



Writ of Summons (0.6, r.1)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 87 20 21

BETWEEN: JANIEKE MARTINEZ

PLAINTIFF

AND

DR. LINDEN SWAN & HEALTH SERVICES AUTHORITY (HSA)

DEFENDANTS

WRIT OF SUMMONS

TO: HEALTH SERVICES AUTHORITY
95 HOSPITAL ROAD, G.T.
GRAND CAYMAN, CAYMAN ISLANDS

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 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 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 28 day of May 20 21 .

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.

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

Filed by Janieke Martinez whose address is Windsor lake Apt. B201, Templeton St. G.T.

STATEMENT OF CLAIM

1. The Plaintiff said she is Janieke Martinez and she files this claim because a letter before was sent to HSA and a medical expert report was recently confirmed.
2. The Plaintiff said the case is medical negligence of misdiagnose and failure to treat a umbilical hernia, missing forensic report of an internal vaginal examination of her hymen, improper vaginal examinations wrongly carried out and administrative wrong doings.
3. The Plaintiff said she was taken to George Town Hospital (GTH) by her mother Ms. Maizie Murray, for abdominal pains in 2004-2006 and they fail to diagnose the cause of this pain.
4. The Plaintiff said she was then taken to another hospital Crissy Tomlinson Memorial Hospital (CTMH) in 2006, where a Dr. Bromley diagnose an umbilical hernia as the cause of the abdominal pains suffered.
5. The Plaintiff said she was taken back to GTH to have the surgery as it would be less costly and after a while the surgery was planned, but was cancelled on the morning of the surgery as the doctor said the hernia had disappeared.
6. The Plaintiff said she was referred to Dr. Linden Swan some time and after few visits, he asked my mother if he could speak to me without her, but with his nurse Rebecca Rankin and she said yes because by now Dr. Swan became a trusted friend and family.
7. The Plaintiff said another time after this, Dr. Swan called her mother and request for her to bring her to see him and when they get there, he again asked to speak to her and this time with another doctor (name unknown) and my mother was left with nurse Rebecca.
8. The Plaintiff said Dr. Swan asked her if she was a virgin, if she have a boyfriend and if her mom was touching her and she said no and after a while she was taken back to her mother and now Dr. Swan ask if he could check her vagina for cyst because in little girls this could cause abdominal pains and my mother said ok.
9. The Plaintiff said she was put to lay on a bed inside Dr. Swan's office, Dr. Swan held her legs and instructed the female doctor and she inserted a cotton swab inside her vagina and she twisted it and it was very painful, and after this she gave the swab to Dr. Swan and he toss it inside the bin and told her mother that "her hymen was intact".
10. The Plaintiff said the following morning Dr. Swan called her mother and said she needs to stop, they suspect she is being molested and she was the suspect and her mother said they pass words.
11. The Plaintiff said her mother went to Dr. Swan for the report of her hymen as she needed medical care but Dr. Linden Swan refuse to give it to her and others tried but this report was not in the medical

records office.

12. The Plaintiff said her mother retained an Attorney Ian Mercer who wrote to HSA (GTH) and a response to him from Attorney Mourant Azannes on behalf of Dr. Linden Swan confirm that "both mother and daughter gave consent and the hymen was intact".

13. The Plaintiff said her mother file a civil suit before and Dr.Linden Swan after confirming that both mother and daughter gave consent and the hymen was intact, he then file an affidavit denying that the said examination was never carried out, but nothing became of that.

14. The Plaintiff said the Office of the Department of Public Prosecution (ODPP) tasked a medical expert who provided a report that we thought was false but the ODPP recently refute that the report is false, hence the reason this claim is now file.

15. The Plaintiff said HSA referred her to a local doctor for medical care regarding the vaginal infection after the internal examination and she was refused care and HSA then referred her overseas for the same and again she was refused care but this doctor in Miami requested through United Health International (UHI) for her complete medical record for continued care and HSA failed to provide the complete medical record and instead provide a record confirming that the vaginal examinations was not in the medical records office.

16. The Plaintiff said the medical expert report confirms in his opinion that several vaginal examinations was already carried when she was about 10 years old, but HSA records office has no medical records of these several vaginal examinations.

17. The Plaintiff said she holds HSA and Dr.Linden Swan accountable for administrative wrong doings, by allowing these vaginal examinations to go missing or not documented and cause doctors to refuse her continued medical care.

18. The Plaintiff said medical records of patients is mandatory by law, and patients who is in need of medical care is entitled by law for such care when needed.

19.The Plaintiff said she took notes from a previous negligence claim filed, and she is now requesting that this claim be reconsidered and she is adding a claim for the missing medical records and this she take notes from a case of a clinic failure to provide patients medical records.

20. The Plaintiff said the medical expert report is evidence that UHI request for a complete medical record was relevant because he confirm that several vaginal examinations was already carried out but when HSA requested local and overseas medical care for vaginal issues, there was only 1 report on March 25,2010 which was not those needed and HSA medical records office said their was no records for other dates.

21. The Plaintiff said that HSA immunity clause section 12 state that Neither the Authority, nor any director nor any committee member shall be liable in damages for anything done or omitted in the discharge of their respective duties unless it is shown that the act or omission was negligence or in bad faith.

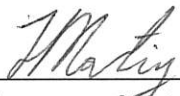
What is bad faith? bad faith is acting with the intent to deceive another person. An example of bad faith is no intention to keep a promise, acting in a dishonest and improper way, breach of trust and more.

22. The Plaintiff said Dr. Linden Swan suspected sexual abuse since 2007 but never made any report of his suspicions, (and it was a counsellor who reported him in 2013) instead, he kept silent from her mother, the Department of Children and Family Services, (DCFS), the Police and all other authorities, then, he asked her mother for permission to check her vagina for cyst and instead instructed for her hymen to be examined, then he called and speak the truth the following day that they suspected she was being molested, after he was given consent and after he carried out the examination of her hymen and confirm that both mother and daughter gave consent and the hymen was intact, then he email to say " they wanted to ensure they were not missing a case of abuse/sexual abuse, then he lied in an affidavit denying the examination he confirmed and abandon her without medical records causing other doctors to refuse her medical care.

23. The Plaintiff said this deception to examined her hymen, keeping silent on his suspicion of abuse for over 6 years is dishonest, asking to check for cyst then examined her hymen is breach of trust and dishonesty, touching her private area without consent is an offence, deceived to gain consent is all bad faith and examples of bad faith and more.

AND THE PLAINTIFF CLAIM:

1. Consultation fees -tba
2. Retainer fee -tba
3. Negligence claim of - tba
4. Missing medical records - tba.



Signature of Plaintiff 9179309/9171372

THIS WRIT was issued by Janieke Martinez whose address is Windsor Lake Apt. B201, Templeton St. G.T.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO OF 20

BETWEEN: JANIEKE MARTINEZ

PLAINTIFF

AND:

DR. LINDEN SWAN & HEALTH SERVICES AUTHORITY (HSA) DEFENDANTS

ACKNOWLEDGMENT OF SERVICE OF WRIT OF SUMMONS

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

2. State whether the Defendants intends to contest the proceedings.

YES

NO

3. State if the Defendants intends to apply for a stay of execution against any judgment entered by the Plaintiff.

YES

NO

Service of ths Writ is acknowledgment accordingly

Filed by Janieke Martinez whose address is Windsor Lake Apt. B201, Templeton St. G.T.
P.O. Box 31149 ky1 - 1205 Cayman Islands.

PARTICULARS OF DEFENCE

(Here set out in numbered paragraph the grounds upon which the Defendants say they are liable or they are liable for the full amount claimed).

Defendants

Filed by Janieke Martinez whose address is Windsor Lake Apt, Templeton St, G.T.

P.O. Box 31149 ky1-1205