

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 25 OF 2011

BETWEEN: DION BODDEN

PLAINTIFF

AND: THE CAYMAN ORTHOPAEDIC GROUP

1st DEFENDANT

AND: DR. PARVEZ ANSARI

2nd DEFENDANT

AND: DR. STEVEN RICHIE

3rd DEFENDANT

AMENDED WRIT OF SUMMONS



TO : THE CAYMAN ORTHOPAEDIC GROUP P.O. Box 11698 Grand Cayman KY1-1009, Cayman Islands

AND TO: DR. PARVEZ ANSARI P.O. Box 11698 Grand Cayman KY1-1009, Cayman Islands

AND TO: DR. STEVEN RICHIE P.O. Box 11698 Grand Cayman KY1-1009, Cayman Islands

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 Courts Office, P.O. Box 495 G, 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 ~~26th day of January 2011~~ 13th day of January, 2012.

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.

INDORSEMENT

The Plaintiff's claim arises out of a Medical Negligence claim. The Defendants are Members of the Medical Protection Society.

This Writ was issued by Waide DaCosta, LLB, Attorney-at-Law for the Plaintiff whose address for service is P.O. Box 591, Unit #1 3rd Flr. Thompson Building, George Town, Grand Cayman KY1-1502, Cayman Islands

AMENDED STATEMENT OF CLAIM

1. The Plaintiff is a resident of the Cayman Islands and was born on June 28th 1978. The Plaintiff ~~is currently i~~~~was eurrently~~ unemployed ~~as at the date of filing the Writ. The Plaintiff is currently employed in a lesser capacity in a much lower paying job due to the injuries he has sustained. The Plaintiff's long term employment is questionable.~~ At all material times the Plaintiff was a patient in the care of the Second and/or Third Defendant who were in partnership and/or in an association with the First Defendant from surgery premises at Smith Road, George Town, Grand Cayman, Cayman Islands.
2. The First Defendant was at all material times responsible for the administration, management and control of The Cayman Orthopaedic Group in the Cayman Islands and for the provision of medical, surgical and nursing services at the practice. The First Defendant is an association of Surgeons and Medical Practitioners operating out of their clinic in George Town, Grand Cayman. The ~~s~~Second and ~~t~~Third Defendants were employed with the ~~1st~~ First Defendant in Association with several other ~~M~~medical ~~D~~doctors and surgeons.
3. ~~I~~On or about ~~27th February~~ ~~March~~ 2008 the Plaintiff sustained an injury to his wrist. ~~On or about 29th February 2008~~ ~~T~~he Plaintiff was referred ~~to~~ by Chrissie Tomlinson Memorial Hospital to the ~~f~~First Defendant where he was attended to by the ~~s~~Second ~~d~~Defendant Dr. Parvez Ansari ~~and the Third Defendant.~~
4. The Plaintiff presented himself to the ~~Second~~ Defendants, ~~Dr. Parvez Ansari, with a computer disc containing all of his x-rays, CT scans and MRI that were taken of the injured wrist as he had a fractured wrist and was suffering from exeruciating pain and major discomfort.~~ The Second Defendant did not have the knowledge or ability to read or interpret the medical records from the computer disc and ~~sent the Plaintiff back to Chrissie Tomlinson Memorial Hospital to have X-rays redone and hard copies printed. The Plaintiff was sent by the Second Defendant to travel between the First Defendant's medical facilities and Chrissie Tomlinson Memorial Hospital without any support or bracing or protection for the wrist which caused the Plaintiff to suffer further excruciating pain whilst he waited for the various tests and x-rays to be performed. The Plaintiff returned with the hard copies of the X-rays and the Second Defendant was shown how to view the computer disc. The Second Defendant pointed out a growth on the bone to the Plaintiff but stated that he was not concerned with the growth and ordered a cast for the wrist without conducting any further tests or biopsy of the growth.~~
45. The Second Defendant issued a report on 29th February, 2008 stating that "The hand itself is satisfactory" and that he "reviewed the MRI and CT scan and didn't see any very obvious injury" notwithstanding that he stated to the Plaintiff that there was a growth on his bone.
56. The Second Defendant examined the Plaintiff again on 5th March 2008 and put him in a scaphoid cast for approximately 6 to 8 weeks. The Plaintiff expressed that he was in a lot

of pain and was told by the Second Defendant that he should expect pain as it was a difficult injury to heal.

67. On or about 7th April 2008 the Plaintiff presented himself to the First Defendant and was treated by the Third Defendant Dr. Steven Richie. The Plaintiff complained of severe pain and that the pain was getting worse. The Plaintiff was having night pain and could not sleep. The Third Defendant removed the cast and put him in a wrist brace rather than a new cast and arranged for physiotherapy. The Third Defendant diagnosed the Plaintiff with a ligamentous injury rather than a bony fracture. The Third Defendant expressed that he worried about possible regional pain syndrome yet he did not request any further test to either rule in or rule out regional pain syndrome.

78. On or about 14th April 2008 the Plaintiff although feeling more comfortable was still experiencing excessive pain and attended at the First Defendant's facilities and was again treated by the Third Defendant, Dr. Steven Richie. The Plaintiff requested a referral to another specialist which the Third Defendant denied. The Third Defendant was dismissive and stated to the Plaintiff that the Plaintiff "had too much investigations on the wrist already to date in his opinion". The Plaintiff expressed to the Third Defendant that he would return to Chrissie Tomlinson Memorial Hospital to seek another referral since the Third Defendant refused to refer him to another specialist doctor. The Third Defendant performed no further tests at that time nor did he rule in or rule out that the Plaintiff was suffering from regional pain syndrome. The Third Defendant instructed the Plaintiff to continue wearing the wrist brace and start up with therapy and scheduled to see him in a month when he planned to get some x-rays on the wrist.

89. In the circumstances upon the Plaintiff has suffered pain, injury, loss, damage, stress and anxiety which he would otherwise not have endured.

910. The pain, injury, loss, damage, stress and anxiety were caused by the Defendants, either and by all, or one or more of them.

1015. The Second and Third Defendants and the servants or agents or other persons engaged by the First Defendant who treated and advised the Plaintiff, and all or one or more, negligently failed to diagnose the said Plaintiff's condition properly and advised the Plaintiff "that there was no need to operate and that the injury would heal naturally". Furthermore, the Defendants, and all or one or more, were negligent and failed to use reasonable care and skill in the treatment and advice they gave to the Plaintiff.

PARTICULARS OF NEGLIGENCE OF THE SECOND AND THIRD DEFENDANTS

- (1) Failing to conduct a proper examination of the Plaintiff;
- (2) Failing to observe and analyse the signs and symptoms of the Plaintiff's condition;
- (3) Failing to refer the Plaintiff to have any or any proper X-rays/CT scan;
- (4) Wrongly concluding that the Plaintiff was not suffering from any serious condition;
- (5) Failing to consider or to make the correct diagnosis;

Failed to take all reasonable steps to avoid injury to the Plaintiff;

(6) In the premises, failing to treat the Plaintiff adequately or at all;

126. The Plaintiff after six weeks had lapsed and the injury still had not healed, requested a referral to a specialist in Miami which the Defendants and in particular the Third Defendant declined or refused to provide.

13. Furthermore, the Defendants, and all or one or more, were negligent and failed to use reasonable care and skill in the treatment and advice they gave to the Plaintiff.

PARTICULARS OF NEGLIGENCE OF THE SECOND AND FIRST DEFENDANTS

(1) Failing to conduct a proper examination of the Plaintiff;

(2) Failing to observe and analyse the signs and symptoms of the Plaintiff's condition;

(3) Failing to refer the Plaintiff to have any or any proper X-rays/CT scan;

(4) Wrongly concluding that the Plaintiff was not suffering from any serious condition;

(5) Failing to consider or to make the correct diagnosis;

(6) Failing to take all reasonable steps to avoid injury to the Plaintiff;

(67) In the premises, failing to treat the Plaintiff adequately or at all;

1417. Thereafter the Plaintiff attended at the Chrissie Tomlinson Memorial Hospital who provided a referral to the Miami Hand Center, in Miami, Florida, United States of America. ——— It was after being treated at the Miami Hand Center that it was discovered by the Doctors at Miami Hand Center that the Plaintiff had a tumor on the bone which turned out to be benign.

1528. The Plaintiff needed a surgical reconstruction which was performed at Miami Hand Center on 30th April 2008 which required a bone graph as well as the installation of surgical pins in his hand.

1639. It is the conclusion of the Doctor performing the surgery at the Miami Hand Center that had they not operated when they did, the tumor would have further developed and spread and would have resulted in the Plaintiff my-client losing his wrist and hand function.

14. ——— 170. The Plaintiff avers that the Defendants were negligent in that the Defendants failed to properly diagnose and treat his injury and further that the Defendants were negligent in not recognizing that he had a benign bone tumor and further in failing to carry out or conduct any further tests to determine the full extent of his injury the Defendants have caused him to suffer unduly for a further period of approximately eight (8) weeks from the date of his visit with the said Defendants yoyou and to the date that the Plaintiff was operated on in Miami. In addition the time for the injury to heal has been unduly lengthened by the Defendants' your negligence.

15-181. The Defendants' failure and/or refusal to refer the Plaintiff to a specialist in Miami at the earliest opportunity compounded the problem and also caused the Plaintiff to suffer further loss and damage.

1962. The Plaintiff has lost partial function in his right hand and as a result was unable to maintain his employment. The injury Plaintiff injury suffered due to the negligence and misdiagnosis of his injury by the Second and Third Defendants. The Plaintiff has

suffered loss and damage and continues to suffer from severe pain requiring hospitalization from time to time.

~~201173~~. By reason of the Defendants negligence, and all or one or more, the Plaintiff suffered injuries and pain and continues to suffer from severe pain which the Defendants, and all or one or more, are responsible for at law and in equity.

PARTICULARS OF INJURIES

~~184~~. The Plaintiff suffered the following injuries:

- (a) Complex Regional Pain Syndrome Type 1;
- (b) Further particulars of the Plaintiff's medical condition are contained in a report of Dr. Roger K. Khouri of the Miami Hand Center dated August 5th 2008 attached hereto;
- (c) Further particulars of the Plaintiff's medical condition are contained in a further medical report of Dr. Stephen T.C. Gay dated 25th August 2010.

~~21195~~. At the time of the injury the Plaintiff was in good health and enjoyed an active social, family and sporting life.

~~2026~~. Full particulars of the Plaintiff's injuries will be disclosed in advance of trial as part of the discovery process in this cause.

~~2317~~. The Plaintiffs will provide details of the claim for special damages in advance of the trial in this cause.

~~22418~~. —As a result of the above the Plaintiffs is are entitled to the relief claimed in this proceeding.

AND the Plaintiffs claims:

- (1) Special damages for medical care, losses for paid and unpaid assistance and other expenses arising from the accident and the Plaintiffs injuries and future medical expenses to be incurred;
- (2) General Damages for pain, suffering, scarring and loss of amenity;
- (3) Interest on all sums due found to the Plaintiff pursuant to S. 34 Judicature Law (2007 Revision) at the prescribed rates from the date of the injury and for such period as may be just.
- (4) Costs.
- (5) Such Further or other relief as may be deemed just by this Honourable Court.

~~Dated this 26th January 2011.~~

Dated this 13th January 2012

WAIDE DACOSTA

Waide DaCosta
Attorney-at-Law for the Plaintiff

This Amended Statement of Claim was filed issued by Waide DaCosta, LLB, Attorney-at-Law for the Plaintiffs whose address for service is P.O. Box 591 , Unit #1 3rd. Flr. Thompson Building, George Town, Grand Cayman KY1-1502, Cayman Islands