

No. 1  
Plaint



IN THE SUMMARY COURT AT GEORGE TOWN

Cause No. 154 of 20 19

BETWEEN:

SUSAN CARDY

Plaintiff

AND:

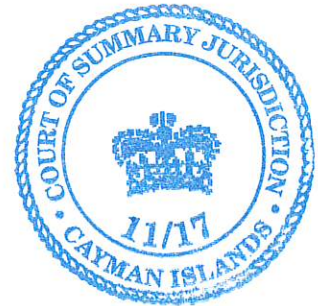
KAREN DYCK



Defendant

To the Defendant

KAREN DYCK  
% SUNSHINE SUITES RESORT.  
1465 ESTERLEY TIBBETS HIGHWAY  
SMB, GRAND CAYMAN, KY1-1201, C.I.



THIS PLAINT 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 service of this Plaint on you, counting the day of service you must either satisfy the claim or return to the Court Office, PO Box 495GT, George Town, Grand Cayman, the accompanying Acknowledge of Service form stating therein whether you intend to contest this action. If you intend to defend the action, in whole or in part, you must set out **full particulars of your defence** in the space provided in the Acknowledgment of Service form.

**If you fail** to satisfy the claim or fail to return the Acknowledgement of Service form containing full particulars of your defence, the Plaintiff may apply for a **default judgement** without any further notice to you.

Issued this 17 day of July 2019.

See overleaf for particulars of the Plaintiff's claim.

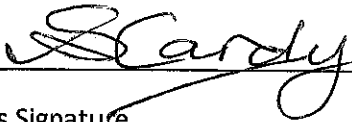
PARTICULARS OF CLAIM

(Here set out in numbered paragraphs the grounds upon which the Plaintiff claims that the Defendant is indebted to him or is liable to pay damages to him)

1. As Landlord of South Sound Block 21B, Parcel 122H19, Unit 75 Vela 2, South Sound Road allowed the tenants to be at risk by allowing the premises to be rented out in an unsafe condition by not ensuring outside steps had anti-slip grippers on every step (photos attached show some steps with and some without)
2. Due to (1) above, the Plaintiff Ms. Susan Cardy, slipped on the unsafe steps on Friday 23<sup>rd</sup> November 2018, causing her to slip and suffer immediate pain to her right elbow and back. This caused long term pain, discomfort and suffering requiring medical treatment (letter from Dr. Xantus Gabor – Doctors Express Urgent Care – attached along with receipt for payment of assessment. Further treatment required and not yet costed)
3. The Plaintiff requires further medical care including physio and an operation due to the pain worsening. Due to low level health cover this treatment is not covered thus own costs are being incurred including flights to UK to seek treatment via NHS – cost of return flights circa \$900CI – total costs unknown at this stage
4. Witness statements have been obtained from the Plaintiff and three others present who witnessed the slip and can verify that anti-slip grippers were not on the steps where the plaintiff slipped – witnesses are Ms. Susan Cardy, Mr. Shaun Anderson, Mr. James Fordyce and Mrs. Amanda Keylock all whom are willing witnesses (statements attached)

AND the Plaintiff claims

1. The sum of     \$5,000CI    .
2. Interest in the sum of \$     0     calculated at the prescribed rate from to date.
3. Fixed costs of \$     , alternatively costs to be assessed.



Plaintiff's Signature

Plaintiff's address for service

PO Box 2627 KY1-1103 % MASH OFFICE ANDERSON SQUARE GEORGE TOWN
---

No. 2

**Acknowledgment of Service**

IN THE SUMMARY COURT AT GEORGE TOWN

Cause No. SC \_\_\_ of 20\_\_

BETWEEN: SUSAN CARBY Plaintiff

AND: KAREN DYCK Defendant

ACKNOWLEDGEMENT OF SERVICE

1. State Defendant's name and address -

2. State whether the Defendant intends to contest the action.

Yes  No

3. If you do not intend to contest the action, do you want time in which to pay the claim?

Yes  No

4. If you do intend to contest the action, in whole or in part, you must set out full particulars of your defence overleaf.

**Service of the Plaint is acknowledged accordingly.**

\_\_\_\_\_  
Defendant's Signature

Dated this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_

**See Overleaf**

PARTICULARS OF DEFENCE

(Here set out in numbered paragraphs the grounds upon which the Defendant says that he is not liable to the Plaintiff, or is not liable for the full amount claimed)

---

Defendant's Signature

**REMINDER -** This form must be taken or send to the Court Office, PO Box 495GT, George Town, Grand Cayman within 14 days of receipt otherwise a default judgement may be entered against you.

## **Witnesses to slip incident #75 Vela Phase 2 Friday 23<sup>rd</sup> November 2018**

### *1) Witness statement – Plaintiff – Susan Cardy –*

On Friday 23<sup>rd</sup> November 2018, we had some guests for dinner. During the evening we were making our way downstairs and I was carrying some hot food. As I neared the bottom of the stair well, I slipped, the lower stairs were like an ice skating rink, it had been raining but there were only grippers half way down which we had not noticed until this night. My right elbow took full impact and I jarred my back causing a coronoid fracture chip injury which may require surgery in the future to correct. I have notable lumps in the olecranon bursa keeping in with a bursitis after the initial insult which will disfigure my elbow for life unless I have surgery which I do not wish to have.

Witness, Shaun Anderson was at the top of the Stairwell, witness, Amanda Keylock was in front of me and witness, James Fordyce was also in front of me.

It took a while for me to stand as I had also jarred my back in the fall. We iced and packed my elbow, which was also grazed. I was in pain during the rest of the evening and over the following weekend.

It took 3 weeks to return to normal activities following the fall, however, we are now 7 months in and I still have a lot of pain and limited right elbow flexion and thoracic spine pain which prevents me sleeping at night and has caused depression. I have a physical and most rewarding job which I love, teaching autistic children to swim. However, due to the pain now becoming so unbearable, I have had to seek alternative work in an office which I am due to start 19 August 2019.

I am also a swimmer who enjoys daily training; this again has been restricted due to my right elbow being stiff and the pain in my back.

### *2) Witness statement – Shaun Anderson –*

During the evening of Friday 23<sup>rd</sup> November 2018, whilst living at #75 Vela Phase 2, we had a group of friends round for an evening meal. The guests included James Fordyce and Amanda Keylock along with their partners.

It had been raining before the guests arrived; however, as it brightened up by the time they arrived we made a decision to eat the meal outside near the pool under the cabana. I was last out of the apartment and had a view from the top of the steps down towards the gate; I could see the guests and Susan Cardy (my partner) walking carefully down the steps.

As we walked down the steps I noticed they were slippery but where the anti-slip grippers had been fitted at the top of the stairs there were no issues; however, I became concerned when I saw James Fordyce slip colliding with the wall in front of him. James was fortunate as he managed to prevent himself falling onto the floor.

As Susan stepped onto the lower steps, which had no anti-slip grippers fitted, I saw her lose her footing completely. Susan fell onto her back and right elbow and appeared to be

shocked and in pain. Susan was assisted by the guests to get to her feet but this took a little time as she was in pain and mentioned her back and elbow were causing her pain.

On checking Susan I could see her elbow looked to be swollen and marked and she complained of having pains in her elbow and back during the course of the evening and over the weekend.

I have seen Susan worsen over the period of the next six months due to pain and discomfort with her elbow and also with her back which has caused her sleepless nights and she seems to be depressed and down due to being restricted with her work and her own fitness levels.

On checking the stairs at #75 Vela Phase 2 I was annoyed to find that there were only anti-slip grippers on some of the steps (photographs attached) and not on others. I believe this was the reason and cause of the fall that Susan had. This fact was reported to the defendant who advised they would rectify this oversight asap.

3) *Witness statement – James Fordyce –*

On Friday 23rd November 2018 we had been invited for a meal with friends at an apartment in Vela. It had been raining heavily before we arrived. During the evening, we decided to eat our meal outside as it had turned into a lovely evening. However, the previous rain had made the steps to the apartment very slippy and there was no anti slip material on the steps. As I was leaving the apartment with food, I slipped and fell into the wall in front of me. Luckily I was unharmed.

However, our host, Susan Cardy was coming down the stairs behind me, also slipped on the stairs and fell quite badly. Her arm immediately had red marks followed by swelling and bruising and looked very painful.

I am aware that Susan was in a lot of pain for quite some time after this event which was caused entirely by a lack of health and safety procedures.

4) *Witness statement – Amanda Keylock –*

On Friday 23 November 2018, we were having a lovely evening at 75 Vela. We were coming down the outside stairs at the premise when our host Susan Cardy, who was in front of me, slipped holding a hot plate of food. She fell badly on her right side and it seemed her elbow took most of the impact.

We noticed grippers were only completed half way down the stairwell; it had been raining which made the stairs dangerously slippery. This was a horrible shock not only to Susan but myself as the injury to Susan was of great concern.

I was horrified to think that such negligence had taken place in what seemed like such a beautiful, well kept complex. Susan was in a lot of pain and took her a little while to collect herself as she had also hurt her back whilst trying to break the fall. Once we had assessed her injuries we immediately iced her elbow, which was swollen and grazed.

## **Witnesses to slip incident #75 Vela Phase 2 Friday 23<sup>rd</sup> November 2018**

### *1) Witness statement – Plaintiff – Susan Cardy –*

On Friday 23<sup>rd</sup> November 2018, we had some guests for dinner. During the evening we were making our way downstairs and I was carrying some hot food. As I neared the bottom of the stair well, I slipped, the lower stairs were like an ice skating rink, it had been raining but there were only grippers half way down which we had not noticed until this night. My right elbow took full impact and I jarred my back causing a coronoid fracture chip injury which may require surgery in the future to correct. I have notable lumps in the olecranon bursa keeping in with a bursitis after the initial insult which will disfigure my elbow for life unless I have surgery which I do not wish to have.

Witness, Shaun Anderson was at the top of the Stairwell, witness, Amanda Keylock was in front of me and witness, James Fordyce was also in front of me.

It took a while for me to stand as I had also jarred my back in the fall. We iced and packed my elbow, which was also grazed. I was in pain during the rest of the evening and over the following weekend.

It took 3 weeks to return to normal activities following the fall, however, we are now 7 months in and I still have a lot of pain and limited right elbow flexion and thoracic spine pain which prevents me sleeping at night and has caused depression. I have a physical and most rewarding job which I love, teaching autistic children to swim. However, due to the pain now becoming so unbearable, I have had to seek alternative work in an office which I am due to start 19 August 2019.

I am also a swimmer who enjoys daily training; this again has been restricted due to my right elbow being stiff and the pain in my back.

### *2) Witness statement – Shaun Anderson –*

During the evening of Friday 23<sup>rd</sup> November 2018, whilst living at #75 Vela Phase 2, we had a group of friends round for an evening meal. The guests included James Fordyce and Amanda Keylock along with their partners.

It had been raining before the guests arrived; however, as it brightened up by the time they arrived we made a decision to eat the meal outside near the pool under the cabana. I was last out of the apartment and had a view from the top of the steps down towards the gate; I could see the guests and Susan Cardy (my partner) walking carefully down the steps.

As we walked down the steps I noticed they were slippery but where the anti-slip grippers had been fitted at the top of the stairs there were no issues; however, I became concerned when I saw James Fordyce slip colliding with the wall in front of him. James was fortunate as he managed to prevent himself falling onto the floor.

As Susan stepped onto the lower steps, which had no anti-slip grippers fitted, I saw her lose her footing completely. Susan fell onto her back and right elbow and appeared to be

shocked and in pain. Susan was assisted by the guests to get to her feet but this took a little time as she was in pain and mentioned her back and elbow were causing her pain.

On checking Susan I could see her elbow looked to be swollen and marked and she complained of having pains in her elbow and back during the course of the evening and over the weekend.

I have seen Susan worsen over the period of the next six months due to pain and discomfort with her elbow and also with her back which has caused her sleepless nights and she seems to be depressed and down due to being restricted with her work and her own fitness levels.

On checking the stairs at #75 Vela Phase 2 I was annoyed to find that there were only anti-slip grippers on some of the steps (photographs attached) and not on others. I believe this was the reason and cause of the fall that Susan had. This fact was reported to the defendant who advised they would rectify this oversight asap.

3) *Witness statement – James Fordyce –*

On Friday 23rd November 2018 we had been invited for a meal with friends at an apartment in Vela. It had been raining heavily before we arrived. During the evening, we decided to eat our meal outside as it had turned into a lovely evening. However, the previous rain had made the steps to the apartment very slippy and there was no anti slip material on the steps. As I was leaving the apartment with food, I slipped and fell into the wall in front of me. Luckily I was unharmed.

However, our host, Susan Cardy was coming down the stairs behind me, also slipped on the stairs and fell quite badly. Her arm immediately had red marks followed by swelling and bruising and looked very painful.

I am aware that Susan was in a lot of pain for quite some time after this event which was caused entirely by a lack of health and safety procedures.

4) *Witness statement – Amanda Keylock –*

On Friday 23 November 2018, we were having a lovely evening at 75 Vela. We were coming down the outside stairs at the premise when our host Susan Cardy, who was in front of me, slipped holding a hot plate of food. She fell badly on her right side and it seemed her elbow took most of the impact.

We noticed grippers were only completed half way down the stairwell; it had been raining which made the stairs dangerously slippery. This was a horrible shock not only to Susan but myself as the injury to Susan was of great concern.

I was horrified to think that such negligence had taken place in what seemed like such a beautiful, well kept complex. Susan was in a lot of pain and took her a little while to collect herself as she had also hurt her back whilst trying to break the fall. Once we had assessed her injuries we immediately iced her elbow, which was swollen and grazed.

## **Witnesses to slip incident #75 Vela Phase 2 Friday 23<sup>rd</sup> November 2018**

### *1) Witness statement – Plaintiff – Susan Cardy –*

On Friday 23<sup>rd</sup> November 2018, we had some guests for dinner. During the evening we were making our way downstairs and I was carrying some hot food. As I neared the bottom of the stair well, I slipped, the lower stairs were like an ice skating rink, it had been raining but there were only grippers half way down which we had not noticed until this night. My right elbow took full impact and I jarred my back causing a coronoid fracture chip injury which may require surgery in the future to correct. I have notable lumps in the olecranon bursa keeping in with a bursitis after the initial insult which will disfigure my elbow for life unless I have surgery which I do not wish to have.

Witness, Shaun Anderson was at the top of the Stairwell, witness, Amanda Keylock was in front of me and witness, James Fordyce was also in front of me.

It took a while for me to stand as I had also jarred my back in the fall. We iced and packed my elbow, which was also grazed. I was in pain during the rest of the evening and over the following weekend.

It took 3 weeks to return to normal activities following the fall, however, we are now 7 months in and I still have a lot of pain and limited right elbow flexion and thoracic spine pain which prevents me sleeping at night and has caused depression. I have a physical and most rewarding job which I love, teaching autistic children to swim. However, due to the pain now becoming so unbearable, I have had to seek alternative work in an office which I am due to start 19 August 2019.

I am also a swimmer who enjoys daily training; this again has been restricted due to my right elbow being stiff and the pain in my back.

### *2) Witness statement – Shaun Anderson –*

During the evening of Friday 23<sup>rd</sup> November 2018, whilst living at #75 Vela Phase 2, we had a group of friends round for an evening meal. The guests included James Fordyce and Amanda Keylock along with their partners.

It had been raining before the guests arrived; however, as it brightened up by the time they arrived we made a decision to eat the meal outside near the pool under the cabana. I was last out of the apartment and had a view from the top of the steps down towards the gate; I could see the guests and Susan Cardy (my partner) walking carefully down the steps.

As we walked down the steps I noticed they were slippery but where the anti-slip grippers had been fitted at the top of the stairs there were no issues; however, I became concerned when I saw James Fordyce slip colliding with the wall in front of him. James was fortunate as he managed to prevent himself falling onto the floor.

As Susan stepped onto the lower steps, which had no anti-slip grippers fitted, I saw her lose her footing completely. Susan fell onto her back and right elbow and appeared to be

shocked and in pain. Susan was assisted by the guests to get to her feet but this took a little time as she was in pain and mentioned her back and elbow were causing her pain.

On checking Susan I could see her elbow looked to be swollen and marked and she complained of having pains in her elbow and back during the course of the evening and over the weekend.

I have seen Susan worsen over the period of the next six months due to pain and discomfort with her elbow and also with her back which has caused her sleepless nights and she seems to be depressed and down due to being restricted with her work and her own fitness levels.

On checking the stairs at #75 Vela Phase 2 I was annoyed to find that there were only anti-slip grippers on some of the steps (photographs attached) and not on others. I believe this was the reason and cause of the fall that Susan had. This fact was reported to the defendant who advised they would rectify this oversight asap.

3) *Witness statement – James Fordyce –*

On Friday 23rd November 2018 we had been invited for a meal with friends at an apartment in Vela. It had been raining heavily before we arrived. During the evening, we decided to eat our meal outside as it had turned into a lovely evening. However, the previous rain had made the steps to the apartment very slippery and there was no anti slip material on the steps. As I was leaving the apartment with food, I slipped and fell into the wall in front of me. Luckily I was unharmed.

However, our host, Susan Cardy was coming down the stairs behind me, also slipped on the stairs and fell quite badly. Her arm immediately had red marks followed by swelling and bruising and looked very painful.

I am aware that Susan was in a lot of pain for quite some time after this event which was caused entirely by a lack of health and safety procedures.

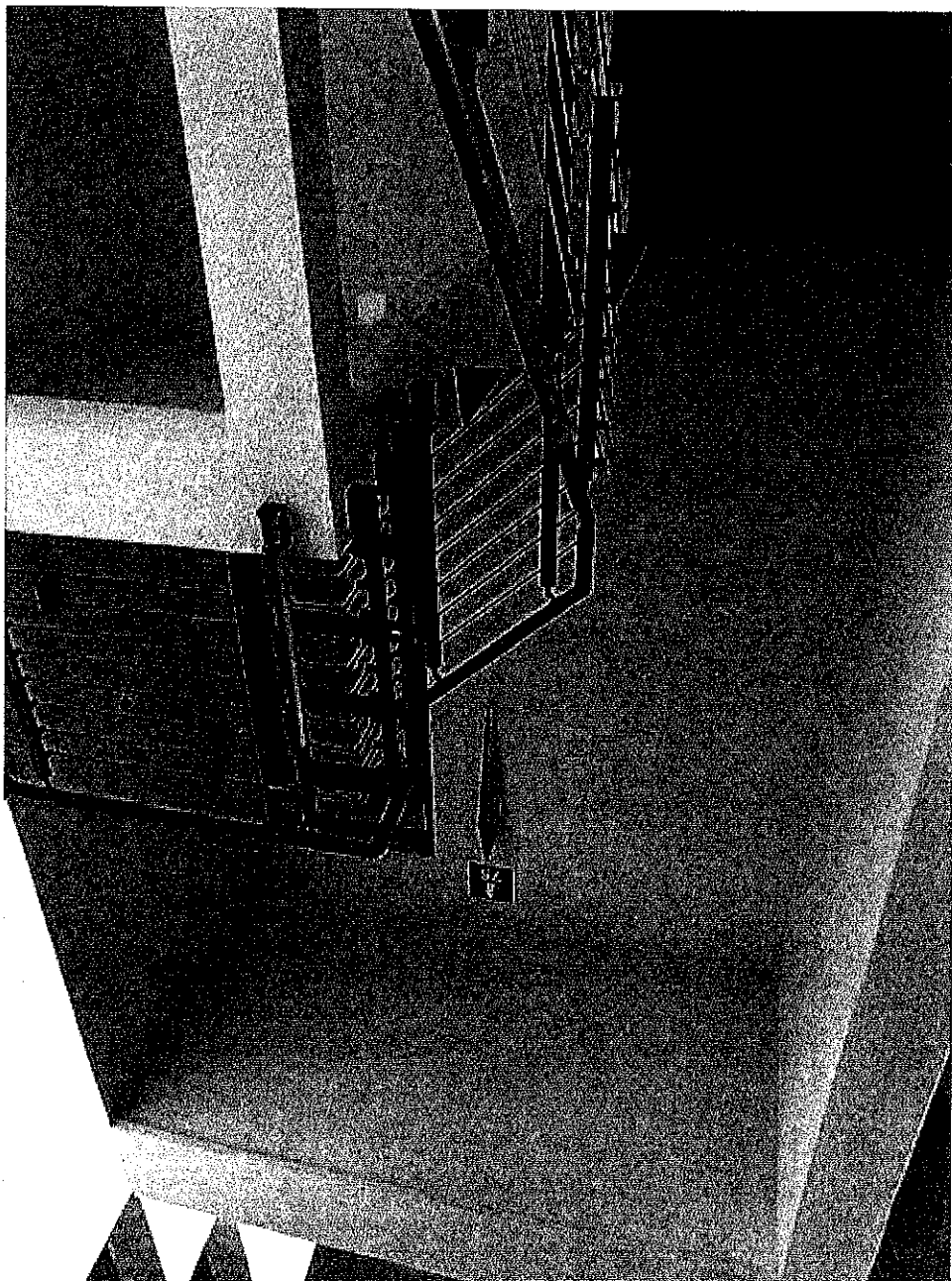
4) *Witness statement – Amanda Keylock –*

On Friday 23 November 2018, we were having a lovely evening at 75 Vela. We were coming down the outside stairs at the premise when our host Susan Cardy, who was in front of me, slipped holding a hot plate of food. She fell badly on her right side and it seemed her elbow took most of the impact.

We noticed grippers were only completed half way down the stairwell; it had been raining which made the stairs dangerously slippery. This was a horrible shock not only to Susan but myself as the injury to Susan was of great concern.

I was horrified to think that such negligence had taken place in what seemed like such a beautiful, well kept complex. Susan was in a lot of pain and took her a little while to collect herself as she had also hurt her back whilst trying to break the fall. Once we had assessed her injuries we immediately iced her elbow, which was swollen and grazed.

STEPS TO FRONT DOOR.



#75 VERA PHASE TWO

①

2

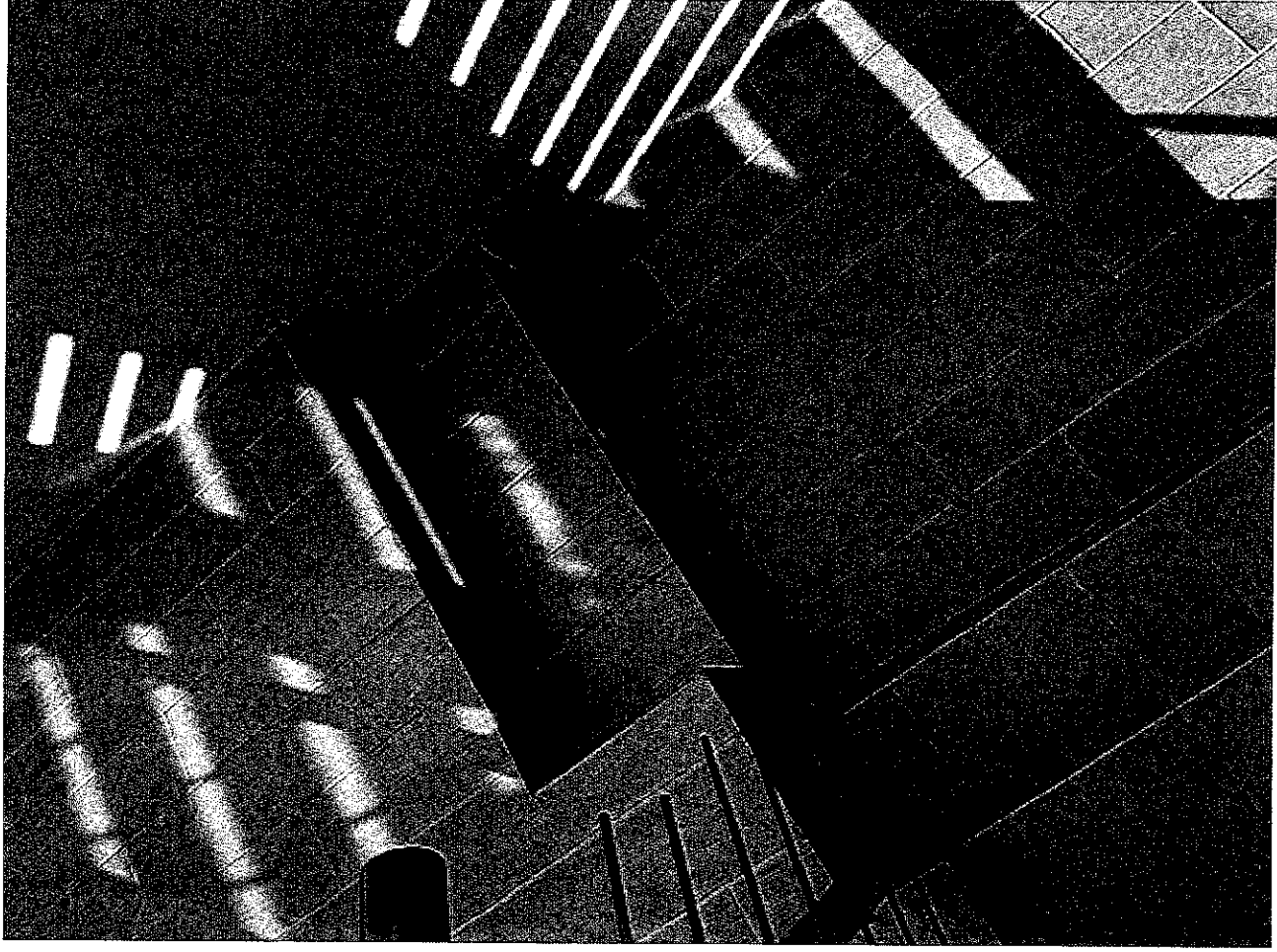
#75 VERA PHASE TWO



STEPS LEADING TO FRONT DOOR,

3

#75 VELA PHASE 2



STEPS AT BOTTOM NEAR GATE  
WITH NO ANTI-SLIP STRIPS  
FITTED.

#75 VELA PHASE 2

④



STEPS AT BOTTOM WITH NO ANTI-SLIP STRIPS FITTED.

#75 VELA PHASE 2

5



STEPS AT BOTTOM WITH NO ANTI-SLIP STRIPS FITTED. PLAINTIFF FELL ON THESE STEPS.

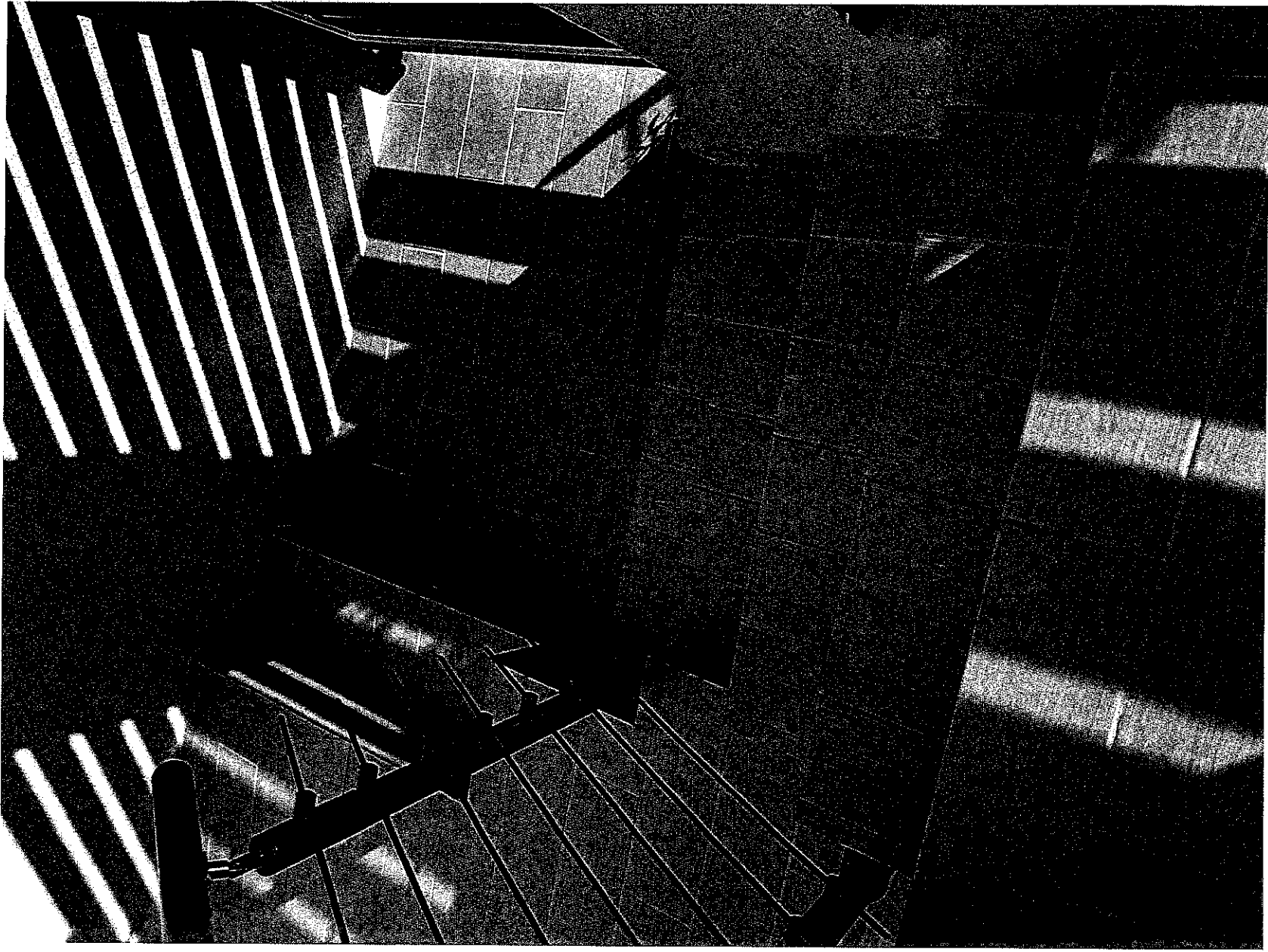
MANY STAIRS SHOWING SOME  
ANTI-SLIP STRIPS FITTED  
BUT NONE OF LOWER SECTION  
WHICH IS WHERE PLAIN TIF  
SUFFERED.



#75 VERA PHASE 2

#75 VERA CHASE 2

7



STEPS NEAR GATE SHOWING NO  
ANTI-SLIP STRIPS FITTED.

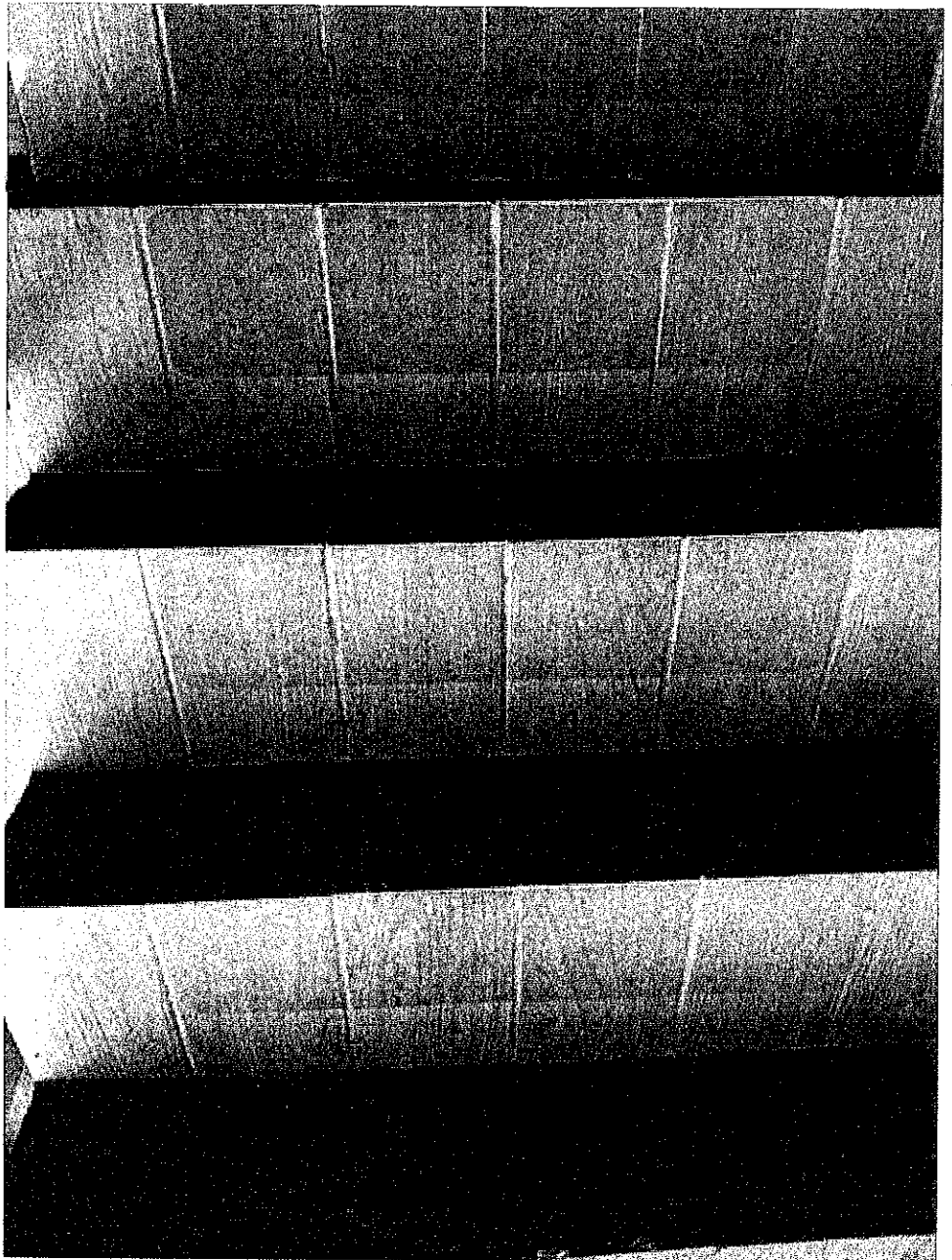
#75 VELA PHASE 2

⑧



LOWER STEPS - NO ANTI-SLIP STRIPS FITTED.

SOME STOPS FITTED WITH  
ANTI-SLIP STRIPS.



#7S VELA PHASE 2

(9)

PLAINTIFF - INJURED RIGHT ELBOW.

10



(11)

PLAINTIFF - INTERIOR LIGHT ELBOW

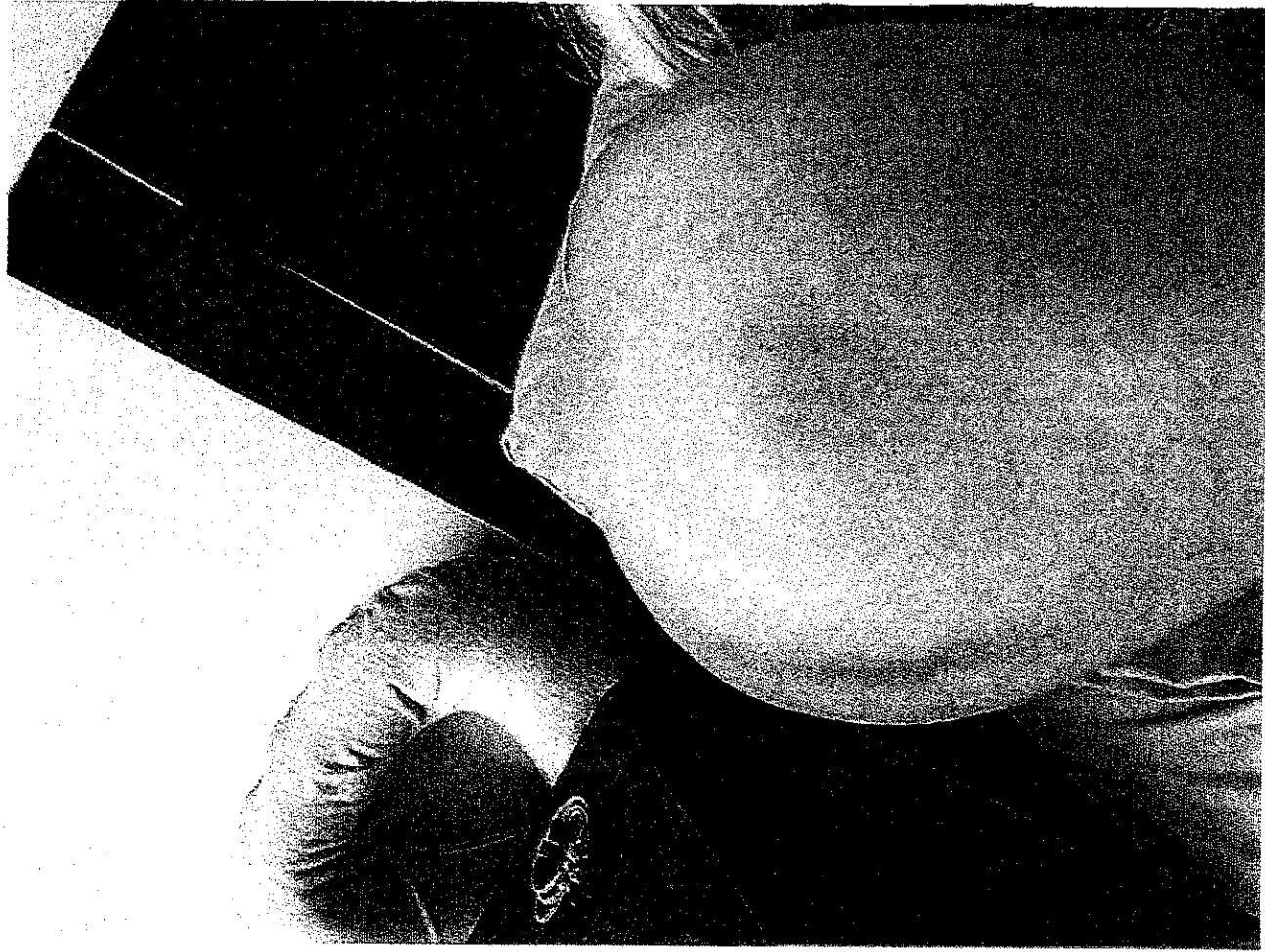


PLAINTIFF - INTERLOCK RIGHT ELBOW



13

PLAINTIFF - INJURED RIGHT ELBOW





Referral to : Physical Therapist

07/08/2019

Referring Physician: Dr. Xantus Gabor

Patient: Susan Cardy

DOB: 06/30/1968

Patient ID number: 25913

Cell Phone Number: 345-326-3035

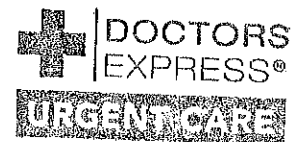
Address: Unit 4, 49 Pebbles Way

Diagnosis: Pain in right elbow - M25.521 (Primary) Pain in thoracic spine - M54.6

Reason for referral: Can you please see this lovely lady with right elbow and thoracic spine pain following a fall in November 2018? She has limited right elbow flexion (-15 degree) with full extension and painless supination/pronation. I query a potential coronoid fracture chip injury so if no improvement after 6/52 physio an Xray might be necessary to rule out surgically correctable causes. She has notable lumps in the olecranon bursa keeping in with a bursitis after the initial insult. Also in regards of her upper thoracic pain please assess the mobility of the 5-7th costo-vertebral junctions. Again should there be no improvement after a few weeks of physio she might need further images of the thoracic spine. Please consider using K-tape if you may feel fit. Thank you and your feedback is much appreciated.

Investigations done:

Yours Sincerely,



P.O. Box 669  
Grand Cayman, KY1-1107  
Cayman Islands  
+1 (345) 745-6000

Doctors Express Medical Center • 81 Godfrey Nixon Way  
P.O. Box 669 • George Town • Grand Cayman • KY1-1107  
Cayman Islands  
Tel: (345) 745-6000 • Email: [physicians@doctorexpress.ky](mailto:physicians@doctorexpress.ky)



A handwritten signature in black ink, appearing to read "Xantus Gabor".

Dr. Xantus Gabor

A smaller version of the Doctors Express Urgent Care logo, including the cross, "DOCTORS EXPRESS®", and "URGENT CARE" text.

P.O. Box 669  
Grand Cayman, KY1-1107  
Cayman Islands  
+1 (345) 745-6000

Doctors Express Medical Center • 81 Godfrey Nixon Way  
P.O. Box 669 • George Town • Grand Cayman • KY1-1107  
Cayman Islands  
Tel: (345) 745-6000 • Email: [physicians@doctorexpress.ky](mailto:physicians@doctorexpress.ky)



Doctors Express Medical Center  
 81 Godfrey Nixon Way  
 P.O. Box 669  
 George Town  
 Grand Cayman, KY1-1107  
 Tel: +1 345 745 6000  
 Email: frontdesk@doctorexpress.ky

Date: July 8th 2019

Physician: Dr Gabor Xantus

Patient Number: 25913

Patient Name: Susan Cardy

PAID

Patient Type: URGENT CARE

JUL 08 2019

Description	%	Units	Patient's Cost
99215 Office or other outpatient visit for the evaluation and management of an established patient, which requires at least two of these three key components: a comprehensive history; a comprehensive examination; medical decision making of high complexity. Coun	100%	1	157.00
<b>DOCTORS EXPRESS</b> <b>81 GODFREY NIXON WAY</b> <b>GEORGE TOWN, CYM</b> <b>13457456000</b>			
TERMINAL I.D.: 07033407 MERCHANT ID: 070334			
CR <del>XXXXXXXXXXXXXXXXXXXXXXXXXXXX</del> 4544 CHIP			
DEBIT			
[PURCHASE]			
BATCH: 000011 DATE(MM/DD/YY) 07/08/19 TIME: 13:53:15 TRACE#: 000404 AUTH#: 008565 REF#: 070800000404			
AID: A0000000041010 TVR: 0000008000 TSI: E800			
KYD			
TOTAL 157.00			
APPROVED - THANK YOU			
PIN VERIFIED I AGREE TO PAY THE ABOVE AMOUNT			
THANK YOU FOR CHOOSING US! RETAIN THIS COPY FOR YOUR RECORDS CUSTOMER COPY			

1 M25.521  
 2 M54.6

TOTAL DUE: C\$157.00  
 US\$196.25