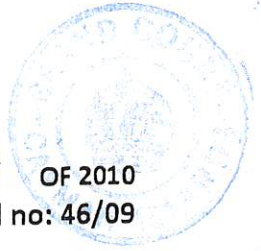


THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO: CIV 84 OF 2010
Legal Aid no: 46/09



BETWEEN:

FREDERICA JACKSON

PLAINTIFF

AND:

LUXURY HOTELS INTERNATIONAL LODGING LIMITED

DEFENDANT

TO: Luxury Hotels International Lodging Limited
Walkers Corporate Service
Walker House
Box 908 GT



THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out on the next page.

Within 14 days after the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495G, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 27th day of January 2010.

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.

STATEMENT OF CLAIM

1. The Plaintiff is a female d.o.b 3rd August 1956 and currently resides at #52 July Street, Windsor Park.
2. The Defendant was at all times a company trading in the Cayman Islands as a hotel and resort complex and registered at the Companies Office of the Cayman Islands under the name Luxury Hotels International Lodging Limited.
3. The Plaintiff was employed by the Defendant from the 13th November 2007 as a housekeeper until the 22nd January 2009 when she was dismissed from her employment. The Plaintiff worked at the Grand Cayman Marriott Beach Resort, West Bay Road, George Town, Grand Cayman.
4. On the 10th August 2008 the Plaintiff was scheduled to work at the Defendants hotel premises and attended to commence her shift. Prior to commencing her shift it was the Plaintiff's responsibility to sign in by punching a code into a computer and having a fingerprint taken to signify the start of her shift. In order to do this the Plaintiff was walking through a hallway towards the punch-in room.
5. The Plaintiff approached a large heavy double door which was capable of being opened only in the direction that she was coming from. This door had a large plastic window inserted.
6. As the Plaintiff approached the door in the course of her employment and suddenly and without warning the door swung towards her violently striking her to her right hand and face. The door had been opened by an employee of the Defendant and a manager at the hotel, being a servant or agent of the Defendant acting in the course of his employment.
7. The accident was caused by the negligence of the Defendant, their employee or agent acting in the course of their employment.
8. As a result of the negligence of the employee of the Defendant the Defendant is vicariously liable for the personal injuries, loss and damage sustained by the Plaintiff.

9. Particulars of Negligence

- (a) Opening a door in a manner likely to cause injury.
- (b) Opening a door in a manner that was reckless or careless as to whether it was likely to cause injury.
- (c) Failing to keep any or adequate look out.
- (d) Failing to see the Plaintiff in time or at all.
- (e) Failing to heed or act upon the presence, path or position of the Plaintiff.
- (f) Failing to give the Plaintiff any or adequate warning of his approach.
- (g) Causing or permitting the Plaintiff to sustain injury.
- (h) Exposing the Plaintiff to a foreseeable risk of injury.
- (i) Failing to take any or adequate care for the safety of the Plaintiff.
- (j) Failing to provide for the Plaintiff safe and competent fellow employees.
- (k) Failing to institute or enforce any or any adequate system for the ensuring the safety of the Plaintiff at her place of work.
- (f) Failing to give the Plaintiff any or any adequate or effective warning of the opening of the door.

10. As a result of the Defendant's negligence, the Plaintiff has suffered personal injuries, loss and damage.

Particulars of Personal Injury

- 11. The Plaintiff left work almost immediately and attended at George Town Hospital. After treatment and medication the Plaintiff was released the same day.
- 12. The Plaintiff's condition worsened over the next number of days and the pain increased to her right hand and the Plaintiff was unable to return to work.

13. The Plaintiff returned to hospital on the 18th August complaining of pain in the right fingers and being unable to flex her hand. As a result of the accident on the 10th August 2008 the Plaintiff suffered pain to her right hand.
14. The Plaintiff continued to seek treatment over the next number of months as her condition worsened. She received physiotherapy and was treated with antibiotics and painkillers.
15. The Plaintiff was called to return to work on light duties in January 2009. The Plaintiff was folding towels and taking out the bins, the pain was so bad that after 3 hours of work the pain was so bad that the Plaintiff had to stop working and take painkillers.
16. The Plaintiff was dismissed from her employment later that month.
17. The Plaintiff has since been diagnosed with extensor tendonitis and traumatic arthritis.
18. The Plaintiff has ceased taking painkilling tablets due to health reasons and takes antibiotics and is still unfit for work. She continues to suffer from the injuries sustained.

19. Particulars of Special Damage

- (a) The Plaintiff has incurred medical expenses and will continue to do so. Particulars of this claim will be forwarded when complete.
- (b) The Plaintiff has suffered loss of earnings and will suffer loss of earnings from now until retirement age. Such losses will be particularized at a later date.
- (c) The Plaintiff has suffered a loss in the labour market and claims under the rule in *Smith v Manchester*.
- (d) The Plaintiff will need continued care and assistance domestically and will incur additional living expenses due to her injuries.
- (e) The Plaintiff has suffered a diminution in her social life.

(f) All such losses will be particularized when complete.

(g) The Plaintiff claims interest

AND THE PLAINTIFF claims:

1. Damages
2. Interest in accordance with the Judicature Law (2007 Revision)
3. Costs
4. Such further and other relief as this Court may deem just

Samson & McGrath

Samson & McGrath

Attorneys for the Plaintiff

THIS WRIT and Statement of Claim were issued by Samson & McGrath, Attorneys for the Plaintiff whose address for service is 5th Floor Genesis Building, Genesis Close, P.O. Box 446 GT, George Town, Grand Cayman.

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

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.

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.

Samson & McGrath
Attorneys at Law
5th Floor Genesis Building
Genesis Close
PO Box 446
George Town
Grand Cayman

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

