

**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

493  
CAUSE NO. OF 1995.

Between:

**TWILLA MILLER  
(hereinafter "Miller")**

Plaintiff

-and-

**WIMAR LIMITED  
COLUMBIA SUSSEX  
(hereinafter "Columbia")**

1st Defendant

-and-

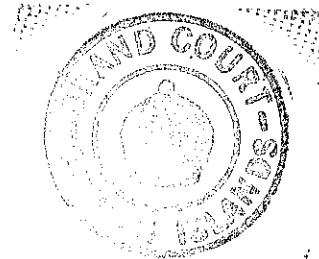
**RADISSON HOTELS SEA LIMITED  
(hereinafter "Radisson")**

2nd Defendant



**WRIT OF SUMMONS**

**To: Wimar Limited Columbia Sussex  
207 Grandview Drive  
Fort Mitchell, Kentucky  
41017-2799  
U.S.A.**



**And To: Radisson Hotels Sea Limited  
c/o Bankamerica Trust Banking Corporation (Cayman) Ltd.  
P.O. Box 1092  
George Town  
Grand Cayman  
Cayman Islands  
B.W.I.**

**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 (14) days after the service of this Writ, including the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495, G.T., Grand Cayman, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

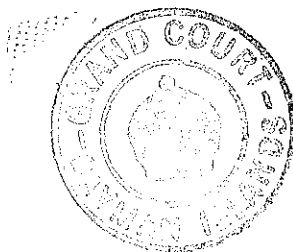
If you fail to satisfy the claim or to return the Acknowledgement without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 22<sup>nd</sup> day of November, 1995.

**NOTE** - This Writ may not be served later than four (4) calendar months (or, if leave is required to effect service out of the jurisdiction, six (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.



IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. <sup>493</sup> OF 1995

Between:

TWILLA MILLER  
(hereinafter "Miller")

Plaintiff

-and-

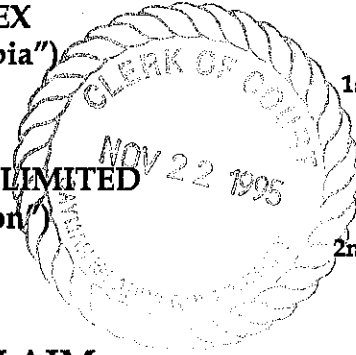
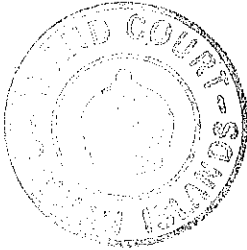
WIMAR LIMITED  
COLUMBIA SUSSEX  
(hereinafter "Columbia")

1st Defendant

-and-

RADISSON HOTELS SEA LIMITED  
(hereinafter "Radisson")

2nd Defendant



STATEMENT OF CLAIM

1. Miller is a citizen of the United States and a resident in the Town of Spencerville, Ohio, where she carries on business as a co-owner of a scuba shop, as a Scuba Instructor, and a Registered Nurse.
2. Columbia is a United States company whose address for service is 207 Grandview Drive, Fort Mitchell, Kentucky, U.S.A. 41017-2799, whose business is that of operating hotels.
3. The Radisson is a hotel owned by Columbia and located on West Bay Road, Seven Mile Beach, George Town, Grand Cayman, Cayman Islands, British West Indies, whose address for service is Bankamerica Trust Banking Corporation (Cayman) Ltd., P.O. Box 1092 GT, Grand Cayman, Cayman Islands.
4. At all material times, on the 23rd of November, 1992, Miller was a paying guest of the Radisson, having organized and led a group of scuba divers to the Cayman Islands, and arranged for the group and herself to stay at the Radisson.
5. During the early morning on the 23rd day of November, 1992, Miller was descending certain steps leading from the swimming pool area to the beach, when suddenly and without warning, her feet slipped suddenly beneath her whereupon she fell heavily on the concrete steps and struck her lower back, her back and her head and sustained severe personal injuries.

## PARTICULARS OF INJURIES

Miller, who was born on the 11th day of November, 1948, is now aged 47, suffered:

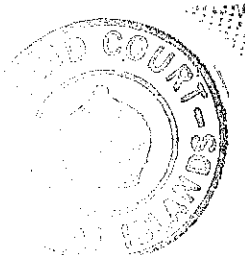
- (1) Severe trauma as a result of her fall;
- (2) Compression fracture of T7;
- (3) Spondylolysis of T8-9;
- (4) Chronic sprain quadratus lumborum.



6. Miller's accident was caused by the negligence of Columbia and Radisson, their servants or agents.

## PARTICULARS OF NEGLIGENCE

- (a) Failing adequately or at all to ensure that adequate safety measures were taken in the construction and operation of the premises, so that guests of the Radisson would not be exposed to unsafe conditions in traversing from Radisson terraces to the beach;
- (b) Inviting, causing or permitting paying guests to enter the beach area by means of unsafe steps, well knowing that no or no sufficient precaution whatsoever had been taken to protect their lawful guests aforesaid from slipping on the dangerous wet conditions of their premises;
- (c) Failure to provide adequate handrails on the steps leading to the beach;
- (d) Failure to equip the concrete steps with non-skid to prevent slipping;
- (e) Failure to construct the steps out of non-skid material;
- (f) Failure to advise potential users of the said steps of the dangers inherent in descending the steps when wet;
- (g) Failure to prevent use of the said steps when hotel cleaning activities were taking place, or had recently taken place, by placing "Slippery when Wet" signs at the top of the steps;
- (h) Failure to warn users and potential users of the steps of the inherent danger of using wet steps.



7. By reason of the aforesaid negligence, Miller has suffered loss and damage.

### PARTICULARS OF SPECIAL DAMAGES

Out-of-Pocket Expenses

Additional Help

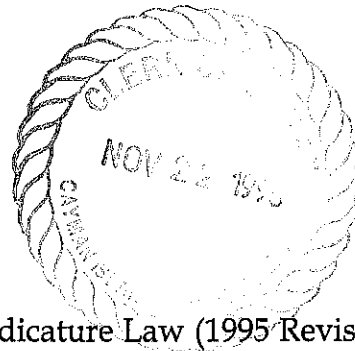
Loss of Wages and partial Loss of Wages

particulars of which shall be provided before trial.

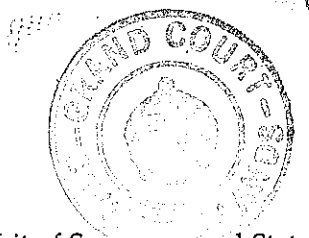
8. Further, the Plaintiff claims interest pursuant to Section 34 of the Judicature Law (1995 Revision) on the amount found to be due at such rate and for such period as the Court shall think fit.

### AND THE PLAINTIFF CLAIMS:

1. Special damages;
2. General damages;
3. Exemplary damages;
4. Interest pursuant to Section 34 of the Judicature Law (1995 Revision);
5. Costs;
6. Such further and other relief as this Honourable Court deems just.



Dated this 22nd day of November, 1995



*Collins Broadhurst & Furniss*  
Collins Broadhurst & Furniss  
Attorneys-at-Law  
for the Plaintiff herein

This Writ of Summons and Statement of Claim was issued by Collins Broadhurst & Furniss, Attorneys-at-Law for and on behalf of the Plaintiff herein, whose address for service is Elizabethan Square, P.O. Box 2503, George Town, Grand Cayman, Cayman Islands, British West Indies.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 493 OF 1995

Between:

TWILLA MILLER  
(hereinafter "Miller")

Plaintiff

-and-

WIMAR LIMITED  
COLUMBIA SUSSEX  
(hereinafter "Columbia")

1st Defendant

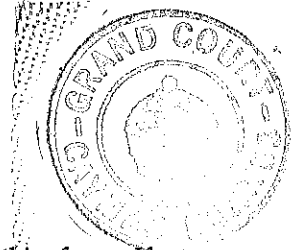
-and-

RADISSON HOTELS SEA LIMITED  
(hereinafter "Radisson")

2nd Defendant

ACKNOWLEDGEMENT 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.*

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

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2. State whether the Defendant intends to contest 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 [ ]

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Service of the Writ is acknowledged accordingly

(signed) \_\_\_\_\_

[Attorney] for

[Defendant in Person]

Address for service:

*Notes on address for service*

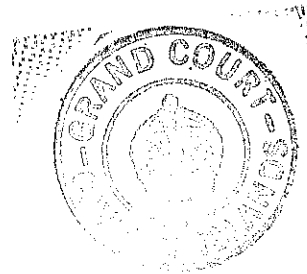
*Attorney: where Defendant is represented by an Attorney, state the Attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign Attorney.*

*Defendant in person: where the defendant is acting in person, he must give his post office box number and 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.*

*Endorsement by Plaintiff's Attorney  
(or by Plaintiff if suing in person)  
of his name, address and reference,  
if any, below.*

*Endorsement by Defendant's Attorney  
(or by Defendant if suing in person)  
of his name, address and reference,  
if any, below.*

Collins Broadhurst & Furniss  
Attorneys-at-Law  
Elizabethan Square  
P.O. Box 2503, G.T.  
Grand Cayman,  
Cayman Islands,  
B.W.I.



**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE  
OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgement 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, G.T. Grand Cayman.

2. A Defendant who states in his Acknowledgement 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 not endorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2). the defence must be served within fourteen (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 endorsed on the Writ, the defence need not be served until fourteen (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 within 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 Acknowledgement of Service, that he intends to apply for a stay, execution will be stayed for fourteen 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.

**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 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.