

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 687 OF 1999

BETWEEN: RICHARD COLES

Plaintiff

AND: CAYMAN MEDICAL AND SURGICAL  
CENTRE, LTD.

Defendant

WRIT OF SUMMONS

TO: Cayman Medical and Surgical Centre, Ltd.,  
P.O. Box 30618 SMB,  
Eastern Avenue,  
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 495GT, 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 11<sup>th</sup> day of November, 1999.

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.

## STATEMENT OF CLAIM

1. At all material times the Defendant was a medical practice, which operated out of premises (premises) situate at Eastern Avenue, George Town, Grand Cayman, Cayman Islands.
2. At all material times the Plaintiff attended the premises as a visitor/invitee.
3. At or about the 25<sup>th</sup> day of October, 1998 at or around 12:45 p.m., the Plaintiff attended a room within the premises to visit a friend in recovery. The Plaintiff had been sitting in a plastic chair provided in the room when suddenly and without warning two of its back legs snapped in quick succession causing the chair to collapsed under him. As a result the Plaintiff was jolted backward and his head and neck smashed against the room door as he fell to the floor momentarily stunned and immobilized.
4. The said accident was caused or contributed to by the negligence of the Defendant and or its servants and agents acting in the course of their employment.

## PARTICULARS OF NEGLIGENCE

The Defendant, its servants or agents were negligent in that they :-

- (i) Failed to provide a safe and or suitable chair for the Plaintiff to sit in whilst visiting the premises or at all;
- (ii) Provided for use by the Plaintiff a chair that was defective and or dangerous and or unsuitable for his use or at all;
- (xii) Caused, permitted or suffered the Plaintiff to use the said chair when they knew or ought to have known it was unsafe or unsuitable for his use or at all;

- (xiii) Failed to warn the Plaintiff of the unsafe condition and or unsuitability of the chair or of the dangers of using it or otherwise to prevent him from so doing;
  - (xiv) Exposed the Plaintiff to a danger or a trap or a foreseeable risk of injury;
  - (xv) Failed to provide or maintain for the Plaintiff a safe place to visit and to devise or institute or operate or ensure the institution or operation of any or any adequate system of routine preventative inspection and or replacement of seats provided for use by visitors or at all within the said premises;
  - (xvi) Failed to heed or act upon knowledge or notice of the unsuitability of the chairs for the purpose which they were used or knowledge or notice of their unsafe or defective condition;
  - (xvii) Failed to take any and any adequate care for the safety of the Plaintiff.
4. By reason of the aforesaid the Plaintiff who is now aged 52 years having been born on March 3<sup>rd</sup>, 1947 suffered pain, injury, loss and damage.

#### PARTICULARS OF INJURY

- (a) Pain, stiffness, soreness and restriction of movement in the neck;
  - (b) Pain in the back and limbs;
  - (c) Disc extrusion in the neck;
  - (d) Occasional giddiness and blackouts; and
  - (e) Fatigue, insomnia, anxiety and discomfort.
5. Soon after the fall the Plaintiff suffered from pain and soreness in his neck, and back. He also suffered soreness in the limbs receiving the brunt of the impact of the fall. He

continues to suffer from pain, soreness, stiffness and restriction of movement in the neck and experiences intense and continuous discomfort when either moving his neck or keeping it in the same position.

6. The Plaintiff requires the use of his neck in all activities and in particular work activities. He is an Attorney-at-law, presently working as the sole attorney in his recently established private practice. His work necessarily requires that he spend extensive periods reading, researching and working at a computer. In order to help relieve the constant pain he must routinely interrupt his work or other activity to take prescribed breaks and do neck exercises. From time to time he experiences giddiness and has suffered a blackout on at least one occasion since the accident. The symptoms averred also cause him discomfort when he travels by aeroplane; impedes his ability to drive, play the piano and scuba dive; and interferes with his ability to enjoy basic pleasures such as reading and watching television or theatrical productions.
  
7. The Plaintiff has undergone the recommended treatments. Further, he has and continues to comply with recommendations for daily pain management. Despite the aforementioned intense and disruptive pain persists, due largely to the disc extrusion in the neck. The only present recognized treatment to rectify the disc extrusion would involve very high-risk surgery with uncertain alleviatory results; surgery has not been recommended. As a result the present prognosis indicates: that pain and discomfort will likely remain at about present levels indefinitely; there is a possible increased risk of developing traumatic arthritis in the injured area. The present recommendation for future treatment includes: daily pain management medication with regular neck exercises. Routine diagnostic consultations will also be required from time to time.
  
8. Medical assessment is ongoing and the future regarding the Plaintiff's injury is uncertain. Accordingly the Plaintiff reserves the right to amend his claim to reflect any and any other loss or damage relating to injuries sustained in the accident.

PATICULARS OF SPECIAL DAMAGES

Medical expenses

CI\$ 1,500

9. Further the Plaintiff claims interest pursuant to section 34 of the Judicature Law on the amount found to be due to the Plaintiff at such rate and for such period as the Court thinks fit.

AND THE PLAINTIFF CLAIMS:-

1. General damages;
2. Special Damages;
3. Such interest pursuant to Section 34 of the Judicature Law to be assessed; and
4. Costs.

DATED this 11<sup>th</sup> day of November, 1999.

Quin & Hampson  
QUIN & HAMPSON  
Attorneys-at-Law for the Plaintiff

**THIS WRIT OF SUMMONS** was issued by Quin & Hampson, Attorneys-at-Law for and on behalf of the Plaintiff herein, whose address for service is Harbour Centre, Third Floor, P.O. Box 1348, George Town, Grand Cayman, B.W.I.

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 installments or otherwise.

*See over for notes for guidance*

### 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 his 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.*

Messrs. Quin & Hampson  
Attorneys-at-Law  
Third Floor, Harbour Centre  
P.O. Box 1348  
George Town,  
GRAND CAYMAN

*Indorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.*