



GRAND COURT  
OF 2023

OWAYNE MILLER

PLAINTIFF

AND

SUPERMIX LTD.

1<sup>st</sup> DEFENDANT

AND

GARY FOSTER

2<sup>nd</sup> DEFENDANT

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**WRIT OF SUMMONS**

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**To: The Defendants**  
SUPERMIX LTD. & GARY FOSTER

**And as a Noticed Party To:** Cayman First Insurance Co. Ltd.  
17 Vibert Bodden Drive  
George Town  
P.O. Box 2171  
Grand Cayman KY-1105

**THIS WRIT OF SUMMONS** has been issued against you by the above-named Plaintiff of 28 Northward, Bodden Town, 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 **October 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.

1. The Plaintiff, 37 years old Heavy Equipment Operator and was at all material times the driver of Mitsubishi Minicab motor vehicle registration **200 516**.
2. The 1<sup>st</sup> Defendant a company duly incorporated under the Companies Act of the Cayman Islands with registered office at 179 Seymour Road, George Town, Grand Cayman KY1-1002, and was at all material times the owner of Toyota Liteace motor vehicle registration **156 763**.
3. The 2<sup>nd</sup> Defendant was at all material times the driver of motor vehicle registration **156 763** and agent and/or servant or authorized driver of the 1<sup>st</sup> Defendant.
4. That on or about the 15<sup>th</sup> day of March 2021 the Plaintiff was driving the said motor vehicle along Eastern Avenue, George Town on reaching the intersection of Godfrey Nixon Road, vicinity of the Rubis Service Station the Plaintiff came to a stop at the traffic light when the 2<sup>nd</sup> Defendant caused or permitted motor vehicle registration **156 763** to collide into the rear of motor vehicle registration **200 516**.
5. As a result of reason aforesaid, the Plaintiff has suffered personal injury, loss and damage and incurred expenses.

**PARTICULARS OF NEGLIGENCE**

6. The Defendant was negligent in that he:
  - (a) failed to keep any or any proper look out;
  - (b) failed to keep a safe distance behind motor vehicle registration **200 516**;
  - (c) failed to see the Plaintiff in time or at all;
  - (d) failed to apply his brakes whether in time or at all;
  - (e) failed to steer or control his vehicle so as to avoid the said collision;
  - (f) Driving too fast at a rate of speed in all circumstances;
  - (g) Failing to stop, slow down, swerve, or otherwise conduct the operation of the said motor vehicle so as to avoid the said collision.

**PARTICULAR OF INJURY**

7. Following the accident, the Plaintiff attended the George Town Hospital & Rehoboth Physio & Paincare where he was assessed, x-rays done, treated and discharged. He was diagnosed as having suffered the following injuries:
  - i. Mild headache, soreness, stiffness of neck , upper back and lower back;
  - ii. Pain intensity between 5-8/10;
  - iii. Pain with sexual activities;

This Writ and Statement of Claim is issued by Brady Attorneys at Law whose address for service is 2<sup>nd</sup> Floor, Anderson Square, 64 Shedden Road, P.O. Box 1671, George Town Grand Cayman, KY1-1109, Cayman Islands.

- iv. Severe tenderness bilateral upper trapezius, thoracic and lumbar paraspinal Muscles;
- v. Severe muscle spasm of upper trapezius muscle and entire paraspinal muscles
- vi. 2% WPI

8.

**FUTURE MEDICAL CARE**

- i. Four (4) Months rehabilitations at 2 days per week amount to **\$5386.56**
  - ii. Physiotherapy once per month for six (6) months amounts to **\$1009.98**
9. The injuries suffered have significantly debilitated the Plaintiff due to recurring neck, shoulder and back pain. As a result, he is unable to sit, stand or walk for long periods, as he used to do, without pain. The injuries affected his sleeping ability and his ability to do physical activities.
10. Since the accident the Plaintiff was unable to return to work for three weeks and has lost income for 1 week; at the time of the accident the Plaintiff was earning \$400.00 per week. He was employed to Supermix Ltd.
11. The Plaintiff's medical treatment and expense are continuing.

**PARTICULARS OF SPECIAL DAMAGE**

- i. Clinical Assessment & Report \$1200.00
- ii. Transportation \$ 200.00

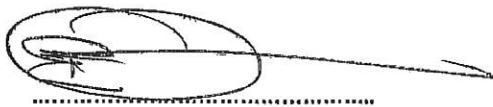
(particulars of special damages maybe be added when they are given)

Pursuant to the provisions of the Civil Procedure Rules and the Evidence Act, the Claimant intends at the hearing of this Claim to tender into evidence the following documents (copies of which are attached hereto):

- 1. Medical Report of Dr. Tenson Edmonds dated August 28<sup>th</sup> 2022.
- 2. Receipt evidencing expense

**AND THE PLAINTIFF CLAIMS:**

- 1. General Damages;
- 2. Special Damages;
- 3. Future medical expenses;
- 4. Interest in accordance with the Judicature Law (2017 Revision);
- 5. Costs;
- 6. Any other relief this court deems necessary



**EVERTON J. DEWAR  
BRADY**

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

This Writ and Statement of Claim is issued by Brady Attorneys at Law whose address for service is 2<sup>nd</sup> Floor, Anderson Square, 64 Shedden Road, P.O. Box 1671, George Town Grand Cayman, KY1-1109, 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**

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.

CAYMAN ISLANDS

IN THE GRAND COURT  
CIVIL DIVISION

CAUSE NO. OF 2023

BETWEEN

OWAYNE MILLER

PLAINTIFF

AND

SUPERMIX LTD.

1<sup>st</sup> DEFENDANT

AND

GARY FOSTER

2<sup>nd</sup> 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 Delay may result in judgment being entered against a Defendant notes for guidance carefully before completing this whereby he may have to pay the costs of applying to set it aside. form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

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.

BRADY  
Attorneys-at-Law  
2<sup>nd</sup> Floor, Anderson  
Square, 64 Shedden Road,  
P.O. Box 1671, George  
Town Grand Cayman, KY1-

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]