

Writ of Summons (O.6, r.1)

IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. 30 OF 2014

BETWEEN

VIOLA DELISSER POWERY

PLAINTIFF

AND:

TIPLE C SCHOOL

DEFENDANT

SPECIALLY ENDORSED WRIT OF SUMMONS

TO: DEFENDANT: TRIPLE C SCHOOL, Grand Cayman, 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 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 Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 28 day of February 2014

NOTE - This Writ may not be served later than 4 calendar 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 Jamaican national granted Caymanian Status. Her date of birth is 22 May 1957 and at the date of the accident she was 53 years old. The Plaintiff is a housekeeper at ICCI and in private homes.
2. The Defendant is the owner of land on which is built the Triple C School ("property"). The owner permitted another to use part of the property from time to time as was the case on the evening of the incident.
3. On 19 February 2011 at or about 7.30 pm the Plaintiff attended a church related function as a visitor having purchased two tickets of admission for her husband and herself at the all-purpose hall which is a part of the property. She walked from the car park area to the hall. There was a light in the car parking area but the pathway leading to the door of the hall was not lit. As there was very little lighting along the path it made the visibility very poor. The Defendant by virtue of being the owner of the property, and/or its servants or agents, owed the Plaintiff a duty of care.
4. As the Plaintiff walked towards the door to enter the hall she was caused to slip and fall over what appeared to be stones and/or loose marl and/or broken asphalt and/or a manhole cover. There was no warning signs, orange cones or proper lighting to notify the public and/or here a visitor that any work was being carried out at this spot and of any hazard prior to entering the building. This hazard caused the Plaintiff's leg to twist and she fell forward onto the rough surface landing on her left arm.
5. There was some paving work being carried out in the area leading to the door of the hall. Due to the exceptional nature of this hazard the Defendant should have provided a specific warning of the danger to all visitors when approaching the hall especially late at night when visibility is poor.
6. The Plaintiff attended the hospital and after x-rays were taken was told by Dr. Karen Lewis-Harvey that, amongst other things, she had received bruising around her body, right ankle sprain and a closed intra-articular fracture of her left distal radius.
7. The Plaintiff took photographs of the place where she fell. She also saw the Manager, Ben Minton, and explained what had taken place. He apologised for what had taken place and took her name and number and said he would follow up on the incident. He contacted her to request medical report(s) but she had not yet had one completed.
8. This accident and consequent injuries were caused by the breach of duty of care and negligence of the defendants, their servant or agents. The injuries, loss and damage were occasioned to the Plaintiff by reason of the breach of duty of care.

PARTICULARS OF NEGLIGENCE

- i) Failing to warn visitors and here the Plaintiff of the presence of the work being carried out on or to or adjacent to the paving.
- ii) Failing properly to light the area.
- iii) Failing to take any or any reasonable care to see that the Plaintiff would be reasonably safe whilst entering the premises from the car park.
- iv) Permitting the paving in front of the building to be or become or remain in an unsafe and dangerous state and a danger and a trap to persons lawfully using it.
- v) Failing to take any or reasonable, timely or effective measures to make the paving on the property safe for use by the Plaintiff.
- vi) Causing or permitting the Plaintiff to use the pavement in front of the building when they knew or ought to have known that it was in an unsafe condition and dangerous for pedestrians.
- vii) In the circumstances, failing to discharge the duty of care to the Plaintiff and exposing the Plaintiff to a risk of injury of which they knew or ought to have known.

PARTICULARS OF INJURY

9. The Plaintiff's date of birth is 22 May 1957. The injuries suffered by the Plaintiff included receiving various bruising around her body and knee, right ankle sprain and a closed intra-articular fracture of her left distal radius all of which are more particularly documented in a report dated prepared by Mr. Mathias Herzig, MD, PhD.

PARTICULARS OF SPECIAL DAMAGE

- i. Medical expenses to date to be itemized by way of Schedule CI\$18,391.88

AND the Plaintiff claims

(i) Damages

(ii) Further, pursuant to The Judicature Law (1995 Revision), the Defendant is entitled to and claims interest on such sums as are found to be due at such rate and for such period as the Court shall think fit.

(iii) Costs



Clyde H. Allen, CHAMBERS

THIS WRIT was issued by Clyde H. Allen, Chambers on behalf of the Plaintiff whose address for service is P.O. Box 31076 SMB, 2nd Floor, Suite 9, Jack & Jill Building, 19 Fort Street, KYI-1205, George Town, Grand Cayman, Cayman Islands.

IN THE GRAND COURT OF THE CAYMAN ISLAND
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. OF 2014

BETWEEN VIOLA DELISSER POWERY PLAINTIFF

AND: TIPLE C SCHOOL DEFENDANT

ACKNOWLEDGMENT 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 a 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

Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for

Address for service: (please see overleaf)

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.

Clyde Allen
CHAMBERS,
Attorneys-At-Law
PO Box 31076SMB
Jack & Jill Bldg, KY1-1205
Grand Cayman
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.

[Empty box for defendant's attorney indorsement]