

4

# General Form of Judgment or Order

In the County Court at  
Scarborough

Claim Number 4PA41550

Date 4 October 2017



BANK OF SCOTLAND PLC	1 <sup>st</sup> Claimant Ref CADDYL/209964.000140
PAUL MICHAELS	1 <sup>st</sup> Defendant Ref
CHARLOTTE S MICHAELS	2 <sup>nd</sup> Defendant Ref

Before His Honour Judge Mark Raeside QC sitting at the County Court at Leeds, Leeds Combined Court Centre, The Courthouse, 1 Oxford Row, Leeds, LS1 3BG.

UPON the trial of the Claim and Counterclaim

AND UPON hearing the Claimant by Mr McCluskey of Counsel and the Defendants in person represented by the First Defendant

AND UPON the Court giving an extempore oral judgment on 9 March 2017 and correcting the transcript of that judgment as agreed with the parties and handing down that judgment on 3 October 2017

AND UPON the Court extending time for any application for permission to appeal to the hearing on 3 October 2017 under CPR r.52.3(2)

AND UPON the Claimant filing a witness statement of Mr Antony Gibbons dated 2 October 2017 updated orally to include further costs claimed pursuant to clause 23 of the Claimant's Mortgage Conditions 2004 (2nd Edition)

**IT IS ORDERED that:**

(1) It is recorded that this action was transferred from the County Court to the Chancery Division of the High Court under new case number D30LS589, with the agreement of the parties on the first day of the trial on 8 March 2017. This new number should be used on all correspondence.

(2) The Defendants do give the Claimant possession of the property known as Low Newbiggin House, Aislaby, Whitby, YO21 1TQ registered at HM Land Registry under Title Number NYK256562 by no later than 4.30 pm on 31 October 2017.

(3) The Defendants do pay to the Claimant the sum of £1,356,985.74 by no later than 31 October 2017.

(4) The Claimant shall file an updating witness statement confirming the principal, interest and costs in respect of which judgment has been obtained by no later than 4.30 pm 17 October 2017.

(5) The Defendants' application by application notice dated 2 October 2017 is dismissed.

The court office at the County Court at Scarborough, Scarborough Justice Centre, The Law Courts, Northway, Scarborough, YO12 7AE. When corresponding with the court, please address forms or letters to the Court Manager and quote the claim number. Tel: 01723 505000 Fax: 01264 785001. Check if you can issue your claim online. It will save you time and money. Go to [www.moneyclaim.gov.uk](http://www.moneyclaim.gov.uk) to find out more.

Produced by: H Chapman  
CJR065C

(6) Permission to appeal is refused. Any further application for permission to appeal should be made to the Court of Appeal.

(7) The Defendants' application for a stay of this Order is refused.

Dated 4 October 2017

5

6

# Reasons for allowing or refusing permission to appeal (including referral to the Court of Appeal (Civil Division)), and information concerning routes of Appeal

The judge must complete this form on allowing or refusing an application for permission to appeal at a hearing or trial

Title of case/claim

Case/claim no

Heard/trie**d** before (insert name of Judge)

Date of hearing/trial

Nature of hearing/trial

Result of hearing/trial

The judgment/order is  Final  Not final

An appeal lies from this judgment/order to the

OR

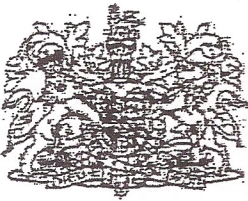
No appeal lies from this judgment/order

Claimant's/defendant's application for permission to appeal  Allowed  Refused

Refused as being totally without merit  
(There is no right to renew this application at an oral hearing.)

continued over the page

7



# Claim form for possession of property

In the Middlesbrough County Court	
Claim No.	

**Claimant**  
*(names and address(es))*

Bank of Scotland plc  
The Mound  
Edinburgh  
EH1 1YZ

**Defendant(s)**  
*(names and address(es))*

Paul Michaels  
Bohunt Manor Barn  
Liphook  
Hants  
GU30 7DL

Charlotte S Michaels  
Low Newbiggin House  
Aislaby  
Whitby  
YO21 1TQ

The claimant is claiming possession of: Low Newbiggin House Aislaby Whitby YO21 1TQ (comprised under Title Number NYK256562)

which ~~(includes)~~ ~~(does not include)~~ residential property. Full particulars of the claim are attached. (The claimant is also making a claim for money).

This claim will be heard on: \_\_\_\_\_ at \_\_\_\_\_ am/pm  
on \_\_\_\_\_ at \_\_\_\_\_

**At the hearing**

- The court will consider whether or not you must leave the property and, if so, when.
- It will take into account information the claimant provides and any you provide.

**What you should do**

- Get help and advice immediately from a solicitor or an advice agency.
- Help yourself and the court by filling in the defence form and coming to the hearing to make sure the court knows all the facts.

Defendant's name and address for service

Mr Michaels, Bohunt Manor Barn, Liphook, Hants, GU30-7DL
Mrs Michaels, Low Newbiggin House, Aislaby, Whitby, YO21 1TQ

Court fee	£175.00
Solicitor's costs	£
Total amount	£175.00

Issue date	
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Claim No.

Grounds for possession

Anti-social behaviour

The claim for possession is made on the following ground(s): The claimant is alleging:

- rent arrears
- other breach of tenancy
- forfeiture of the lease
- mortgage arrears
- other breach of the mortgage
- trespass
- other (please specify) \_\_\_\_\_

- actual or threatened anti-social behaviour
- actual or threatened use of the property for unlawful purposes

- Is the claimant claiming demotion of tenancy?  Yes  No
- Is the claimant claiming an order suspending the right to buy?  Yes  No
- See full details in the attached particulars of claim.
- Does, or will, the claim include any issues under the Human Rights Act 1998?  Yes  No

Statement of Truth

\*(I believe) (The claimant believes) that the facts stated in this claim form are true.  
\* I am duly authorised by the claimant to sign this statement.

Signed Matthew Wightman date 12 March 2014

\*(Claimant)(Litigation friend (where the claimant is a child or a patient))(Claimant's solicitor)

\* delete as appropriate

Full Name MR MATTHEW WIGHTMAN

Name of claimant's solicitor's firm HL Interactive

position or office held Partner  
*(if signing on behalf of firm or company)*

Claimant's or claimant's solicitor's address to which documents or payments should be sent if different from overleaf

HL Interactive  
20<sup>th</sup> Floor  
City Tower  
Piccadilly Plaza  
Manchester  
  
Postcode M1 4BT

If applicable	
Ref no.	MBJ/B07050.2411 (Case ID 298698)
fax no.	0161 831 1926
DX no.	724000 Manchester 39
e-mail	repossession@hlinteractive.com
Tel. no.	0845 365 3852

**Particulars of claim  
for possession**

(mortgaged residential  
premises)

In the  
Middlesbrough County Court.

Claim No.

Bank of Scotland plc  
Paul Michaels  
Charlotte S Michaels  
Claimant  
Defendant

1. The claimant has a right to possession of:

Low Newbiggin House Aislaby Whitby YO21 1TQ (comprised under title number NYK256562)

**About the mortgage**

2. On 17 January 2007 the claimant (s) and the defendant(s) entered into a mortgage of the above premises.

3. To the best of the claimant's knowledge the following persons are in possession of the property:

Paul Michaels  
Charlotte S Michaels

*[Delete (a) or (b) as appropriate]*

4. ~~(a) The agreement for the loan secured by the mortgage (or at least one of them) is a regulated consumer credit agreement. Notice of default was given to the defendant(s) on~~

(b) The agreement for the loan secured by the mortgage is not (or none of them is) a regulated consumer credit agreement.

5. The claimant is asking for possession on the following ground(s):

(a) the defendant(s) (has)(have) not paid the agreed repayments of the loan and interest.  
*Give details (as required under paragraph 2.5 of Practice Direction accompanying Part 55 of the Civil Procedure Rules):*

The arrears at 12 March 2014 are £17,363.04.

The mortgage conditions provide that the amount secured shall be immediately repayable to the claimant and the statutory power of sale shall arise and be exercisable if there is default in the payment of any monthly payment or in the payment of any monies due.

~~(b) because~~

6. (a) The amount loaned was £1,000,000.00

(b) The current terms of repayment are: *(include any current periodic repayment and any current payment of interest)*

Account Number 70352947390500: Current Monthly payments of £1,335.56

(c) The total amount required to pay the mortgage in full as at 12 March 2014 (not more than 14 days after the claim was issued) would be £1,135,021.47 taking into account any adjustment for early settlement. This does not include £288.00, plus VAT, court fees and disbursements, payable for solicitors' costs and administration charges.

~~(d) The following additional payments are also required under the terms of the mortgage:~~

£ \_\_\_\_\_ for \_\_\_\_\_ ~~[not] included in 6(e)~~  
£ \_\_\_\_\_ for \_\_\_\_\_ ~~[not] included in 6(e)~~

~~£~~ \_\_\_\_\_ for \_\_\_\_\_ ~~[not] included in 5(e)~~

~~(e) Of the payments in paragraph 6(d), the following are in arrears:~~

\_\_\_\_\_ arrears of £  
\_\_\_\_\_ arrears of £  
\_\_\_\_\_ arrears of £

~~[(e) The total amount outstanding under the regulated loan agreement secured by the mortgage is £ ]~~

(f) Interest rates which have been applied to the mortgage:

- |       |   |            |
|-------|---|------------|
| (i)   | at the start of the mortgage                | 7.50% p.a. |
| (ii)  | immediately before any arrears were accrued | 4.95% p.a. |
| (iii) | at the start of the claim                   | 3.99% p.a. |

7. The following steps have already been taken to recover the money secured by the mortgage:

The claimant wrote to the defendants on the 28 November 2013 requesting payment of the mortgage account arrears.

#### About the defendant(s)

8. The following information is known about the defendant's circumstances:  
*(in particular say whether the defendant(s) (is/are) in receipt of social security benefits and whether any payments are made directly to the claimant)*

The Defendant(s) are not in receipt of social security benefits; and

To the best of the Claimant's knowledge, the mortgaged property is occupied by the Defendant(s).

*[Delete either (a) or (b) as appropriate]*

9. (a) There is no one who should be given notice of these proceedings because of a registered interest in the property under section 31(10) of the Family Law Act 1996 or section 2(8) or 8(3) of the Matrimonial Homes Act 1983 or section 2(7) of the Matrimonial Homes Act 1967

(b) Notice of these proceedings will be given to \_\_\_\_\_ who has a registered interest in the property.

#### Tenancy

*[Delete if appropriate]*

10. A tenancy was entered into between the mortgagor and the mortgagee on \_\_\_\_\_  
A notice was served on \_\_\_\_\_

What the court is being asked to do

11. The claimant asks the court to order that the defendant(s):  
(a) give the claimant possession of the premises  
(b) pay to the claimant the total amount outstanding under the mortgage.

Statement of Truth

\*(I believe) The claimant believes that the facts stated in this claim form are true.  
\* I am duly authorised by the claimant to sign this statement,

Signed *Mat Wightman* date 12 March 2014

\*(Claimant)(Litigation friend ~~where the claimant is a child or a patient~~)(Claimant's solicitor)

\* delete as appropriate

Full Name MR MATTHEW WIGHTMAN

Name of claimant's solicitor firm HL Interactive

Position or office held Partner  
(if signing on behalf of firm or company)

The electronic official certificate of result in respect of your Home Rights Search follows this message.

Please note that this electronic version is the only certificate of result we will issue. No postal certificate of result will be sent.

Official Search No:  
241E2UW

Certificate Date: 12 Mar 2014  
Certificate Time: 08:58:53

**Particulars of Search as supplied:**

Title Number	NYK256562
Applicant(s) (mortgagee)	BANK OF SCOTLAND

**Result**

It is certified that the official search applied for has been made with the following result:

There is no entry in the register of a home rights notice or a matrimonial home rights caution.

\*\*\*\*\*

++++The following message is for information only and does NOT form part of the result of the search++++ A new fee order comes into force on Monday 17 March 2014, with reduced fees for dealings of whole lodged electronically and for some scale 1 applications. OC2 fees have also been simplified. See our website [www.landregistry.gov.uk/fees](http://www.landregistry.gov.uk/fees) for details.

END OF RESULT

Your Reference: MBJ. B07050.2411	Key Number: 6708326	For any enquiries concerning this certificate, please contact:
HL INTERACTIVE LLP* DX724000 MANCHESTER 39		Customer Support: email <a href="mailto:customersupport@landregistry.gsi.gov.uk">customersupport@landregistry.gsi.gov.uk</a> telephone 0844 892 1111 (lines open Monday to Friday 8am until 6pm)
A £3.00 fee will be debited to the account quoted.		

These are the notes referred to on the following official copy

Title Number NYK256562

The electronic official copy of the document follows this message.

This copy may not be the same size as the original.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.


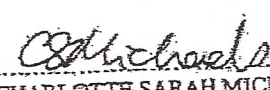
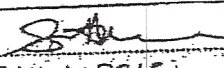
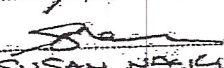
# \* BANK OF SCOTLAND

## MORTGAGE DEED

The account number: A/35294739-8	The date: 17 January 2007
The lender: The Governor and Company of the Bank of Scotland	
The mortgage conditions: The Bank of Scotland Mortgage Conditions 2004 (2nd Edition).	
The borrower: PAUL MICHAELS CHARLOTTE SARAH MICHAELS	
The borrower's address: LOW NEWBIGGIN HOUSE, AISLABY, WHITBY, NORTH YORKSHIRE YO21 1TQ	
The property: LOW NEWBIGGIN HOUSE, AISLABY, WHITBY NORTH YORKSHIRE, YO21 1TQ which is described in more detail in the document transferring it to the borrower.	
The title number: NYK256562	

1. This mortgage deed incorporates the mortgage conditions. The borrower has received a copy of them.
2. The borrower charges the property by way of legal mortgage with the payment of all money payable by the borrower to the lender under the mortgage conditions and gives the lender a full title guarantee.
3. The mortgage secures further advances and the lender is under an obligation to make further advances in accordance with the mortgage conditions and application is made to the Registrar for a note to be entered on the register to that effect.
4. The borrower hereby applies for the entry on the register of the following restriction. No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of this charge.

Signed and delivered by the borrower in the presence of the witness.

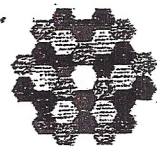
The borrower   (PAUL MICHAELS)   (CHARLOTTE SARAH MICHAELS)	The witness (signature, name and address) Each borrower's signature must be separately witnessed.  Witness' signature  Name <u>SUSAN NAEIG</u> Address <u>9, SLOANEY ROAD,</u> <u>SOUTH WOLLEDOO, LONDON SE25 5NB</u>  Witness' signature  Name <u>SUSAN NAEIG</u> Address <u>9, SLOANEY ROAD,</u> <u>SOUTH WOLLEDOO, LONDON SE25 5NB</u>
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Form of charge filed at H M Land Registry under reference MD7671.



The electronic official copy of the register follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.



Official copy  
of register of  
title

Title number NYK256562 Edition date 13-11-2008

- This official copy shows the entries on the register of title on 12 MAR 2014 at 08:47:06.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 12 Mar 2014.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- For information about the register of title see Land Registry website [www.landregistry.gov.uk](http://www.landregistry.gov.uk) or Land Registry Public Guide 1-A *guide to the information we keep and how you can obtain it*.
- This title is dealt with by Land Registry, Durham Office.

## A: Property Register

This register describes the land and estate comprised in the title.

NORTH YORKSHIRE : SCARBOROUGH

- 1 (12.10.2001) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being Low Newbiggin House, Aislaby, Whitby (YO21 1TQ).

## B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

### Title absolute

- 1 (12.10.2001) PROPRIETOR: PAUL MICHAELS and CHARLOTTE SARAH MICHAELS of Low Newbiggin House, Aislaby, Whitby, North Yorkshire YO21 1TQ.
- 2 (12.10.2001) The price stated to have been paid on 29 June 2001 was £575,000.
- 3 (12.10.2001) The Transfer to the proprietor contains a covenant to observe and perform the covenants referred to in the Charges Register and of indemnity in respect thereof.
- 4 (23.01.2007) RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the Charge dated 17 January 2007 in favour of Bank of Scotland PLC referred to in the Charges Register.
- 5 (06.06.2008) RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the Charge dated 2 June 2008 in favour of Bank of Scotland PLC referred to in the Charges Register.

Title number NYK256562

## C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (12.10.2001) By a Conveyance of the land in this title dated 1 October 1985 made between (1) Richard Henry Frederick Dangar and Jennifer Mary Dangar and (2) Marion Constance Kempley the land was conveyed subject as follows:-

"Subject to

.....

(iii) the rights covenants and other matters contained mentioned or referred to in a Conveyance of the 4 April 1985 and made between (1) Richard Henry Frederick Dangar and Jennifer Mary Dangar and (2) George Edwin Pearson and Irene Mary Pearson.

NOTE: Neither the original, nor a certified copy or examined abstract of the Conveyance dated 4 April 1985 was supplied on First Registration.

- 2 (23.01.2007) REGISTERED CHARGE dated 17 January 2007.
- 3 (13.11.2008) Proprietor: BANK OF SCOTLAND PLC (Scot. Co. Regn. No. SC327000) of 1 Lovell Park Road, Leeds LS1 1NS.
- 4 (23.01.2007) The proprietor of the Charge dated 17 January 2007 referred to above is under an obligation to make further advances. These advances will have priority to the extent afforded by section 49(3) Land Registration Act 2002.
- 5 (06.06.2008) REGISTERED CHARGE dated 2 June 2008.
- 6 (06.06.2008) Proprietor: BANK OF SCOTLAND PLC (Scot. Co. Regn. No. SC327000) of The Mound, Edinburgh EH1 1YZ.

End of register

