

IN THE GRAND COURT OF THE CAYMAN ISLANDS

232
CAUSE NO. OF 2018

BETWEEN:



SANDRA SOLOMON

PLAINTIFF

AND:

CHIEF OFFICER OF THE MINISTRY OF HUMAN RESOURCES

AND IMMIGRATION

WRIT OF SUMMONS



RESPONDENT



TO: Chief Officer
Ministry of Human Resources and Immigration
5th Floor Government Administration Building
113 Elgin Avenue, George Town
Grand Cayman KY1-9000
CAYMAN ISLANDS

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiffs in respect of the claim set out on the next page.

Within 28 days after the service of the Writ on you, counting the day of service, you must either satisfy the claim of return to the Court Office, P.O. Box 495, George Town, Grand Cayman, 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 judgement may be entered against you forthwith without further notice.

Issued this 28th day of November 2018.

NOTE: - This Writ may not be served later than 4 calendar months (or, if leave is require to effect service out of the jurisdiction, 6 months) beginning with the date of issue renewed by order of the Court.

IMPORTANT

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

STATEMENT OF CLAIM

1. The Plaintiff was a Senior Labour Inspector assigned to Cayman Brac in the employ of the Respondent, the Ministry of Human Resources and Immigration, particularly in the Department of Labour and Pensions.
2. The Plaintiff's duties included ensuring that businesses complied with the Labour and Pension Laws in their operations.
3. It was an implied term of the Plaintiff's contract of employment, The Public Service Management Law (2018 Revision) and The Personnel Regulations 2017 that the Respondent would not be exposed to harassment, bullying, unwarranted disciplinary process and inordinately delayed disciplinary process by her employer.
4. Further, the Respondent owed the Plaintiff a duty of care in tort to take all reasonable care to ensure that she was not exposed to the risk of psychological or other harm in the course of or as a result of her employment.
5. On March 17th, 2014 an unfounded compliant was made against the Plaintiff by a business operator. The Respondent in response placed the Plaintiff on required leave on April 1st, 2014.
6. Without following the process required by legislation in investigating complaints, the director of Labour and Pension (DLP) decided that the Plaintiff's actions amounted to serious misconduct and a warning was given on March 30, 2015.
7. The Decision was appealed to the Civil Service Appeals Commission (CSAC) and, on 25 November 2015 CSAC found that the Director and Chief Officer acted outside the remit of the relevant legislation and Ordered:
 - (a) The finding of serious misconduct be struck down;
 - (b) The warning for serious misconduct should fall away;

(c) That the Plaintiff be reinstated to the post and return to duties previously held prior to 1st April 2014.

8. CSAC took no view on whether the matter should be remitted to the new Director of DLP who had taken over by the time of CSAC's decision. The Chief Officer in fact remitted the matter to the new Director, who shortly afterwards set up a new investigation and disciplinary process on or around 12th February 2016 to overcome the failures CSAC identified in the original investigation and disciplinary process. The second investigation was closed on or around the 17th January 2017. The Director asserted there were merits to the claim, due to the passage of time it would be closed. It has been ongoing since. However, the Plaintiff have remained in limbo without ever being provided with a finding or the ability to respond to assertion of misconduct.

9. The Plaintiff has been and is continuing to be exposed to the tension caused by the process of investigation since April 2014, along with the ill-treatment by the DLP and the Ministry. The treatment of the DLP and the Ministry towards the Plaintiff includes that:
 - (a) She has been treated with disdain from the point of the complaint and even further when she challenged the decision of the Director and Chief Officer.
 - (b) She was removed from her employment and place of employment in such a distraughtly manner, namely without time to gather herself and personal items with force as though she was a criminal;
 - (c) She was prevented from returning to her place of employment to collect her personal belonging such as photos of her grandchildren until **2016/17** and even then, she had to ask a member of the Royal Cayman Islands Police Service to attend with her;
 - (d) Her employer retained her office furniture which she bought and used in the government employ for a period of over two years with the use of her home as office and then at the government provided office after Hurricane Paloma

destroyed the DLP office in November 2008. To date the Respondent has failed to compensate the Plaintiff;

(e) Her employer sought to have her removed from her post by seeking to force her into retirement.

10. The Plaintiff first took sick leave in April 2015 to 12th May 2015 during the original appeal to CSAC in light of all that was happening in relation to her employment on advice of her private medical doctor. She saw her private doctor and further sick leave was given from the 12th May 2015 to the 13th July 2015 and thereafter from the 13th July 2015 to the 17th August 2015, 17th August to 30th October 2015, and this series of sick leave has continued to date.

11. The Plaintiff's private doctor in a letter to her employer on the 3rd July 2015 disclosed that the Plaintiff was being treated for depression with anxiety and receiving both psychological and pharmacological treatment. Her private doctor again confirmed her diagnosis on the 27th March 2017 when she extended leave from work between the 27th March 2017 to the 31st May 2017.

12. The Plaintiff was requested by her employers to attend the Health Service Authority (HSA) to confirm her unfitness to work and this was confirmed from the 19th October 2015 to the 2nd November 2015. Further, on 21st June 2016, the HSA diagnosed the Plaintiff with depression and anxiety and that such symptoms are thought to be due to unresolved tensions at work which made her work environment psychologically unfavourable. At this point the Plaintiff appreciated the significance of her injuries and its cause.

13. The Plaintiff was, also at the request of her employer, required to be examined by a panel of doctors for the Government, referred to as the Medical Board, to assess whether she was fit to return to work. The Medical Board, on the 28th December 2016,

decided that whilst she was fit, her condition is exacerbated by work related events and a change in her location of work would facilitate recovery and re-integration.

PARTICULARS OF NEGLIGENCE

14. The Respondent, its servants and/or agents were in breach of the implied terms and/or negligent in that they:

- (a) failed to act in a fair, unbiased and without prejudice manner in the conduct of investigation of the complaint of 27 March 2014;
- (b) failed to treat the Plaintiff fairly and properly in all aspects of her employment including during the investigation and disciplinary process;
- (c) failed to conduct disciplinary investigation on the presumption of innocence;
- (d) failed to conduct investigation and disciplinary process within a reasonable time;
- (e) failed to take any or any adequate steps to assess the effect of any investigative and disciplinary process on the Plaintiff and provide necessary support;
- (f) failed to offer the Plaintiff adequate and/or appropriate support in dealing with her work related, excessive and unreasonable stress
- (g) failed to adhere to the recommendation of the Medical Board convened at the Respondent's request;
- (h) failed to recognize exposed and continue to expose the Plaintiff to undue and excessive work-related stress and pressures due to unwarranted investigation and prolonged disciplinary process;
- (i) failed to put in place any or any adequate strategies to reduce or eliminate the risk of psychological harm to the Plaintiff occurring as a result of investigation or disciplinary process and work-related stress;
- (j) failed to heed or deal adequately or at all with the Plaintiff's complaints that she felt unsupported and undermined and exposed to undue and unreasonable stress and pressures;

- (k) failed to recognize there was a risk of the Plaintiff suffering psychological injury as a result of the unwarranted investigation, the inordinate delayed disciplinary process and the pressures and stress brought on by the same;
- (l) in the premises, failed to have any or sufficient regard for the Plaintiff's health and safety in relation to work.

15. By reason of the matters stated above, the Plaintiff has suffered injury, loss and damage.

PARTICULARS OF INJURY

16. The Plaintiff whose date of birth is 29th April 1958 as a result of the conduct and failures of the Respondent since 1 April 2014 has suffered severe depression and anxiety which disrupts her life, interferes with her ability to work and necessitates ongoing psychological and pharmacological treatment.
17. Further particulars of the Plaintiff's medical condition are contained in medical notes attached.

PARTICULARS OF SPECIAL DAMAGE

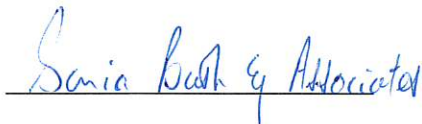
18. The Special damages claimed by the Plaintiff is set out in the schedule of past and future expense and losses attached.
19. The Plaintiff claims for future loss of earning and for her becoming handicapped on the labour market.
20. The Respondent by their action as admitted that the Plaintiff's injury is as a result of her employer and employment pursuant to Personnel Regulations 2006, Schedule 1, 6(2).

21. The Plaintiff also claims the outstanding KYD \$33,972.00 (details set out in annexed Schedule) from the Respondent in regards to her expenditure in relation to purchase of furniture and running of DLP office from her home after Hurricane Paloma.

22. Further, the Plaintiff claims interest upon such damages and amount found due pursuant to Section 34 of the Judicature Law 2017 or otherwise at such rate as the court thinks fit.

AND the Plaintiff claims:

- (a) Damages;
- (b) Future loss of earning and handicap on the labour market;
- (c) Interest;
- (d) Costs;
- (e) Such further or other relief.



Sonia Bush & Associates Law Firm

Attorneys-at-Law for the Plaintiff

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICES
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 "Statements of Claim" appear on the top of page 2) the Defence must be served within 28 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgement is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 28 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 judgement 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 is 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 28 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 (.....)" his name.
6. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorized 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.

BETWEEN:

MISS SANDRA SOLOMON

PLAINTIFF

AND:

CHIEF OFFICER OF THE MINISTRY OF HUMAN RESOURCES
AND IMMIGRATION

RESPONDENT

**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 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
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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 this Writ is acknowledged accordingly

(Signed) _____
Defendant/Attorney for the Defendant

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

Sonia Bush & Associates Law Firm
Attorneys-at-Law
Grand Pavilion Commercial Center,
802 West Bay Road,
P.O. Box 11139
Grand Cayman, KY1-1008
Cayman Islands.

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

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2018

BETWEEN:

SANDRA SOLOMON

PLAINTIFF

AND:

CHIEF OFFICER OF THE MINISTRY OF HUMAN RESOURCES
AND IMMIGRATION

RESPONDENT

SCHEDULE OF PAST AND FUTURE EXPENSES AND LOSSES

Plaintiff's date of birth: 29th April 1958

Date of Injury: 21st June 2016 (date of knowledge)

Date Proceedings Issued:

Date of Service:

Date of Schedule: 7th November 2018

1. General Damages to be assessed

The Plaintiff whose date of birth is 29th April 1958 was the victim of an unwarranted complaint which resulted in an unwarranted and unreasonable investigation and disciplinary process that has lasted since 1st April 2014 and still ongoing to date. This has resulted in psychological depression and anxiety which has worsen over the course.

The relevant category of awards within the Judicial Studies Guidelines for Assessment of General Damages in Personal Injury Case is chapter four (4) Psychiatric and Psychological Damage. The appropriate level of seriousness is moderately severe being caused by work related stress that is longstanding which prevents return to comparable employment. The appropriate figure is

KYD\$55,416.30 [including 10% Cayman Islands uplift *AX v. A, B and C* [2016 (2) CILR 150].

The Plaintiff claims interest on her General damages in accordance with the prescribed rate or as the court sees fit.

2. PAST FINANCIAL LOSES

DATE	DESCRIPTION	CI	OUTSTANDING	ACCOUNT BALANCE
2016	Sold 1 of 2 overseas home to meet expenses when loss salary.	+/- \$37,800.00		+/- \$37,800.00
2018	Sold 2 of 2 overseas home to meet expenses after loss of salary	+/- \$36,000.00		+/- \$73,800.00
2016 to present	Loss of Rental Income from 1 of 2 overseas property sold	+/- \$23,520.00		+/- \$97,320.00

Further Losses to be provided in due course.

3. PAST LOST OF EARNINGS

Loss of salary increase increment based on tenure and loss of benefit from salary increase to Government staff.

Further details to be provided in due course

4. PAST CARE

Further details to be provided in due course

5. MISCELLANEOUS EXPENSE AND RECOVERABLES

	CTMH		To be provided
	CINICO		To be provided
	HSA		To be provided

Further details to be provided

6. INTEREST

The Plaintiff claims interests on all single losses at the prescribe rate or a rate decided by the court.

7. Future loss of earning to be assessed.

As a result of her avoidable injuries the Plaintiff has suffered longstanding psychological injury which prevents return to comparable employment.

Sonia Bush & Associates

Sonia Bush & Associates Law Firm

Attorneys for the Plaintiff

Expenses owed to Mrs. Solomon by the Department of Labour and Pensions

All figures are in CI Dollars

November 2008 to April 2011 (being the period of 30 months after Hurricane Paloma until the Office reopened)

1. Furnished office space rental at \$800.00 per month	\$24,000.00
2. Electricity at \$100.00 per month	\$3,000.00
3. Telephone/fax/DSL at \$112.00 per month from February 2009 to June 2010	\$1,792.00
4. Telephone/fax/DSL at \$119.00 per month from July 2010 to April 2011	\$1,190.00
5. Water at \$25 per month	\$750.00
6. Printer paper, ink, office supplies, etc. at approx. \$50 per month	\$1,500.00
TOTAL:	\$32,232.00

Gas allowance owed to Mrs. Solomon by the Department of Labour and Pensions

January 2011 to June 2012 – 18 months at \$30 per month	\$540.00
July 2012 to March 2014 – 20 months at \$60.00 per month	\$1,200.00
TOTAL:	\$1,740.00



3rd July 2015.

Mr. Christen Suckoo,
Acting Chief Officer,
Ministry of Education, Employment and Gender Affairs.
Cayman Islands.

Dear Mr. Suckoo,

Re: Sandra Solomon,

DOB: 29th April 1958.

Thank you for your letter dated 16th June 2015, which was received and acknowledged on the 2nd July 2015.

Mrs Solomon has given me permission to inform you that she is currently being treated for depression with anxiety (ICD-9 code 300.4). She is receiving treatment, both psychologically and pharmacologically and although she is improving, she is not, in my medical opinion, fully fit to return to work. In fact, I believe that the demands of work on her at this present time would be detrimental to her health and cause her to relapse medically, in addition to her not being able to perform her job to the best of her ability.

Treatment for some of the psychiatric conditions such as anxiety and depression often take time to work (in some cases many months), and often involve a combination of therapies and disciplines, some pharmacological and others psychological. In reference to the Public Service Management Law, personnel regulation schedule 1, section 6 "treatment of which would normally occur over a period of 10 calendar days or more", her illness and treatment does satisfy this criteria.

I review Mrs Solomon regularly and do discuss the possibility of her returning to work at every visit but to date, I do not believe she is well enough. She is seeing the specialists at HSA for this condition and has seen her own Primary Care Physician in Cayman Brac too, who concurs with treatments given.

I am next due to review Mrs Solomon on the 13th July 2015 and will, once again, revisit the employment question. However, if I feel that she is still not ready, another sick note will be issued.

If you have any questions, please do not hesitate to contact me.

Yours sincerely,

Dr. Samantha Digby
BMBS, DCH, DRCOG, MRCGP
General Practitioner

Dr Samantha Digby, BMBS, DCH, DRCOG, MRCGP.

Cc Mrs Solomon.

17th December 2015.

Ms. Katrina Stewart,
HR Manager,
Ministry of Education, Employment and Gender affairs,
Cayman Islands.

Dear Ms. Katrina Stewart,

Re: Sandra Solomon,
DOB: 29-4-58.

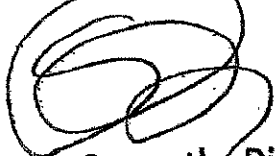
Please take this letter as a Medical Certificate stating that Mrs. Solomon has been seen, assessed by myself today, and remains unfit to engage in work for the period of the 30th December 2015 until the 24th February 2016.

I have been permitted to tell you that whilst she continues to suffer with anxiety, her triggers have been identified as being purely work related. So, unless there is any significant change in her current working environment, I anticipate she will remain unfit to work for the foreseeable future.

Mrs. Solomon continues to be under my care.

If you have any questions, please do not hesitate to contact me.

Yours sincerely,



Dr. Samantha Digby
BMBS, DCH, DRCOG, MRCGP.

Dr. Samantha Digby
BMBS, DCH, DRCOG, MRCGP
General Practitioner



HEALTH SERVICES AUTHORITY
CAYMAN ISLANDS
Caring People. Quality Service.

Faith Hospital

Tel: (345) 244 8600
Fax: (345) 244 2998

95 Hospital Road, PO Box 915
Grand Cayman KY1-1103, CAYMAN ISLANDS

June 21st, 2016

To whom it may concern.

MEDICAL REPORT re: SANDRA SOLOMON (DOB 29/APRIL/1958)

Please be advised that Ms Solomon is presently under our care for anxiety and depression. Her symptoms are thought to be due to unresolved tensions at work which have made her work environment psychologically unfavourable and therefore made her unable to perform her duties.

I have also referred her for psychotherapy to complement the care we offer her and it is hoped that the issues at work will be resolved soon to facilitate her recovery.

Please feel free to contact me for any queries that you may have.

N.G. Onah-Ezema MBBS, MPH
Medical Officer



My health. My team. My choice.

27th March 2017.

Mr. Christian Suckoo,
Chief Officer,
Ministry of Education, Employment and Gender affairs,
Cayman Islands.

Dear Mr. Suckoo,

Re: Sandra Solomon,
DOB: 29-4-58.

I have seen and assessed Mrs. Solomon today, in clinic, and have continued her sick note through to the 31st May 2017 when she will be reassessed once again.

Whilst I understand that the recent Medical Board Review stated her "fit to work as per her job description", it did nothing to address the reason for her illness. Her illness is **Depression with anxiety** which has been triggered by and remains a **work induced** illness.

Unless significant efforts are made to address these triggers to the completion and satisfaction of everyone involved, I believe she will remain unfit to work and will continue to suffer as she has done for the past 3 years.

If you have any comments on the above, please do not hesitate to contact me.

Yours sincerely,



Dr. Samantha Digby
BMBS, DCH, DRCOG, MRCP.

DR. SAMANTHA DIGBY
BMBS, DCH, DRCOG, MRCP
GENERAL PRACTITIONER
MDC / PL / MED / UG
Christie Tomlinson Memorial Hospital



30th May 2017.

Mr. Christian Suckoo,
Chief Officer,
Ministry of Education, Employment and Gender affairs,
Cayman Islands.

Dear Mr. Suckoo,

Re: Sandra Solomon,
DOB: 29-4-58.

I have seen and assessed Mrs. Solomon again, in clinic, and have continued her sick note through to the 9th August 2017 when she will be reassessed once again.

As Mrs. Solomon's Physician, I am concerned that her mental state, specifically her anxiety levels, are getting worse which is as a direct result of her perceived treatment from your Ministry. She is requiring more medication to control her symptoms and aid with sleep. As stated in previous correspondence with yourself, her triggers revolve around her employment, and I have no evidence that any of these issues have been addressed so have no option but to continue her sick leave.

I understand that the Medical Board review found her fit to work, but only under certain circumstances and wrote recommendations as such. My assessment of Mrs. Solomon is in agreement with this and that has been stated as such in previous correspondence.

As her Doctor, I do find this situation extremely unsatisfactory. Whilst I have no opinion on any issues outside my medical field, that fact that her illness is escalating, and not resolving, is my concern. I believe it is only fair to Mrs. Solomon that after 3 years, this should be addressed head on, dealt with one way or another so everyone can move on from it and do the healing that is required.

If you have any comments on the above, please do not hesitate to contact me.

Yours sincerely,

Dr. Samantha Digby
BMBS, DCH, DRCOG, MRCP.