

IN THE GRAND COURT OF THE CAYMAN ISLANDS

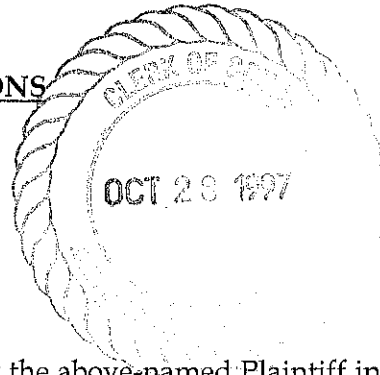
CAUSE NO. 745 OF 1997

BETWEEN: **ALLAN CHARLES TORBITT**
As personal representative of the Estate of
the Late Michelle Marie Fitzgerald Plaintiff

AND: **THE ATTORNEY GENERAL** Defendant

WRIT OF SUMMONS

To: **THE ATTORNEY GENERAL**
c/o The Legal Department
George Town
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 Fourteen days [14] 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 28th day of October, 1997.

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 re-issue unless renewed by order of the Court.

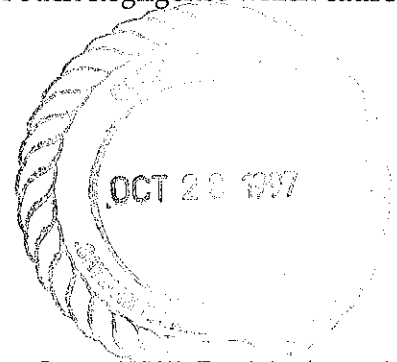
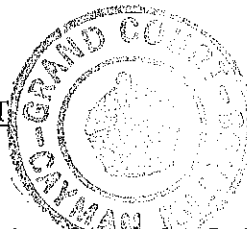
IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

INDORSEMENT OF CLAIM

The Plaintiff is the friend and Personal Representative of the late Michelle Marie Fitzgerald (the "Deceased") who died on the 29th October, 1996. The Plaintiff, claims damages on behalf of the Deceased and the Estate of the Deceased, arising out of the negligent diagnosis and treatment of the Deceased by the employees, servants and/or agents of the Cayman Islands Government at the Cayman Islands Government Hospital. The Plaintiff alleges that as a result of such negligence, the Deceased and her Estate suffered loss and damage including (but not limited to) medical and other expenses, the cost of care and attention and attendance by family members, loss of income, pain and suffering and loss of amenity, loss of expectation of life, funeral and associated expenses, legal costs and all other costs, expenses and damages arising out of or as a result of such negligence which caused or contributed to the said loss and damage and death of the Deceased.

INDORSEMENT OF CLAIM FOR INTEREST



The Plaintiff claims interest pursuant to Section 34 of the Judicature Law (1995 Revision) at the Statutory Rate on any award (or payment on account of damages) from the date of the accident until payment whether before or after judgment.

INDORSEMENT AS TO INSURERS

The Plaintiff does not know whether the Defendant was insured or not.

INDORSEMENT AS TO CAPACITY

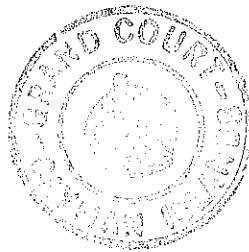
The Plaintiff, Allan Charles Torbitt, sues in a representative capacity as Executor of the Estate of the Deceased. On the 22nd April, 1997, Probate to the Deceased's Estate was granted to the Plaintiff pursuant to an Order of the Court of Queen's Bench of Manitoba, Canada. The said Probate was resealed in the Grand Court of the Cayman Islands on the 16th October, 1997.

INDORSEMENT AS TO CAPACITY IN WHICH CROWN IS SUED

The Plaintiff's claim herein is against Her Majesty in right of Her Government in the Cayman Islands and is brought under Sections 3 and 9 of the Crown Proceedings Law (1997 Revision).

AND THE PLAINTIFF CLAIMS:-

1. Damages.
2. Damages under the Law of Torts Reform Law (Revised) and/or the Estates Proceedings Law 1995.
3. Interest pursuant to the Judicature Law (1995 Revision).
4. Such further and other relief as this Honourable Court deems just.
5. Costs.



DATED this 28th day of October, 1997.

Quin & Hampson
QUIN & HAMPSON
Attorneys-at-Law for the Plaintiff



THIS WRIT was issued by Messrs. Quin & Hampson, Attorneys-at-Law for the Plaintiff whose address for service and correspondence is P.O. Box 1348, Third Floor, Harbour Centre, George Town, Grand Cayman, B.W.I.

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 installments or otherwise.

See over for notes for guidance

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 his 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: ALLAN CHARLES TORBITT
As personal representative of the Estate of
the Late Michelle Marie Fitzgerald Plaintiff

AND: THE ATTORNEY GENERAL 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.

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

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 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.

Messrs. Quin & Hampson
Attorneys-at-Law
Third Floor, Harbour Centre
P.O. Box 1348
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.