

IN THE GRAND COURT OF THE CAYMAN ISLANDS



CAUSE NO. 1644 OF 2019

BETWEEN BERNADETTE GOLO PLAINTIFF

AND DR. DARLEY SOLOMON FIRST DEFENDANT

AND THE CHRISSIE TOMLINSON MEMORIAL DOCTORS HOSPITAL

SECOND DEFENDANT



WRIT OF SUMMONS

TO: Dr. Darley Solomon
c/o of The Chrissie Tomlinson Memorial Doctors Hospital
16 Middle Road
George Town
Grand Cayman
AND TO: The Chrissie Tomlinson Memorial Doctors Hospital
16 Middle Road
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 14 days after 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 Acknowledgement of Service, stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or 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 1st day of October 2019

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 Acknowledgement of Service are given with the accompanying form.

ENDORSEMENT

The Plaintiff claims against the Defendants to recover damages for Personal Injury caused by the negligent treatment administered to her by the First Defendant, acting on his own behalf, or acting in his actual or ostensible authority as an employee, servant and/or agent of the Second Defendant during the period 19th January 2019 and the 18th February 2018 while he was a patient at Second Defendant's entity and under the care of the First Defendant.

AND THE PLAINTIFF CLAIMS:

1. General & Special Damages;
2. Interest;
3. Costs.

Dated this 28th day of July 2019



Murray & Westerborg

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2019

BETWEEN BERNADETTE GOLO

PLAINTIFF

AND DR. DARLEY SOLOMON

FIRST DEFENDANT

**AND THE CHRISSIE TOMLINSON MEMORIAL
DOCTORS HOSPITAL**

SECOND DEFENDANT

STATEMENT OF CLAIM

1. The Plaintiff was at all material time the patient of the Second Defendant's Hospital, Chrissie Tomlinson Memorial Hospital located at 16 Middle Road, George Town, Grand Cayman, Cayman Islands.
2. The First Defendant was at all material times a registered Medical Practitioner pursuant to the relevant laws and regulations of the Cayman Islands and was an employee or purportedly acted in his actual or ostensible authority as an employee, servant or agent of the Second Defendant, or alternately acted in his own behalf.
3. The Second Defendant registered as a Hospital and responsible for the administration, management and control of The Chrissie Tomlinson Memorial Hospital. Its functions included the provision of all medical, surgical, nursing and ancillary services at the hospital.
4. On or about the 19th day of January 2018 the Plaintiff consulted with the First Named Defendant in his capacity as a medical practitioner in the employ of the Second Defendant in respect of a complaint of intermittent episodes of upper abdominal pain with bloating and discomfort after eating. The First Defendant noted that the Plaintiff had a previous episode of Jaundice.
5. On or about the said day the First Defendant clinically examined the Plaintiff and noted that she had mid right upper quadrant tenderness. Diagnostic examination returned normal blood and liver function tests while an ultrasound of the abdomen revealed stones in the gall bladder. The First Defendant made a diagnosis of Cholelithiasis/Biliary Colic.
6. The First Defendant advised the Plaintiff to undergo Laparoscopic Cholecystectomy and scheduled the same for the 31st day of January 2018 and which he duly carried out on that day at the facilities of the Second Defendant.

7. The First Defendant's Operation Notes indicate that the procedure was completed to a standard basis, including that a maxima of 4 clips (2 on the Cystic Duct and 2 on the Cystic Artery) were left inside the Plaintiff at the end of the surgical procedure.
8. The Plaintiff was discharged from the Second Defendant's facilities on the 1st February 2018.
9. The Plaintiff developed complications, including continuous pain and discomfort in her abdomen and a yellowish tinge to her eyes and skin following her discharge.
10. On or about the 8th day of February 2018 the Plaintiff contacted the First Defendant by telephone and relayed to him her complaints of continuing discomfort and yellowing of her skin.
11. On hearing of the Plaintiff's discomfort and condition, the First Defendant instructed the Plaintiff to call his Secretary for an urgent appointment.
12. The Plaintiff did as she was instructed and was given an appointment for the 12th February 2018 by the First Defendant's Secretary known to her as Christine.
13. On the 12th February 2018 the Plaintiff was seen and assessed by the First Defendant and immediately admitted to the Second Defendant's Hospital with a diagnosis of Common Bile Duct stone/Obstruction.
14. On or about the 15th day of February 2018 the Plaintiff was examined by a Dr. Murphy, a visiting Consultant Gastroenterologist, in the employ and/or service of the Second Defendant, who conducted an Endoscopic examination of her pancreatic and bile ducts.
15. The said examination by Dr. Murphy revealed that she had a complete blockage of her biliary system at the confluence of the Common Bile Duct and Common Hepatic Duct with multiple surgical clips at the locale.
16. The said examination further revealed that there were no stones present.
17. On the 18th February 2018 the Plaintiff was flown to the Broward Health Medical Centre in Fort Lauderdale, Florida in the United States of America where she underwent multiple medical procedures including surgeries on the 20th and 26th February 2018.
18. The notes from the said surgery by Dr. Ralph Guarneri, M.D., revealed that a total of seven surgical clips and not four as stated in the First Defendant's surgical notes, had to be removed from the area of the Common Bile/Common Hepatic

- areas. The First Defendant however has documented that he left behind four (4) surgical clips.
19. Following the removal of the said clips it was noted that there was filling of the distal common bile duct, a finding which established that some of the clips were placed across the biliary duct system in addition to those on the cystic duct.
 20. Post operatively the Plaintiff suffered from retroperitoneal bleeding from the area of her right kidney requiring her to have blood transfusions and emergency radiological imaging, namely Aortogram and right renal angiogram.
 21. Following the said surgeries the Plaintiff was left with a plastic stent inside the Common Bile Duct.
 22. In May 2018 the Plaintiff experienced severe abdominal discomfort, vomiting and diarrhea. On examination and imaging assessment she was diagnosed as having an obstructed stent with cholangitis, a life threatening condition.
 23. The Plaintiff was advised that she needed further surgical intervention that carried with it the risk of bleeding, perforation, infection, aspiration, pancreatitis and death.
 24. On the 3rd May 2018 the Plaintiff underwent further surgery to remove the occluded stent and replace it with a fresh plastic stent.
 25. The Plaintiff continued to experience further pain and discomfort following this procedure, which was diagnosed as being caused by the new stent replacement.
 26. In October 2018 the Plaintiff had to undergo a further surgical procedure to remove the plastic stent and replace it with a metallic one. This metallic stent was replaced with a fresh metallic stent in 2019 because of the presence of continued stricture.
 27. The Plaintiff continues to have feelings of discomfort from time to time and has been advised by her doctors that she may require further surgeries in the future to remove and replace stents or to treat other adverse medical/surgical situations that are likely to arise from time to time.
 28. The Plaintiff's said condition was caused by the negligence of the Defendants.

Particulars of Negligence of First Defendant

- (a) Failing to carry out or perform a Selective Intraoperative Cholangiogram in light of the Plaintiff's disclosed medical history.

- (b) Failing to act in a timely manner after the Plaintiff complained to and advised him following his surgery that she was feeling unwell and had turned "yellow".
- (c) Placing clips at sites across the biliary duct system, contrary to the accepted procedure in treating the Plaintiff's condition.
- (d) Failing to note in his records following the said surgery that he had placed the said clips in the position that he had.

Particulars of Negligence Against the Second Defendants

- (a) Failing to provide competent or sufficiently experienced medical and/or surgical staff.
 - (b) Failing to provide adequate treatment.
 - (c) Failing to manage or control the Plaintiff's injury appropriately or properly.
29. By reason of the matters aforesaid, the Plaintiff has suffered personal injury, loss and damage.

Particulars of Injuries

- (i) Pain & Discomfort in the abdomen.
- (ii) Complete blockage of the biliary system at the confluence of the Common Bile Duct and Common Hepatic Duct.
- (iii) Vomiting and Diarrhea
- (iv) Depression and anxiety
- (v) Mental anguish

Particulars of Special Damages

(a) Payments to Chrissie Tomlinson Hospital following Surgery on the 31 st January 2018	CI\$ 6,832.81
(b) Payments to or due to Seven Mile Medical Clinic	CI\$ 1,108.54
(c) Payments for or due to treatment administered by or on behalf of Broward Health Medical Center	CI\$43,735.55
(d) Hotel charge – Crowne Plaza Ft. Lauderdale Airport	CI\$ 328.78
(e) Cayman Airways Fare 12/4/18	CI\$ 287.07
(f) Loan from Christopher McNamee	CI\$ 2,000.00
(g) Payment to Harmonic Health Consultants	CI\$ 60.00
(h) Loss of Income of Maria Theresa C. Tamdang	CI\$ 533.47
(i) Cayman Airways Fare 17/2/18	CI\$ 807.84
(j) Loss of Income	CI\$ 3,325.00
(k) Loans from Employer – Christine Matthews	CI\$ 2,140.04
(l) Loan from J. C. Calhoun	CI\$ 5,100.00
(m) Medical Fees of St. Lukes Medical Centre	CI\$ 5,136.92
(n) Transportation Costs (Philippines)	CI\$ 255.79

(o)	Airline Fare to the Philippines	CI\$ 1,308.53
(p)	Air Fare (MAL-TPC-MAL (via Z2))	CL\$ 239.85
(q)	Accommodation Costs (Philippines)	<u>CI\$ 306.37</u>
		CI\$72,685.66

30. Further the Plaintiff claims interest upon such damages as may be awarded to her pursuant to the Judicature Law.

Statement As Regards Interest

The prescribed rate of interest as of the 31st day of January 2018 to the present is 2.38% per annum

Particulars of Interest

CI\$72,685.66 x 2.38% x365/100
CI\$72,685.66x0.65/100=0.47

Statement as to Interest

Interest currently accrues at the rate of CI\$0.47 per diem

AND THE PLAINTIFF CLAIMS:

4. General Damages
5. Past Special Damages (to date of filing and to date of hearing)
6. Future Special Damages
7. Smith v Manchester Award
8. Pre-Judgment and Post-Judgment Interest Pursuant to the Judicature Law
9. Costs.

Dated the 25th day of July 2019



Murray & Westerborg
Plaintiff's Attorneys-at-Law

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2019

BETWEEN BERNADETTE GOLO

PLAINTIFF

AND DR. DARLEY SOLOMON

FIRST DEFENDANT

**AND THE CHRISSIE TOMLINSON MEMORIAL
DOCTORS HOSPITAL**

SECOND DEFENDANT

**ACKNOWLEDGEMENT 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 judgement being entered against a Defendant whereby he May have to pay the costs of applying to set it aside.

1. State the name of the Defendant by whom or on whose behalf the service of this Writ is being acknowledged.

2. State whether the Defendant intends to contest the proceedings (tick the 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 judgement 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 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 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:

Murray & Westerborg
Attorneys-at-Law
2nd Floor, (Southwest Wing)
Cayman Shipping Centre
10 Shipping Lane
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: