

**IN THE MAGISTRATES COURT FOR THE DISTRICT OF KUILSRIVER  
HELD AT KUILSRIVER**

**CASE NO:**

In the matter between:

**RUBEN THEODOR FITCHAT**

Plaintiff

and

**AMBASSADOR POOLS**

First Defendant

**RICHARD GRAHAM HUSTED**

Second Defendant

---

**COMBINED SUMMONS**

---

TO: The Sheriff or his/her deputy:

**INFORM:**

**AMBASSADOR POOLS**, a swimming pool renovation company, registration number 2019/148247/07, situated at **UNIT 206, SOUTH SHORE BEACH APARTMENTS, MAIN ROAD, FISH HOEK, 7975** and whose director is **ANDRE GERARD PRETORIUS** (ID number 640512 5180 088) (hereinafter called the First Defendant)

AND

**RICHARD GRAHAM HUSTED** (ID number 600418 5106 081), an employee of **AMBASSADOR POOLS**, and owner of **31 CHILWAN CRES, HELDERBERG, SOMERSET WEST, 7130** (hereinafter called the Second Defendant)

**THAT:**

**RUBEN THEODOR FITCHAT**, an adult male software developer residing at **91 FRANGIPANI STREET, KLEIN BRON ESTATE, BRACKENFELL, 7560** (hereinafter called the Plaintiff)

hereby institutes action against the First Defendant and Second Defendant in which action the Plaintiff claims the relief and on the grounds set out in the particulars annexed hereto.

**INFORM** the First Defendant and Second Defendant further that if he/she disputes the claim and wishes to defend the action, it shall:

- (i) Within **(10) TEN DAYS** of service upon them of this Summons, file with the Clerk of the Magistrate's Court, 24 Voortrekker Road, Hopefield, Notice of Intention to Defend, and serve a copy thereon on the Plaintiff, which notice shall give an address (not being a post office box of *post restante*) referred to in Rule 13(3) for the service upon the Defendant of all notices and documents in this action;
- (ii) Thereafter and within **TWENTY (20) DAYS** after filing and serving notice of intention to defend as aforesaid, file with the Clerk of the Court and serve upon the Plaintiff a Plea, exception, Notice to strike out, with or without a Counterclaim.

**INFORM** the First Defendant and Second Defendant further that if he/she fails to file and serve notices as aforesaid, judgment as claimed may be given against him/her without further notice to him/her, or if, having filed and served such notice, the First Defendant and Second Defendant fails to plead, except, make application to strike out or counter-claim, Judgment may be given against him/her.

**INFORM** the First Defendant and Second Defendant further that the Plaintiff agrees to accept service of all subsequent documents and notices via personal service or telefax as provided for in Rule 5(3) **AND** immediately thereafter serve on the First

Defendant and Second Defendant a copy of this Summons and return the same to the Clerk of the Court with whatsoever you have done thereupon.

Costs if the action is undefended will be as follows:

	Summons	Judgment
	R	c R c
Attorney charges	R	<b>TO BE TAXED</b>
Letter of demand	R	R
Registered mail	R	
Court fees	R	
Sheriff's fees	R	
Sheriff's fees on re-issue	R	
Totals	R	<u>R</u>

**DATED AT BRACKENFELL ON THIS 3<sup>rd</sup> DAY OF AUGUST 2020**

---

**CLERK OF THE COURT  
MAGISTRATES COURT  
KUILSRIVER**



---

**RUBEN THEODOR FITCHAT**

91 FRANGIPANI STREET  
KLEIN BRON ESTATE

**BRACKENFELL**

7560

Cell: 083 925 1545

Email: [theo@cluedapp.co.za](mailto:theo@cluedapp.co.za)

**AND TAKE NOTICE THAT -**

- (a) In default of your paying the amount in the claim and costs within the SAID period or of your delivering a notice of intention to defend you will be held to have admitted the said claim and the plaintiff may proceed therein and judgment may be given against your absence;
- (b) If you pay the said claim and costs within the said period judgment will not be given against you herein and you will save judgment charges. You will also save judgment charges if, within the said period, you lodge with the Clerk of the aforesaid Court a consent to Judgment;
- (c) If you admit the claim and wish to consent to judgment or wish to undertake to pay the claim in instalments or otherwise, you may approach the plaintiff or his attorney.

**NOTICE:**

- (i) Any person against whom a court has, in a civil case, given judgment or made any order WHO has not, within 10 days, satisfied in full such judgment or order may be called upon by notice in terms of Section 65A(1) of the Act to appear on a specified date before the court in chambers to enable the court to inquire into the financial position of the judgment debtor and to make such order as the court may deem just and equitable.
- (ii) If the court is satisfied that-
  - (aa) the judgment debtor, or if the judgment debtor is a juristic person., a director or officer of the juristic person has knowledge of the abovementioned notice and that he or she has failed to appear before the court on the date and at the time specified in the notice: or
  - (bb) the judgment debtor, director or officer, where the proceedings were postponed in his or her presence to a date and time determined by the court, has failed to appear before the court on that date and at that time; or
  - (cc) the judgment debtor, director or officer has failed to remain in attendance at the proceedings or at the proceedings so postponed; the court may, at the request of the judgment creditor or his or her attorney, authorize the issue of a warrant directing the sheriff to arrest the said judgment debtor, director or officer and to bring him or her before a competent court to enable that court to conduct a financial enquiry. (Section 65A(6) of the Act)
- (iii) Any person. WHO-
  - (aa) is called upon to appear before a court under a notice in terms of Section 65A(1) or (8)(b) of the Act (where the sheriff, *in lieu* of arresting a person, hands to that person a notice to appear in court) and who wilfully fails to appear before the court on the date and the time specified in the notice; or
  - (bb) where the proceedings were postponed in his or her presence to a date and time determined by the court, wilfully fails to appear before the court on that date and that time; or
  - (cc) Wilfully fails to remain in attendance at the relevant proceedings or at the proceedings so postpone; shall be guilty of an offence and liable on conviction to a fine of to imprisonment for a period not exceeding three months. (Section 65(9) of the Act)
- (iv) On appearing before the court on the date determined in the notice in terms of Section 65A(1) or (8)(b) of the Act in pursuance of the arrest of the judgment debtor, director or officer under a warrant referred to in Section 65A(6) of the Act or on any date to which the proceedings have been postponed, such judgment debtor, director or officer shall be called upon to give evidence on his or her financial position or that of the juristic person on his or her or its liability to pay the judgment debt (Section 65D of the Act)
- (iv) Any person against whom a court has, in a civil case, given any judgment or made any order who has not satisfied in full such judgment or order and paid all costs for which he or she is liable in connection therewith shall, if he or she has changed his or her place of residence, business or employment, within **14** days from the date of every such change notify the clerk of the court who gave such judgment or made such order and the judgment creditor or his or her attorney fully and correctly in writing of his or her new place of residence, business or employment, and by his or her failure to do so such judgment debtor shall be guilty of an offence and liable upon conviction, to a fine or to imprisonment for a period not exceeding three months. (Section 109 of the Act)

**(2) CONSENT TO JUDGMENT**

I admit that I am liable to the plaintiff as claimed in this summons (or in the amount of R \_\_\_\_\_ and costs to date) and I consent to judgment accordingly.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 2020

\_\_\_\_\_

DEFENDANT

WITNESSES:

- i. (full names) \_\_\_\_\_ (signature) \_\_\_\_\_  
(address) \_\_\_\_\_
- ii. (full names) \_\_\_\_\_ (signature) \_\_\_\_\_  
(address) \_\_\_\_\_

OR

**(3) NOTICE OF INTENTION TO DEFEND**

To the Registrar / Clerk of the Court \_\_\_\_\_

Kindly take notice that the defendant/s hereby notifies their intention to defend this action.

Dated \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 2020

Defendant/Defendant's Attorney \_\_\_\_\_

Address: \_\_\_\_\_

Postal address: \_\_\_\_\_

Telephone number: \_\_\_\_\_ Facsimile Number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

(Give full address for acceptance of service of process or documents within fifteen (15) kilometers from the Court-house and also the postal address.)

TAKE NOTICE FURTHER THAT the Defendant/s hereby consent to service of all subsequent documents and notices via telefax / e-mail as provided for in Rule 5(3)

TAKE NOTICE FURTHER THAT in terms of Rule 5(3), if the Defendant/s refuse or fail to deliver the consent in writing as provided for herein, the court may on application by the plaintiff, grant such consent, on such terms as to costs and other wise as may be just and appropriate in the circumstances.

Note: The original notice must be filed of record with the Clerk of the Court and a copy thereof served on the Plaintiff.

## **PARTICULARS OF CLAIM**

1. The Plaintiff is **RUBEN THEODOR FITCHAT**, an adult male software developer residing at **91 FRANGIPANI STREET, KLEIN BRON ESTATE, BRACKENFELL, 7560** (hereinafter called the Plaintiff).
2. The First Defendant is **AMBASSADOR POOLS**, a swimming pool company, registration number 2019/148247/07, which is situated at **UNIT 206, SOUTH SHORE BEACH APARTMENTS, MAIN ROAD, FISH HOEK, 7975** and whose director is ANDRE GERARD PRETORIUS (ID number 640512 5180 088).
3. The Second Defendant is **RICHARD GRAHAM HUSTED** (ID number 600418 5106 081), an employee of **AMBASSADOR POOLS**, and owner of **31 CHILWAN CRES, HELDERBERG, SOMERSET WEST, 7130**.
4. The above Honourable Court has jurisdiction to hear the matter as the Plaintiff resides within the jurisdiction of the above Honourable Court.
5. The First Defendant, a member of the National Spa and Pool Institute (NSPI), provided a quotation to the Plaintiff on 3 March 2020 to renovate the Plaintiff's pool (please see **Annexure S1**), which quotation was accepted by the Plaintiff.
6. The First Defendant's quotation to the Plaintiff was for R77 200, of which the Plaintiff paid a 75% (seventy-five per cent) deposit of R57 900 on 4 March 2020. The remaining 25% (twenty-five percent) of R19 300 would have been paid on completion.
7. The First Defendant started with the renovation work on 9 March 2020.
8. However, during the renovation work by the First Defendant, the Plaintiff noticed an inordinate lack of competent supervision and poor work being done by the First Defendant.
9. The Plaintiff on numerous occasions emailed the NSPI to complain about same. The Plaintiff's emails to the NSPI included 8 letters which totalled 81 pages of photos and explanations detailing the incorrect work being done by the First Defendant. These emails were sent to the NSPI on 17 March 2020, 16 April

2020, 7 May 2020, 1 June 2020, 5 June 2020, 10 June 2020, 12 June 2020 and 14 June 2020.

10. Some of the issues in the initial letters were resolved by the First Defendant, but some critical issues were not, and more and more issues kept emerging, and it became impossible for the Plaintiff to reach an agreement with the First Defendant regarding the resolution of same.

11. One of the Plaintiff's main concerns with the First Defendant was the constant lack of competent supervision.

11.1. The First Defendant's supervisor, Steven, was consistently not present to oversee the work being done. The Plaintiff raised this concern with the First Defendant on numerous occasions, but the matter remained unresolved, and the supervisor remained predominantly absent.

11.2. On the few occasions that the First Defendant's supervisor was present, the Plaintiff found him to be shockingly inefficient, and that ironically his presence seemed to result in a decrease in the quality of the workmanship.

11.3. The supervisor regularly yelled at the workers and used expletives. He was rude and obnoxious, and often completely ignored the Plaintiff and his wife when they asked him to do things in the way they had agreed with the First Defendant things would be done.

11.4. On numerous occasions the supervisor did the complete opposite of what he had been instructed to do, often right after he had been told what to do.

11.5. The supervisor chaotically gave orders and instructed the workers to do things in an illogical order, and created many problems, which will be discussed further down in this document.

11.6. The Plaintiff was initially under the impression that the Second Defendant, who had provided the quotation to him, was the owner of Ambassador Pools (the First Defendant), and repeatedly asked the

Second Defendant to oversee the work, but the Second Defendant refused.

- 11.7. The Second Defendant only came to the Plaintiff's residence twice to have a quick look at the work when the Plaintiff absolutely insisted he come.
  - 11.8. Eventually the Plaintiff refused to allow the First Defendant's supervisor to return to supervise the work, and the First Defendant indicated that they would assign another supervisor to the Plaintiff's pool.
  - 11.9. However, the Plaintiff had no guarantee that the second supervisor would be more competent than the first.
12. Furthermore, the Plaintiff was not able to reach a satisfactory resolution with the First Defendant regarding certain other matters, as will be discussed further down.
13. The renovation work by the First Defendant was only partially completed due to the national lockdown commencing on 27 March 2020 during the renovations. The First Defendant had worked on the Plaintiff's pool for 3 (three) weeks by the time the lockdown commenced.
14. When the lockdown commenced, the following work had been completed by the First Defendant (not an exhaustive list): the replacement of the leaking jacuzzi pipes, the removal of the original coping from the pool, the removal of the rimflow wall between the main pool and the jacuzzi to create one pool, the installation of most of the coping and paving, and the installation of new mosaic and new fibreglass inside the pool. The First Defendant also filled the pool with water on the day prior to lockdown.
15. The Plaintiff's pool consists of a main pool and a jacuzzi, which have one underlying structure. The jacuzzi's water was separated from the main pool's water by a rimflow wall between the two parts of the pool.



16. At the Plaintiff's request, the First Defendant removed the rimflow wall in order to allow the water to circulate freely between the two areas. The First Defendant also removed the original coping and installed new coping.
17. However, during the lockdown, the Plaintiff noticed that there was a marked difference between the bottom of the coping installed by the First Defendant at the two far ends of the pool and the water level.
  - 17.1. On further inspection, the Plaintiff determined that there was a 30mm difference in height between the shallow and deep ends of the main pool, and a 35mm difference in height between the shallow end of the main pool and the far end of the jacuzzi, which the First Defendant had renovated to be one with the main pool.
  - 17.2. The First Defendant's representative, the Second Defendant, attended a site inspection of the Plaintiff's pool on 3 June 2020 after the lockdown was partially lifted. The First Defendant is affiliated with a company called Cape Pool Renovators, and a representative of Cape Pool Renovators, Mr Ron Munroe, attended the site inspection as well.
  - 17.3. The attendance of Mr Munroe was done with no foreknowledge of the Plaintiff, nor was any explanation offered as to who Mr Munroe was and why he was present.
  - 17.4. The Plaintiff only learned afterwards that Mr Munroe was present as a technical advisor to the First Defendant.
  - 17.5. Mr Munroe indicated to the Plaintiff that there is a standard industry tolerance level of " $\pm 20\text{mm}$ ", which is the difference in height that is allowed between the two ends of a pool.
  - 17.6. The 35mm difference in the height of the Plaintiff's pool is undeniably outside the acceptable tolerance.
  - 17.7. However, Mr Munroe informed the Plaintiff via email on 3 June 2020 that the standard industry tolerance level of " $\pm 20\text{mm}$ " had no bearing on the

work on the Plaintiff's pool, and that it was merely mentioned by Mr Munroe to the Plaintiff in conversation.

- 17.8. The Plaintiff disputes Mr Munroe's statement and queries why an industry standard has no bearing on his pool, and why the First Defendant is exempt from implementing industry standards.
- 17.9. When the Plaintiff raised the issue of the unlevel pool with the First Defendant, the First Defendant informed him that the underlying structure of the pool had been unlevel and that they had merely installed the new coping and paving on the existing structure.
- 17.10. The First Defendant also indicated that the Plaintiff had not informed them that the pool's structure was not level.
- 17.11. The Plaintiff contends that it had not been possible for him to know that the underlying structure of the pool had not been level, since the original builders of the pool had installed custom-made coping in such a way as to compensate for the unlevel structure, and the bottom of the original coping had been level with the water level.
- 17.12. Cape Pool Renovators also admitted in an email sent on 12 June 2020 that the fact that the pool was out of level only became apparent after the new mosaics had been installed, and they also claimed that the fact that there had been no mosaics installed previously meant it was not possible to know that the pool was not level.
- 17.13. Firstly, the Plaintiff contends that it had been the First Defendant's responsibility to check whether the pool's underlying structure was level after they removed the original coping.
- 17.14. Secondly, the lack of mosaics originally has no bearing on this matter, as it was and is possible to compare the water level with the bottom of the coping.

- 17.15. Furthermore, the Plaintiff had sent a photo to the First Defendant and the NSPI on 10 June 2020 of the original pool which showed that the bottom of the original coping of the main pool was level with the water level.
- 17.16. The Plaintiff wrote in an email sent to the NSPI on 12 June 2020, "The pool was straight and level before they started, it is now skew as shown in the document".
- 17.17. The Plaintiff contends that the bottom of the coping had been level with the water level before the First Defendant worked on the pool, but that the bottom of the new coping installed by the First Defendant was not level with the water level.
- 17.18. In Cape Pool Renovators' reply to the Plaintiff's comment, they construed the Plaintiff's comment to mean that the Plaintiff claimed that the pool's structure had been level before the First Defendant worked on the pool, but that the structure somehow became unlevel while the First Defendant was working on it.
- 17.19. However, as indicated above, and in the Plaintiff's emails to the NSPI, this was not the Plaintiff's meaning at all.
- 17.20. The Plaintiff contends that it wasn't possible for him to know that the underlying structure was unlevel before the First Defendant removed the original coping and revealed the underlying structure.
- 17.21. Furthermore, the original pool had also consisted of two separate pools, which were separated by a high rimflow wall. The only way for the water level to be the same in the two pools was if the jacuzzi was so full that its water overflowed to the main pool.
- 17.22. Since the jacuzzi's pipes had been leaking since before the Plaintiff moved into the house, it was impossible to fill the jacuzzi to overflowing, and hence it had been impossible to compare the water levels of the two pools.

- 17.23. The Plaintiff sent a photo to the First Defendant and the NSPI on 10 June 2020 to remind the First Defendant that there had been two separate pools originally that were separated by a high rimflow wall, and that the reason the Plaintiff had asked the First Defendant to remove the rimflow wall was precisely because the jacuzzi was a dead spot with no water circulation between the two pools.
- 17.24. The First Defendant stated in an email to the Plaintiff that since the pool was not filled with water when they saw the pool to give the quotation, it was only apparent that the pool was not level after it was filled with water, which was upon the completion of nearly all the renovation work.
- 17.25. However, the pool *had* been filled with water when the First Defendant gave the Plaintiff the quotation. Only the jacuzzi had been empty, due to its leaking pipes, as mentioned previously.
- 17.26. Furthermore, the First Defendant had been aware that the reason for the empty jacuzzi was that its pipes had leaked since before the Plaintiff had moved into the house, and the First Defendant had provided the Plaintiff with a quotation to replace the pipes.
- 17.27. Furthermore, the Plaintiff contends that a reasonable swimming pool contractor would not have waited until nearly all the work had been completed and the pool filled with water before they would be able to know whether the coping was level with the water level.
- 17.28. The Plaintiff contends that a reasonable swimming pool contractor would have used a level to check the underlying structure during the renovation work, before installing the paving and coping.
- 17.29. It is clear that the First Defendant acted negligently by not ascertaining whether the underlying structure was level or not during renovations.
- 17.30. Due to the First Defendant's negligence, the First Defendant did not afford the Plaintiff the opportunity to indicate whether he would like the

First Defendant to relevel the pool prior to the First Defendant installing the coping and paving.

- 17.31. The Plaintiff understands and accepts that the cost of releveling the pool is his responsibility, but he insists that the cost of removing and reinstalling the coping and pavers, adding additional fibreglass and replacing the mosaic to be level with the new correct level of the pool is the First Defendant's financial responsibility since they had acted negligently.
- 17.32. When the Plaintiff discussed releveling the pool with the First Defendant after the lockdown was lifted, the First Defendant's solution was to decrease only the level of the jacuzzi by 35mm, which would result in an upside-down V-shape in the paving around the pool, causing the paving to be uneven.
- 17.33. Also, the main pool itself had a 30mm difference between the shallow and deep ends, so the main pool would still be unlevel and outside the accepted tolerance.
- 17.34. The First Defendant's "solution" would result in two areas being uneven instead of one.
- 17.35. Furthermore, the Plaintiff contends that the First Defendant tried to overcharge the Plaintiff for the releveling of the jacuzzi.
- 17.36. The amount they quoted him to relevel the jacuzzi was exorbitant and the Plaintiff contends it included the cost for the removal and reinstallation of the coping and paving and the additional fibreglass and mosaic, which the Plaintiff contends is the First Defendant's responsibility.
- 17.37. Cape Pool Renovators indicated in an email to the NSPI on 12 June 2020 that it must be remembered that the Plaintiff's pool is an old concrete pool with the jacuzzi "added on somewhere along the line".

- 17.38. However, the Plaintiff is in possession of the house's building plans and the plans that indicate that a previous owner had installed the pool and the jacuzzi at the same time. The date on the building plans for the proposed pool and jacuzzi was 10 January 2006.
- 17.39. The Plaintiff contends that a fourteen year old swimming pool is not as old as Mr Ron Munroe of Cape Pool Renovators is trying to imply.
- 17.40. The Plaintiff had sent the house's building plans indicating the proposed pool to the First Defendant on 4 February 2020 and 14 February 2020. Therefore, the First Defendant knew that the pool and jacuzzi were built at the same time.
18. During the lockdown, the Plaintiff also noticed that the grout between the newly installed pavers started cracking, crumbling and flaking off mere days after having been installed.
- 18.1. The First Defendant's proposed solution was to remove the cracked grout and to replace it with the same grout but with a bonding agent added.
- 18.2. The Plaintiff queries why, if the addition of a bonding agent would prevent the grout from cracking, it had not been added to the grout in the first place.
- 18.3. Furthermore, the Plaintiff now understands that there are a number of factors that were not addressed correctly by the First Defendant in order to prevent the grout from cracking in the first place, and which merely adding a bonding agent to new grout would not solve.
- 18.4. The First Defendant did not compact the soil before installing bricks around the edge of the pool, and they also did not compact the soil next to the shallow end of the pool before installing pavers there. This would lead to the settling of that soil as those pavers are walked over, causing the grout to crack.

- 18.5. The First Defendant did not fill up the gaps between the edge of the pool and the newly installed row of bricks before installing the paving, despite the Plaintiff's wife telling the First Defendant to do so numerous times, and them indicating that they would.
- 18.6. After the First Defendant paved over the bricks without filling the gaps, the Plaintiff's wife asked them why they had not filled the gaps, and the First Defendant changed what they had said the previous times, and said that it was not necessary to fill in the gaps.
- 18.7. However, when the pavers installed next to the bricks are walked over, the sand will move into the gaps between the bricks and result in the pavers shifting and the grout cracking.
- 18.8. The Plaintiff also queries whether the soil next to the boundary wall had been adequately compacted, since all the grout between the pavers that had been installed on soil had cracked, and most of the grout between the coping that had been installed on the edge of the pool and a row of bricks, had not cracked.
- 18.9. The First Defendant also dumped their building rubble between the wall and the pool before installing the paving over it, which would also have contributed to settlement later and to the grout cracking.
- 18.10. A civil engineer has also indicated to the Plaintiff that Philippi sand, which the First Defendant indicated was being used for compacting, is not the best sand to use for compacting soil since it is a single-sized grain. A superior sand for compacting would be one with different sized particles, since they fill up the spaces between each other, resulting in a denser compact.
- 18.11. The Plaintiff further disputes whether the First Defendant had attended to any screeding under any of the pavers, as Mr Ron Munroe of Cape Pool Renovators mentioned in his email on 3 June 2020 and puts him to the proof thereof.

- 18.12. Another factor that the First Defendant had not taken into account in order to prevent the grout from cracking is that gunnite pools, paving and grout contract and expand at different rates with temperature changes and that the paving and coping around the Plaintiff's pool required the installation of expansion joints in order to relieve the pressure and to prevent cracking.
- 18.13. The First Defendant had not installed expansion joints among any of the pavers, which could be contributing to the grout cracking.
- 18.14. The First Defendant had brushed the grout over the pavers to fill in the gaps between them. After the grout had dried partially, they added more grout, which dried after the first grout, and is causing the additional grout to flake off.
- 18.15. Also, grout that does not contain the correct materials or that had not been mixed in the correct proportions may also result in the grout cracking.
- 18.16. The pavers that had temporarily been installed by the First Defendant on the grass also require reinforcement when they are installed permanently in order for them not to separate from the vertical pavers against the pool and from each other.
- 18.17. While the First Defendant was working on the pool, the Plaintiff had an independent building consultant (who is a Past President of the Master Builders Association and a Past Chairman of the Building Industry Bargaining Council – please see **Annexure S2**) inspect the house, and the building inspector commented that the pile of sand that the First Defendant was using to mix with the cement was too fine for building work. He indicated that such fine sand was better suited for plastering.
- 18.18. The First Defendant indicated that the pile of sand in question was Philippi sand.



- 18.19. The Plaintiff queries whether it was Philippi sand, and puts the First Defendant to the proof thereof.
- 18.20. The Plaintiff's wife inquired with the First Defendant what the alleged Philippi sand was being used for, since the building inspector had indicated it was not appropriate for mixing with the cement.
- 18.21. The First Defendant initially replied that the sand was not used to mix with the cement, it was used to fill the areas that would be paved.
- 18.22. However, after the Plaintiff's wife checked the photos she had taken every day while the First Defendant was working, she informed the First Defendant that, contrary to their previous statement, the Philippi sand had indeed been used by the First Defendant's workers for mixing with the cement.
- 18.23. The First Defendant subsequently changed their explanation and said that Philippi sand was acceptable for small building work.
- 18.24. The Plaintiff queries why the First Defendant initially indicated that the sand in question was not being used to mix with the cement, and then later indicated that it was.
- 18.25. The Plaintiff had been advised that Malmesbury sand should have been used instead of Philippi sand, and asked the First Defendant why they had not used Malmesbury sand instead.
- 18.26. Mr Munroe replied in the First Defendant's stead, and indicated that Malmesbury sand was better suited for plaster work and that Philippi sand was better suited for building work.
- 18.27. However, according to a civil engineer; the independent building consultant; various contractors that the Plaintiff has spoken to; and the Builders Warehouse website, Philippi sand, which is a fine sand, is more suitable for smooth plaster work, and Malmesbury sand, which is a coarse sand and therefore stronger, is more suitable for building work.

- 18.28. Therefore, Mr Munroe had erroneously swapped around the two kinds of sand and their main uses.
- 18.29. Mr Munroe is put to the proof that Philippi sand is more suited for building work, and Malmesbury sand is more suited for plaster work; and not the other way around, as he had claimed.
- 18.30. The Plaintiff also confirmed with a civil engineer and various building and swimming pool contractors from whom the Plaintiff had acquired quotations to correct the work done by the First Defendant, that even though both Philippi sand and Malmesbury sand are commonly used for building, Malmesbury sand is superior to Philippi sand for building purposes.
- 18.31. It was also pointed out to the Plaintiff that, since Philippi sand is cheaper than Malmesbury sand, Philippi sand is often preferred by contractors who are less concerned with quality and more concerned with increasing their profits.
- 18.32. The Plaintiff disputes Cape Pool Renovators' claims that Philippi sand was the correct sand, and insists that they have not in fact provided adequate proof that Philippi sand is superior to Malmesbury sand for the renovation work done on the Plaintiff's pool, especially in light of all the grout around the pool cracking.
- 18.33. The Plaintiff furthermore disputes Cape Pool Renovators' claim that the entire Cape Town has been built with Philippi sand, and puts him to the proof thereof.
19. Furthermore, the Plaintiff queries why the First Defendant require the assistance of a technical advisor if they specialise in pool renovations and have over 35 years of experience in the pool renovation industry, as their website claims.
20. The Plaintiff also had further concerns regarding the First Defendant's lack of professionalism.

21. The Plaintiff's wife had sent numerous detailed diagrams to the First Defendant explaining how the pool should be built and where which coping should be installed, but those diagrams were not followed and she had to repeatedly correct the workers' incorrect work.

21.1. The Plaintiff's wife's diagrams indicated where single bullnose coping should be installed around the pool's edge, but the First Defendant had installed double bullnose coping around the entire edge of the pool.

21.2. When straight-edged pavers were then installed next to the double bullnose coping, the amount of grout between the two pavers was very thin, contributing to the grout flaking off.

22. The First Defendant's supervisor instructed the workers to compact the soil using a broomstick handle. When the Plaintiff's wife queried the efficiency of their equipment for soil compaction, they started using the sharp edge of a spade.

23. This issue was then raised with the First Defendant, and then they hired a machine to compact the soil. The machine was very large, however, and it was not possible for the workers to use it to compact the soil in the small area between the main pool and the jacuzzi, or in the area along the shallow end of the main pool, so those areas remained uncompacted.

24. Many areas still need to be compacted prior to paving, such as the area around most of the jacuzzi, and the paving on the grass.

25. The First Defendant allowed a person who is not a registered electrician to work on the pool's electrics.

25.1. The person installed one light in the main pool and one light in the jacuzzi, but he left exposed wires next to the jacuzzi light, which a registered electrician has indicated is illegal.

25.2. After this issue was raised with the First Defendant, they sent a company to work on the electrics, but there was again no registered electrician to check their work who would sign off their COC.

- 25.3. The Plaintiff himself then had to arrange for a properly qualified person to do the electrical work.
26. The First Defendant initially ordered Cemstone pavers and coping in the wrong colours. They had also not ordered the correct amount of double and single bullnose coping.
27. The two jacuzzi steps were built too high, despite the Plaintiff's wife having drawn lines in the pool exactly where and how high the steps should be built. The First Defendant had to redo both steps.
28. The First Defendant three times unloaded their deliveries in a place in the Plaintiff's garden where he had expressly and repeatedly told them not to unload things.
29. Many of the pavers that had been installed by the First Defendant are uneven.
30. Many of the vertical pavers that had been installed by the First Defendant have edges jutting out.
31. Most of the coping that the First Defendant had installed around the pool had not been cut into equal wedge shapes. The wedges around the corners are all different sizes, and all the wedges around the jacuzzi had only been cut on one side, resulting in the entire area looking uneven.
- 31.1. When the Plaintiff raised the issue of the incorrect wedges with the First Defendant, the First Defendant's solution was to grind the straight edge in situ to get as close to a wedge shape as possible.
- 31.2. However, the First Defendant's solution would then result in the grout being wide on one side and narrow on the other.
- 31.3. The Plaintiff contends that the First Defendant is trying to avoid taking responsibility for their lazy and negligent actions of only cutting the wedges on one side, and that they were only trying to exchange one problem for another, instead of fixing the problem by removing the coping and installing coping that had been cut correctly.

32. The First Defendant installed vertical pavers of different widths around the corner by the main pool's steps, and they installed the one horizontal paver too far over the edge of the pool.
33. The First Defendant had installed the corners between the main pool and the jacuzzi incorrectly, and the one edge juts out too far, and the other edge is too near the edge of the pool. The First Defendant indicated that they would remedy the two corners, but did not specify how.
34. The First Defendant installed cracked pavers. They indicated they would replace them.
35. The pavers that the First Defendant installed next to the wall were all cut very unevenly and look jagged and unsightly. They indicated they would cut them straight in situ.
36. The vertical pavers next to the jacuzzi had been installed at the incorrect height, and will have to be removed and redone.
37. The fibreglass that the First Defendant installed has developed pinholes in some areas. This occurs due to insufficient resin being used on the fibreglass matting during the installation of the fibreglass. Over time, water can leak out through the pinholes.
38. The First Defendant left cement smears and shoeprints on the fibreglass in the pool.
39. The First Defendant did not grind in under all the coping before installing the fibreglass, which will result in the fibreglass peeling off.
40. The fibreglass under the coping had been installed in an extremely untidy manner.
41. The fibreglass had not been properly sealed under the coping.
42. The mosaic that the First Defendant installed lifts up in various places.

43. There are many bumps in the wall directly under the mosaic. These are areas that were newly plastered by the First Defendant.
44. The First Defendant did not clean up all the fibreglass around the pool before they left for lockdown, despite the Plaintiff's wife stressing with them that this must be done and them agreeing.
45. The First Defendant left their excess sand on the Plaintiff's lawn, resulting in the grass not being able to grow in that area.
46. The First Defendant left another heap of sand in the Plaintiff's driveway without covering it, which meant that it would have all washed down the road when it rained. The Plaintiff had to attend to cover it himself.
47. Cement marks were left on the walls, and the compaction machine had scratched some of the paint off the boundary wall.
48. The First Defendant did not install the pump correctly before leaving for lockdown.
  - 48.1. Despite the Plaintiff's wife trying to contact the First Defendant and the supervisor on the evening before lockdown to find out what is wrong with the pump, she did not receive a reply.
  - 48.2. The Plaintiff's wife only received a reply the following day, and the First Defendant was unable to solve the problem over the phone, so the pump remained off until the lockdown was partially lifted and the Plaintiff could arrange for a company with a permit to get the pump in working order again.
  - 48.3. The First Defendant had also not connected the filter before lockdown, so after the pump was in working order again, it did not improve matters much, because without the filter, the pump would just circulate the dirty water.
49. When the Plaintiff turned the pump on after it had been repaired by the other pool company, one of the jets that had been installed by the First Defendant

popped out. The company that fixed the pump and filter, has indicated that the First Defendant had installed a broken jet.

50. The light that the First Defendant had installed in the jacuzzi had not been installed correctly, and it keeps popping out. It seems as though the hole that the First Defendant had inserted in the side of the jacuzzi's wall was inserted too low.

51. The Plaintiff disputes the First Defendant's reply to the Plaintiff's email "NSPI 7<sup>th</sup> letter (2020.06.12).docx" that the First Defendant only realised that the pool's structure contained sandbags when the First Defendant exposed the structure, since the sandbags and gaps under the structure were clearly visible when the First Defendant provided the quotation to the Plaintiff, and the Plaintiff had also specifically pointed them out to the First Defendant.

52. The First Defendant also confirmed they will build up around the pool in an email sent on 26 February 2020.

53. The First Defendant told the Plaintiff's wife that they did not use subcontractors, but it turned out that they do.

54. The First Defendant also attempted to charge the Plaintiff for work done without informing the Plaintiff of the costs involved beforehand.

54.1. The First Defendant raised the three (3) steps in the main pool, as agreed with the Plaintiff, but the Plaintiff only learned there had been a cost involved when he received an email from the First Defendant some time afterwards.

54.2. The National Consumer Protection Act 68 of 2008 ("the Act") finds application in this matter as Section 15 (1) and (2) reads:

**Pre-authorisation of repair or maintenance services**

15. (1) This section applies only to a transaction or consumer agreement—

(a) with a price value above the threshold prescribed in terms of subsection (5);

and [25]

- (b) if, in terms of that transaction or agreement, a service provider supplies a repair or maintenance service to, or supplies or installs any replacement parts or components in, any property belonging to or in the control of the consumer, and—
  - (i) the service provider has, or takes, possession of that property for the [30] purpose contemplated in this paragraph; or
  - (ii) in any other case, the consumer requests an estimate before any services or goods are supplied.

(2) A service provider to whom this section applies, must not charge a consumer for the supply of any goods or services contemplated in subsection (1), unless— [35]

- (a) the supplier or service provider has given the consumer an estimate that satisfies the prescribed requirements, and the consumer has subsequently authorised the work; or
- (b) the consumer, in writing, or by another recorded manner or form, has—
  - (i) declined the offer of an estimate, and authorised the work; or [ 40]
  - (ii) pre-authorised any charges up to a specified maximum, and the amount charged does not exceed that maximum.

54.3. The Regulations to the Act, dated 1 April 2011, provides that:



## NOTICE

### THRESHOLD FOR PRE-AUTHORISATION OF REPAIR OR MAINTENANCE SERVICES

- 1 For purposes of section 15(1)(a) and (5) of the Act, the threshold for pre-authorisation of repair or maintenance services generally is R 1.00 (One Rand) excluding value-added tax, unless differently provided for by regulation or industry code contemplated in section 82 of the Act.
- 2 An estimate must specify -
  - (a) a breakdown and the total of the amount to be charged if the repair or maintenance is effected;
  - (b) the nature and extent of the repair or maintenance;
  - (c) the period of validity of the quote; and
  - (d) the period within which the consumer must collect the goods and the consequence if he or she or it does not do so.

54.4. From a clear reading of the Act, read with the Regulations thereto, that any repair or maintenance work to be conducted on the property of any consumer must be provided in a written quotation, with the necessary details contained therein to avoid doubt as to the service being rendered and the cost(s) thereof.

55. The First Defendant also did not provide their own company registration number on their quotation, but rather they provided the company registration number of a company with which they are affiliated, and which is called Cape Pool Renovators on their quotation.

55.1. The Plaintiff enquired with the NSPI on 8 May 2020 when the First Defendant became a member of the NSPI, and the NSPI indicated that the company had been registered in 1998 and became a member of the NSPI in 2018.

55.2. However, after obtaining the First Defendant's business registration documents through a third party, the Plaintiff discovered that the First Defendant was only registered in 2019, a year prior to them commencing work on the Plaintiff's pool.

- 55.3. However, the First Defendant's website indicates that they have "35+ years experience", thus misrepresenting the amount of years that they have been in business and the amount of experience they really have.
  - 55.4. The company registration number provided on the First Defendant's quotation, B1990/002759/23, which was indicated as being the company registration number of a company called Cape Pool Renovators indicates that that company was registered as a business in 1990.
  - 55.5. The Plaintiff queries why the First Defendant displays Cape Pool Renovators' company registration number on their quotation, instead of their own.
56. Furthermore, the Plaintiff queries the name of the company referred to as Cape Pool Renovators on the First Defendant's quotation.
- 56.1. The company registration documents of the company referred to as Cape Pool Renovators, indicate that the company is in fact called Port Ferry Properties.
  - 56.2. The Plaintiff disputes that Cape Pool Renovators is the registered name of the company of the same name, and puts them to the proof thereof.
  - 56.3. The Plaintiff only recently discovered that the Second Defendant was not the owner of Ambassador Pools (the First Defendant) after the Plaintiff obtained the business registration documents of the First Defendant .
  - 56.4. The Plaintiff referred to the Second Defendant as the owner of Ambassador Pools (the First Defendant) in his first email to the NSPI on 17 March 2020, and which email was forwarded to the Second Defendant, but the Second Defendant never corrected the Plaintiff.
  - 56.5. By not correcting the Plaintiff, the Second Defendant allowed the Plaintiff to remain under the false impression that the Second Defendant was the owner of Ambassador Pools (the First Defendant).

- 56.6. Furthermore, the Second Defendant's name appeared on the First Defendant's quotation as the owner of the bank account into which the Plaintiff was to transfer the relevant monies for the work done by the First Defendant.
- 56.7. The Plaintiff has recently learned that the Second Defendant owns 31 Chilwan Crescent, Somerset West, which is the business premises of Sundance Pools and Horizon Pools.
- 56.8. The Plaintiff has also recently learned that Andre Pretorius is the owner of Ambassador Pools (the First Defendant).
- 56.9. Since apparently the First Defendant, Mr Ron Munroe of Cape Pool Renovators, and the Second Defendant of Sundance Pools and Horizon Pools have all been involved in this situation, the Plaintiff queries which company even worked on his pool.
- 56.10. The National Consumer Protection Act 68 of 2008 finds application in the matter above, as sections 41 and 79 are clear regarding misleading representations and the identification of the person to whom a business name is registered.
- 56.11. Since the Second Defendant indirectly expressed a misleading representation of himself as the owner of Ambassador Pools (the First Defendant), the Plaintiff holds the First Defendant and the Second Defendant jointly and severally liable for the amount claimed by the Plaintiff.
57. When the Plaintiff initially contracted the First Defendant's services, all the business administrative documents, such as the quotations and the invoice, were sent by Ms Nicola Beattie at "Cape Pool Renovators", and thus the impression was made to the Plaintiff that "Cape Pool Renovators" manages the First Defendant's administration, while the First Defendant does the actual work.

- 57.1. As the situation between the Plaintiff and the First Defendant deteriorated, "Cape Pool Renovators" took over more and more of the discussions with the Plaintiff regarding how the work should be corrected.
  - 57.2. "Cape Pool Renovators" recommended the First Defendant not to redo much of the incorrect work, but rather recommended that they just try to make the incorrect work less obvious. However, as discussed before, these recommendations would not have corrected the problems, and in many cases would only have created more problems.
  - 57.3. When the Plaintiff did not accept "Cape Pool Renovators'" poor solutions, "Cape Pool Renovators" also took over as the legal advisor of the First Defendant.
  - 57.4. On the NSPI website, "Cape Pool Renovators" is indicated as "trading as Ambassador Pools", however, the First Defendant is a completely separate company from "Cape Pool Renovators", with their own company registration number. Therefore, "Cape Pool Renovators" cannot be "trading as" the First Defendant.
  - 57.5. On the First Defendant's quote, "Cape Pool Renovators" is indicated as being "affiliated with" the First Defendant.
  - 57.6. The Plaintiff queries the exact relationship between the First Defendant and "Cape Pool Renovators".
58. The First Defendant has, in various emails sent to the Plaintiff, including three emails sent on 25 April 2020, 12 June 2020 and 27 June 2020, admitted that much of the work has been done incorrectly.
59. The Plaintiff has provided the First Defendant with plenty of chances to correct their work, but the First Defendant was unable to do so.
60. It is clear to the Plaintiff that the First Defendant's employees are incompetent and incapable of completing the work to a reasonable and professional standard.

61. The First Defendant has also indicated that they are unwilling to redo much of the incorrect work.

62. The First Defendant attempted to compel the Plaintiff to allow them to complete the work before an agreement had been reached between the Plaintiff and the First Defendant.

62.1. Before the Plaintiff agreed that the First Defendant could continue with the work, the First Defendant arranged to deliver a toilet for their workers' use to the Plaintiff's house, and simply informed the Plaintiff that the toilet would be delivered and their quotation would follow.

62.2. Since no agreement had been reached between the First Defendant and the Plaintiff, the Plaintiff informed the First Defendant to remove their toilet from his property until they have reached an agreement regarding the work and the start date.

63. The Plaintiff asked the First Defendant on 13 June to postpone the matter for a month, in order for the Plaintiff to determine how to proceed, and to obtain the opinion of other pool companies regarding the First Defendant's work on his pool.

63.1. However, after nine (9) days, on 22 June, the Second Defendant informed the Plaintiff that he would come to the Plaintiff's house in two (2) days' time in order to sort the matter out.

63.2. The Plaintiff does not appreciate that the First Defendant did not give him time to put his affairs in order, and that they again tried to impose themselves on him.

63.3. The Plaintiff informed the Second Defendant that he did not have to come, since he would not be utilising their services anymore.

64. When the Plaintiff realised that it was becoming impossible to reach a resolution regarding the situation with the First Defendant, the Plaintiff asked the NSPI to send an inspector to assist in the mediation of the situation.

65. After the Plaintiff indicated that he would not be making further use of the First Defendant's services, on 15 June 2020 the NSPI sent him the name of their inspector, which was Mr John Jager, and told him they would arrange for Mr Jager to examine the Plaintiff's pool and give recommendations.
66. However, the Plaintiff understands that Mr Jager is indicated on both Sundance Pools and Horizon Pools' websites as being the contact person for sales, and since the Second Defendant owns the premises of Sundance Pools and Horizon Pools, it is reasonable to assume that the Second Defendant owns the businesses of Sundance Pools and Horizon Pools as well.
67. Even though the NSPI has indicated that Mr Jager is their usual inspector, the Plaintiff contends that since there is a business relationship between the Second Defendant and Mr Jager, there is a conflict of interest, and that Mr Jager would not provide an impartial and unbiased assessment of the work done by the First Defendant.
68. The Plaintiff initially underestimated the cost to repair his pool to a reasonable and professional standard, and expected the cost to be approximately the outstanding amount that he would have paid to the First Defendant, had they completed the work correctly.
- 68.1. The Plaintiff indicated to the First Defendant in an email on 23 June 2020 that it would be simplest to cancel the contract, and that he would use the outstanding amount to pay another contractor to repair and complete the pool.
- 68.2. Being a layperson, the Plaintiff did not know at that stage what it would cost to repair the pool.
- 68.3. However, the First Defendant indicated that they would only accept the Plaintiff's offer to cancel the contract on the conditions that neither party would pursue legal recourse against the other, and that the Plaintiff not disclose any information regarding the contract to a third party.

- 68.4. The First Defendant indicated that the Plaintiff was to confirm his acceptance of their conditions by email.
- 68.5. The Plaintiff did not accept their conditions for cancelling the contract and did not respond to their email.
- 68.6. Furthermore, after obtaining quotations to repair the incorrect work done by the First Defendant, the Plaintiff understands that the cost to repair the work significantly exceeds the outstanding amount.
69. The cost to redo the paving amounts to R32 800 (please see **Annexure S3**).
70. The approximate cost to relevel the entire pool amounts to R17 000. The First Defendant had quoted the Plaintiff R8 500 to relevel only the jacuzzi part, so the Plaintiff has doubled that amount to cover the entire pool (please see **Annexure S4**).
71. The cost to repair the inside of the pool amounts to R26 952 (please see **Annexure S5**).
72. The cost to repair the pump during lockdown amounted to R2 080 (please see **Annexure S6**).
73. The Plaintiff also incurred an electrician callout fee due to the First Defendant utilising the services of an unqualified electrician to install the pool lights, which amounted to R600 (please see **Annexure S7**).
74. The total for the above costs is R79 432.

WHEREFORE the Plaintiff claims from the Defendants:

- a) Payment of the amount of R79 432 (Seventy-nine thousand four hundred and thirty two Rand)
- b) Interest on the amount of R79 432 (Seventy-nine thousand four hundred and thirty two Rand) calculated at 10% per annum a *tempore morae* to date of final payment;

c) Further and/or alternative relief.

**DATED at BRACKENFELL on this 3rd day of AUGUST 2020.**



---

**RUBEN THEODOR FITCHAT**

91 FRANGIPANI STREET

KLEIN BRON ESTATE

BRACKENFELL

7560

Cell: 083 925 1545

Email: [theo@cluedapp.co.za](mailto:theo@cluedapp.co.za)

**TO: THE CLERK OF THE COURT**  
**Magistrates Court**  
**KUILSRIVER**

**AND TO: AMBASSADOR POOLS**  
First Defendant  
Unit 206  
South Shore Beach Apartments  
Main Road  
FISH HOEK  
7975

**AND TO: RICHARD GRAHAM HUSTED**  
Second Defendant  
31 Chilwan Cres  
Helderberg  
SOMERSET WEST



7130

**SERVICE BY SHERIFF**

# Annexure S1:



Richard Husted 082 773 9158  
richard@ambassadorpool.co.za



Ambassador Pools is affiliated to Cape Pool Renovators  
Business Reg: CK90/002759/23

<b>Invoice To</b>
Theo Fitchat 91 Frangipani Street Kleinbron Estate, Brackenfell 0839251545 theo@cluedapp.co.za

Invoice		
P.O. No.	Date	Invoice No.
	2020/03/03	201943

Description	Amount
Empty the pool into storage tanks onsite (20 000 litres). Includes setup, breakdown, tanks, pump, groundsheets and labour to empty and refill the pool on completion. *Client to top up.	3 500,00
Check entire pool interior for any loose sections; remove and plaster over where required. Acid wash the entire surface area of the swimming pool. Cut in under the copings with an angle grinder and tuck fibreglass in. Seal with fibreglass putty. Prepare entire surface to accept 450g chopped strand matt, laminated with isophalic resin. Supply and fit "Blue Marble SFT1039" screen printed mosaics. Laminate with clear NPG poolcoat. Apply 1 layer of surface tissue. Lightly grind down the entire surface area of the swimming pool. Apply non-slip surface to all steps (including new jacuzzi step). Supply "Pool Blue" poolcoat with textured lamb's wool rollers.	29 800,00
Break out "rimflow wall" at Jacuzzi and make good.	1 500,00
Repair / replace 4 x jacuzzi jets / pipework / lift and relay paving as required to render jets functional.	3 500,00
Remove old coping. Supply and install new Cemstone 300mm x 300mm x 40mm Mushroom copings.	8 400,00
Supply and install new retrofit LED light (assuming existing electrics are in working order).	1 800,00
Cast concrete slab at pump / filter.	1 200,00
Tile Cemstone 300mm x 300mm x 40mm Mushroom on concrete base of pump / filter.	900,00
Supply and install fibreglass 1.2m x 1.2m x 0.9m pump / filter housing with lid.	2 500,00
Supply and install leaf catcher.	1 100,00
Repair / concrete work on the vertical wall under the coping (for Cemstone tiles)	2 500,00
Extend the paving all around the pool (as per client's photo). Cemstone paver (25m2).	15 900,00
Install step at jacuzzi.	1 000,00
Install LED light at jacuzzi.	2 800,00
Remove 4 x lights behind pool and make good.	500,00
Repair pump switch cover	300,00

RELINING GUARANTEE:5 Years against delamination (including materials and labour)	<b>Total</b>	R77 200,00
	<b>Payments Received</b>	R0,00
	<b>Balance Due</b>	R77 200,00

<b>Terms</b>
75% Deposit; 25% on Completion
<b>Bank Details</b>
RG Husted Capitec Bank Account 1655 664 156 Somerset West 470010
*Guarantees are valid on full payment *

**Annexure S2:**

**Jonathan W Mitchell**

**INDEPENDENT BUILDING CONSULTANT**

**AND**

**CONSTRUCTION DISPUTE RESOLUTION PRACTITIONER**

for and on behalf of Happy Homes Construction CC

11 Upper Camp Road, Maitland, 7405

Tel: 021-511-7222/1 Email: arbitrator@worldonline.co.za

---

**E-MAIL TRANSMISSION**

FILE REF: FITCHAT \invoice 4741

**DATE:** 25<sup>th</sup> March 2020

**TO:** Mr & Mrs Theo & Sonet Fitchat

**CELL NO:** 083 925 1545 | 060 340 1315

**E-MAIL:** theo@cluedapp.co.za; sonet@cluedapp.co.za

**PAGES:** ( 2 ) including cover page

**RE:** CLAIM FOR PAYMENT NO. 4741

---

**CONFIDENTIALITY NOTICE**

This e-mail transmission is intended only for the use of the addressee and may contain confidential information which is subject to legal privilege. If you are not the intended recipient, you are hereby notified that any use, copying, distribution or dissemination of this communication is strictly prohibited. If you have received this transmission in error please notify us immediately.

---

Dear Mr & Mrs Fitchat

Following, is Claim for payment number 4741, for your kind attention. Please note, payment is due and payable upon receipt of this invoice.

**Our bank details**

**Pay by Internet (EFT)**

Bank	INVESTEC
Branch code	58 01 05
Account number	1001 057 4406
Account name	HAPPY HOMES CONSTRUCTION CC t/a Jonathan Mitchell
Reference	Invoice number / Your name

---

JONATHAN W MITCHELL - PRESIDENT OF THE MASTER BUILDERS AND ALLIED TRADES ASSOCIATION (CAPE PENINSULA)  
1995/1996/1997 - FELLOW OF ASSOCIATION OF ARBITRATORS (SOUTHERN AFRICA)

**Member: Jonathan W Mitchell**  
**Reg. No: CK 1989/003539/23**

# **Jonathan W Mitchell**

**INDEPENDENT BUILDING CONSULTANT**

**AND**  
**CONSTRUCTION DISPUTE RESOLUTION PRACTITIONER**

for and on behalf of Happy Homes Construction CC  
11 Upper Camp Road, Maitland, 7405  
Tel: 021-511-7222/1 Email: arbitrator@worldonline.co.za

FILE REF: FITCHAT \invoice 4741

**ACCOUNT NAME:** Mr & Mrs Fitchat  
**ADDRESS:** 91 Frangipani Str  
Klein Bron Estate  
Brackenfell, 7560  
**VAT REG. NO:** 4930121977  
**DATE:** 25<sup>th</sup> March 2020  
**TAX INVOICE NO:** 4741

**Our bank details**

**Pay by Internet (EFT)**

Bank INVESTEC  
Branch Code 58 01 05  
Account number 1001 057 4406  
Account name Happy Homes Construction CC  
t/a Jonathan W Mitchell  
Reference Invoice number / your name

**IN THE MATTER : MR & MRS FITCHAT**

To time spent perusing emails; quotations; specifications; scope of works, before  
visiting the site 0.25 hrs R 625.00

**23.03.2020**

Travel to/from Klein Bron Estate 67 kms R 536.00

To time spent travelling at Minimum Nominal Rate R 800.00

To time spent on site in consultation; performing cursory visual inspection of painted  
surfaces; inspect roof coating and chimneys and test for moisture in walls using a  
Proti-meter 3 hours R 7,500.00

**24 & 25.03.2020**

To time spent perusing your emails; video and photos. Fee waived

To time spent replying to your emails Fee waived

Send photos by email Fee waived

Sub-Total R 9,461.00

Add VAT @ 15% R 1,419.15

**TOTAL NOW DUE AND PAYABLE R10,880.15**

**TERMS:** Please note, payment is due and payable upon receipt of this invoice.  
Thank you.

JONATHAN W MITCHELL - PRESIDENT OF THE MASTER BUILDERS AND ALLIED TRADES ASSOCIATION (CAPE PENINSULA)  
1995/1996/1997 - FELLOW OF ASSOCIATION OF ARBITRATORS (SOUTHERN AFRICA)

Member: Jonathan W Mitchell  
Reg. No: CK 1989/003539/23

## Annexure S3:

Mr Theo Fitchat,  
91, Frangipani,  
Kleinbron Estate,  
Brackenfell.

30/6/2020

Dear Theo,

Thank you for allowing me to submit the following quotation:

**To supply and lay copings, pavers and cobbles as per the following scope of works:**

- Site establishment. Preparation. Setting up levels.
- Excavate copings, pavers, tiles and cart away.
- Build retaining wall as discussed.
- Supply and lay Geotextile Grade A1.
- Supply and lay sand 25mm thick and compact to an optimum density.
- Supply and lay Copings size 120x240x40mm colour Mushroom by pool surround, steps and edge of retaining wall.
- Supply and lay tiles 300x300x20mm colour Mushroom by retaining wall.
- Edge restraint.
- Grouting and finishing off. (Using white cement and lime for grouting)
- Removal of rubble.
- Price: Nett (VAT inclusive)
- Warranty: Lifetime warranty on workmanship (T&C's apply)

<b>Total price</b>	<b>R32, 800.00</b>
--------------------	--------------------

**Please also note the following:**

**Amenities:** Electricity and water are to be made readily available. If you have a borehole or well point, we will make use of that, water must be free from salt and iron. Otherwise we will have to make use of normal tap water. We cannot be held responsible for any fines that may occur.

**Validity:** End of July 2020.

**Payment:** 50% on confirmation  
Balance on completion.

We hope the above will meet with your approval and earnestly await your favourable instructions. Should you need any other information please do not hesitate to contact me.

Yours faithfully,

Accepted
Date:

## Annexure S4:

Re: New quote from Ambassador Pools.eml



IN info@capepoolrenovators.co.za

Fri, 12 Jun 2020 16:54:25 +0200

To: "Irene Carter - NSPI" <nspiwc@nspi.co.za>

Cc: "theo" <theo@fitchat.co.za>, "Richard Husted" <rhatamb@gmail.com>

Display now External Images are not displayed

Hello Irene

It must be noted that this is an old concrete pool with a jacuzzi/baby pool structure (added on somewhere along the line).

The fact that it is out of level only became apparent once the new mosaics had been applied and the pool refilled. There were no mosaics prior to this, so the levels were not clearly evident to the client.

It is highly unlikely that the main pool could suddenly drop by 3.5cm

- a. with water being taken out, not water being put in
- b. during the short time that Richard was onsite
- c. without snapping somewhere (most likely to happen between the pool and the added on/new jacuzzi).

It must also be noted that in reply to my previous email, the client acknowledged that the pool was out of level and advised to proceed without levelling the jacuzzi going forward.

The items which Richard quoted for today are not items specified on the original, accepted quote (see attached invoice)

These include:

- A brand new brick wall (2 bricks high) on which to clad/rest copings against. R9 400
- Levelling the jacuzzi R8 500
- One new extra step in the jacuzzi R1 000 (R2000 is an error, as one step was already quoted/paid for)
- Modify existing steps in main pool R3 500

If the client opts against having any of these extras, there will be no further cost and the remedial work will be attended to by Richard, as per today's email to his client.

I trust this is in order.

Ron

## Annexure S5:

# QUOTE



### Intensive Pool Care cc

0787112605  
12 Signal Close  
Belhar Bellville  
7493.  
Reg. Number  
2008/208660/23  
Vatt number. 4700286646

### BILL TO

Theo

### QUOTE #

118

### QUOTE DATE

14/07/2020

91 Frangipani crescent  
Brackenfell

QTY	DESCRIPTION	UNIT PRICE	AMOUNT
3	Iso resin	2,100.00	6,300.00
1	Topcoat Blue 20kg	3,476.00	3,476.00
1	Mosaic coat x5 kg	983.00	983.00
1	Acitone 1x25l	810.00	810.00
1	Hardner 1x2l	413.00	413.00
1	Tissue 1xroll	2,100.00	2,100.00
35	Mosaic trimming	60.00	2,100.00
1	Quarter roll 350 Chopstrain matt	1,450.00	1,450.00
1	Pigment 1x2kg	320.00	320.00
6	Buckets	40.00	240.00
4	Roller complete /short pile	80.00	320.00
4	Brush	60.00	240.00
10	Sanding pads	40.00	400.00
1	Labour Charge On lining	7,800.00	7,800.00
1	Guarantee On workmanship 5 years	0.00	0.00
		<b>TOTAL</b>	<b>ZAR 26,952.00</b>

## Annexure S6:

The cost to repair the pump during lockdown

# QUOTE



### Intensive Pool Care cc

0787112605  
12 Signal Close  
Belhar Bellville  
7493.  
Vatt number. 4700286646

### BILL TO

Theo  
  
Brackenfell

### QUOTE #

189

### QUOTE DATE

02/05/2020

QTY	DESCRIPTION	UNIT PRICE	AMOUNT
1	Supply 2 ball valves	680.00	680.00
1	Install filter. Including pipe, fitting and glue	1,080.00	1,080.00
		<b>TOTAL</b>	<b>ZAR 1,760.00</b>



# INVOICE



**Intensive Pool Care cc**  
0787112605  
12 Signal Close  
Belhar Bellville  
7493.  
Vatt number. 4700286646

## BILL TO

Theo  
Brackenfell

## INVOICE #

161

## INVOICE DATE

02/05/2020

QTY	DESCRIPTION	UNIT PRICE	AMOUNT
1	Callout fee	320.00	320.00
		<b>TOTAL</b>	<b>ZAR 320.00</b>

## TERMS & CONDITIONS

If amount isn't paid in full, all parts or equipment installed or supplied is still property of Intensive Pool Care.

Standard bank.  
Account number.  
271420065  
Branch code.  
031110  
Cheque Account

*Thank you*



Simplicity is the ultimate  
sophistication

Dear Sir/Madam

Please take note that SONET FITCHAT made a payment to your account.

The payment details are as follows:

### Payment Notification

**Notification number** 682727  
**Payment date** 5 May 2020

#### To account details

**Beneficiary name** Intensive Pool Care  
**To account** 271420065  
**Bank name** Standard Bank  
**Branch** 051001  
**Amount** R2 080.00  
**Description** Theo-In161-Qu189

#### IMPORTANT NOTES:

Payments made BEFORE 02:00 PM Monday to Friday, or BEFORE 09:00 AM on a Saturday should reflect in the beneficiary account the following business (work) day.  
Payments made AFTER 02:00 PM Monday to Friday, or AFTER 09:00 AM on a Saturday, or on a Sunday, or on a public holiday should reflect in the beneficiary account within 2 business (work) days.

This is a notification that we received instruction to effect a payment and not a representation of any kind or guarantee that the amount has in fact been transferred or shall be available in the account. The processing of the payment may be delayed, which may impact on the timing of the availability of the funds.

### Remote Banking Services

## Annexure S7:

Electrical Men



# INVOICE

Electrical Men Call Out's  
Cape Town, Western Cape  
South Africa

021 979 5501

**BILL TO**

91 Frangipani Street, Kleinbron Estate  
Sonet

060 340 1315  
sonet@cluedapp.co.za

**Invoice Number:** 40

**Invoice Date:** March 25, 2020

**Payment Due:** March 25, 2020

**Amount Due (ZAR): R600.00**

Items	Quantity	Price	Amount
<b>Call Out:</b> Traveling time and transport cost on 25 March 2020	1	R300.00	R300.00
<b>Labour:</b> Labour to checked new pool lights supply for compliance. Found wiring to 2x pool lights exposed (not in conduit at entrance to pool)	1	R300.00	R300.00

**Total:** R600.00

**Amount Due (ZAR): R600.00**

**Notes**

Electrical Men

Absa branch code: 632005  
Account number 0101 0311 264

(Please use invoice number as reference.)

This is a COD account. Please use your Estimate or Invoice number as proof of payment. Goods remain the property of Electrical Men until paid in full. Office hours: Monday - Thursday: 8:00 - 17:00 Friday: 8:00 - 15:00 Saturday - Sunday: Close



Simplicity is the ultimate  
sophistication

Dear Sir/Madam

Please take note that SONET FITCHAT made a payment to your account.

The payment details are as follows:

### Payment Notification

**Notification number** 173898  
**Payment date** 31 March 2020

#### To account details

**Beneficiary name** Electrical Men  
**To account** 01010311264  
**Bank name** ABSA Bank  
**Branch** 632005  
**Amount** R600.00  
**Description** Fitchat-91Frangipani

#### IMPORTANT NOTES:

Payments made BEFORE 02:00 PM Monday to Friday, or BEFORE 09:00 AM on a Saturday should reflect in the beneficiary account the following business (work) day.  
Payments made AFTER 02:00 PM Monday to Friday, or AFTER 09:00 AM on a Saturday, or on a Sunday, or on a public holiday should reflect in the beneficiary account within 2 business (work) days.

This is a notification that we received instruction to effect a payment and not a representation of any kind or guarantee that the amount has in fact been transferred or shall be available in the account. The processing of the payment may be delayed, which may impact on the timing of the availability of the funds.

### Internet Banking Services