

S-154010

No. \_\_\_\_\_  
Vancouver Registry

BETWEEN:

PAUL KING JIN

PLAINTIFF

AND:

YI TONG XU also known as YITONG XU  
HAI YAN LIU also known as HAIYAN LIU

DEFENDANTS

**NOTICE OF CIVIL CLAIM**

**This action has been started by the plaintiff(s) for the relief set out in Part 2 below.**

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

**JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.**

**Time for response to civil claim**

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

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## Claim of the Plaintiff

### Part 1: STATEMENT OF FACTS

1. The Plaintiff, Paul King Jin, is a businessman with an address for service of c/o 4438 West 10<sup>th</sup> Avenue, Suite 913, Vancouver, B.C., V6R 4R8.
2. The Defendant, Yi Tong Xu also known as Yitong Xu, ("Xu") is a contractor and resides at 4007 Dunbar St., Vancouver, B.C., V6S 2E5.
3. The Defendant, Hai Yan Liu also known as Haiyan Liu, ("Liu") is a teacher and resides at 4007 Dunbar St., Vancouver, B.C., V6S 2E5.
4. The Defendants Xu and Liu are husband and wife respectively.
5. At all material times, the Defendants were the registered owners of the residential property with a civic address of 4007 Dunbar St., Vancouver, B.C., V6S 2E5 and legally described as:

PID: 011-585-200

LOT 1 OF LOT 3 BLOCK 32 DISTRICT LOT 139 PLAN 4374

(the "Dunbar Property")

6. In or about February 2015, the Plaintiff met the Defendants through a mutual friend, Coco Li.
7. Coco Li introduced the Defendant Xu as the chairman of a merchants' association based in Nanjing, Jiangsu, People's Republic of China.
8. After their initial meeting, the Plaintiff kept in contact with the Defendants.
9. In or about April 2015, the Defendants advised the Plaintiff that they had lost a substantial amount of money in an investment in Jiangsu, People's Republic of China.
10. The Defendants stated to the Plaintiff that they had plans to renovate the Dunbar Property, but was unable to proceed due to their temporary cash flow problems; on that basis, the Defendants asked the Plaintiff for a short-term loan of money.
11. On or about April 18, 2015, the Plaintiff loaned the amount of \$250,000 CAD (the "Loan") to the Defendants on the following terms:
  - a. The Defendants must return the Loan to the Plaintiff on or before May 25, 2015.
  - b. The Loan was to be secured by the Dunbar Property.
  - c. The Defendants must use the Loan for the purposes of:
    - i. construction and renovation on the Dunbar Property; and
    - ii. purchase of materials incidental thereto.

- d. The Defendants must not make any attempts to dispose of their interests in the Dunbar Property, before the Loan was fully repaid.
12. In or about May 2015, the Plaintiff discovered that the Defendants were attempting to dispose of their interests in the Dunbar Property.
13. More particularly, in seeking more loans from other people, the Defendants were proposing to give mortgages, which would have the effect of defeating the Plaintiff's security in the Dunbar Property.

**Part 2: RELIEF SOUGHT**

1. Certificates of Pending Litigation against the residential property with a civic address of 4007 Dunbar St., Vancouver, B.C., V6S 2E5 and legally described as:

PID: 011-585-200

LOT 1 OF LOT 3 BLOCK 32 DISTRICT LOT 139 PLAN 4374

(the "Dunbar Property")

2. Judgment against the Defendants in the amount of \$250,000 CAD;
3. A declaration that the Defendants hold the Dunbar Property in trust for the Plaintiff;
4. A declaration that the Defendants and each of them hold the money loaned by the Plaintiff in trust for the Plaintiff;
5. An order or direction that any necessary inquiries or accounts be made or taken;
6. Interest pursuant to the *Court Order Interest Act*;
7. Costs, including special costs or increased costs; and
8. Such further and other relief as counsel may advise and this Honourable Court permit.

**Part 3: LEGAL BASIS**

1. By attempting to dispose of their interests in the Dunbar Property, before the Loan has been repaid in full, the Defendants have breached the terms of the Loan.
2. *Supreme Court Civil Rules*.
3. The Law of Contract.
4. The Law of Trust.

Plaintiff's address for service:

c/o Zachary Ng, Barrister & Solicitor

4438 West 10<sup>th</sup> Avenue, Suite 913  
Vancouver, B.C., Canada, V6R 4R8

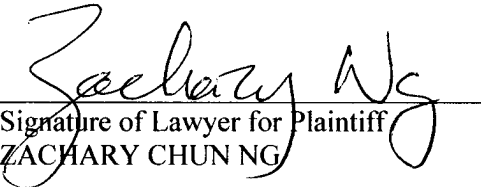
Fax number address for service: 604-608-3826

E-mail address for service: [Zachary.Chun.Ng@hotmail.ca](mailto:Zachary.Chun.Ng@hotmail.ca)

Place of trial: Vancouver Law Courts

The address of the registry is: 800 Smithe Street, Vancouver, British Columbia

Date: May 15, 2015

  
Signature of Lawyer for Plaintiff  
ZACHARY CHUN NG

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

## Appendix

**Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:** Liquidated Debt

**Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:**

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

**Part 3: THIS CLAIM INVOLVES:**

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

**Part 4:**

*Supreme Court Civil Rules*

*Land Title Act*

*Court Order Enforcement Act*