

**IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL REGISTRY**

CAUSE No. ²⁷⁸ of 2012

BETWEEN

**HAROLD PARAMLALL (Widower and Administrator at litem on behalf of the
Dependents of Leila Sahodra Paramlall, deceased)**

PLAINTIFF

AND

CAYMAN ISLANDS HEALTH SERVICES AUTHORITY

DEFENDANT

**TO: CAYMAN ISLANDS HEALTH SERVICES AUTHORITY
95 Hospital Road, George Town
PO Box 915, Grand Cayman KY1-1103**

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 Acknowledge of Service stating therein whether you intend to contest these proceedings.

If you fail to supply the claim or to return the 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 8 day of June 2012.

NOTE – This Writ may be served later 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 Acknowledgement of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiff is the widower and/or Administrator of the estate of Leila Sahodra Paramlall who is hereinafter referred to as "the deceased" and brings this action in respect of his bereavement and for the benefit of the dependants of the deceased under the provisions of Section 3 of the Torts (Reform) Law (1996 Revision) and for the benefit of the estate of the deceased under the provisions of the Estate Proceedings Law (1995 Revision). Order approving the appointment of Harold Paramlall as administrator at litem solely to pursue this claim was made on the 22 May 2012 by the Grand Court of the Cayman Islands.
2. At all material time the Defendant owned, managed and administered the George Town Hospital "the hospital" pursuant to the Health Services Authority Law (2005 Revision) and provided medical specialists and other medical services including obstetrics and gynecological services to the patients.
3. The Defendant employed or engaged the medical, surgical, nursing and other staff who worked in the hospital and also employed the staff working in the pathology department. Therefore the Defendant is liable in respect of any breach of duty or negligence on the part of its employees.
4. At all material times the persons who rendered medical services to the Plaintiff held themselves or caused themselves to be held out by the Defendant as an obstetrician and/or a gynecologist capable of competently performing his/her duties and pathologist whose standard of care and diagnosis and reading of the reports were the usual standard of care that the deceased and the Plaintiff would expect.
5. In or about 2004 the deceased attended the George Town Hospital for her usual gynecological examination and evaluation. From 2004 to 2006 she attended regularly and was seen by Dr. Alexander, an employee of the Defendant who informed her that her pathology was negative and that there was no reason for concern.

6. The Defendant jointly with Dr. Alexander who was an employee of the Defendant owed a duty of care to the deceased in all matters arising and incidental to the examination and the pathology for which the deceased attended as an out patient at the George Town Hospital. Without limiting the generality of this duty; the duty of care comprised the following:
 - (a) A direct non delegable duty of care to ensure that reasonable care was at all times taken in relation to the medical, nursing, pathological and other care with which the Plaintiff was provided by and/or behalf of the Defendant.
 - (b) A duty at all times to take reasonable care to ensure there was a safe system of health care provided at the hospital. This duty comprised inter alia, the employment of competent medical staff trained in the discipline in which they practiced or allowed so to do and this included the pathology department.
7. In or about September 2006 the deceased saw a few drops of menstrual blood and she returned to the hospital for further examination. It was discovered as a result of Dr. Alexander's examination and also a testing of a uterine curettage which was performed that there was a polyp which the pathology department graded as 1 / 2.
8. This grading as 1 / 2 was sufficient enough to give rise to concerns and on the 5th October 2006, Dr. Alexander, an employee of the hospital, who was the gynecologist attending to the deceased from 2004 performed a hysterectomy. The deceased was told to go home and celebrate as the tests were negative for malignancy.
9. On the 27th October 2006 or thereabouts both the Pap smear and the diagnosis for negative malignancy were confirmed by overseas pathologists.
10. However, on numerous occasions between April 2007 and February 2008 the deceased complained of severe abdominal pain but the attending doctor, Dr. Alexander did not refer to her to any one specialist abroad or was she able to diagnose the cause of the pain. The pain therefore was not treated adequately and continued.

11. Despite the continuing pain the patient was not referred to a specialist in carcinoma or a specialist of any kind to be able to test for the pain and successfully diagnose the same.
12. In or about February 2008 the deceased underwent extensive surgery and was found to have endometrioid adenocarcinoma. Eventually at this stage the deceased was referred for treatment overseas at the Baptist Memorial Hospital in Miami. The oncologist there, Dr. Wallach lamented that she came too late and despite all efforts the deceased was found to have a great degree of carcinoma of which she died on the 23rd June 2009.
13. The deceased was sent from Baptist Memorial Hospital to University of Miami Hospital in May 2009 but unfortunately it was too late and she succumbed to her illness.
14. The Report of the pathologist from University of Miami Hospital of in or about [do you have the date for this amongst your reports??] showed that the grading of the polyp, graded as 1 /2 in September 2006 was in fact 3.
15. The deceased's death was caused by the negligence of the Defendant and its servants and/or employees.

Particulars of negligence of the Defendant

- (a) The Defendant was sending the slides taken from the deceased to the pathology department which came back from 2004 stating that it was negative. However, it was the same slide that in 2006 that the employee of the Defendant the pathology department diagnosed as type 1 or 2, possibly type 3 carcinoma.
- (b) Failing to provide suitably experienced staff. The Plaintiff will contend that the Defendant's staff were not suitably experienced in diagnostic techniques and should have referred the deceased overseas immediately carcinoma was discovered.
- (c) Failing to provide adequate or proper post -operative treatment after the hysterectomy either by having any or any proper regard for the deceased's

symptoms by taking note of the deceased complaints, which were presented to Dr. Alexander.

- (d) Failing to have proper regard for the deceased symptoms, mainly severe abdominal pains, which symptoms should have alerted the Defendant of the employee Dr. Alexander of the probability that complication had developed.
- (e) Failing to treat the deceased for carcinoma out of an abundance of caution.
- (f) By reason of the said negligence of the Defendant, its servants or agents the deceased was occasioned pain and suffering prior to her death and the dependants of the deceased and the deceased estate has suffered lost and damage.

Particulars pursuant to the Tort (Reform) Law

- (a) The persons for whose benefit this action is brought are all the deceased's dependants; namely:
 - (1) the Plaintiff who is now aged 67 the husband/widower of the deceased;
 - (2) Mark Paramlall, the son a child of the Plaintiff and the deceased, born 10 October 1975 and now aged 35 years old; and
 - (3) Naomi Hensen, the daughter of the Plaintiff and the deceased, born 20 September 1970 and now 41 years old.
- (b) The nature of the claim is that the deceased, aged 61 years old at the time of her death, was a strong hardworking woman used to looking after the Plaintiff, very engaged in community activities and looking forward to continuing to spend time with her husband, her children and grand children into her golden years.

- (c) The deceased was both a career person approaching retirement and an economical efficient housewife, managing the home. As a result of illness, she was forced to give up the final 6 months of her working life resulting in loss of salary of \$13,033.44.
- (d) At the time of death, the deceased was a retired civil servant earning a monthly pension of \$234.23.
- (e) The funeral expenses for the deceased were \$15,000.
- (f) Airline tickets for the care giver travel to and from Miami to accompany the deceased whilst obtaining medical treatment for the deceased of \$1,440.
- (g) Loss of wages by the caregiver during the period of the illness of the deceased of \$36,000.
- (e) Miscellaneous expenses incurred by the caregiver in the care of the deceased of \$1,000.

AND THE PLAINTIFF CLAIMS

- (a) Damages for the aforesaid dependants and for the Plaintiff said bereavement.
- (b) Under the Estate Proceedings Law damages for the benefit of the estate of the deceased.
- (c) Damages.
- (d) Costs.
- (e) Interest on the said amount awarded at such rate and for such period as this Honourable Court deems fit.



Hanson P. Ebanks
Attorney-at-Law

This Statement of Claim was filed by Hanson P. Ebanks, Attorney at Law, whose address for service is whose address for service is A4 Queen's Court, West Bay Road, Grand Cayman, KY1-1202, Cayman Islands.

**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE
OF WRIT OF SUMMONS**

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

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

2. A Defendant who states in his Acknowledgement 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 not endorsed 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 Acknowledgement, 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 overleaf for notes for guidance

Please complete overleaf

Notes of Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement 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 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 form 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 authorized to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney 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. The Defendant acting in person may obtain help in completing the form at the Court Office.

**IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL REGISTRY**

CAUSE No.: of 2012

BETWEEN

**HAROLD PARAMLALL (Widower and Administrator at litem on behalf of the
Dependents of Leila Sahodra Paramlall, deceased)**

PLAINTIFF

AND

CAYMAN ISLANDS HEALTH SERVICES AUTHORITY

DEFENDANT

**ACKNOWLEDGEMENT OF SERVICE
OF WRIT OF SUMMONS**

1. State the full name of the Defendant's by whom or on whose behalf the service of the Writ is being acknowledged.

2. State whether the Defendant intends to contest the proceedings.

_____ **Yes**

_____ **No**

3. If the claim against the Defendant is for a debt or liquidation demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff.

_____ **Yes**

_____ **No**

Service of the Writ is acknowledged accordingly.

(Signed).....
Attorney for

Please complete overleaf

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.

Hanson P. Ebanks Attorney-at-Law A4 Queen's Court, West Bay Road Grand Cayman, KY1-1202, Cayman Islands

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

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