

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 303 OF 2012

BETWEEN: BEVERLY CLARK

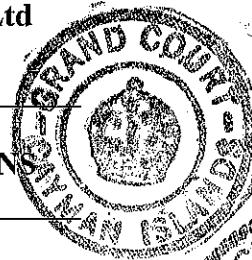
PLAINTIFF

AND: SAMANDUR EXCURSIONS Ltd

DEFENDANT

WRIT OF SUMMONS

To: Samundar Excursions Ltd
Cayman International Corporate & Marine Services Ltd
PO Box 822 GT
2nd Floor
Jack and Jill Building
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 29th day of June 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 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 the Defendant's negligence and breach of contract on 1st July 2010. At all material times, the Plaintiff was a private individual.
2. At all material times the Defendant was the owner and operator of a vessel named "Valhalla".
3. On the evening of 1st July 2010 the Plaintiff, with friends, booked a two and a half hour sunset cruise on the Valhalla. The Valhalla departed at approximately 6pm and returned between 8:15pm and 8:30pm. At the time the Valhalla returned to the dock the water was choppy and it was dark. The dock was not lit.
4. The Plaintiff and other passengers were required to disembark the Valhalla by stepping across the gap between the vessel and the dock. There was no gangplank and no railings. As the Plaintiff stepped across the gap the Valhalla lurched away from the dock causing the Plaintiff to fall between the boat and the dock. The attendant grabbed her by the arm and pulled her back onto the dock. The plaintiff was caused serious injuries. The Plaintiff suffered broken arm (fracture to her left humerus) and other injuries related to a torn rotator cuff, adhesive capsulitis of the shoulder, neck and elbow as well as muscle and soft tissue damage. She also suffered back pain and injury and serious abrasions to her left upper thigh, lower right leg and ankle and left toe. As a result of the accident, she suffers from depression and post-traumatic stress syndrome. A full medical report will be provided prior to trial.
5. Whilst all parties waited for an ambulance the Plaintiff's friend, Ms Lisa Gowan, asked a crew member whether there was a first aid kit on the boat. Ms Gowan was told that there was and the crew member beckoned for her to come on board and retrieve it. As Ms Gowan tried to step across the gap and onto the Valhalla

the boat shifted again in the choppy waters and she fell between the Valhalla and the dock. Ms Gowan was able to grasp the side of the Valhalla but was trapped between the Valhalla and the dock. She was subsequently pulled back onto the dock; however, she had suffered three broken ribs, a punctured lung, a traumatic pneumothorax and injuries to her knee.

6. The Defendant and its employees or agents had a duty to ensure the safety of their passengers. The Plaintiff's injuries were caused by the negligence of the Defendant its employees or agents and by breach of the implied terms of the parties' contract. The system for embarking and disembarking the Valhalla was fundamentally unsafe. The Defendant, and its employees or agents, failed to take any, or any reasonable, precautions to ensure the safety of their passengers whilst embarking and disembarking the Valhalla. The Plaintiff will rely on the principle of *res ipsa loquitur*.
7. By reason of the matters set out above, the Plaintiff has suffered personal injury and distress as well as special damage including medical expenses, loss of enjoyment of life and loss of earnings. She is likely to suffer on-going losses.
8. The Plaintiff is entitled to, and claims, costs.
9. Further, the Plaintiff is entitled to, and claims, interest pursuant to section 34 of the Judicature Law (2007 Revision) on the amounts found due to her, for such periods and at such rates as the Court deems fit.

AND THE PLAINTIFFS CLAIM:

- 1) Damages;
- 2) Interest in accordance with section 34 of the Judicature Law (2007 Revision);
- 3) Costs; and
- 4) Such further and/or other relief as this Honourable Court deems appropriate.

Dated: 29th June 2012

Campbells

CAMPBELLS

Attorneys-at-Law for the Plaintiff

THIS WRIT was issued by Campbells, Attorneys-At-Law for the Plaintiff whose address for service is P.O. Box 884, 4th Floor, Scotia Centre, Albert Panton Street, George Town, Grand Cayman KY1-1103 (IAS/kpf/13237-17442)

BETWEEN: BEVERLY CLARK

PLAINTIFF

AND: SAMANDUR EXCURSIONS Ltd

DEFENDANT

ACKNOWLEDGEMENT OF SERVICE OF WRIT OF SUMMONS

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

IMPORTANT. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

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

2. State whether the Defendant intends to contest the proceedings (tick appropriate box) [] yes [] no

3. If the claim against the Defendant is for a debt or liquidated 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 (tick box) [] yes [] no [] N/A

Service of the Writ of Summons is acknowledged accordingly.

(Signed)

..... [Attorneys for the Defendant]

Address for service: (see 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 principal office.

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

<p>Campbells Attorneys-at-Law P.O. Box 884 4th Floor Scotia Centre George Town Grand Cayman KY1-1103 Ref: JAS/kpf/13237-17442</p>

Endorsement 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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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 instalments 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.