summons*)".
5. 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.
6. 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.
7. 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.
8. Where the Defendant is a **MINOR** or a **MENTAL PATIENT**, the form must be completed by an Attorney acting for a guardian *ad litem*.
9. A Defendant acting in person may obtain help in completing the form at the Courts Office.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. ____ of 2007

BETWEEN: CAYMAN NATIONAL BANK PLAINTIFF

AND: ROLAND SCHOEFER 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 of Summons is being acknowledged.

2. State whether the Defendant intends to contest or otherwise participate in 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

[Defendant in person]

Address for Service:

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 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.

Truman Bodden & Company
PO Box 866
Anderson Square Building
George Town
Grand Cayman KY1-1103
Ref: PSB/75-928

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

