

IN THE GRAND COURT OF THE CAYMAN ISLANDS

BETWEEN:

CAUSE NO: G 186 OF 2017

ELIZABETH DE SOUZA DA ENCARNACAO DE CONI

AND

PLAINTIFF

ISLAND RESTAURANTS LTD, TRADING AS "THE GREEN PARROT"

AND

FIRST DEFENDANT

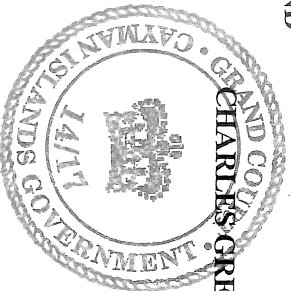
S & B HOLDINGS LIMITED, TRADING AS "EPIC DAY ENTERTAINMENT"

AND

SECOND DEFENDANT

CHARLES GREGORY, TRADING AS "HOPSCOTCH RECORDING STUDIO"

THIRD DEFENDANT

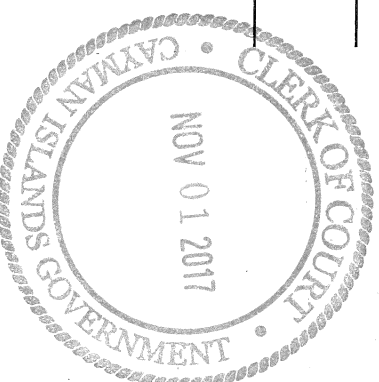


WRIT OF SUMMONS

TO: Island Restaurants Ltd, trading as "The Green Parrot"
Suite 201, Cannon Place, George Town, Grand Cayman

S & B Holdings Limited, trading as "Epic Day Entertainment"
93 North Church Street, George Town, Grand Cayman

Charles Gregory, trading as "Hopscotch Recording Studio"
139 North Sound Way, George Town, Grand Cayman



THIS WRIT OF SUMMONS has been issued against you by the above named Plaintiff of Smith Road Villas, George Town, Grand Cayman, Cayman Islands in respect of the claims set out on the next page.

Within 14 days after service of this Writ on you, (or where this Writ is served on you out of the jurisdiction pursuant to an Order of the Court, within 28 days) counting the day of service, you must either satisfy the claim or return to the Courts Office, P.O. Box 495, George Town, 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 any 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 1st day of November 2017.

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 original issuance unless renewed by order of the Court.

IMPORTANT

Directions for the Acknowledgement of service are given with the accompanying form.

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CHARLES GREGORY, TRADING AS "HOPSCOTCH RECORDING STUDIO"

THIRD DEFENDANT

STATEMENT OF CLAIM

1. The Plaintiff is an Argentinian national by birth, born 4 August 1961, but resident in the Cayman Islands since 1988 and enjoying Caymanian status since 2003. The Plaintiff resides at Smith Road Villas, George Town, Grand Cayman, and was at the time of the subject accident referred to herein employed by Cayman Management Ltd of Harbour Centre, George Town, Grand Cayman, as a junior clerk and office administrator.
2. The First Defendant, Island Restaurants Ltd, is a duly incorporated Cayman Islands company, with a registered office located at Suite 201, Cannon Place, George Town, and at all material times traded in the Cayman Islands under a Trade & Business Licence as "The Green Parrot", and operated a bar and restaurant of that name on commercial premises located at the Royal Water Cruise Terminal and leased from the Port Authority of the Cayman Islands.
3. The Second Defendant, S & B Holdings Limited is a duly incorporated Cayman Islands company, with a registered office located at 93 North Church Street, George Town, and at all material times traded under a Trade & Business Licence as "Epic Day Entertainment", providing event and entertainment organization services.
4. The Third Defendant, Charles Gregory, at all material times traded in the Cayman Islands under a Trade & Business Licence, as "Hopscotch Recording Studio" providing recording studio, music and concert entertainment services, and operating from commercial premises located at 139 North Sound Way, George Town, Grand Cayman.

5. During the evening of Saturday 8 November 2014 the Plaintiff attended at the Royal Water Terminal, at the waterfront, George Town, at an evening of music and entertainment advertised and promoted as “The 10th Annual Wenches Night”, and being part of the Pirates Week festivities that year (hereinafter “the Wenches Night event”).

6. The Wenches Night event was sponsored and promoted by the First Defendant in conjunction with the Second Defendant, and by arrangement between the First Defendant and the Port Authority of the Cayman Islands in respect of the use of the Royal Water Terminal, the particulars of which are unknown to the Plaintiff.

7. The Third Defendant was contracted to the Second Defendant to provide inter alia a sound system, speakers, mixer and “lighting package” for the Wenches Night event.

8. At or about 10:50 p.m. on 8 November 2014, the Plaintiff was dancing to the music provided at the Wenches Night event, when suddenly and without warning a heavy light stand supplied and installed by the Third Defendant and providing lighting for the event, was toppled by an unknown concert attendee or attendees, and fell, striking the Plaintiff violently in the face and head knocking her to the ground, and pinning her on her back unconscious beneath it. It required four men, including two security guards, to lift the light stand off the unconscious Plaintiff. As a result of this accident the Plaintiff sustained the physical and psychological injuries which are set out in paragraphs 13-22 below.

Particulars of negligence

9. The Plaintiff states that the light stand in question was some 11’ tall, weighed 75lb alone and was mounted on a tripod base, with a very substantial additional overhead cross-member structure on which were suspended at least one light weighing 45 lbs and three individual lights weighing 20 lbs each, such that the light stand was inherently and obviously unstable.

10. The light stand as aforesaid was unprotected from jostling or interference by the crowd at the Wenches Night event, and CCTV footage obtained subsequently disclosed that it was knocked over by attendees at the Wenches Night event, striking the Plaintiff as pleaded above.

11. The Plaintiff pleads that the Defendants jointly and severally owed her a duty of care to ensure that she was reasonably safe in attending the Wenches Night event, including taking such steps as were reasonably necessary to prevent the light stand from toppling and falling on her as pleaded above.

12. The Plaintiff states that the accident and her injuries were caused or contributed to as the result of the negligence and/or breach of duty of care of the Defendants, the particulars of which are as follows:

As against the Third Defendant

(a) He created, designed, supplied and installed or placed a light stand incorporating a substantial cross-member that was overloaded with lighting units, top heavy and inherently unstable and unsafe for this application.

(b) He failed to ensure that the light stand was sufficiently or reasonably secured or protected against falling or being toppled over at the Wenches Night event.

As against the First and Second Defendants

(c) They failed to provide reasonable or sufficient security or crowd control to protect the light stand from being jostled or toppled by attendees at the Wenches Night event.

- (d) They failed to provide reasonable or sufficient barriers between the light stand and attendees at the Wenches Night event to protect the light stand from interference and being jostled or toppled by attendees at the event.

Particulars of injuries and damages

13. The Plaintiff was taken to the George Town Hospital by ambulance that evening, where she was treated conservatively for her injuries, advised to follow the closed head injury protocol, and discharged early on the morning of 9 November 2014.
14. The Plaintiff re-attended at the George Town Hospital on 12 November 2014 with complaints of headache, neck, back and shoulder pain, and underwent x-rays of her cervical spine, and was prescribed anti-inflammatory and muscle relaxants.
15. The morning of Friday 14 November 2014 the Plaintiff awoke in a complete state of disorientation as to time, place or person, including a complete loss of her short-term and long-term memory, an awareness of who she was, where she was, where she lived or worked, including a lack of recognition of her immediate family and friends, a loss of facility in her native Spanish language, and displaying an infantile and stuttering speech pattern, together with an abnormal gait and other physical mannerisms.
16. Assessments by Dr Marc Lockhart, Psychiatrist and Dr Meera Balraj, Psychiatrist, have determined that the Plaintiff suffered from and continues to suffer from a “Somatic Symptom Disorder”, an “Adjustment Disorder with Mixed Disturbance of Emotions and Conduct” and a “Persistent Adjustment Disorder” as defined by the Diagnostic and Statistical Manual of Mental Disorders, which with a reasonable degree of medical certainty are said to result from the psychological trauma of the light stand falling on her on 8 November 2014.
17. Despite extensive psychotherapy, counselling and medication by Drs Lockhart and Balraj and including investigation and treatment additionally by Charlotte Custard, Psychotherapist, Dr Starkman, Neurosurgeon, Dr McGill, Psychiatrist, and Clement Von Kirckenheim, Psychologist, the Plaintiff’s condition has remained substantially unchanged over the past nearly three years, her personality remains altered from that which it was previously, she exhibits confusion and gullibility and her functioning in society is markedly compromised and she remains largely housebound and reduced to a state of childlike dependency on her family and friends for assistance with many of the activities of daily living, including driving a car as she did formerly, and has been disabled from and unable to return to work.
18. Full particulars of the Plaintiff’s medical treatment including medical records and reports have been made available to the Defendants’ representatives.
19. The Plaintiff is acutely aware of and embarrassed and frustrated by her psychological deficits and her mannerisms including her distorted speech pattern, her confusion and difficulty in finding words and expressing herself, her abnormal gait and ‘affect’, and her inability to converse with family in her native language. The Plaintiff suffers from anxiety and has been and continues to be treated with a range of anti-anxiety and anti-depressant medication, in an effort to manage her anxiety and stress.
20. The Plaintiff requires additional and further psychotherapy and counselling, including specialized cognitive behaviour therapy and occupational therapy which she is presently unable to afford.
21. The Plaintiff has, as a result of her Somatic Symptom Disorder, suffered considerable loss of enjoyment of her life and the amenities and activities she formerly enjoyed.

22. Since the onset of these symptoms on 14 November 2014, the Plaintiff has been dependent on her immediate family and several close friends for supervision and assistance with many of her day to day activities, including driving her to medical appointments, assistance with banking, bill paying and financial matters, which gratuitous care is conservatively estimated at 25 hours per week on average.

Special damages

23. The Plaintiff has incurred out of pocket expenses and liability for her treatment including but not limited to the following:

CIHSA:	6,453.00
Behavioral Health Associates:	3,049.00
Care Pharmacy:	1,483.65
Cayman Neurosurgeons Group:	150.00
3T Imaging:	<u>2,278.80</u>
Total:	<u>\$13,414.45</u>

24. The Plaintiff was until the accident employed with Cayman Management Ltd as a junior clerk and office administrator earning \$2,655.23 per month. Despite efforts to do so she has been unable to return to work. The Plaintiff claims a loss of income to date, calculated as follows:

November 2014 – October 2017	
(35 months at \$2,655.23 per month):	\$92,933.05

25. Full particulars of the Plaintiff's loss of income and special damages will be provided prior to trial.

26. The Plaintiff claims for gratuitous care provided by family and friends at the rate of \$13.00 per hour for 25 hours per week, i.e. \$1,408.33 per month, and claims on account of gratuitous care to date, as follows:

November 2014 – October 2017	
(35 months at \$1,408.33 per month):	49,291.55

Future loss of income

27. The Plaintiff pleads that she would have worked to age 75 in her employment with Cayman Management Ltd or in a similar capacity with another employer. The Plaintiff claims a future loss of income calculated as follows:

Plaintiff's date of birth: 4 August 1961		57
Plaintiff's age at trial (August 2018):		75
Retirement age:		-0.75%
Discount rate:		18.20
Ogden 7 th Edition (Supp. – March 2017) Table 2 multiplier:		\$31,862.76
Multiplier:		
Future loss of income to retirement at age 75		
18.20 x \$31,862.76:		<u>\$579,902.23</u>

Future gratuitous care

28. The Plaintiff claims for the costs of future gratuitous care at \$1,408.33 per month (\$16,900.00 per annum) for the balance of her actuarial life expectancy, calculated as follows:

Plaintiff's date of birth: 4 August 1961	57
Plaintiff's age at trial (August 2018):	75
Retirement age:	-0.75%
Discount rate:	36.43
Ogden 7 th Edition (Supp. – March 2017) Table 12 multiplier:	\$16,900.00
Multiplicand:	\$615,667.00
36.43 x \$16,900.00:	

29. The Plaintiff reserves the right to claim on account of the full cost of future professional home care and assistance, as may be reasonably necessary and supported by the medical evidence, should she no longer be able to obtain gratuitous care from family and friends.

Future medication expenses

30. The Plaintiff has incurred medication expenses averaging \$572.53 per annum. The Plaintiff claims on account of her future medical expenses for the balance of her actuarial life expectancy calculated as follows:

Plaintiff's date of birth: 4 August 1961	57
Plaintiff's age at trial (August 2018):	75
Retirement age:	-0.75%
Discount rate:	36.43
Ogden 7 th Edition (Supp. – March 2017) Table 12 multiplier:	\$572.53
Multiplicand:	\$20,857.27
36.43 x \$572.53:	

Future treatment expenses

31. The Plaintiff will be advancing a claim for the cost of future counselling and psychotherapy, full particulars of which will be provided prior to trial.

Endorsement as to interest

32. The Plaintiff pleads and relies on s.34 of the Judicature Law (2013 Revision) and the Judgment Debts (Rates of Interest) Rules 2010 as amended and claims interest on her general and special damages and costs as follows:

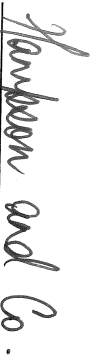
- (a) Pre-judgment (simple) interest, (i) on her special damages from 8 November 2014, and (ii) on her general damages from the date of service of the Writ of Summons herein, to the date of trial at the rate of 2 $\frac{3}{8}$ % per annum.
- (b) Post-judgment interest upon the principal amount of the judgment with effect from the date of service of the judgment at the rate of 2 $\frac{3}{8}$ % per annum or such other rate then prevailing in accordance with the Judgment Debts (Rates of Interest) Rules 2010; and

- (c) Interest on all fixed or assessed costs and orders running from the date of service of the orders or certificates of taxation respectively and at the rate of 2 $\frac{3}{8}$ % per annum or such other rate prevailing in accordance with the Judgment Debts (Rates of Interest) Rules 2010.

THE PLAINTIFF THEREFORE CLAIMS:

- (a) General damages for pain and suffering and loss of amenities to be assessed;
- (b) Special damages including loss of income as pleaded above;
- (c) Pre-judgment and post-judgment interest pursuant to s.34 of the Judicature Law (2013 Revision) and the Judgment Debts (Rates of Interest) Rules 2010 as pleaded above; and
- (d) Her costs of this action, and such further and other relief as to this Honourable Court may seem just.

DATED at Grand Cayman this 1st day of November 2017



Hampson and Company
Attorneys for the Plaintiff

THIS STATEMENT OF CLAIM is filed by Hampson and Company, attorneys for the Plaintiff, whose address for service is that of her said attorneys, at Citrus Grove, 5th Floor, Goring Avenue, George Town, P. O. Box 698, Grand Cayman KY1-1107, Cayman Islands.