



ND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2023

MANDALEE DILBERT

PLAINTIFF

AND

FOSTERS FOOD FAIR LIMITED

DEFENDANT

WRIT OF SUMMONS

**TO: Fosters Food Fair Ltd
P.O. Box 10400, Airport
Airport Road, Industrial Park,
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 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 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 12th day of December 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 whose address for service is 3rd Floor, One Capital Place, Shedden Road, George Town, Grand Cayman. P.O. Box 2255 GT, KY1-1107. Dilbert v Fosters Food Fair Ltd

STATEMENT OF CLAIM

1. The Plaintiff's date of birth is the 29 October 1951, and her address is 94 Selkirk Drive, Red Bay, Grand Cayman. She is a self-employed small business owner.
2. The Defendant was and is at all relevant times the owner/occupier of a supermarket known as Fosters Airport Store located at 63A Dorcy Drive, Grand Cayman, Cayman Islands, to which they invited members of the public to enter for the purpose of purchasing groceries.
3. On the 28 December 2020, the Plaintiff visited the store with the purpose of purchasing some goods and supplies.
4. As the Plaintiff was leaving the store carrying a bag of shopping, her left foot became caught under a mat at the store entrance/exit causing her to fall and sustain personal injuries.
5. The Plaintiff fell to the floor hitting her left wrist and also hitting her head on the door causing a laceration above her right eye. The force of the fall knocked the sliding doors from their track.
6. She was attended to by a cashier who attended to the cut above her eye. She was also assisted by a fellow customer.
7. She returned to her car and the store manager came and spoke to her about the accident. She managed to drive home.
8. Later that day she telephoned the store manager to advise of her increased pain and intention to attend with a doctor.
9. The Plaintiff understands the mats at the entrance/exit of the store have now been removed.
10. The accident and resulting injury were caused by the negligence of the defendant, its employees, servants, or agent, or both.
11. Particulars of Negligence
 - (a) Failing to take any or any reasonable care to see that the plaintiff would be reasonably safe in using the premises as a customer.
 - (b) Causing or permitting the said mat to be or to become or to remain a danger and a trap to persons lawfully using the same.
 - (c) Failing to place a mat which would not easily lift and become a tripping hazard.
 - (d) Failing to take any or any reasonable measures to ensure that the mat could not be lifted when located in a busy traffic route.

- (e) Permitting the plaintiff to walk in the area when they knew or ought to have known that it was unsafe and dangerous for her to do so.

12. As a result of the Defendant's negligence, the Plaintiff has suffered personal injuries, loss and damage.

Particulars of Personal Injury

13. The Plaintiff's date of birth is the 29 October 1951 and at the date of the accident, she was 69 years old.

14. She fell to the ground injuring her left wrist and hitting her head on the door causing a laceration above her right eye.

15. Prior to the accident, the Plaintiff had a history of underlying degenerative disc disease in her cervical and lumbar spine.

16. The Plaintiff attended Doctors Hospital the same day suffering with injuries to her head, neck, shoulders and hands and with associated vertigo. She was reviewed, advised to reattend the following day and given pain relieving medication.

17. She attended the following day and saw Dr Ebanks who ordered Xray of her left wrist and a CT scan to her head.

18. She attended the hospital on numerous further occasions with continued pain, particularly to her back, causing numbness and spasms to her leg. She also suffered headaches and neck pain. She underwent injections and was prescribed pain-relieving medication.

19. She underwent x-rays of the lumbar spine and subsequently underwent an MRI scan on the 15 April 2021 which was compared to her pre-accident MRI and she was referred to a neurosurgeon, Dr Phillips. Due to the Covid pandemic, Dr Phillips has been unable to travel to the Cayman Islands and she has not yet been seen by him. She intends to be assessed by a neurosurgeon.

20. She has had significant difficulty sleeping due to the pain and restrictions on her home and working life.

21. The plaintiff still suffers ongoing discomfort, especially when she has been particularly active or sitting or standing for long periods of time.

Particulars of Loss and Damage

22. The Plaintiff's particulars of special damage will be forwarded in due course by way of a Schedule of Loss including but not limited to claims for cost of past and future medical treatment, loss of earnings and care.

Statement as to Interest

23. The Plaintiff will claim interest pursuant to section 34 of the Judicature Act (2021 Revision) at half the rate as prescribed under the Judgment Debts (Rates of Interest) Rules (as amended) from the 28 December 2020 to Trial.

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 (2021 Revision);
- (3) Such further or other relief that the Court deems fit;
- (4) Costs.



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 495, 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2023

BETWEEN:

MANDALEE DILBERT

PLAINTIFF

AND

FOSTERS FOOD FAIR LIMITED

DEFENDANT

ACKNOWLEDGMENT OF SERVICE OF WRIT OF 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.

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

2. State whether the Defendant intends to contest the proceedings (tick appropriate box)

yes no

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 no

Service of the Writ is acknowledged accordingly

(Signed).....

Attorney for

Please complete overleaf

Notes on address for service

This Writ and Statement of Claim is issued by KSG Attorneys at Law whose address for service is 3rd Floor, One Capital Place, Shedden Road, George Town, Grand Cayman. P.O. Box 2255 GT, KY1-1107. Dilbert v Fosters Food Fair Ltd

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
3rd Floor, One Capital Place
136 Shedden Road
PO Box 2255
George Town
Grand Cayman
KY1-1107

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]