

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO.

G0172

OF 2010

BETWEEN: SHERRY ESTEEN

PLAINTIFF

AND: DR. AWARDNATH (HOWARD)

DEOSARAN

DEFENDANT

WRIT OF SUMMONS

To: Dr. Awardnath (Howard) Deosaran
9 Alexander Place
Dorcy Drive
George Town
Grand Cayman



THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff of c/o Campbells, 4th Floor, Scotia Centre, George Town, Grand Cayman in respect of the claim set out in 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, PO Box 495, Grand Cayman, KY1-1106, Cayman Islands, the accompanying Acknowledgement within the time stated, or if you return the Acknowledgement, 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 April 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 of Acknowledgment for Service are given with accompanying form.

GENERAL INDORSEMENT

The Plaintiff's claim is for:

1. Damages for personal injuries and the associated losses, costs and interest arising from surgery performed on the Plaintiff by the Defendant on 24th April 2007. At all material times, the Plaintiff was a private individual undergoing surgery performed by the Defendant at the George Town Hospital, Grand Cayman, Cayman Islands. The Defendant was at all relevant times a medical practitioner in private practice, specialising in obstetrics and gynaecology.
2. On 24th April 2010, the Plaintiff underwent laparoscopic surgery performed by the Defendant as a result of the Plaintiff having developed an ovarian cyst. On entering the Plaintiff's abdomen laparoscopically, the Defendant detected an injury to the Plaintiff's small bowel. The Defendant summonsed the assistance of a general surgeon and proceeded to surgically open the Plaintiff's abdomen and repair the injury to the small bowel.
3. Either during the laparoscopic surgery when the cyst was removed or during the procedure to repair the small bowel, the large bowel was damaged. This injury was not detected and the wound was closed. The Defendant failed to detect and repair the injury caused to the large bowel.
4. Further, there was enough medical information available from the Plaintiff's medical records to determine that her past history, which included past abdominal surgeries and adhesions to scar tissue in the pelvis area, mitigated against laparoscopic surgery and/or the past history should have given an indication to the Defendant to take adequate precaution and procedures in order to minimise the risk of injury to the Plaintiff.

5. The injury to the Plaintiff's large bowel was caused by negligence of the Defendant in electing to perform and in performing the surgical procedure on her on 24th April 2010.
6. By reason of the matters set out above, the Plaintiff has suffered personal injuries, including psychiatric injuries, humiliation and distress together with special damage including medical expenses, loss of earnings and future losses.
7. Further, the Plaintiff is entitled to and claims interest pursuant to section 34 of the Judicature Law (2004 Revision) on the amounts found due to her, for such periods and at such rates as the Court deems fit.

Dated: 22nd April 2010



CAMPBELLS

Attorneys-at-Law for the Plaintiff

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS

1. The accompanying form of *Acknowledgment of Service* should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495, George Town, Grand Cayman

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings *must also serve a defence* on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A *Stay of Execution* against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, *issue a Summons* for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by installments or otherwise.

See over for notes for guidance

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 his 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.

Campbells .
Attorneys-at-Law
P.O. Box 884
Fourth Floor
Scotia Centre
George Town,
Grand Cayman KY1-1103
Cayman Islands
Ref: STM/gh/16641

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