

Case No. Goody of 2016

IN THE GRAND COURT OF THE CAYMAN ISLANDS

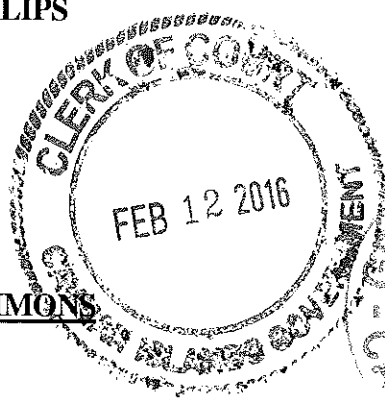
BETWEEN:

KATHERINE EMMALYN 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 12 day of February 2016

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 was employed as a Customs Tally Clerk by The Cayman Islands Customs Department a public authority and a division of the Cayman Islands Government.
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 said employment is one to which at the material time the Public Services Management Law (2011 Revision) and the Personnel Regulations (2012 Revision) applied. For the avoidance of doubt it is acknowledged that each of those pieces of legislation has since been superseded by the Public Services Management Law (2013 Revision) and the Personnel Regulations (2013 Revision) with retrospective effect.
4. On 18th February 2013 the Plaintiff suffered two injuries in the course of her work at her workplace,
 - (a) Whilst lifting a parcel off a shelf at above waist height the parcel slipped and she could not push it back onto the shelf. She felt something in her back 'pull' with a sharp twinge of pain; and
 - (b) A short while later on the same day whilst carrying the same parcel through a doorway at the workplace from one room to another she suffered injury when a door opened into her path and into her side with the door handle impacting her. The handle impacted her at the site of sutures from surgery she had the previous December causing her wound to rupture. For the avoidance of doubt the Plaintiff will contend the door was opened into her when a colleague came through (she cannot now recall who that colleague was). It was a heavy solid door with no glass or aperture and a retracting mechanism so that the person coming through the doorway into the room that the Plaintiff was in would not have seen her on the other side of the door and would have needed to push the door firmly to get through.
5. 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.

PARTICULARS

The Defendant,

- (i) Caused or permitted the Plaintiff to handle a parcel that was too heavy in the circumstances;

- (ii) Caused or permitted the Plaintiff to handle a parcel from such height or from such a position as was liable to and did in the circumstances cause injury;
- (iii) Failed to observe or heed the fact that the Plaintiff was recovering from surgery carried out in December 2012 and ought not to have been required to handle a parcel that was too heavy or to be lifted from a height or a position liable to expose the Plaintiff to risk of injury;
- (iv) Caused the Plaintiff to carry the parcel from one room to another through the said doorway with both hands holding the parcel such that she could not avoid injury when the door opened into her;
- (v) Caused or permitted a door to be in place in the premises that was heavy and or hard to push open and or was solid with no aperture or glass for visibility through it and or had a retracting mechanism fitted to the door that operated in a manner likely to cause injury;
- (vi) Failed to provide and or institute a safe place of work and or a safe system of work so as to avoid the risk of injury;
- (vii) Specifically failed to provide a safe place of work or ensure a safe system of work in that whilst a trolley for the movement of parcels was provided the workplace was restricted such that another trolley on the other side of the said door prevented the Plaintiff from using a trolley to get through the said doorway from her side;
- (viii) Failed to provide or maintain a safe means of access to or egress from one room to another at the said premises;
- (ix) Failed generally to ensure the safety of employees at the workplace and the Plaintiff in particular and or failed to discharge the common duty of care owed to the Plaintiff.

6. 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 38 at the date of injury.

Her ruptured surgical wound was dressed and treated and healed after some four months.

She suffered a soft tissue injury to her lower back. The Plaintiff had prior episodes of back pain and it is likely (subject to medical evidence to be obtained) that her lifting injury exacerbated pre-existing symptoms of back pain. The Plaintiff has since continued to suffer pain to her lower back radiating to the buttocks and to her legs. Her sleep is disturbed. She takes pain killing medication and her range of movement is limited.

She has repeatedly taken periods of time off work and remains on reduced working hours.

She is likely to be under a disability on the open labour market if she loses her employment.

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.

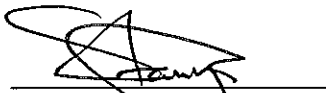
7. The Plaintiff is entitled to and seeks interest upon any loss and or damage awarded pursuant to section 34 (1) Judicature Law (2013 Revision) until judgment or sooner payment or for such time and at such rate on general and special damages as the Court shall deem fit.

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, attorneys for the Plaintiff, with file reference number 1319/001, whose address for service until the close of business on Monday 15th February 2016 is 4th Floor, Harbour Centre, 42 North Church Street, George Town, Grand Cayman, Cayman Islands **AND** with effect from Tuesday 16th February will be 3rd Floor, Marquee Place, 433 West Bay Road, George Town, Grand Cayman. Tel: (345) 945 0220

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.

