



**ND COURT OF THE CAYMAN ISLANDS  
ION**

**CAUSE NO: OF 2023  
LEGAL AID NO. LACV0098/2022**

**MARTY WHITTAKER**

**PLAINTIFF**

**AND**

**DONOVAN AGUSTUS ENNIS AND DOROTHY JOYCE ENNIS T/A STEVE'S PLUMBING**

**DEFENDANT**

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**WRIT OF SUMMONS**

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**TO:** Donovan Augustus Ennis and Dorothy Joyce Ennis T/A Steve's Plumbing, 18 Ackee Street, Birch Tree Hill, West Bay, Grand Cayman.

**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 (or, if leave is required to effect service out of the jurisdiction, such other period is as specified in the attached Acknowledgement of Service of Writ of Summons) after the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495G, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an 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 November 2023

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 issue unless renewed by order of the Court.

**IMPORTANT**

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

This Writ and Statement of Claim was issued by KSG Attorneys-at-Law for the Plaintiff whose address for service is 3<sup>rd</sup> Floor, One Capital Place, Shedden Road, George Town, Grand Cayman. P.O. Box 2255 GT, KY1-1107. [02708]

**STATEMENT OF CLAIM**

1. The Plaintiff is a resident of the Cayman Islands residing at 127 Moonbeam Drive, Newlands, Bodden Town, Grand Cayman and was employed by the Defendant.
2. The Plaintiff was at all relevant times employed as a plumber's assistant and assigned to work at various locations.
3. The Plaintiff was owed a duty of care by the Defendant as his Employer to ensure his health, safety and welfare at work and ensure that he was provided with a place of work and systems of work that were safe and without risks to his health.
4. On the 3 December 2020 the Plaintiff had been using a jackhammer on a job at West Bay Clinic. He started to feel some pain when using it and reported the pain to Donovan Ennis, his Employer, however he was pressured to continue to complete the job quickly.
5. On the 4 December 2020 the Plaintiff was instructed to work on a private home being constructed behind Burger King on Shamrock Road. He was asked to jackhammer the floor and then run some pipe.
6. Whilst at the property on Shamrock Road, the Plaintiff had to bend down whilst repeatedly using the jackhammer. His colleague, Desroy pressured him to work harder and said he was taking too long. At the end of the day, he packed up the jackhammer and advised his supervisor, Howard Ennis that he could no longer continue due to the pain and advised that Howard would have to take the jackhammer as the Plaintiff was unable to lift it.
7. The Plaintiff notified Dorothy Ennis of the injury sustained by telephone.
8. The resulting injury was caused by the negligence of the Defendant and/or their employees or agents acting in the course of their employment.

**Particulars of Negligence**

9. The Defendant was negligent in that they:
  - (a) failed to take any or any adequate measures to eliminate or minimise the Plaintiff's risk of exposure to injury;
  - (b) caused or permitted the Plaintiff to work or continue to work using the jackhammer when the Defendant knew or ought to have known that it was unsafe so to do;
  - (c) failed to ensure the health, safety and welfare of the Plaintiff;
  - (d) failed to provide or maintain a safe place of work for the Plaintiff;
  - (e) failed to maintain or provide a safe system of work for the Plaintiff;
  - (f) caused, permitted or required the Plaintiff to be exposed to unavoidable risk of injury;
  - (g) failed to take any or any adequate care for the safety of the Plaintiff.

10. The Defendant is vicariously liable for the acts/omissions of their employees.
11. Further, the Defendant owed to the Plaintiff a statutory duty to provide health insurance for the Plaintiff during the course of his employment pursuant to Section 5(2) of the Health Insurance Act (2021 Revision).
12. By reason of the aforesaid, the Plaintiff whose date of birth 31 July 1972, has suffered personal injury, loss and damage.

#### **Particulars of General Damage**

13. The Plaintiff attended the Accident & Emergency department of the Cayman Islands Hospital on the 6 December 2020, advising of the back pain he had suffered over the previous days.
14. The Plaintiff thereafter reattended on a number of occasions with continued pain to his lower back.
15. The Plaintiff underwent an MRI scan on the 12 May 2021, which revealed he had a disc annular bulge and an annular tear.
16. He was referred to see the neurologist at Health City Cayman Islands. He underwent further MRI scan.
17. He suffers increased shaking in his hands due to nerve damage.
18. The Plaintiff has not been able to return to work.
19. He remains under the care of the pain management department at Cayman Islands Hospital and has undergone chiropractic treatment, physiotherapy, dry needling and massage therapy. He has not been able to have treatment recently due to having no Health Insurance.
20. The Plaintiff continues to suffer pain and has difficulty standing, walking or sitting for any period of time. He is unable to work or lift anything heavy. He also has difficulty sleeping.
21. Further particulars of the Plaintiff's injury and treatment will be provided at a later date by way of a schedule of damages.

#### **Particulars of Special Damage**

22. The Plaintiff's particulars of special damage will be supplied at a later date by way of a schedule of damages including but not limited to claims for medical treatment, loss of earnings, travel and gratuitous care.

**AND THE PLAINTIFF CLAIMS:**

- (1) Damages;
- (2) Interest for such period and at such rate as the court thinks fit pursuant to section 34 of the Judicature Act (2021 Revision);
- (3) Such further or other relief that the Court deems fit;
- (4) Costs.

**DATED** this        day of November 2023.



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**KSG Attorneys-at-Law**  
**Attorneys for the Plaintiff**

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE  
OF WRIT OF SUMMONS**

1. 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.

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings must also serve a defence on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A Stay of Execution against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, issue a Summons for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by instalments or otherwise.

**See over for notes for guidance**

**Please complete overleaf**

**Notes for Guidance**

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. 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.
3. 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 name stated on the Writ of Summons)".
4. 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.
5. 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.
6. 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.
7. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.



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

KSG Attorneys-at-Law  
3<sup>rd</sup> Floor One Capital Place  
Shedden Road  
PO Box 2255  
Grand Cayman KY1-1107  
Cayman Islands

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