



**ND COURT OF THE CAYMAN ISLANDS
ION**

CAUSE NO: OF 2023

KENDRA EBANKS

PLAINTIFF

AND:

THE CAYMAN ISLANDS HEALTH SERVICES AUTHORITY

DEFENDANT

WRIT OF SUMMONS

TO:

The Cayman Islands Health Services Authority

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 (or, if leave is required to effect service out of the jurisdiction, such other period is as specified in the attached Acknowledgement of Service of Writ of Summons) 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 to 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 ___ day of January 2023.

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 Acknowledgment of Service are given with the accompanying form.

This Writ and Statement of Claim is issued by KSG Attorneys at Law for the Plaintiff whose address for service is 4th Floor, Harbour Centre, 42 North Church Street, George Town, Grand Cayman. P.O. Box 2255 GT, KY1-1107.
[02496]

STATEMENT OF CLAIM

1. The Plaintiff is a resident of the Cayman Islands residing at 2065 Bodden Town Road, Grand Cayman and is employed by the Defendant.
2. The Plaintiff was at all relevant times employed as a Registered Nursing Assistant and assigned to work at George Town Hospital ('the Hospital').
3. The Plaintiff was owed a duty of care by the Defendant as her Employer to ensure her health, safety and welfare at work and ensure that she was provided with a place of work and systems of work that were safe and without risks to her health.
4. On or about the 9th day of January 2020 at approximately 11.20 am, during the course of the Plaintiff's employment, she slipped on a greasy floor in the vicinity of the Women's Health Clinic staff break room entrance at the Hospital.
5. Her right foot slipped forward, hyperextending her leg and as she was falling, she was caught by a fellow employee, Gladys Graham which avoided her impacting the floor.
6. The accident and resulting injury were caused by the negligence of the Defendant and/or their employees or agents acting in the course of their employment.

Particulars of Negligence

7. The Defendant was negligent in that they:
 - (a) failed to ensure the health, safety and welfare of the Plaintiff;
 - (b) failed to maintain a safe place of work;
 - (c) failed to maintain or provide a safe system of work;
 - (d) failed to ensure that the floor was free from any substance which might cause the Plaintiff to slip and fall;
 - (e) failed to cover or otherwise render safe or conspicuously mark the slippery floor;
 - (f) exposing the Plaintiff to a danger or a trap and a slipping hazard;
 - (g) failed to devise, institute or operate an adequate system of cleaning to ensure that the floors at the Plaintiff's place of work were and would remain safe for her to walk upon;
 - (h) failed to warn the Plaintiff of the dangerous conditions prevailing in the area of the slippery floor;
 - (i) failed to prevent the Plaintiff from walking in the area of the slippery floor;
 - (j) exposed the Plaintiff to a danger or a trap and a foreseeable risk of injury.
8. The Defendant is vicariously liable for the acts/omissions of their employees.
9. By reason of the aforesaid, the Plaintiff whose date of birth 28 October 1982 has suffered personal injury, loss and damage.

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[02496]

Particulars of General Damage

10. The Plaintiff's right leg was hyperextended during the fall. She was in significant pain and attended the Accident and Emergency department at the Hospital.
11. She was examined and discharged with pain management medication and on sick leave.
12. She attended with the General Practitioner and Orthopaedic departments at the Hospital on numerous further occasions with ongoing hip and back pain and associated numbness.
13. She attended with Dr Wong at Cayman Orthopaedic Group who ordered an MRI scan.
14. The Plaintiff previously suffered a right labral hip tear for which she had arthroscopic reconstruction in 2016. She continued to suffer some pain from the hip but imaging in 2019 had shown the original tear as being well healed and she had been able to return to work.
15. She underwent an MRI scan on the 7 April 2020 which revealed right labral hip re-tear.
16. She attended with Dr Smith at Cayman Orthopaedic Group who advised on the likelihood of surgery being required, however as this was during the COVID pandemic Dr Wong was not able to travel to do the surgery.
17. She underwent stem cell injections at Pensum Health Center in the interim. She was prescribed medication and provided numerous sick notes. She undertook physiotherapy exercises at home.
18. When she was able to return to work, her physicians advised she should not be working on her feet all day as this would be likely to cause the hip not to heal and potentially the need for a hip replacement.
19. Dr Wong has returned to the Cayman Islands and the Plaintiff recently underwent the required surgery in November 2022. She is not currently able to work.
20. The Plaintiff continues to suffer pain and has difficulty standing, walking or sitting for any period of time. She also has difficulty sleeping.
21. Further particulars of the Plaintiff's injury and treatment will be provided at a later date by way of a schedule of damages.

Particulars of Special Damage

22. The Plaintiff's particulars of special damage will be supplied at a later date by way of a schedule of damages including but not limited to claims for medical treatment, loss of earnings, travel and gratuitous care.

AND THE PLAINTIFF CLAIMS:

- (1) Damages;
- (2) Interest for such period and at such rate as the court thinks fit pursuant to section 34 of the Judicature Act (2017 Revision);
- (3) Such further or other relief that the Court deems fit;
- (4) Costs.

DATED this day of January 2023.



KSG Attorneys-at-Law
Attorneys for the Plaintiff

**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 for notes for guidance

Please complete overleaf

Notes for Guidance

1. Each Defendant (if there are 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 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 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 (.....)" 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.

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 or 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.

KSG Attorneys-at-Law
4th Floor Harbour Centre
42 North Church Street
PO Box 2255
Grand Cayman KY1-1107
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.

[Empty box for defendant's attorney indorsement]

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