

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION

CAUSE NO: CIV <sup>6340</sup> OF 2010  
Legal Aid no: 65/10

BETWEEN:



DESIREE WESLEY

PLAINTIFF

AND:

JOHN WESLEY

DEFENDANT



TO: John Wesley

**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     day of September 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 26<sup>th</sup> December 1969 and currently resides at #146 Botanic Park Road, Grand Cayman.
2. The Defendant was previously the husband of the Plaintiff and the parties were divorced on the 31<sup>st</sup> March 2008.
3. On the 1<sup>st</sup> January 2006 the parties were both present in the matrimonial home at 146 Botanic Park Road, North Side, Grand Cayman when the Defendant approached the Plaintiff who was sat with her head forward in the bathroom.
4. The Defendant wrongfully assaulted the Plaintiff by intentionally striking the Plaintiff to the back of her head with considerable force.
5. As a result the Plaintiff sustained severe personal injuries and has suffered loss and damage.
6. The police were called and a complaint made by the Plaintiff and on or about February 2010 the Defendant was convicted at the Summary Court of the Cayman Islands of assault occasioning actual bodily harm against the Plaintiff.

### **Particulars of Injuries**

7. An ambulance was called and the Plaintiff was removed from the scene for treatment and observation.
8. The Plaintiff suffered neck and left arm pain with symptoms of numbness, tingling and occasional weakness.
9. The Plaintiff was treated for on-going neck and back pain at the Florida Spine Institute and was diagnosed as suffering from the following:
  - (a) Cervicothoracic and lumbar myofascial pain syndrome
  - (b) Muscle spasm
  - (c) Cervical radiculitis
  - (d) Lumbar radiculitis
  - (e) Headaches
  - (f) Cervical disc bulges

10. The Plaintiff was initially treated conservatively with medication, physiotherapy, epidural steroid injections and trigger point injections.
11. With the continuation of pain over a number of years the Plaintiff underwent spinal surgery in June 2009 and in particular an anterior cervical discectomy and fusion at multiple levels.
12. The Plaintiff continues to receive treatment for her injuries and is continues to suffer severe neck and upper limb pain.
13. As a result of the Plaintiff's on-going pain and physical condition the Plaintiff was medically retired by the Cayman Islands Government on medical advice on the 22<sup>nd</sup> June 2010.

**Particulars of Special Damage**

14. The Plaintiff has been medically unfit to work from June 2009 and has been retired from her employment on the 22<sup>nd</sup> June 2010.
15. The Plaintiff was employed by the Cayman Islands Government as an auditor and as of June 2009 was receiving the sum of CI\$3,771 per month as her net pay.

16. The Plaintiff lost the following sums subsequent to her absence from work on or around June 2009.

(1) August – October 2009	\$125 per month	\$375
(2) November 2009		\$731
(3) December 2009 – May 2010	\$2,175 per month	\$13,050
(4) June 2009		\$2,900.46
(5) July 2010 – forward		<u>\$3,771</u>
(6) Total		\$20,827.46

17. The Defendant now receives the sum of CI\$870.54 per month as pension benefit from the CI Government as a result of being retired early. Such amount is to be offset from the loss of wages for both special and general damages from July 2009 until retirement age of 60.
18. The Plaintiff has lost government pension contributions of 5% of net salary on all salary loss due to injuries sustained from November 2009 to date of trial.

19. The Plaintiff has sustained out of pocket expenses in the sum of CI\$4,829.22 by way of expenses incurred as a result of her injuries. Particulars of such claim is annexed to this statement of claim.

**Particulars of General Damage**

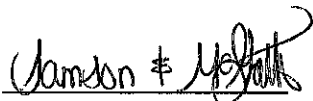
20. Damages for pain and suffering and loss of amenity.
21. Loss of earnings from date of trial to date of normal retirement age of 60.
22. Loss of pension entitlement from date of trial to date of normal retirement age of 60.
23. Damages for cost of care and cost of future medical expenses.

**Statement regarding Interest**

24. The Plaintiff claims interest on the damages for pain, suffering and loss of amenity from date of service of the Writ.
25. The Plaintiff claims interest on all past loss and expense from the date of the assault.
26. Interest is claimed pursuant to the Judicature Law (2007 Revision) and the Judgment Debt (Rates of Interest) Rules as amended from time to time with the rate of interest rate claimed 5% per annum.

**AND THE PLAINTIFF claims:**

1. Special Damages
2. General Damages for pain and suffering, loss of amenity, loss of earnings and cost of care.
3. Interest in accordance with the Judicature Law (2007 Revision)
4. Costs
5. Such further and other relief as this Court may deem just



**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 5<sup>th</sup> Floor Genesis Building, Genesis Close, P.O. Box 446 GT, George Town, Grand Cayman.

Description	Date of Travel	No	Vehicle Rental US\$	Food + Gasoline US\$	Helper US \$	Rent-A-Centre US \$
Doctor Visit	December 8-9, 2008	1	118.00			
Doctor Visit	July 27-29, 2009	2	212.00			
Doctor Visit	October 21-23, 2009	3	52.00			
Doctor Visit	August 12-13, 2009	4	106.00			
Doctor Visit	June 2-4, 2009	5	212.00			
Doctor Visit	May 27-29, 2009	6	212.00			
Doctor Visit	May 9-11, 2010	7	150.00	253.05		
Doctor Visit	May 24-31, 2010	8	212.00			
Doctor Visit	January 21-28, 2010	9	219.00			
Doctor Visit	December 27-January 3, 2010	10	236.00			
Doctor Visit	May 4-6, 2010	11	110.00	134.11		
Doctor Visit	July 6-20, 2010	12	840.00	135.29		
Doctor Visit	July 20-27, 2010	13	473.00	183.4		
SURGERY	June 9, 2010	14				
Helper After Surgery	May 29-August 30, 2009	15			1,625.00	
Rent-A-Centre	Recline Chair after Surgery	16				43.68
Gentiva	Nurse home care after surgery	17				
<b>Total Expenses</b>			<b>3,152.00</b>	<b>705.85</b>	<b>1,625.00</b>	<b>43.68</b>

	US\$	CIS
Vehicle Rental	3,152.00	2,521.60
Food + Gasoline	705.85	564.68
Helper	1,625.00	1,300.00
Rent-A-Centre	43.68	34.94
Gentiva - Home Care	510.00	408.00
<b>Summary of Expenses</b>	<b>6,036.53</b>	<b>4,829.22</b>

**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  
5<sup>th</sup> 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.

[Empty box for defendant's attorney indorsement]

*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.

