

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: *G0039* OF 2016

BETWEEN:

LUCY MAE WOOD

Plaintiff

AND

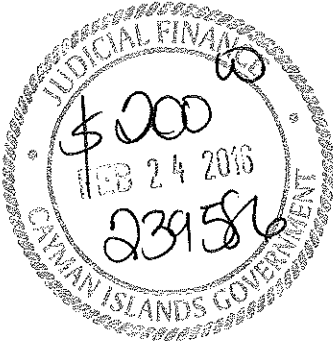
HOWARD DEOSARAN (1)

ZOLTAN SZUCS (2)

FRANCISCO MARTINEZ (3)

TRINCAY MEDICAL SERVICES LIMITED (4)

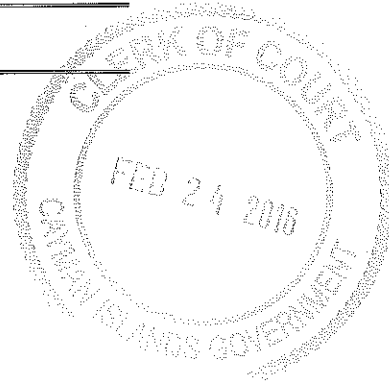
Defendants



WRIT OF SUMMONS

TO:

HOWARD DEOSARAN
ZOLTAN SZUCS
FRANCISCO MARTINEZ
TRINCAY MEDICAL SERVICES LIMITED
C/O Trincay Medical Services Limited
P.O. Box 10708
Grand Cayman KY1-1006
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, PO Box 495, Grand Cayman, KY1-1106, Cayman Islands, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy 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 *24* day of *Feb* 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 Acknowledgement of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiff (born 16TH May 1966) is a businesswoman and a part owner/proprietor of a business known as "WaterBoyz" carrying on business at Bodden Town, Grand Cayman.
2. The First, Second and Third Defendants are, and were at all material times, all Medical Practitioners registered to practice medicine in the Cayman Islands.
3. The Fourth Defendant is a Company which operates a medical centre known as Trincay Medical Services, situated at Suite 1204, 55 Market Street, Jasmine Court, Camana Bay, Grand Cayman, Cayman Islands (the Centre). At all material times the First, Second and Third Defendants were employed by, engaged by, affiliated with, or practiced through and/or in association with the Fourth Defendant.
4. At all material times the Plaintiff was a patient in the direct care of the First, Second and/or Third Defendants, who were at all times acting in the capacity of employees, agents or associates of the Fourth Defendant, and was owed a duty of care by all four Defendants.
5. In or about the end of 2012 and early in 2013 the Plaintiff consulted the First Defendant because of pain and discomfort in her lower abdomen.
6. The First Defendant examined and carried out tests upon the Plaintiff. The First Defendant returned to the Plaintiff with the diagnosis that she had a cyst on her ovaries. The First Defendant recommended that the cyst should be removed by surgery, namely by a laparoscopic procedure to minimise scarring.
7. The First Defendant advised the Plaintiff that the laparoscopic procedure was routine in nature. At no point was the Plaintiff advised, warned or otherwise put on notice that any particular complication was expected or that her case carried any risk above the usual risks associated with such procedures.
8. On Friday March 15th 2013, by pre-arranged appointment, the First and Second Defendants performed surgery upon the Plaintiff (the Procedure) at Cayman Island Hospital, 95 Smith Road, George Town, Grand Cayman (the Hospital).

9. The Procedure took approximately 2 hours. The Plaintiff was under general anaesthetic throughout. During the procedure the surface of the Plaintiff's large bowel was lacerated, requiring this to be closed with sutures.
10. At the direction of the First Defendant, the Plaintiff was discharged from the hospital on the same day, 15th March 2013. The Plaintiff was provided with a prescription for medication. The Plaintiff took the medication as prescribed.
11. Between the late evening of the 15th March and the early morning of 16th March 2013, the Plaintiff suffered increasing abdominal pain and vomiting. The Plaintiff called the First Defendant [at the Centre] at around 9:00 am 16th March to complain of these symptoms. An appointment was made for the Plaintiff to attend the Centre immediately. The Plaintiff was consulted by the First Defendant at the Centre.
12. The Plaintiff was in severe pain, was unable to walk, had stiffness all over her body, and had a distended stomach at the time of the consultation. The Plaintiff's symptoms had become so severe that she feared for her own life. The Plaintiff explained this to the First Defendant at his office at the Centre. The First Defendant referred the Plaintiff to his colleague, the Third Defendant, as he was about to depart with his family for the day.
13. The Third Defendant examined the Plaintiff and advised her, with the aid of a diagram, that the Plaintiff was suffering from "gas" and gave her an injection for the pain. He asked the Plaintiff to call him after the consultation and advise what medication she was taking as she could not remember the same at the time of consultation. The Plaintiff did so. The Third Defendant advised the Plaintiff that the medication was fine, that she should consume warm drinks, and continue to take the prescribed medication. He further advised the Plaintiff that she should start to feel better by Monday 18th March 2013.
14. Over the course of the evening and the night of 16th March the Plaintiff's symptoms became more severe, with increased abdominal pain, vomiting and a more distended abdomen. She could not sleep as a result of this. The symptoms became more severe still on 17th March 2013.
15. On the morning of 18th March 2013, the Plaintiff called the First Defendant at the Centre complaining of the worsening symptoms. She was instructed to attend the Centre.
16. The First Defendant did not fully examine the Plaintiff at the Centre on 18th March 2013 but immediately sent the Plaintiff to the Accident and Emergency Department of the Hospital.

The Plaintiff was in a great deal of pain, was extremely distressed and was in fear for her life.

17. At no time after the Procedure and before her admittance to hospital was the Plaintiff informed that her bowel had been torn or lacerated during the Procedure. Further and additionally at no time was she informed that a repair had been performed on the laceration in her bowel, or indeed that there had been any unexpected complication during the course of the Procedure.
18. On 18th March 2013, having been admitted to the Hospital, the Plaintiff was treated for dehydration so that she was well enough to undergo a CT scan. After diagnostic tests on 19th March 2013 including CT scan, the Plaintiff was diagnosed with peritonitis resulting from a perforation in her bowel and the resultant leakage of faecal matter into her abdomen. The Plaintiff and her husband were advised that the Plaintiff required emergency surgery to repair the perforation and clean her abdominal cavity, or she was at serious risk of death. With the Plaintiff's and her husband's consent the emergency surgery was performed by Dr. Ajit Mathew on 19th March 2013.
19. The perforation in the Plaintiff's bowel was found to be around an inch long. It had been repaired by sutures. At the time of the repair, some pre-existing sutures were noted in the vicinity of the perforation. It is the Plaintiff's case that the perforation was the result of an incomplete or inadequate repair to the Plaintiff's bowel during the Procedure.
20. As a result of the emergency surgery a loop transverse colostomy was performed and a colostomy bag fitted to the Plaintiff. The Plaintiff suffered considerable pain and discomfort as a result of the emergency surgery.
21. The Plaintiff was admitted to the Critical Care Unit after the emergency surgery, and remained hospitalized for 12 days before being allowed home. During this period the Plaintiff continued to suffer pain and discomfort in her abdomen.
22. The colostomy bag was surgically removed under general anaesthetic on 2nd July 2013. The surgery required further incision into the Plaintiff's abdomen. The Plaintiff remained in hospital until 8th July 2013, suffering pain and discomfort for this period. The Plaintiff suffered discomfort and embarrassment as a result of having the colostomy bag. The Plaintiff has scarring to the site of the colostomy.
23. On or around 5th February 2014 the Plaintiff presented to Dr. Mathew complaining of a bulge at the site of the colostomy. She was diagnosed with an incisional hernia in the area.

This required corrective surgery on 30th September 2014 when a mesh repair was performed.

24. In their actions the Defendants have breached their duty of care to the Plaintiff and acted negligently.

PARTICULARS OF NEGLIGENCE OF FIRST DEFENDANT

- a. Failing to warn the Plaintiff of risks or complications associated with the Procedure, or surgical procedures of a similar nature, adequately or at all.
- b. Failing to advise the Plaintiff of symptoms which would be of concern following the procedure Failing to carry out the Procedure with an appropriate level of care and skill;
- c. Failing to carry out the surgery in such a way as not to lacerate the Plaintiff's bowel;
- d. Lacerating the Plaintiff's bowel;
- e. Failing to repair the laceration adequately;
- f. Failing to check the repair to the laceration adequately, or at all prior to stopping the Procedure;
- g. Failing to advise the Plaintiff that her bowel had been lacerated and/or repaired during the Procedure;
- h. Allowing the Plaintiff to infer that the Procedure had been carried out without complication, difficulty or in any way other than as would be considered "routine";
- i. Failing to properly monitor the Plaintiff's recovery following the Procedure, adequately or at all;
- j. Failing to conduct further tests or observations to ensure there was no leakage from the repair;
- k. Failing to ensure the repair to the laceration had been successful by monitoring the Plaintiff, admitting the Plaintiff to hospital, or otherwise, adequately, or at all;
- l. Discharging the Plaintiff from the Hospital prematurely;
- m. Discharging the Plaintiff from the Hospital without monitoring the Plaintiff's recovery from the Procedure adequately or at all.

PARTICULARS OF NEGLIGENCE OF SECOND DEFENDANT

- n. Paragraphs (c) to (m) above are repeated in relation to the Second Defendant.

PARTICULARS OF NEGLIGENCE OF THIRD DEFENDANT

- o. Failing to examine the Plaintiff adequately, or at all.
- p. Failing to undertake any, or any proper, analysis of the Plaintiff's symptoms.
- q. Failing to refer the Plaintiff for further treatment as required, or at all.
- r. Failing to acknowledge and refer to the medical and surgical history of the Plaintiff adequately, or at all.
- s. Failing to diagnose the Plaintiff's condition with an appropriate level of skill, or at all.
- t. Failing to prescribe any, or any appropriate, medication, treatment or hospitalization.
- u. Advising the Plaintiff to continue to take the prescribed medication and drink warm fluids.

PARTICULARS OF NEGLIGENCE OF FOURTH DEFENDANT

- v. Paragraphs (a) to (u) above are repeated in respect of the Fourth Defendant, its employees, agents or associates.

25. By reason of these matters the Plaintiff has suffered pain, injury, loss and damage.

PARTICULARS OF INJURY

26. The Plaintiff suffered the following injuries:

- a. Perforation to the Plaintiff's bowel;
- b. Injury caused by further surgeries on 19th March 2013, 2nd July 2013 and 30th September 2014;
- c. Pain and discomfort;
- d. Distress resulting from the traumatic experience and the genuine belief she was going to die;
- e. Pain, discomfort, embarrassment and shame as a result of having to wear a colostomy bag for an extended period;
- f. Permanent scarring and ongoing discomfort at the site of the colostomy.

PARTICULARS OF SPECIAL DAMAGE

A schedule of expenses and losses is attached.

- 27. Further the Plaintiff claims interest on such damages as may be awarded to her pursuant to Section 34 Judicature Law (2013 Revision) at such rate as the court deems fit.

AND THE PLAINTIFF claims:

- 1) General Damages

- 2) Special Damages
- 3) Interest pursuant to Section 34 Judicature Act (2013 Revision)
- 4) Costs

Dated: 22nd February 2016

Signed: HSM Chambers

HSM Chambers
Attorneys-at-Law for the Plaintiff

This WRIT OF SUMMONS was filed by HSM Chambers, Attorneys-at-Law for the Plaintiff whose address for service is Suite 3 Buckingham Square, 720 West Bay Road, PO Box 31726, Grand Cayman, KY1-1207, Cayman Islands (ref: DJ/AD/418000-0001)

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CAUSE NO: OF 2016

B E T W E E N:

LUCY MAE WOOD

Plaintiff

AND

HOWARD DEOSARAN (1)

ZOLTAN SZUCS (2)

FRANCISCO MARTINEZ (3)

TRINCAY MEDICAL SERVICES LIMITED (4)

Defendants

SCHEDULE OF SPECIAL DAMAGE

Date	Description of Services		KYD
Oct 24 2012	Dr Mohanty	\$	75.00
Feb 08 2013	C.I. Health Services Authority	\$	112.48
Feb 08 2013	C.I. Health Services Authority	\$	195.00
Feb 27 2013	Office Visit	\$	502.44
Feb 28 2013	Office Visit	\$	101.53
Mar 03 2013	Godfrey's Enterprises	\$	16.25
Mar 03 2013	J.Michael	\$	109.90
Mar 04 2013	J.Michael	\$	238.99
Mar 13 2013	Office Visit	\$	71.00
Mar 13 2013	Office Visit	\$	120.00
Mar 14 2013	Office Visit	\$	5,446.61
Mar 14 2013	Office Visit	\$	125.00
Mar 14 2013	Pre Payment	\$	619.00
Mar 14 2013	C.I. Health Services Authority	\$	449.00
Mar 14 2013	C.I. Health Services Authority	\$	9.00
Mar 15 2013	C.I. Health Services Authority	\$	20.85
Mar 18 2013	C.I. Health Services Authority	\$	6,525.72
Mar 18 2013	C.I. Health Services Authority	\$	13,027.67
Apr 4 2013	Valu-Med Pharmacy	\$	14.40
Apr 8 2013	C.I. Health Services Authority	\$	108.90
Apr 8 2013	Savannah Pharmacy	\$	14.75
Apr 12 2013	Valu-Med Pharmacy	\$	29.68
Apr 13 2013	C.I. Health Services Authority	\$	53.36
Apr 26 2013	Cayman Medical Supplies Ltd	\$	122.14
Apr 26 2013	Flair By Elida	\$	131.25

May 05 2013	J.Michael	\$	109.90
May 05 2013	2 Blue	\$	37.95
May 06 2013	Dr Mohanty	\$	75.00
May 09 2013	Cayman Medical Supplies Ltd	\$	112.57
May 10 2013	2 Blue	\$	171.95
May 11 2013	2 Blue	\$	28.01
May 13 2013	Valu-Med Pharmacy	\$	9.32
May 15 2013	C.I. Health Services Authority	\$	143.19
May 28 2013	Cayman Medical Supplies Ltd	\$	39.48
May 31 2013	Health Care Pharmacy Ltd	\$	13.50
Jun 05 2013	Health Care Pharmacy Ltd	\$	18.80
Jun 05 2013	Windward Pharmacy	\$	9.60
Jun 05 2013	Valu-Med Pharmacy	\$	24.40
Jun 07 2013	Cayman Medical Supplies Ltd	\$	73.50
Jun 12 2013	Health Care Pharmacy Ltd	\$	22.60
Jun 17 2013	Health Care Pharmacy Ltd	\$	8.95
Jun 19 2013	C.I. Health Services Authority	\$	3.50
Jun 20 2013	C.I. Health Services Authority	\$	215.55
Jun 21 2013	Health Care Pharmacy Ltd	\$	17.40
Jun 25 2013	C.I. Health Services Authority	\$	88.00
Jun 27 2013	C.I. Health Services Authority	\$	143.19
Jun 27 2013	C.I. Health Services Authority	\$	70.00
Jun 28 2013	C.I. Health Services Authority	\$	928.00
Jun 28 2013	Valu-Med Pharmacy	\$	24.40
Jun 29 2013	Bal due C.I. Health Services	\$	20,327.61
Jul 01 2013	Health Care Pharmacy Ltd	\$	27.10
Jul 02 2013	Office Visit	\$	4,881.50
Jul 03 2013	Office Visit	\$	1,450.47
Jul 07 2013	C.I. Health Services Authority	\$	127.03
Jul 09 2013	Valu-Med Pharmacy	\$	29.75
Aug 21 2013	C.I. Health Services Authority	\$	28.64
Oct 25 2013	Med Lab	\$	470.40
Nov 13 2013	C.I. Health Services Authority	\$	38.50
Nov 14 2013	eTicket Receipt	\$	322.26
Nov 14 2013	eTicket Receipt	\$	431.38
Nov 18 2013	Baptist Health South Florida	\$	196.01
Nov 19 2013	Baptist Health South Florida	\$	731.64
Feb 05 2014	C.I. Health Services Authority	\$	143.19
Jul 22 2014	C.I. Health Services Authority	\$	320.01
Jul 30 2014	C.I. Health Services Authority	\$	143.19
Sept 24 2014	C.I. Health Services Authority	\$	640.00
Sept 24 2014	C.I. Health Services Authority	\$	18.00
Oct 24 2014	C.I. Health Services Authority	\$	114.55
Nov 19 2014	C.I. Health Services Authority	\$	143.19
Nov 23 2014	C.I. Health Services Authority	\$	3,852.89

TOTAL

\$ 65,065.99

Acknowledgment of service of writ of summons (O.12, r.3)

**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 each Defendant or by each Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, PO Box 495 GT, 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 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 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2016

B E T W E E N:

LUCY MAE WOOD

Plaintiff

AND

HOWARD DEOSARAN (1)

ZOLTAN SZUCS (2)

FRANCISCO MARTINEZ (3)

TRINCAY MEDICAL SERVICES LIMITED (4)

Defendants

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 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

Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for
[Defendant in person]
Address for service:

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 communication 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.

HSM Chambers Attorneys-at-Law Suite 3 Buckingham Square 720 West Bay Road PO Box 31726 George Town Grand Cayman KY1-1207 CAYMAN ISLANDS Ref: DJ/AD/418000-0001]

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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