

**IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION**

CAUSE NO: 138 OF 2013

BETWEEN

J. PAUL DRAKE

PLAINTIFF

AND

ITC INTERNATIONAL LTD FIRST DEFENDANT

**ELIAS KOZAILY
T/AS INTERNATIONAL TILES CO
SECOND DEFENDANT**



WRIT OF SUMMONS

TO:

ITC International Ltd
1 Alexandra Place
Industrial Park
Grand Cayman
Cayman Islands
P.O. Box 30198 SM

AND TO:

Elias Kozaily t/as International Tiles Co
Office 3B, Cayman Center
Dorcy Drive co Owen Roberts Drive
George Town, P.O. Box 11807
Grand Cayman KY1-1009

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 28 days 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.

GENERAL INDORSEMENT

1. The Plaintiff claims against the First Defendant damages for negligence and/or breach of contract and/or breach of warranty arising out of the defective installation of flooring tiles by the First Defendant to the Plaintiff's property during the period January 2010 to April 2010 in the amounts set out in paragraph 3.
2. The Plaintiff claims against the Second Defendant damages for negligence and/or breach of contract arising out of the defective installation of flooring tiles by the Second Defendant to the Plaintiff's property during the period January 2010 to April 2010 in the amounts set out in paragraph 3.
3. The damages the Plaintiff claims from the First and Second Defendants are as follows:
 - 3.1 CI\$233,930.93 for remedial works (including replacement materials);
 - 3.2 CI\$20,000.00 for the costs of alternative accommodation;
 - 3.3 Such other damages as the Court sees fit;
 - 3.4 Interest pursuant to s. 34 of the Judicature Law (2007 Revision) or alternatively pursuant to the jurisdiction of the Court;
 - 3.5 Costs; and
 - 3.6 Such further and other relief which to this Honourable Court seems just.



J. PAUL DRAKE

THIS WRIT OF SUMMONS was **FILED** by **J. PAUL DRAKE** c/of Genesis Trust and Corporate Services Ltd, P.O. Box 448 George Town, Grand Cayman KY1-1106, Cayman Islands.

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.
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.
2. 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)".
3. 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.
4. 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.
5. 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.
6. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
7. A Defendant acting in person may obtain help in completing the form at the Courts Office.

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BETWEEN J. PAUL DRAKE PLAINTIFF

AND

ITC INTERNATIONAL LTD FIRST DEFENDANT

**ELIAS KOZAILY
T/AS INTERNATIONAL TILES CO SECOND 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.

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

 2. State whether the Defendant intends to contest 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
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Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney for the] Defendant

Please complete overleaf

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.

J.PAUL DRAKE
C/o Genesis Trust & Corporate Services Ltd
Second Floor, Midtown Plaza
Elgin Avenue
P.O. Box 448, George Town
Grand Cayman KY1-1106
Cayman Islands

Tel: 345 815 8525
Fax: 345 945 3740
Email: pauldrake@genesis.ky

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

Issued this 23rd day of April 2013

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.