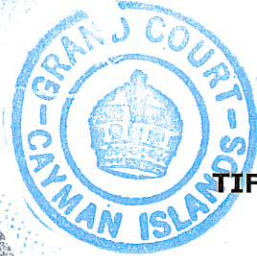


IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 19 OF 2019

BETWEEN:



TIFFANY KNOWLES



PLAINTIFF

AND

BUILDING  
KSCG

A.L. THOMPSON BUILDING SUPPLIES LTD

DEFENDANT



WRIT OF SUMMONS

**TO: A.L. Thompson Building Supplies Ltd**

**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 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 6 day of February 2019

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 is issued by KSG Attorneys at Law whose address for service is 4<sup>th</sup> Floor, Harbour Centre, 42 North Church Street, George Town, Grand Cayman. P.O. Box 2255 GT, KY1-1107. Knowles v AL Thompson Building Supplies Ltd

## **STATEMENT OF CLAIM**

1. The Plaintiff's date of birth is the 13 November 1983 and her address is 14 Grandview Court, Hammonds Plains, Nova Scotia, Canada, B4B 1K6.
2. The Defendant was and is at all relevant times a retail business providing services including the sale and delivery of household appliances.
3. On the 6th day of February 2016, acting for purposes related to their business, the Defendant agreed to supply and deliver to No. 9 Hidden Gardens, George Town, Grand Cayman a number of household appliances.
4. Further to the matters set out above, the Defendant arranged for the delivery of the appliances to occur on the 11<sup>th</sup> February 2016.
5. On the morning of the 11th February 2016, at approximately 9am, the Defendant's delivery truck accompanied by two employees of the defendant arrived at the Plaintiff's residence to deliver the appliances.
6. The driver reversed the box truck so that the rear of the truck was closest to the Plaintiff's residence. The back door of the box truck was opened, and an electronic loading ramp was put in position to unload the appliances. With the back door(s) open the Defendant's employees decided to move the truck forwards and did so.
7. Subsequent to the completion of this manoeuvre and with one of the Defendant's employees at the front of the truck, the other employee stood on the ramp and began to lower it with the refrigerator on it.
8. As he lowered the ramp, the unsecured refrigerator slid and fell off the ramp. The refrigerator hit the ground and began to tip forward towards the Plaintiff's 6-year-old son. The Plaintiff instinctively reached out with her right hand to stop the fridge crushing her son, whilst holding her 9-month son in her left arm.
9. She held the fridge from falling and continued to hold it up until assisted by her husband and the Defendants employee who assisted to stand the refrigerator upright.
10. In the premises, the accident and injury was caused by the negligence of the defendant, its servants or agents.

### **PARTICULARS OF LACK OF REASONABLE SKILL AND CARE**

- a) failing to take any or any adequate care in the delivery of the appliances;
- b) causing or permitting the refrigerator to tip forward and present a hazard;
- c) failing to secure the refrigerator adequately or at all when unloading it from the truck;

- d) failing to adequately train employees on the safe unloading of heavy appliances;
- e) failing to design and implement a system for the safe unloading of heavy appliances;
- f) permitting the plaintiff to be present in the vicinity of the appliances when unloading was occurring when it was unsafe to do so;
- g) Exposing the plaintiff to a danger or trap and a foreseeable risk of injury.

11. By reason of the negligence of the Defendant, the Claimant, who was born on 13 November 1983, has suffered pain, injury, loss and damage:

**Particulars of Personal Injury**

- 12. The Plaintiff was not immediately aware of pain, but over the next few days developed significant pain down the right-hand side of her body.
- 13. She attended with Dr. Sida, Orthopaedic Surgeon on the 23 February 2016, he advised she undergo imaging and also recommended physiotherapy/hydrotherapy. She was advised to avoid lifting/carrying.
- 14. Following X-rays on the 25 February 2016 and an Ultrasound on the 2 March 2016, she reattended with Dr. Sida on the 14 March 2016. He diagnosed right brachialgia and a right-side injury to her shoulder and back. He recommended she undergo an EMG and also Nerve conduction studies to assess whether she had suffered a disc prolapse.
- 15. The Plaintiff also saw Dr. Sekhar and subsequently Dr. Pekko in the CIHSA orthopaedic department. They referred her for an MRI scan which she underwent on the 1 April 2016.
- 16. She underwent assessment at RVC Rehab on the 26 March 2016 who recommended therapy twice weekly for 6-8 weeks.
- 17. She was referred to Dr. Quartly by her physicians, Dr. Sida, Dr. Sekhar and Dr. Pekko and saw her on a number of occasions over the next year commencing 18 April 2016. Dr Quartly reported continued right sided pain and made numerous recommendations regarding treatment and assistance.
- 18. She was also under the care of Dr. Lee for her continued pain who referred her for chiropractic treatment with Dr Lippett.
- 19. She commenced a course of acupuncture at Cayman Physiotherapy on the 18 May 2016. This commenced on a twice weekly basis until the summer of 2017.

20. In accordance with Dr Quartly's advice, the Plaintiff underwent Joint mobilization at Cayman Physiotherapy commencing in 2017.
21. The Plaintiff still suffers from significant shoulder, neck, back pain and paresthesia.
22. She is a homemaker and home-schooled her son at the time of the accident. She is unable to sit for prolonged periods of time, lift or carry which causes a lot of difficulty every day.
23. Following the unexpected death of her husband in August 2017, the Plaintiff has returned to her home country of Canada.
24. The Plaintiff cannot afford continuous treatment currently and continues to do the home exercises as recommended. She utilizes bio freeze and heat packs to manage the pain and has occasional chiropractic treatment.

#### **Particulars of Loss and Damage**

25. The Plaintiff's particulars of special damage will be forwarded in due course by way of a Schedule of Loss including but not limited to claims for cost of past and future medical treatment, loss of earnings and care.

#### **Statement as to Interest**

26. The Plaintiff will claim interest pursuant to section 34 of the Judicature Law (2013 Revision) at half the rate as prescribed under the Judgment Debts (Rates of Interest) Rules (as amended) from the 11<sup>th</sup> February 2016 to Trial.

#### **AND THE PLAINTIFF claims:**

1. General and Special Damages
2. Interest in accordance with the Judicature Law (2017 Revision)
3. Costs



**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 495, 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.

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

**CAUSE NO: OF 2019**

**BETWEEN:**

**TIFFANY KNOWLES**

**PLAINTIFF**

**AND**

**A.L. THOMPSON BULDING SUPPLIES LTD**

**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.

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2. State whether the Defendant intends to contest the proceedings (tick appropriate box)

yes  no

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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

**Please complete overleaf**

This Writ and Statement of Claim is issued by KSG Attorneys at Law whose address for service is 4<sup>th</sup> Floor, Harbour Centre, 42 North Church Street, George Town, Grand Cayman. P.O. Box 2255 GT, KY1-1107. Knowles v AL Thompson Building Supplies Ltd

**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  
4<sup>th</sup> Floor, Harbour Centre  
42 North Church Street  
PO Box 2255  
George Town  
Grand Cayman  
KY1-1107

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

[Empty box for defendant's attorney indorsement]