

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

CAUSE NO: <sup>21</sup> OF 2000

**BETWEEN:**

**MARY PALENCAR**

**PLAINTIFF**

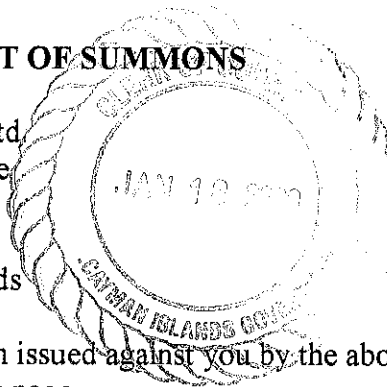
**-and-**

**HYATT BRITANNIA CORPORATION LTD.**

**DEFENDANT**

**WRIT OF SUMMONS**

TO: Hyatt Britannia Corporation Ltd  
In Care of its Registered Office  
Caledonian Bank & Trust Ltd.  
P.O. Box 1043 GT  
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 day of 2000

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. The Plaintiff is an individual residing in the State of California.
2. The Defendant is the operator of a hotel in Grand Cayman, Cayman Islands with its registered office at Caledonian Bank & Trust Ltd., P.O. Box 1043 GT, Grand Cayman, Cayman Islands.
3. On Friday January 24, 1997, the Plaintiff came to the Cayman Islands as a cruise ship passenger on a day stop. She went with her daughter and another individual to the hotel operated by the Defendant. The group had lunch and had intentions of returning to the ship. As the Plaintiff and her party were waiting for a taxi, the Plaintiff was standing on the landing at the main entrance.
4. Unexpectedly, a staff member of the Defendant pushed a baggage cart towards the Plaintiff and her daughter. The cart was pushed quite rapidly and the Plaintiff had to very quickly move to avoid a collision with the cart. The Plaintiff attempted to step out of the way and in so doing stepped off the landing and fell on her side. She had attempted to catch her fall but was unable to do so.
5. As a result of the above, the Plaintiff sustained injuries and received treatment as follows:
  - a. She sustained a comminuted displaced fracture of the right hip.
  - b. She underwent surgery described for an open reduction and internal fixation of the neck of the right femur.
  - c. She was bedridden for the week and was given medical approval to fly on January 31, 1997. She returned to her home in California with the assistance of her daughter Mia.
  - d. Following her return to California she spent approximately 6 weeks in the hospital for treatment and rehabilitation and has had extensive institutional care since that time.
4. The Plaintiff sustained a period of convalescence and healing of a number of months.
5. The Plaintiff will continue to suffer consequences of the injuries sustained as a result of the accident.
6. As a result of the accident the Plaintiff incurred medical expenses.
7. By reason of her injuries, the Plaintiff has sustained loss and damage.

### PARTICULARS OF SPECIAL DAMAGES

8. The Plaintiff claims for special damages in the sum of CI\$19,862.42 the particulars of which are as set out in the schedule attached to this Statement of Claim.
9. The Plaintiff has suffered pain and loss of amenities as a result of her injuries.
10. The above injuries were caused by the negligence of the Defendant or its employees.
11. The Defendant, as employer of the individual pushing the cart, is vicariously liable to the Plaintiff for injuries and damages caused by the negligence of its employee.

### PARTICULARS OF NEGLIGENCE

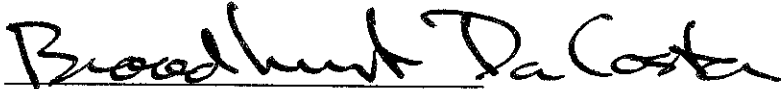
12. The Defendant or its employees:
  - a. Failed to keep a proper lookout;
  - b. Failed to keep the luggage cart under proper control;
  - c. Failed to take reasonable care to avoid an accident which he saw or should have seen the Plaintiff in the path of the cart;
  - d. Pushed or operated the cart in a manner that caused surprise and alarm to the Plaintiff;
  - e. Pushed or operated the cart in a manner that caused the Plaintiff to reasonably attempt to avoid a collision;
13. By reason of the said negligence of the Defendant and resulting accident, the Plaintiff has, continues to have and is expected to continue to have personal injuries and, accordingly, has suffered injury, loss and damage.

### AND THE PLAINTIFF CLAIMS FROM THE DEFENDANT:

- (a) SPECIAL damages;
- (b) GENERAL damages;
- (c) PRE-JUDGMENT interest in accordance with sec 34 of the Judicature Law (1995 Revision);
- (d) POST JUDGMENT interest in accordance with s 34 of the Judicature Law (1995 Revision);
- (e) FURTHER and other relief;

(f) COSTS.

Dated: January 18, 2000



BROADHURST DACOSTA  
Attorneys-at-Law for the Plaintiff

TO: Clerk of the Court

AND TO: Defendant

**STATEMENT REGARDING INTEREST**

- i. The prescribed rate of interest, during the period from January 24, 1997 through to January 31, 1998 was 8.375 per cent per year; from February 1, 1998 to December 31, 1998, was 7.875 per cent per year;
- ii. The prescribed rate of interest from January 1, 1999 is 7 per cent per year;
- iii. The date from which interest accrues on the medical expenses is January 1, 1998;
- iv. The date from which interest accrues on the general damages is January 24, 1997;
- v. The total interest on the special damages claimed as at the date of the issue of the writ of summons is C\$2451.00;
- vi. The amount of interest accruing each day following the issue of the writ is C\$3.80.

This Writ of Summons and Statement of Claim was filed by BROADHURST DaCOSTA, whose address for service is Broadhurst DaCosta, Attorney-at-Law, 40 Linwood Street, P.O. Box 2503, George Town, Grand Cayman, Cayman Islands, British West Indies, Attorneys for the Plaintiff.

SCHEDULE

**Mary Palencar - Damages Brief**

Dated	Description	Drugs	Accommodation and Travel	Medical Treatments	Other
Dec.1/96	Airline Ticket for travel on January 18th to 26, 1997 - Mary Palencar (US\$191.37)		\$160.75		
Dec.1/96	Airline Ticket for travel on January 18th to 26, 1997 - Mia Palencar (US\$191.37)		\$160.75		
Jan.14/97	Ross Dress for Less - Clothing (US\$72.14)				\$60.60
Jan.14/97	Hughes Family Market - Groceries (US\$58.66)				\$49.27
Jan. 24/97	DMERC Region (US\$723.60)			\$607.82	
Jan.26/97	Airline Ticket for January 31st, 1997 - Mia Palencar (US\$172.95)		\$145.28		
Jan.26/97	Airline Ticket for January 31st, 1997 - Mia Palencar (US\$100.00)		\$84.00		
Jan.26/97	Health Care Pharmacy	\$59.10			
Jan.24-31/97	International Long Distance Telephone Calls (US\$85.22)				\$71.58
Jan.24-31/97	Taxi to and from George Town Hospital		\$261.00		
Jan.27/97	Airline Ticket for January 31st, 1997 - Mia Palencar (US\$160.82)		\$135.09		
Jan.27/97	Airline Ticket for January 31st, 1997 - Mary Palencar (US\$160.82)		135.09		
Jan.29/97	Clothing Purchased - Had to stay extra week (US\$48.70)				\$40.91
Jan.29/97	Additional Clothing from Le Classique (US\$56.25)				\$47.25
Jan.29.97	Puritan Cleaners - Dry Cleaning (US\$42.54)				\$35.73
Jan.30/97	Cayman Islands Government Pharmacy	\$7.00			
Jan.30/97	Federal Express Ex-rays to California				\$27.00
Jan.31/97	Schaefers AMB SVC IN - Bill (US\$356.00)			\$299.04	
Jan.31/97	Sammy's Airport Inn - Hotel Bill (US\$1,172.59)		\$984.98		
Feb.1/97	Clothing (US\$88.74)				\$74.54
Feb.3/97	Host Marriott Retail, Austin Municipal Airport, Austin, Texas (US\$74.62)				\$62.68



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**PLAINTIFF**

**-and-**

**HYATT BRITANNIA CORPORATION LTD.**

**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 or otherwise participate in 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.

Yes

Service of the Originating Summons is acknowledged accordingly

(Signed) \_\_\_\_\_

[Attorney] for

[Defendant in Person]

Address for Service:

**Notes on address for service**

*Attorney: when 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 Island, 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 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:

Broadhurst & DaCosta  
Attorneys-at-Law  
40 Linwood Street  
P.O. Box 2503 GT  
Grand Cayman, Cayman Islands

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]

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. 495GT, 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 Acknowledgement 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 next page for notes for guidance.

Please complete next page

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. If you wish to defend claims made in the originating summons, or intend to attend the proceedings and to participate in them so far as necessarily (although not necessarily in an adversarial manner) you should tick the "Yes " box in paragraph 2 of the acknowledgment of service.
3. 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.
4. Where the Defendant is used 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 Originating Summons)".
5. 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.
6. 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.
7. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorized to act on behalf for the Company, but the Company cannot take any further step in the proceedings without an Attorney acting on its behalf.
8. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
9. A Defendant acting in person may obtain help in completing the form at the Courts Office