



**IN THE SUMMARY COURT AT GEORGE TOWN**

**Cause No. SC of 2021**

**BETWEEN:**

**ANDREA POWELL**

**PLAINTIFF**

**AND:**

**HARVEY'S CONSTRUCTION LTD**

**DEFENDANT**

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**PLAINT**

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To: the Defendant  
PO Box 806  
Grand Cayman  
KY1-1103

**THIS PLAINT** 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 service of this Plaint on you, counting the day of service you must either satisfy the claim or return to the Court Office, PO Box 495GT, George Town, Grand Cayman, the accompanying Acknowledgment of Service form stating therein whether you intend to contest this action. If you intend to defend the action, in whole or in part, you must set out full particulars of your defence in the space provided in the Acknowledgement of Service form.

If you fail to satisfy the claim or fail to return the Acknowledgement of Service form containing full particulars of your defence, the Plaintiff may apply for a default judgment without any further notice to you.

Issued this 4<sup>th</sup> day of August 2021

See overleaf for particulars of the Plaintiff's claim

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## PARTICULARS OF CLAIM

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1. At all material times the defendant carried on business as a general contractor.
2. The plaintiff was at all material times the owner of property registration section West Bay 4E Parcel 558 ("the property").
3. As a result of damage in a fire at the plaintiff's property in 2015 the defendant provided an estimate for work to repair the damage consisting mainly of repair and replacement of the roof to the property.
4. The defendant's estimate for CI\$19,750 was accepted by the plaintiff shortly thereafter.
5. In the premises the contract was a contract for the supply of building materials and for the supply of services by way of installing the new roof. In respect of his services, the defendant was at all times acting in the course of a business.
6. In the circumstances it was an implied term of the said contract that defendant would carry out the service with reasonable skill and care.
7. The defendant completed the work in 2015 and there was no evidence of a lack of reasonable skill and care until in and around August 2020 when the plaintiff exposed the roof area during further renovation and repair work.
8. At the time of the repairs in August 2020 it was revealed that the defendant, during the course of the works had:
  - 8.1 not replaced plywood boards that had fire and smoke damage and left them in situ.
  - 8.2 not removed the original roof coverings and had simply overlaid new materials on top of the damaged covering.
  - 8.3 Left holes in the plywood sheathing.

9. The failures outlined at paragraph 8 were in breach of the implied term of the contract that the defendant would carry out the service with reasonable skill and care in that:

- 9.1 the failures resulted in the roof not being properly sealed and allowing water into the property
- 9.2 the failures resulted in the roof having a much reduced life span necessitating replacement at a much earlier date

10. As a result of the matters aforesaid the plaintiff has suffered loss and damage in the sum of \$20,000 or such other sum as the court determines to repair and replace the defective work.

AND the Plaintiff claims:

The sum of \$20,000.

Interest in the sum of \$        calculated at the prescribed rate from to date.

Fixed costs of \$        , alternatively costs to be assessed.

KSG

KSG

Attorneys at Law

Plaintiff's address for service

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

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(Here set out in numbered paragraphs the grounds upon which the Defendant says that he is not liable to the Plaintiff, or is not liable for the full amount claimed)

\_\_\_\_\_  
Defendant's Signature

**REMINDER** - This form must be taken or sent to the Court Office, PO Box 495GT, George Town, Grand Cayman within 14 days of receipt otherwise a default judgment may be entered against you.