

**IN THE SUPREME COURT OF NOVA SCOTIA**

**BETWEEN:**

ROYAL BANK OF CANADA

PLAINTIFF

- and -

THOMAS A. GAETZ

DEFENDANT

Justice C. Richard Coughlan

Halifax, Nova Scotia

S.H. No. 182673

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[Cite as: Royal Bank of Canada v. Gaetz, 2002 NSSC 228]

**HEARD:** At Halifax, Nova Scotia (in Chambers) before the Honourable Justice C. Richard Coughlan on September 19, 2002

**DECISION:** October 10, 2002

**SUBJECT:** Mortgages - Foreclosure - Collateral Mortgage - Procedure

**SUMMARY:** The plaintiff applied for an order of foreclosure and sale of a collateral mortgage. In drafting the statement of claim the plaintiff used the simplified procedure. The only reference in the statement of claim to the mortgage being collateral was in setting out the interest chargeable.

**ISSUE:** Is it appropriate to use the simplified procedure when foreclosing a collateral mortgage?

**RESULT:** Application dismissed. In dealing with the foreclosure of a collateral mortgage, absent special circumstances, the statement of claim should include details of the presentment and dishonour of the note, and the demand. The simplified procedure must be amended to take into account the facts of the particular case.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.  
QUOTES MUST BE FROM THE DECISION, NOT THIS COVER SHEET.***