

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



CAUSE NO: 204 OF 2021

BETWEEN:

MICHELLE ALLARD-BOYLE

PLAINTIFF

AND:

THE PROPRIETORS, STRATA PLAN NO. 797

DEFENDANT

WRIT OF SUMMONS

TO: The Proprietors of Strata Plan No. 797

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff of 71 Bonneville, 18 Lakeshore Villas, West Bay, Grand Cayman 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 day of September 2021.

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 4th Floor, Harbour Centre, 42 North Church Street, George Town, Grand Cayman. P.O. Box 2255 GT, KY1-1107.

STATEMENT OF CLAIM

1. The Plaintiff's date of birth is the 16th December 1954 and her address is 71 Bonneville, 18 Lakeshore Villas, West Bay, Grand Cayman.
2. The Defendant was and is at all relevant times a body corporate formed pursuant to the Strata Titles Registration Law and is the registered owner of land registered as South Sound Block 21B, Parcel 122 and 122HI to 122H56 commonly known as "Vela Phase 2" being property located on South Sound Road, Grand Cayman.
3. On the 29th of September 2018 at approximately 1pm, the Plaintiff was a lawful visitor to Vela Phase 2 with the purpose of viewing an apartment with a view to renting it out for the owner.
4. She had completed viewing the apartment and as she left and commenced her descent of the stairs, her foot slipped, and she fell.
5. She fell down two flights of stairs and caught her left knee in one of the balustrades.
6. She has since been advised that the stairs had not been finished as they had no surface ridging applied.
7. The location of the accident was on Vela Phase 2 being property owned, controlled and maintained by the defendant.
8. The accident and resulting injury were caused by the negligence of the Defendant, its employees, servants or agents or both in that they:
 - (a) caused or permitted the stairs to be or to become or remain a danger or trap to persons lawfully using the same in that they were not properly finished;
 - (b) failed to finish, maintain or repair the said stairs and left the same in a condition which was dangerous to users;
 - (c) failed to warn the Plaintiff of the lack of the presence of anti-slip strips or otherwise to prevent her walking in the vicinity thereof;
 - (d) permitted or suffered the Plaintiff to use the staircase when it was unsafe in all the circumstances so to do;
 - (e) failed to take any or any adequate care for the safety of the Plaintiff.
9. By reason of the aforesaid, the Plaintiff has suffered personal injury, loss and damage.

Particulars of General Damage

10. She attended with her primary physician Dr John Addleson on the 3 October 2018 and was referred to Cayman Orthopaedic Group.
11. She underwent an MRI scan on the 18 October 2018 which confirmed tears to her medial and internal menisci. She was referred for arthroscopy.
12. She underwent surgery on the 14 November 2018. She subsequently suffered from DVT and was treated accordingly.
13. She underwent intensive physiotherapy and used a wheeled walker for the first few weeks' post-surgery.
14. On the 19 December 2018 she attended Cayman Orthopaedic Group with continued pain and was recommended an unloader brace for her knee, this was fitted in January 2019.
15. She reattended with Cayman Orthopaedic Group in March 2019 with continued pain and was recommended to undergo injections which she underwent on the 9 April 2019.
16. She was subsequently advised to undergo a total knee replacement which she underwent on the 28 August 2019.
17. She had a bad reaction to the medication post-surgery and attended the Accident and Emergency Department of George Town Hospital on the 30 August 2019 suffering chest pain, sweating and irregular heartbeat.
18. She was diagnosed as suffering atrial fibrillation, was provided with pain medication, underwent CT scanning and EKG and was admitted overnight.
19. She underwent physiotherapy following the knee replacement but is left with very limited flexion of the knee and has extreme difficulty walking upstairs or standing or walking for long periods of time.
20. The Plaintiff is unable to walk with any speed and is unable to run at all. She also walks with a limp which she has been advised is permanent. She also has a large and permanent scar to her left knee.
21. She now suffers tendonitis in her left foot due to her poor gait and additionally is aware of pain to her neck.

Particulars of Loss and Damage

22. The Plaintiff has suffered loss and incurred expenses as a result of the accident.
23. The Plaintiff's particulars of special damage will be supplied at a later date by way of a schedule of loss including but not limited to past and future claims for cost of medical treatment, loss of earnings, travel and gratuitous care.

This Writ and Statement of Claim is issued by KSG Attorneys at Law whose address for service is 4th Floor, Harbour Centre, 42 North Church Street, George Town, Grand Cayman. P.O. Box 2255 GT, KY1-1107.

Statement as to interest

24. The Plaintiff will claim interest pursuant to section 34 of the Judicature Law (2017 Revision) at half the rate as prescribed under the Judgment Debts (Rates of Interest) Rules (as amended) from the 29th September 2018 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.

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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.

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

Service of the Writ is acknowledged accordingly

(Signed).....
Attorney for

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.

KSG Attorneys at Law
4th 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.