

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO 281 OF 1998



BETWEEN: JOANNA NEWTON

PLAINTIFF

AND: TGJ LIMITED (T/AS "BED RESTAURANT AND BAR") DEFENDANT

**WRIT OF SUMMONS**

TO: TGJ LIMITED (T/AS "BED RESTAURANT AND BAR")  
PO BOX 30638  
SEVEN MILE BEACH  
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 fourteen 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, PO 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 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 judgment may be entered against you forthwith without further notice.

Issued:

MAY 1 - 1998

NOTE: This Writ may not be served later than four 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**

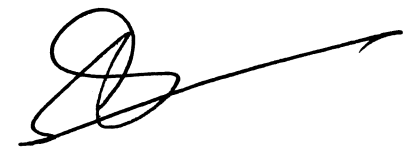
Directions for Acknowledgement of Service are given with the accompanying form.

**INDORSEMENT**

The Plaintiff claims from the Defendant damages in respect of loss and personal injuries sustained as a result of a slipping and falling accident on 26 September, 1997 at the Defendant's premises situated adjacent to the Harquail Bypass, George Town, Grand Cayman which accident was caused by the negligence of the Defendant as more fully particularized in the Statement of Claim served herewith.

Dated: 30 April, 1998

TRUMAN BODDEN & CO.

A handwritten signature in black ink, appearing to be 'Stuart N. Diamond', written over a horizontal line.

Stuart N. Diamond - Associate

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO 281 OF 1998



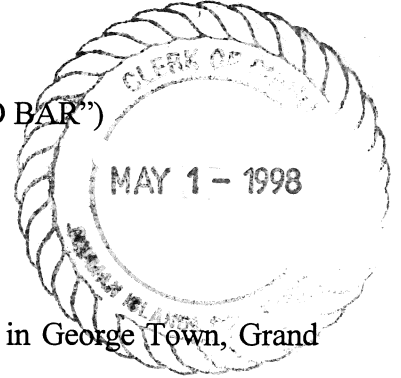
BETWEEN: JOANNA NEWTON

PLAINTIFF

AND: TGJ LIMITED (T/AS "BED RESTAURANT AND BAR") DEFENDANT

**STATEMENT OF CLAIM**

TO: TGJ LIMITED (T/AS "BED RESTAURANT AND BAR")  
PO BOX 30638  
SEVEN MILE BEACH  
GRAND CAYMAN



1. The Plaintiff is a legal secretary and at all material times resided in George Town, Grand Cayman.
  
2. The Defendant was at all material times the owner of a business trading for reward as "Bed Restaurant & Bar" and occupier of premises including a parking area adjacent to the Harquail Bypass, George Town, Grand Cayman.
  
3. The only mode of egress available for patrons from the restaurant to the parking area was by way of a tiled footpath leading from the front door of the premises to the parking area. The footpath was at all material times in the possession, occupation and control of the defendant.
  
4. On or about 26 September, 1997 the plaintiff had lawfully attended the restaurant and was leaving the restaurant proceeding toward the parking area when she slipped on the tiled

footpath in consequence whereof the plaintiff fell to the ground and sustained severe injuries and has suffered loss and damage.

### Particulars of Negligence

The defendant its servants or agents were negligent and/or guilty of breach of their duty of care towards the plaintiff in that they;

- a) failed to take any or any reasonable care to see that the plaintiff would be reasonably safe in using the said premises as a customer;
- b) caused or permitted the tiled footpath to be or to become or to remain a danger to persons (especially the plaintiff) lawfully using same;
- c) exposed the plaintiff whilst she was lawfully using the tiled footpath to a risk of damage or injury from unusual dangers of which they knew or ought to have known;
- d) caused or permitted water and/or other substances to be and/or to remain on the surface of the tiled footpath.
- e) caused or permitted the tiled footpath to be and/or to become and/or to remain in a slippery state and in an unsafe or dangerous condition;
- f) failed to take any or any adequate or sufficient measures to prevent the said tiled footpath from being unsafe and dangerous for the plaintiff to use and to walk on;
- g) failed to give any or any sufficient warning of the state of the tiled footpath; and
- h) permitted the plaintiff to walk on the tiled footpath when they knew or ought to have known that it was unsafe and dangerous for her to do so.

5. By reason of matters aforesaid the Plaintiff sustained injuries and loss.

### **Particulars of Injuries**

- a) 10 centimetre long deep laceration below the knee of the right leg with surrounding bruising which required drainage, subcutaneous and cutaneous stitching and plaster cast;
- b) nerve damage at and surrounding the laceration; and
- c) superficial abrasions.

### **Particulars of Continuing Disabilities**

- a) an unsightly 10 centimetre dark brown to pink scar;
- b) required to endure intravenous anti-biotic therapy;
- c) embarrassment when wearing short skirts, bathing attire and the like;
- d) required to take analgesics;
- e) restrictions on kneeling for any length of time;
- f) unable to sustain direct pressure on the site of the scar;
- g) loss of sensation at and below site of scar;
- h) sensitivity to sun exposure;
- i) future requirement for dermabrasion.

Particulars of Special Damages

ii)	Loss of earnings for 1.5 weeks	905.62
iii)	Medical expenses	<u>278.00</u>
		<u>CI\$1,183.62</u>

And the Plaintiff claims:

- 1) Damages
- 2) Costs
- 3) Interest pursuant to the Judicature Law, s. 34.

Dated: 30 April, 1998

TRUMAN BODDEN & CO.



Stuart N. Diamond - Associate

This Writ of Summons was filed by Messrs Truman Bodden & Company, Attorneys-at-Law for the Plaintiff whose address for service is that of his said Attorneys, Anderson Square Building, George Town, Grand Cayman.

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE**  
**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 "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 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 judgment 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 notes for guidance*

*Please complete overleaf*

## Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 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 named 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 (.....)" after his name.
6. Where the Defendant is a **LIMITED COMPANY** the form must be completed by an Attorney or by someone authorised 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 281 OF 1998

BETWEEN: JOANNA NEWTON Plaintiff

AND: TGJ LIMITED (T/A "BED RESTAURANT AND BAR") Defendant

ACKNOWLEDGMENT OF SERVICE  
OF ORIGINATING 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 judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

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

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2. State whether the Defendant intends to contest or otherwise participate in 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

Service of the Writ of Summons 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 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 communications for him should be sent. In the case of a limited company, "residence" means its registered principal 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.*

Truman Bodden & Company  
PO Box 866  
George Town  
Ref: SND (4154)

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

[Empty box for defendant's attorney indorsement]