

IN THE GRAND COURT OF THE CAYMAN ISLANDS

GO154
Cause No. of 2015

BETWEEN:

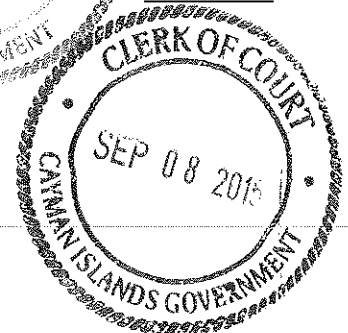
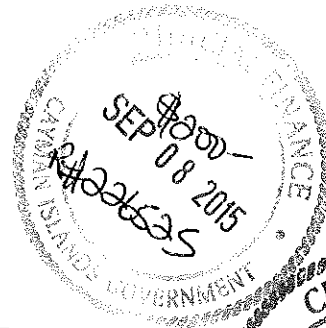
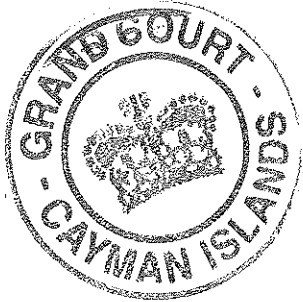
KRISTINE EVELYN PHILLIPS

Plaintiff

-and-

**THE ATTORNEY GENERAL
OF THE CAYMAN ISLANDS**

Defendant



WRIT OF SUMMONS

To: **The Attorney General of the Cayman Islands**
4th Floor,
Government Administration Building, PO Box 104
Elgin Avenue,
Grand Cayman KY1-9000,
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 Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this day of September 2015

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 at the material times resided at and continues to reside at premises owned by and or occupied by and or under the control of the Cayman Islands Government Ministry of Planning, Lands, Agriculture, Housing and Infrastructure ('PLAHI') namely premises known as and situate at John Silvers Inn, #37 Flute Lane, West Bay, Grand Cayman. Further and in the alternative the said Cayman Islands Government is a lessor of the said premises for the purposes of the Registered Land Law (2004 Revision).
2. This claim is brought against the Defendant on behalf of the said Cayman Islands Government pursuant to the stipulations of the Crown Proceedings Law (1997 Revision) section 11.
3. The Plaintiff resides in Flat 6 at the said premises on the upper floor of a two storey block. Access to and egress from the said flat is by a stairwell comprising two flights of stairs to ground level. The said stairwell is external and is open and exposed to inclement weather.
4. The said stairwell comprises steps with a tiled surface. The said tiles are smooth and not slip resistant with the consequence that in wet or inclement weather the tiles present a hazardous and slippery surface on the stairwell.
5. The Plaintiff suffered slips and falls on the said stairwell on three occasions in each instance when the stairwell was wet,
 - (a) On a date not precisely known but likely to have been between 20th September 2012 and the end of that September month (the Plaintiff is unable to recall with precision the date of this accident and has been unable to obtain any relevant records that may pinpoint the date of or any reporting of her injury but does contend that she reported the incident to the then manager of the property, and to her own supervisor at work); and
 - (b) On or about 4th July 2013 she suffered a further slip and fall on the said stairwell; and
 - (c) On or about 9th July 2013 she suffered yet a further slip and fall on the said stairwell.
6. The said accidents were caused by the negligence and or breach of statutory duty and or breach of a duty of care at common law of the Defendant or its servants or agents and or the state of the stairwell amounted to a nuisance.

PARTICULARS

The Defendant,

- (i) Caused or permitted the stairwell to be constructed with smooth tiles unsuited for the purpose and or the external location of the stairwell or otherwise constructed in such manner or with such materials as to render the surface slippery when wet and thereby hazardous;
- (ii) Failed to observe or heed the slipping hazard posed by the said stairwell in wet weather conditions;
- (iii) Failed to institute and or maintain any or any adequate system for the inspection and or maintenance and or repair of the said stairwell;
- (iv) Failed to make good the surface of the stairwell or otherwise repair it or render it safe so as to reduce or eliminate the slipping hazard until after the first accident when slip resistant strips were placed on some of the steps on the stairwell;
- (v) Failed to maintain the surface of the said stairwell such that at the time of the second and third accidents the said slip resistant strips had worn away and were no longer there or were ineffective in any case;
- (vi) Failed to give any or any adequate warning of the slipping hazard posed by the surface of the stairwell in wet weather conditions;
- (vii) Failed to provide or maintain a safe means of access to or egress from the flats on the premises and flat number 6 in particular;
- (viii) Failed generally to ensure the safety of visitors or residents at the premises using the said stairwell;
- (ix) Failed in all the circumstances to have any or sufficient regard for the safety of residents at the premises and the Plaintiff in particular who was obliged to use the said stairwell and or failed to discharge the common duty of care owed to the Plaintiff.

Further or in the alternative the construction or the surface of the said stairwell was a danger to persons lawfully using the said stairwell and the Defendant thereby committed or caused or permitted a wrongful nuisance.

7. By reason of the matters aforesaid the Plaintiff has suffered injury loss and damage.

PARTICULARS OF INJURY

The Plaintiff was born on 3rd December 1974 and was aged 37 at the date of the first accident. She suffered repeated trauma to her spine in the three slips and falls in each instance landing on

the hard surface of the stairs, including but not limited to injury to the cervical spine, thoracic spine, lumbar spine and the base of the sacral spine at the coccyx.

Her sleep is disturbed and she has suffered persistent backaches and shoulder ache requiring ongoing medical assessments, treatments and painkilling medication. She took time off work repeatedly until she was retired early on medical grounds in December 2014 from her employment since 1st April 2005 as a Customs Cashier for HM Customs. That retirement took effect on 31st March 2015.

She is under a disability on the open labour market.

Full and further particulars will be provided in the form of a medico-legal report.

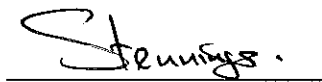
PARTICULARS OF LOSS AND DAMAGE

Full particulars of her loss and damage will be set out in due course and upon the availability of the medico-legal report.

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8. The Plaintiff is entitled to and seeks interest upon any loss and or damage awarded pursuant to section 34 (1) Judicature Law (2013 Revision) until judgment or sooner payment or for such time and at such rate on general and special damages as the Court shall deem fit.

AND THE PLAINTIFF CLAIMS:

- (A) Damages; and
- (B) Interest as aforesaid pursuant to section 34(1) of the Judicature Law (2013 Revision) until Judgment or sooner payment or at such rate and for such time as the Court shall deem fit; and
- (C) Costs



Stenning & Associates
Attorneys for the Plaintiff

**To,
The Defendant
And to the Court**

THIS WRIT was issued by Stenning & Associates whose address for service is 4th Floor, Harbour Centre, 42 North Church Street, George Town, Grand Cayman, Cayman Islands. Ref. 1432/001

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.

BETWEEN:

KRISTINE EVELYN PHILLIPS

Plaintiff

-and-

**THE ATTORNEY GENERAL
OF THE CAYMAN ISLANDS**

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.

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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
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 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
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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.

STENNING & ASSOCIATES
4th Floor, Harbour Centre,
42 North Church Street,
George Town,
Grand Cayman.

REF: 1432/001

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