

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO 00430 OF 2016

BETWEEN:

MARY PRINTZENHOFF

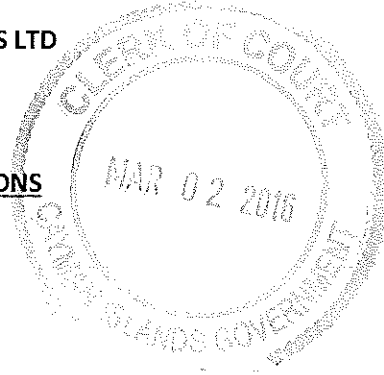
PLAINTIFF

AND

OH BOY CHARTERS LTD

DEFENDANT

WRIT OF SUMMONS



TO: Oh Boy Charters Ltd  
PO Box 430  
Savannah  
Grand Cayman

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 March 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's date of birth is the 29<sup>h</sup> July 1958 and her address is 5237 Indigo Moon Way, Raleigh, North Carolina, USA.
2. The Defendant was and is at all relevant times a company operating in fishing, snorkeling and private boat charters based in Grand Cayman, Cayman Islands. They are the owner/occupier of a 34' vessel named 'Last Dollar' to which members of the public are invited aboard for the purpose of reef fishing and snorkeling tours.
3. On the 3<sup>rd</sup> December 2014 the Plaintiff was a lawful visitor aboard the 'Last Dollar' vessel with her husband on a snorkeling trip they had purchased directly from the defendant.
4. The Plaintiff and her husband travelled on the Last Dollar whilst it cruised out to the reef. When the vessel arrived at the snorkeling location, the Plaintiff's husband queried if they were able to jump from the side of the boat. The Captain advised they could do so. On jumping into the water, the Plaintiff's rings on her left hand ring finger became caught on a fixture which was protruding from the side of the boat.
5. The Plaintiff was immediately aware of pain and the majority of her finger had been pulled off. The finger was found and saved in ice, however it could not be reattached because of the nature of the tear.
6. The accident and resulting injury were caused by the negligence of the defendant, its employees, servants or agent, or both.
7. Particulars of Negligence
  - (a) Failing to take any or any reasonable care to see that the plaintiff would be reasonably safe in using the vessel.
  - (b) Causing or permitting the fitting to be or to become or to remain a danger and a trap to persons lawfully using the same.
  - (c) Permitting the Plaintiff to jump from the side of the boat when it was unsafe to do so.

- (d) Failing to give the Plaintiff any or any adequate or effective warning of the presence of the fixture.
  - (e) Failing to institute or enforce any or any adequate system of inspection or maintenance of the boat;
  - (f) Utilising a boat designed and equipped for fishing for a leisure excursion for which it was wholly unsuitable;
  - (g) Failing to properly supervise guests and specifically the Plaintiff whilst on board the boat;
  - (h) Exposing the Plaintiff to a foreseeable risk of injury.
8. As a result of the Defendant's negligence, the Plaintiff has suffered personal injuries, loss and damage.

**Particulars of Personal Injury**

9. The Plaintiff who was aged 56 at the time of the accident sustained a traumatic amputation to the 4<sup>th</sup>/ring finger of her left hand.
10. As a result, the Plaintiff underwent an operation at George Town Hospital on the 3<sup>rd</sup> December 2014 to clean and irrigate and formally amputate through the proximal phalanx.
11. She was prescribed pain relieving medication and was seen again at George Town Hospital two days post-accident for the wound to be redressed and advised to follow up with a hand surgeon in the United States.
12. On returning to the United States the Plaintiff saw Dr Kuremsky a specialist in hand and upper extremity surgery.
13. The Plaintiff still suffers pain to the touch. If she hits the stub she suffers extreme pain which causes shock feelings up her arm and into her shoulder.

14. The plaintiff was unable to work for a period of 5 weeks due to her injuries.

**Particulars of Loss and Damage**

15. See attached Schedule of Special Damages.

16. The Plaintiff will claim interest pursuant to section 34 of the Judicature Law (2013 Revision) at half the rate as prescribed under the Judgment Debts (Rates of Interest) Rules (as amended) from the 3<sup>rd</sup> December 2014 to Trial.

**AND THE PLAINTIFF claims:**

1. Damages to be assessed.
2. Interest in accordance with the Judicature Law (2013 Revision)
3. Costs



**Samson & McGrath**

**Attorneys for the Plaintiff**

BETWEEN:

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PLAINTIFF

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SCHEDULE OF SPECIAL DAMAGES

<u>Item</u>	<u>Description</u>	<u>Value in US\$</u>
1	Handicap on open Labour Market	50,000.00
	<p>The Plaintiff worked for 25 years for the Howard Hughes Medical Institute as an Administrative coordinator and subsequently Science Operations Associate.</p> <p>This involved human resources and overseeing department functions. For approximately 4 hours per day she utilized her typing skills, preparing memo's/training manuals.</p> <p>She was absent from work as a result of her injury for 3 weeks and returned for after this time on a part time basis.</p> <p>Her position was eliminated on the 2<sup>nd</sup> March 2015.</p> <p>The Plaintiff is currently unemployed and looking for work.</p> <p>She is concerned that her stub will restrict her employability. Her typing skills have now reduced significantly.</p> <p>In the circumstances the Plaintiff claims a Smith v Manchester award on the basis of her handicap on the open labour market.</p> <p>The Plaintiff's salary was US\$65,453.59 plus an annual benefits credit of \$4,657.20 and \$6,545.00 for pension. Totaling US\$76,655.79 per annum.</p> <p>The Plaintiff is now aged 57 and in the circumstances whilst she falls into the description of disabled due to her disability affecting her manual dexterity a calculation as per the 7<sup>th</sup> edition of the Ogden Tables is not appropriate.</p> <p>The Plaintiff intends to work until retirement at the age of 66 years and 8 months as per the US Government website found at <a href="http://www.ssa.gov/planners/retire/retirechart">www.ssa.gov/planners/retire/retirechart</a>.</p> <p>She contends for a Smith v Manchester award of \$50,000.00</p>	

<u>Item</u>	<u>Description</u>	<u>Value in US\$</u>
2	Care	1,918.00
	<p>During her stay in hospital and whilst on restricted physical activities for the remainder of her holiday the Plaintiff was cared for by her husband David Printzenhoff.</p> <p>4 days x 8 hours per day x \$14 = \$448.00</p> <p>When she returned home, for the first 5 weeks post-accident, the Plaintiff's husband or daughter had to take over all the shopping, cooking and cleaning which she did pre accident.</p> <p>35 days x 3 hours per day x \$14.00 = \$1,470.00</p> <p>Her husband continues to assist her with her daily exercises and helps put the gel on her finger and massage it.</p> <p>The Plaintiff remains restricted but has no choice but to manage the best she can.</p>	
3	Medication	200.00
	<p>The Plaintiff was prescribed Meloxicam once daily to reduce pain and swelling. She was then also prescribed Voltaren Gel by Dr Kuremsky which she applies to her finger stub approximately 8 times per day to reduce the swelling and increase the healing process. She does not have any documentation in support of his medication costs but estimates the cost in the region of US\$200.00.</p>	
4	Hotel Charges	2,399.88
	<p>From the day of the accident the Plaintiff claims the hotel fees until the end of their vacation on the 6<sup>th</sup> December 2014 US\$2,399.88</p>	
5	Loss of enjoyment of vacation	2,000.00
	<p>The Plaintiff was on very strong painkillers and remained on restricted physical activities for the final 4 days of her vacation. Both the Plaintiff and her husband had to cancel all planned activities.</p>	
6	Cost of Oh Boy Charter US\$75.00	75.00
7	CIHSA Fees	49.69
	<p>These were paid by the Plaintiff in the total sum of \$3,224.81. The Plaintiff was partially reimbursed by her health insurers in the sum of \$3,175.12 leaving a balance of \$49.69</p>	

<u>Item</u>	<u>Description</u>	<u>Value in US\$</u>
8	Travel to medical appointments	100.00
	The Plaintiff travelled to numerous appointments with Dr Kuremsky and for therapy.	
9	Health Insurers subrogated claim	4,192.37
	<b>TOTAL</b>	60,934.94

**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.

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PLAINTIFF

AND

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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.

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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.

Samson & McGrath  
Attorneys at Law  
5<sup>th</sup> Floor Genesis Building  
Genesis Close  
PO Box 446  
George Town  
Grand Cayman

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