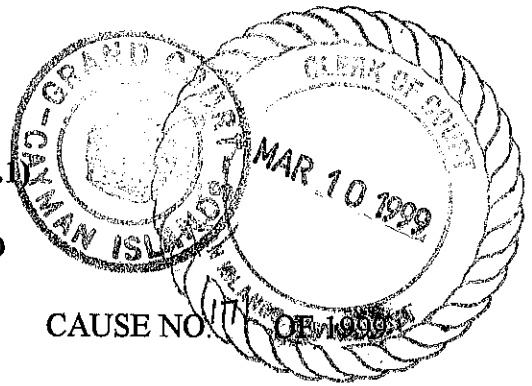


**Writ of Summons (O.6, r.1)**



IN THE GRAND COURT OF THE CAYMAN ISLAND  
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

C171/99

CAUSE NO. 171 OF 1999

BETWEEN JOCELYN KILEY PLAINTIFF  
AND: GEORGE TOWN HOSPITAL & HEALTH SERVICE DEFENDANT

WRIT OF SUMMONS

TO: DEFENDANT, George Town Hospital & Health Service, PO Box 915 GT, Grand Cayman, BWI.

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 9 day of March 1999.

NOTE - This Writ may not be served later than 4 calendar 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.

### STATEMENT OF CLAIM

1. At all material times the Defendant has a duty to provide medical specialist and all other medical, surgical, and nursing services required at and for the purposes of George Town Hospital ("the hospital").
2. The Plaintiff sustained personal injury, losses, expenses, and inconvenience as a result of negligent treatment received during the time of care as a patient at the hospital between September 1995 and July 1996.
3. In or about September 1995, the Plaintiff began to experience pain in the wrist of her right hand. A car accident victim who was confined to bed had been admitted to the hospital. The Plaintiff would have to push the patient's bed out of the room into an open space since the patient could not leave their bed. The Plaintiff would have to push the bed at least three times a day. During that period, she experience pain in her wrist. The pain in her wrist was initially diagnosed as tendinitis and she was prescribed a course of anti-inflammatory drugs.
4. The pain persisted and the Plaintiff was seen by Dr. Bromley who is a servant or agent of the Defendant who ordered X-ray to be taken. Two days later the Plaintiff was seen by Dr. Sekhar who is also a servant or agent of the Defendant. Dr. Sekhar informed the Plaintiff that the X-ray had come to his attention the day before and he diagnosed Avascular Necrosis of the lunate bone. He advised that it had probably arisen as a result of "an old injury". The Plaintiff's arm was placed in a splint and she had one week sick-leave followed immediately by two weeks holiday.
5. On returning from holiday Dr. Sekhar made inquires of her about her wrist. She informed him that, in short, she was still suffering from pain to which he replied that she would have to wait about two years until the lunate bone had completely collapsed and then consider fusion of the carpal bones supported by a prosthesis. He prescribed voltaren and ibuprofen to be taken three times a day. The quantity of ibuprofen had to be increased from 400mg to 800mg in an attempt to alleviate the pain. The side effect of the aforementioned tablets had to be countered with a "milk of magnesia" like tablet the name of which will be provided in due course.
6. In or about December 1995 the Plaintiff met with an Orthopaedic Surgeon in Re-constructive Surgery, Dr. Frank Smith, a servant or agent of the Defendant, who advised that the condition should be treated immediately. The Plaintiff showed him the X-ray taken in September and he informed her that it was not as a result of an old injury and was due to the fact that her radius was longer than her ulna and as a result of certain activities, here pushing heavy objects, caused her present condition with the resultant pain. He recommended that she undergo an operation which involved shortening the radius by or about 4 mm, inserting a buttress plate followed by a course of physiotherapy. The Plaintiff agreed to that suggested method of treatment. Dr. Smith discussed the procedure with Dr. Sekhar to which our client understood Dr. Sekhar had also agreed.
7. The operation on the Plaintiff's wrist took place on 28 March 1996.
8. Contrary to what the Plaintiff understood had been agreed by consent, instead of inserting the buttress plates, Dr. Sekhar inserted cross-pins. When the Plaintiff asked why cross-pins were inserted instead of the buttress plate, and near to an articulation,

- no explanation was provided. A cast was fitted and the Plaintiff was sent home from hospital.
9. On or about 7 May 1996 one of the cross pins had become detached and had pierced the skin. The pin had to be removed leaving one pin in place. By or about 23 May 1996 an X-ray showed that the second pin was ineffective and that the radius bone had moved. Altogether, the Plaintiff was given five new casts over a period of ten weeks and was informed that she would require corrective surgery. When the casts was finally removed the Plaintiff discovered that she had no movement in her right hand and could not get her thumb and little finger to touch each other. At all times throughout that period the Plaintiff continued to experience pain.
  10. The Plaintiff commenced physiotherapy but still experienced considerable pain. When she informed Dr. Sekhar about the pain she was experiencing he told her to stop the physiotherapy. He also advised her that a possible solution to her problem was to shorten the ulna.
  11. Dr. Smith returned to the Island on or about 7 July 1996 and on being shown the Plaintiff's wrist ordered an X-ray. The Plaintiff and her husband attended a consultation with Dr. Smith on 11 July 1996. At that meeting he recommended that she resume physiotherapy. He noted that the radius bone was not in alignment due to a non-union. He advised that further surgery would be needed to correct the alignment. The operation was scheduled for 7 August 1996.
  12. On 5 August 1996 an X-ray was taken of the wrist to be used during the operation on the 7<sup>th</sup>. However, the operation could not be completed due to difficulties in manipulating the wrist.
  13. The Plaintiff continued to work but experienced considerable discomfort and pain. A further X-ray was obtained on 6 December 1996 and was referred to at a meeting with Dr. Smith on or about 8 December 1996. He indicated, amongst other things, that the tilt of her radius bone was 22°. He recommended that the radius bone would need to be cut at its base and a piece of hip bone inserted to correct the deviation and re-alignment. That procedure was scheduled for 5 March 1997.
  14. The Plaintiff was unable to work due to the pain in her wrist and on 15 January 1997 notified that Defendant that she had no alternative but to terminate her contract with the Defendant and await the corrective surgery.
  15. Dr. Sekhar treated the Plaintiff negligently, which required her to undergo corrective surgery.

#### **PARTICULARS OF NEGLIGENCE**

- (a) In light of the Plaintiff's said history and of her said injury, her repeated complaints and/or X-ray examinations, failing to recognise the real cause of the Plaintiff's injury, failing to advise that she continue to receive physiotherapy, failing to have the Plaintiff examined by more experienced medical staff, treating the Plaintiff inexpertly;
- (b) Failing to perform the said essential surgery correctly and in time, thereby depriving the Plaintiff of the opportunity of gaining a very substantial recovery and/ or complete restoration to her pre-injury condition.
- (c) Failing to monitor the Plaintiff's progress either properly or at all in the circumstances mentioned above.

15. By reason of the matters aforesaid the Plaintiff has been occasioned pain and suffering and loss and damage.

#### **PARTICULARS OF INJURIES**

The Plaintiff (D.O.B 29.08.54) who was aged 41 at the date of the operation, sustained pain, stiffness, intermittent swelling of the right wrist, numbness of the right thumb, scarring and functional impairment and substantially reduced level of function of the right hand and wrist. Further particulars, appear in the medical report of Mr. Peter Burgh dated 15 September 1998 to be disclosed in due course.

#### **SPECIAL DAMAGES**

a) Loss of income (CI\$1,910.00 x13) CI\$24,830.00

AND THE PLAINTIFF claims:

- (1) Damages;
- (2) Further, pursuant to The Judicature Law (1995 Revision), the Plaintiff is entitled to and claims interest on such sums as are found to be due at such rate and for such period as the Court shall think fit.
3. Costs.



THIS WRIT was issued by Clyde H. Allen BSc whose address for service is Brooks & Brooks, Attorneys-At-Law, PO Box 1355, Grand Cayman, British West Indies



**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.*

C. H. Allen BSc  
Brooks & Brooks  
Attorneys-At-Law  
PO Box 1355 GT  
Grand Cayman  
Cayman Islands  
BWI

*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]