

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2020

BETWEEN:

JEREMAINE COTTERELL

PLAINTIFF

AND:

(1) SHAMROCK HEIGHTS DEVELOPMENT COMPANY LIMITED

(2) SIGNATURE LANDSCAPING

RESPONDENTS



WRIT OF SUMMONS

TO:

Shamrock Heights Development Eastern Avenue, George Town P.O Box 30828, Grand Cayman KY1-1204	Signature Landscaping Eastern Avenue, George Town P.O Box 30828, Grand Cayman KY1-1204
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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 14 days after the service of the Writ on you, counting the day of service, you must either satisfy the claim or 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 ___ day of _____ 2020.

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. Mr. Cotterell is a landscaper who worked for the 2nd Respondent between July 2016 and September 2019.
2. The 2nd Respondent is a professional landscaping business solely owned and operated by the 1st Respondent.
3. During Mr. Cotterell's employment with the 2nd Respondent, he was instructed by the 2nd Respondent to and did use several vibration power tools including weed whackers, chainsaws and pole saws, amongst others for a long periods of time.
4. Mr. Cotterell thereby developed carpal tunnel syndrome which was caused by the 2nd Respondent's negligence:

PARTICULARS OF NEGLIGENCE

- (a) Mr. Cotterell was regularly exposed to vibration in excess of 2.5m/sec for 8 hours per day by use of tools that produce vibration in excess of the maximum recommended;
- (b) Despite the 2nd Respondent knowing or despite the fact that they reasonably would have known the danger from excessive use of vibration tools they failed to warn Mr. Cotterell of said danger;
- (c) Failed to risk assess and implement a system that would reduce the exposure to vibration and reduce exposure to vibration for an extensive time;
- (d) Failed to provide personal protective gear that would reduce and/or mitigate vibration including but not limited to vibration gloves;

(e) Failed to have regard for the working conditions and for the risks to the health and safety of persons working with tools that produce vibration;

(f) Failed to assess, adequately or at all, the health and safety risks posed by Mr. Cotterell's course of employment;

(g) Failed to provide safe equipment, a safe place of work or a safe system of work.

5. As a result of the 2nd Respondent negligence the Plaintiff suffered pain and injury and sustained loss and damage.

PARTICULARS OF INJURY

(a) Mr. Cotterell, whose date of birth is the 2nd day of December 1987, suffered severe right carpal tunnel syndrome with severe thenar muscle wasting;

(b) He suffers pain, loss mobility and loss of dexterity in the right hand and fingers.

Further particulars of the Plaintiff's condition are contained in the operative report of Dr. Frank Smith dated 2nd November 2019 (attached).

PARTICULARS OF SPECIAL DAMAGE

	KYD\$
Uninsured Medical Expenses	806.00
Loss of earnings (6 weeks @ 45 hours/week x KYD\$7.50)	2,025.00

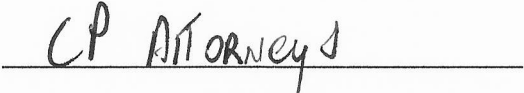
Care (6 weeks x 28 hours/week @ KYD\$6.00/hour) 1,008.00

TOTAL 3,839.00

6. Further, Mr. Cotterell claims interest upon such damages and amount found due pursuant to Section 34 of the Judicature Law 2017 or otherwise at such rate as this Honourable Court deems fit.

AND the Plaintiff claims:

- (a) Damages;
- (b) Loss of wages;
- (c) Future loss of earning and handicap on the labour market;
- (d) Interest;
- (e) Costs;
- (f) Such further and/or other relief as this Honourable Court may deem fit.


CP ATTORNEYS
ATTORNEYS-AT-LAW FOR THE PLAINTIFF

This **Writ** is filed by **CP Attorneys**, Attorneys-at-Law for and on behalf of the **Plaintiff**, whose address for service is Plaza Venetia, Unit 11, 38 North Sound Road, George Town, P.O Box 561, Grand Cayman KY1-1602, Cayman Islands, Telephone 345-322-8088, 345-925-4621.

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.

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

CP Attorneys
Plaza Venetia, Unit 11
38 North Sound Road
George Town
P.O Box 561
Grand Cayman KY1-1602
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.

The Cayman Orthopaedic Group

Box 11698 Airport P.O., Grand Cayman, KY1 – 1009, Cayman Islands, Phone: (345) 945-8380 Fax: (345) 945-8405.

Email sportmed@candw.ky

Dr. Pervez Ali
MD, FRCSC
Orthopaedic Surgeon
Adult Hip & Knee Joint
Reconstruction

Dr. Olufemi Ayeni
MD, FRCSC
Hip, Shoulder, Knee
Arthroscopy, Trauma &
Sports Medicine

**Dr. Timothy
Carey**
MD, FRCSC
Paediatric Spine,
Trauma, Foot & Ankle
Surgery

Dr. Rick Ogilvie
MD, FRCSC
Sports Medicine & Knee
Reconstructive
Arthroscopic Surgery

**Dr. Krishan
Rajaratnam**
MD, FRCSC
Upper Extremity,
Trauma and Joint
Arthroplasty

Dr. Vir Sennik
MD, FRCSC
Orthopaedic Surgeon
Knee, Hand & Upper Limb
Surgery

Dr. Frank Smith
MB, ChB FRCSC
Orthopaedic Surgeon
Reconstructive Surgery

Dr Franklin Tran
MD, FRCSC
Arthroscopic Knee &
Reconstructive Surgery,
Sports Medicine

Dr Ivan Wong
MD, FRCSC
Arthroscopic
Reconstructive Surgery
Shoulder, Hip, Knee &
Ankle, Sports Medicine

Fay A Frederick
RN, Dip HSM
Practice Manager

OPERATIVE REPORT

DATE: November 2nd 2019

PATIENT NAME: Jeremaine Cotterell

DOB: December 2nd 1987

SURGEON: Dr Frank Smith

ANAESTHETIST: N/A

FACILITY: CTMH Doctors Hospital

PREOPERATIVE DIAGNOSIS: Severe right carpal tunnel syndrome with severe thenar muscle wasting.

POSTOPERATIVE DIAGNOSIS: Carpal tunnel decompression under local anaesthetic.

PROCEDURE: Carpal tunnel decompression under local anaesthetic.

OPERATION:

The patient was brought into the operating room, the right arm and hand stretched out on an upper limb table. The operative area was scrubbed with antiseptic soap and water and then dried and then prepped with chlorhexidine preparation from the mid-forearm down to the fingertips. Standard draping procedure was then carried out. The line of the intended incision was marked with a skin marker and then that whole area infiltrated widely around with 2% plain Lidocaine using a 15-gauge needle. Satisfactory anesthesia was obtained in the operative area confirmed by pinch test and then an incision made just about 2 mm on the ulnar side of the thenar crease brought down to the wrist line measuring 1 inch in length. It went through the superficial fascia and down to the palmar fascia and divided that and exposed the transverse carpal ligament. A small incision was made in that with a 15-blade and then a Freer Elevator inserted through it to protect the underlying nerve. The distal part of the carpal ligament was divided first and then small Metzenbaum scissors were used to extend the release right down to the palm where there were still some palpable adhesions with the Freer Elevator.

We then passed the Freer Elevator proximally under the transverse carpal ligament and it was exceedingly tight, way into the wrist, so the incision had to be extended a little bit proximally and then slightly obliquely so as not to compromise the transverse palmar crease. We then had to decompress the transverse ligament about 1 cm proximal to the thenar crease. Once we had accomplished that, then the

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Operative Report

Re: Jermaine Cotterell

DOB: December 2, 1987

visible median nerve almost doubled in width having restored circulation to this extremely withered nerve at that point. I was surprised how rapidly it expanded back out again. I was happy with that result. I could not find any other obstructions to the nerve path when using the Freer Elevator to probe and so the wound was washed out and then closed with multiple Figure of 8 interrupted 3-0 Vicryl and then intradermal 3-0 Monocryl followed with Steri-strips, Xeroform gauze and a Kling bandage. The patient's arm will be kept in a sling so his hand is elevated above the elbow for the next 48 hours.

F. Smith, MB, ChB, FRCSC

FS/jf

cc: Medical Records, CTMH Doctors Hospital

Clinical Notes

Date	Note Source	Note Type	User
11/05/2018 19:16	HOSPITAL	Documents Form	MASAYON, FRANCIS
urine dipstick done GLU-NEGATIVE BIL-NEGATIVE KET-NEGATIVE SG-1.025 PH-6.5 URO-0.2 PRO-100+++ NIT-NEGATIVE LEU-NEGATIVE			
11/05/2018 19:16	HOSPITAL	Documents Form	MASAYON, FRANCIS
pt complaints of L lower back pain started 2-3/52 now, pt voiced of sharp pain that radiates to the L leg. 10/10 severity of pain "worst pain in my life, never feel this kind of pain since i was born" as per pt. No medication taken.			
11/02/2018 12:32	HOSPITAL	Nursing Note	JAMES ELLIOTT, CAMILLE
Patient left ward for home in nil distress accompanied by relatives, nil complaints voiced. Condition stable.			
11/02/2018 11:55	HOSPITAL	Nursing Note	JAMES ELLIOTT, CAMILLE
Right arm placed in sling for continued elevation. Voiced that fingers are less numb than before but still slightly numb. Capillary refill adequate.			
11/02/2018 11:50	HOSPITAL	Nursing Note	JAMES ELLIOTT, CAMILLE
Patient ambulated on ward to nurses station in nil distress.			
11/02/2018 11:05	HOSPITAL	Nursing Note	JAMES ELLIOTT, CAMILLE
Served soup and water, medicated with Cephalexin 500mg po, Tramadol 50mg po and Paracetamol 1g PO.			
11/02/2018 10:45	HOSPITAL	Nursing Note	JAMES ELLIOTT, CAMILLE
Patient reviewed by Dr.Smith, discharge instructions given to patient. TTH meds written. Patient's mother and sister in attendance.			
11/02/2018 10:35	HOSPITAL	Nursing Note	JAMES ELLIOTT, CAMILLE
Returned to ward in nil distress, at conscious level 1 after having Right Median Nerve Decompression done under local anesthesia, procedure uneventful. Post procedure also uneventful. Post op orders: Keep hand elevated with sling, Cephalexin 500mg stat then tid x3days, Tramadol 50mg po stat, Paracetamol 1g PO stat, home in 2 hours or when LA wears off, follow up in C.O.G on Tuesday 6th November. on return to ward patient voiced nil complaints re hand, however complained of pain to left hip radiating to left calf region which he had been experiencing prior to admission. Chest expansion equal and adequate. Cling bandage noted to right hand and wrist, movement and sensation to hand, numbness noted to right thumb, index, middle and 4th finger. NAD to lower extremities.			
11/02/2018 09:25	HOSPITAL	Nursing Note	JAMES ELLIOTT, CAMILLE
Transferred to OR in wheelchair.			
11/02/2018 07:35	HOSPITAL	Nursing Note	JAMES ELLIOTT, CAMILLE
Patient arrived o ward accompanied by relatives to have procedure done. Prepared for OR.			

Patient# : 0111099 COTTERELL, JERMAINE
 Visit#: 0044456 DOB: 12/02/87 Age:32 years
 Admit Date: 11/05/18 Room:
 Attending: DAVID, RENISHA

CTMH DOCTORS HOSPITAL
 16 MIDDLE ROAD, GRAND CAYMAN, KY1-1104