

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 501 OF 1998

BETWEEN:

MARY COCO

Plaintiff

AND

- (1) DR. M. YEE SING
- (2) DR. JOY WALLACE
- (3) THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS

Defendants

WRIT OF SUMMONS

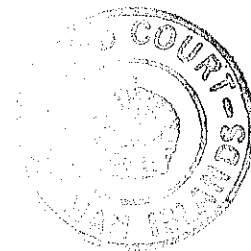
TO: Dr. M. Yee Sing, First Defendant
OF: C/o Chief Medical Officer, George Town Hospital
P.O. Box 915, George Town
Grand Cayman, Cayman Islands

AND OF: c/o Port Antonio Hospital
Portland, Jamaica

AND TO: Dr. Joy Wallace, Second Defendant
OF: C/o Chief Medical Officer, George Town Hospital
P.O. Box 915, George Town
Grand Cayman, Cayman Islands

AND OF: C/o Faith Hospital
P.O. Box 85 STB
Cayman Brac, Cayman Islands

AND TO: The Attorney General of the Cayman Islands
Attorney General's Chambers
P.O. Box 907, George Town
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 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 this 18th day of August 1998.

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.

STATEMENT OF CLAIM

Introduction

1. The Third Defendant is a party to these proceedings pursuant to The Crown Proceedings Law by virtue of the fact that the Cayman Islands Government Health Services Department (“Health Services Department”) provided, managed and maintained relevant facilities namely the Little Cayman Clinic and the Faith Hospital on Cayman Brac and employed and engaged thereat Doctors, Nurses and staff including the First and Second Defendants.
2. The First Defendant is a medical practitioner believed to be of Port Antonio, Jamaica and a surgical consultant who was at all material times the servant or agent of the Health Services Department or was engaged by them as a locum physician or otherwise to give treatment, attendance and advice at the Little Cayman Clinic and the Cayman Brac Faith Hospital in the Cayman Islands.
3. The Second Defendant is a medical practitioner believed to be licensed and registered as a health practitioner in the Cayman Islands under the Health Practitioners Law (Law 19 of 1974 as amended) which the Plaintiff (“Mrs. Coco”) believes entitles her to practice in the Cayman Islands as a Doctor of Medicine and a Specialist in anaesthesia and the Second Defendant was at all material times the servant or agent of the Health Services Department engaged as a medical officer at the Cayman Brac Faith Hospital.
4. The First and Second Defendants held themselves out to be experienced, skilled and competent medical practitioners.
5. In the premises, the Defendants each owed Mrs. Coco a duty of care to exercise reasonable skill and care in the care and treatment. The First and Second Defendants

and the Health Services Department treated Mrs. Coco unskillfully and negligently as set out below and by reason of the same, Mrs. Coco suffered injury.

Background and Details of Negligent Treatment

6. Mrs. Coco is a dive instructor currently employed by Little Cayman Beach Resort. In or about August 1997 Mrs. Coco consulted a Dr. Mahante of Faith Hospital in Cayman Brac who carried out an ear canal irrigation shortly thereafter at Little Cayman Clinic.
7. Some months later, on or about 17 December 1997 at about 1pm Mrs. Coco attended the Little Cayman Clinic for further irrigation to be carried out as Mrs. Coco was experiencing some residual blockage in her ears. Nurse Nancy Norman of the Little Cayman Clinic attempted irrigation but was unable to obtain a clearing. The nurse complained of having no hot water available with which to irrigate Mrs. Coco's ear.
8. That same morning, Mrs. Coco first encountered the First Defendant. The First Defendant proceeded to examine Mrs. Coco's ear and then began to swab Mrs. Coco's right ear. The First Defendant enquired whether Mrs. Coco had cotton in her ear and then proceeded to attempt to extract the "cotton" with an instrument believed to be a haemostats.
9. The best particulars Mrs. Coco can give prior to the administering of interrogatories is that the instrument was long, pointed and of steel. The "cotton" was in fact necrotic tissue on Mrs. Coco's eardrum. After the intervention by the First Defendant, Mrs. Coco's ear began bleeding immediately and Mrs. Coco experienced discomfort and anguish.
10. Four days thereafter, i.e. on 21 December 1997 Mrs. Coco returned to the Little Cayman Clinic because her ear was still bleeding from the intervention by the First Defendant.

On that day after speaking to the First Defendant by phone, Nurse Nancy Norman insisted that Mrs. Coco should go to the Faith Hospital on Cayman Brac immediately by plane. The Nurse appeared to be alarmed and insisted Mrs. Coco have her ear treated immediately and not wait until the next Doctor visited, who was not arriving until the following Wednesday. Accordingly, Mrs. Coco made an appointment to be seen at 10:00 a.m. on 23 December 1997 at the Cayman Brac Faith Hospital.

11. On Tuesday, 23 December 1997, Mrs. Coco arrived at the Cayman Brac Faith Hospital by plane and was then kept waiting from 9:30 a.m. until 11:00 a.m. Mrs. Coco was then admitted to the Faith Hospital in order that she might undergo a surgical procedure on her ears to be carried out by the First Defendant ("the Procedure"). Mrs. Coco was given no advice as to the risks associated with the Procedure nor was it explained to her sufficiently by any of the Defendants or persons acting on their behalf what she was about to undergo. Mrs. Coco at no time believed or knew the Procedure could cause injury and/or aggravate the injury suffered on 17 December if carried out unskilfully. If she had, she would have refused treatment.
12. While Mrs. Coco was a patient at the Faith Hospital, the Second Defendant acting in the course of her employment for and for the purpose of enabling the Procedure to be performed by the First Defendant, administered a variety of anaesthetics including Ketomine. Mrs. Coco believes the First and Second Defendants were assisted by a nurse called Pam Harper. Mrs. Coco was deeply sedated and was not aware of her surroundings from approximately 11:30 a.m. until approximately 3:30 p.m. that day when she regained consciousness. Mrs. Coco was then discharged in a summary fashion and returned to Little Cayman at 4:00 p.m. that same afternoon via ambulance and an Island Air aircraft whilst very drowsy and feeling extremely ill.
13. The following day i.e. 24 December 1997, Mrs. Coco attended the Little Cayman Clinic and the packing in her ear was removed by another Doctor employed by the Third

Defendant called Dr. Nayack. At this time, Dr. Nayack stated that Mrs. Coco's ear looked very bloody. When Mrs. Coco inserted certain eardrops which had been prescribed by the First Defendant she noted that her ears burned badly. Mrs. Coco continued to feel very drowsy for two days following the Procedure.

14. On 25 December 1997 Mrs. Coco (in Little Cayman) spoke to the First Defendant (on the Brac) who telephoned her after receiving a message via Nurse Pam Harper stating Mrs. Coco felt extremely uncomfortable and had felt air coming through her ear on 24 December. The First Defendant stated to Mrs. Coco that her ear was not perforated. This alarmed Mrs. Coco who then realised that her ear might actually have been perforated by the doctors.
15. Subsequently, on 29 December 1997 Mrs. Coco was diagnosed (by a visiting ENT specialist acting as a Good Samaritan) as having a traumatic perforation of the right eardrum which was caused by the negligence of the First and/or the Second Defendants and/or the Health Services Department whilst Mrs. Coco underwent the treatment and/or the Procedure described above. On 30 December 1997 Nurse Norman also examined Mrs. Coco in Little Cayman and confirmed that there was a perforation in her right ear drum following which the Nurse phoned the First Defendant (still on the Brac) verifying the examination.
16. By reason of the First and Second Defendants' negligence and the negligence of the Health Services Department Mrs. Coco, who was born on 5 March 1956, sustained injuries and has suffered pain, loss and damage.

PARTICULARS OF INJURY

Perforation of eardrum which was traumatically caused; mental anguish, pain and suffering.

PARTICULARS OF SPECIAL DAMAGE

Mrs. Coco will rely on the statement of special damages exceeding 3 folios served herewith and attached at the Schedule hereto. For the avoidance of doubt, Mrs. Coco seeks special damages for, inter alia, loss of earnings, travel expenses and medical costs as a result of the negligent treatment.

17. These injuries and loss and damage were caused by the negligence and/or breach of duty of the First and Second Defendants and the Health Services Department.

PARTICULARS OF NEGLIGENCE OF THE FIRST DEFENDANT

1. Failing to conduct a careful, proper and thorough examination of Mrs. Coco's ears.
2. Failing to exercise proper care and skill when carrying out the initial swabbing on 17 December 1997 and thereby causing injury and bleeding to Mrs. Coco's ear and in particular, wrongly extracting necrotic tissue from the ear on the assumption it was "cotton" or at all.
3. Failing to exercise proper care and skill while carrying out the Procedure on 23 December 1997 thereby causing and/or aggravating Mrs. Coco's injuries and in particular, causing Mrs. Coco's eardrum to be perforated.
4. Wrongly discharging Mrs. Coco from hospital care with no proper follow-up.
5. Failing to treat Mrs. Coco adequately.
6. Failing to refer Mrs. Coco to a suitable specialist or consultant ENT surgeon.

PARTICULARS OF NEGLIGENCE OF THE SECOND DEFENDANT

1. Administering of an injection of Ketomine and/or other hallucinogenic drugs despite warnings issued by international bodies such as the US FDA that its continued use for any patient was now considered dangerous.
2. Failing to treat Mrs. Coco adequately.
3. Failing to exercise proper care and skill during the 23 December 1997 Procedure carried out in conjunction with the First Defendant or at all.
4. Wrongly discharging Mrs. Coco from hospital care with no proper follow up.
5. Failing to refer Mrs. Coco to a suitable specialist or consult an ENT surgeon.

PARTICULARS OF NEGLIGENCE OF THE HEALTH SERVICES DEPARTMENT
REPRESENTED BY THE THIRD DEFENDANT

1. Failing to provide competent and sufficiently experienced staff capable of treating Mrs. Coco appropriately or properly.
2. Failing to provide adequate facilities and ensuring that the Doctors employed by it exercised due skill and care in the treatment of Mrs. Coco.

Mrs. Coco will further, if necessary, rely upon the doctrine of *res ipsa loquitur*.

And Mrs. Coco claims against all Defendants and each of them:-

- (i) Damages;

- (ii) Interest on Damages on such sums and for such periods and at such rate as the Court deems just;
- (iii) Costs; and
- (iv) Further and/or other relief.


HUNTER & HUNTER
Attorneys for the Plaintiff

THIS WRIT was issued by Hunter & Hunter, Attorneys-at Law for the Plaintiff who resides on Little Cayman and whose address for service is that of her said Attorneys, namely Hunter & Hunter, The West Wind Building, 2nd Floor, P.O. Box 190 GT, Grand Cayman, Cayman Islands (Ref: MJ)

SCHEDULE OF SPECIAL DAMAGES

1. Loss of Earnings

	<u>US\$</u>	<u>Date</u>
(a) Seven weeks completely off work (weekly wage \$425.00)	\$2,975.00	6 January 1998 to 1 April 1998
(b) Fifteen weeks lost diving related gratuities (\$600.00 per week during high season)	\$9,000.00	17 December 1997 to 1 April 1998
(c) Six weeks on reduced wage (i.e. no diving) of \$600.00 per week with no gratuities	<u>\$3,600.00</u>	23 February 1998 to 1 April 1998
Sub-total	<u>15,575.00</u>	

2. Medical Bills:

<u>Receipt Description</u>	<u>US\$</u>	<u>Date</u>
Dr. Paul Neiss (Tympanoplasty)	1,762.00	January 1998
Hospital (Baxter Co. Regional Hospital) - January 1998 (hospitalisation and surgery)	3,000.00	January 1998
Anaesthesia charge	600.00	
Further charge	400.00	
Dr. Schragger M.D. ENT Consultation	200.00	17 February 1998
Dr. B. McKennan (ENT) Consultation	<u>88.00</u>	9 February 1998
Sub-Total Medical	<u>\$6,050.00</u>	

3. Sundry Expenses including meals and prescription charges (incurred during treatment & hospitalisation & recuperation period in USA):

	<u>Receipt Description</u>	<u>US\$</u>	<u>Date</u>
a)	Charge card receipt and Marriott Fairfield Inn statement	376.95	02 January 1998
b)	AmEx receipt for Comfort Inn	12.00	08 January 1998
c)	Meals	11.95	08 January 1998
d)	AmEx receipt for Comfort Inn	35.00	09 January 1998
e)	Comfort Inn receipt	47.86	10 January 1998
f)	Meals	7.14	11 January 1998
g)	Meals	37.19	11 January 1998
h)	Comfort Inn receipt	64.33	12 January 1998
i)	Handwritten receipt for dinner	39.34	12 January 1998
j)	Super 8 Motel receipt	33.74	13 January 1998
k)	Shoneys receipt	22.72	14 January 1998
l)	Merritt Square Mall cash register receipt	5.30	16 January 1998
m)	Meals	18.08	16 January 1998
n)	Winn-Dixie receipt	38.87	16 January 1998
o)	Publix receipt	24.92	18 January 1998
p)	Albetsons receipt	3.22	19 January 1998
q)	Winn-Dixie receipt (Prescriptions)	11.63	21 January 1998
r)	Winn-Dixie receipt (Prescriptions)	11.20	21 January 1998
s)	FedEx air waybill totalling	25.00	24 January 1998
t)	Winn-Dixie receipt (Prescriptions)	34.11	24 January 1998
u)	Winn-Dixie receipt (Prescriptions)	22.10	24 January 1998

	<u>Receipt Description</u>	<u>US\$</u>	<u>Date</u>
v)	Cash register receipt	2.72	25 January 1998
w)	Cash register receipt	5.25	27 January 1998
x)	Cash register receipt	5.93	30 January 1998
y)	Meals	7.09	30 January 1998
z)	Meals	15.62	31 January 1998
aa)	Meals	10.31	31 January 1998
bb)	Winn-Dixie receipt (Prescriptions)	45.78	31 January 1998
cc)	Winn-Dixie receipt (Prescriptions)	33.01	2 February 1998
dd)	Winn-Dixie receipt (Prescriptions)	14.68	4 February 1998
ee)	Winn-Dixie receipt (Prescriptions)	39.74	7 February 1998
ff)	Meals	34.95	8 February 1998
gg)	Winn-Dixie receipt (Prescriptions)	8.75	8 February 1998
hh)	Wal-Mart receipt	11.89	9 February 1998
ii)	Winn-Dixie receipt (Prescriptions)	5.81	10 February 1998
jj)	Publix receipt	60.42	11 February 1998
kk)	Publix receipt	3.29	12 February 1998
ll)	Winn-Dixie receipt (Prescriptions)	8.22	13 February 1998
mm)	Publix receipt	27.01	14 February 1998
nn)	Winn-Dixie receipt	39.84	14 February 1998
oo)	Publix receipt	21.99	16 February 1998
pp)	Meals	30.82	17 February 1998
qq)	Winn-Dixie receipt (Prescriptions)	10.29	18 February 1998
rr)	Meals	<u>7.66</u>	Undated

<u>Receipt Description</u>	<u>US\$</u>	<u>Date</u>
Sub-total	<u>\$1,333.72</u>	

4. Travel:

(A) Fuel and Car Rental:

	<u>Receipt Description</u>	<u>US\$</u>	<u>Date</u>
a)	The Corner Convenience Store receipt for gasoline	12.00	8 January 1998
b)	Exxon receipt	16.00	11 January 1998
c)	Oxmoor Chevron receipt	11.50	12 January 1998
d)	Exxon receipt	18.15	12 January 1998
e)	Hertz Rent A Car receipt	268.28	14 January 1998
f)	Budget receipt	162.47	16 January 1998
g)	Speed/SM fuel receipt	10.00	04 February 1998
h)	Speed/SM fuel receipt	10.00	08 February 1998
i)	Speed/SM fuel receipt	10.00	10 February 1998
j)	Circle K fuel receipt	10.00	18 February 1998
k)	Budget receipt	480.98	19 February 1998
l)	Speed/SM fuel receipt	<u>8.68</u>	19 February 1998
		<u>\$1,018.06</u>	

(B) Air Tickets for Treatment and Surgery Related Travel:

a)	American Airlines flights to U.S.A. for surgery (both Mary & Jonathan)	1,128.00	January 1998
b)	Little Cayman to GCM	125.00	5 January 1998

c)	Roundtrip Little Cayman to Cayman Brac and back for treatment	40.00	23 December 1997
d)	LYB to GCM (both Mary and husband roundtrip)	308.00	06 January 1998
e)	Round trip Rochester, NY to Orlando, FL (mother)	<u>192.51</u>	January 1998
	Sub-total	<u>\$1,793.51+</u>	

5. Phone/E-mail/Fax charges:

Approximately \$500.00

TOTAL **\$26,270.29**