

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 313 OF 2001

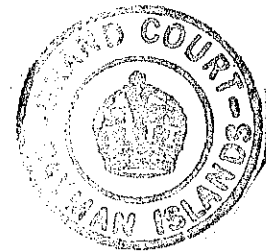
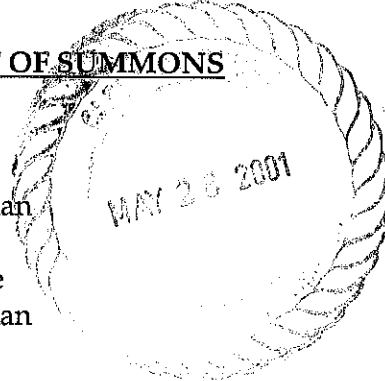
BETWEEN: ANGELA THOMAS Plaintiff

AND: (1) THE ATTORNEY GENERAL
(2) THE COMMISSIONER OF POLICE Defendants

WRIT OF SUMMONS

To: The Attorney General
George Town, Grand Cayman

And to: The Commissioner of Police
George Town, 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 fourteen [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 25th day of May, 2001

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. On the evening of Sunday 24 January 1999, the Plaintiff was attacked by her husband, Delroy Thomas ("Thomas"), outside her home at 148 Powell Smith Drive, West Bay ("the Property"). As a result of the attack, she suffered various injuries including:
 - (1) A laceration on the front of the head, two inches long and bone deep;
 - (2) A laceration on the back of the head, one and a half inches long and bone deep;
 - (3) A broken finger, part of which had to be amputated;
 - (4) A broken neck.

On 16 July 1999, Thomas pleaded guilty to causing grievous bodily harm and was sentenced to 10 years imprisonment.

2. Police officers were present throughout the attack. It is the Plaintiff's contention that, in the circumstances more particularly hereinafter pleaded, those police officers owed the Plaintiff a duty to take such steps as were reasonable to protect the Plaintiff from injury. In breach of that duty, those police officers failed to arrest Thomas or otherwise to intervene to prevent him from attacking, or continuing to attack, the Plaintiff. Had they intervened, it is likely that the Plaintiff would not have suffered the injuries, or all of the injuries, which she did suffer.
3. The police officers referred to are officers of the Crown which is responsible for their acts and omissions. The First Defendant is sued as representative of the Crown pursuant to the Crown Proceedings Law (1997 Revision). Alternatively, the police officers were servants or agents of the Second Defendant who is accordingly responsible for their acts and omissions.

4. Thomas left the Property on Friday 22 January 1999 following an argument with the Plaintiff. The Plaintiff remained in the Property with her 6 year old son. On Sunday 24 January, Thomas returned with a male friend to collect his things. Having left, he returned again shortly thereafter by himself. The Plaintiff refused to let him in and Thomas said that he would kick the door in if she did not open it. He again asked her to open the door stating that "she would be sorry tonight if she did not open it". The Plaintiff did not open the door whereupon Thomas went to the side door and picked up a bicycle chain. Thomas having returned to the front door, the Plaintiff left by a side door and went to the West Bay police station ("the Station").
5. At the Station, the Plaintiff explained the matters referred to in paragraph 4 above to a lady police officer ("the WPC"). On the instructions of Sergeant White, who was the only other officer then present and was about to leave the Station on other business, the WPC radioed a police car. Shortly thereafter, Thomas arrived at the Station. The Plaintiff asked the WPC to "arrest him or something". The WPC said that she could not because he had not done anything to the plaintiff. Three police officers arrived in a police car, dropped the Plaintiff at the Property and left. Thomas remained at the Station.
6. Shortly thereafter, Thomas returned to the Property and a further altercation took place between himself and the Plaintiff during the course of which:
 - (1) Thomas grabbed hold of the Plaintiff, picked up a pair of scissors and said that he was going to put them into the Plaintiff's throat and kill her;
 - (2) The Plaintiff's upstairs neighbours, Everton Spence ("Spence"), an off-duty policeman, and "Treddy" entered the Property and attempted to restrain Thomas;
 - (3) Spence called the police.

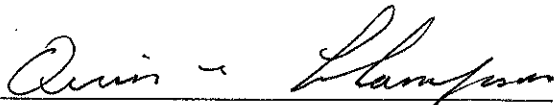
7. A police vehicle arrived containing three officers. At the time of their arrival:
 - (1) Thomas was outside the Property sitting on top of the Plaintiff with the scissors in his hand;
 - (2) The Plaintiff was screaming;
 - (3) A crowd had gathered in the road outside the Property.
8. On seeing the police arrive and get out of their vehicle, the Plaintiff shouted: "Police, come and get him off of me!" The officers did not respond either to the Plaintiff or to the continuing attack by Thomas but simply stood by their vehicle, watching. After a few minutes, they moved into the crowd.
9. Thomas then stabbed the Plaintiff in the head with the scissors and got off her. The Plaintiff got up and ran towards the front gate of the Property. Thomas picked up a wooden board and went after the Plaintiff hitting her on the back of the neck with it. The Plaintiff ran across the road towards the house of Ms. Eloise Hydes and fell in the road just outside Ms. Hydes' gate. Thomas attacked the Plaintiff with the board while she lay on the ground, hitting her on the front of the head, causing a laceration, and in the back. One blow connected with a finger. The Plaintiff got up but fell again. She has no further recollection of events until she was put into the police vehicle and taken to the Station and thence to hospital.
10. During the events pleaded in paragraph 9, Ms. Hydes, who had come out of her house as a result of the commotion, said to the police officers: "Officers, are you going to stand there and make him kill her?". Notwithstanding this and the events pleaded in paragraphs 8 and 9 themselves, the officers failed to arrest Thomas or attempt to restrain him in any way or attempt to protect the Plaintiff from his continuing attack.

11. In the premises, the police officers owed the Plaintiff a duty in the terms pleaded in paragraph 2 hereof and were in breach of that duty.
12. By reason of that breach, the Plaintiff has suffered loss and damage, namely, the injuries pleaded in paragraph 1 hereof.
13. The Plaintiff claims interest on any damages awarded, pursuant to Section 34 of the Judicature Law (1995 Revision) at such rate and for such period as the Court thinks fit.

AND the Plaintiff claims:

- (1) Damages;
- (2) Interest pursuant to section 34 of the Judicature Law (1995 Revision);
- (3) Costs.

DATED this 25th day of May, 2001


QUIN & HAMPSON
Attorneys-at-Law for the Plaintiff

To: The Clerk of the Court

And to: The First Defendant
The Attorney General
c/o Government Legal Department
Tower Building, George Town

And to: The Second Defendant
The Commissioner of Police of the
Royal Cayman Islands Police Force
Tower Building, George Town

FILED 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.

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 495G, 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

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 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.

BETWEEN: ANGELA THOMAS Plaintiff

AND: (1) THE ATTORNEY GENERAL
(2) THE COMMISSIONER OF POLICE Defendants

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

Service of the Writ is acknowledged accordingly

(Signed)

[Attorney] for

[Defendant in person]

Address for service:

Please complete overleaf

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.

Quin & Hampson
Attorneys-at-Law
Harbour Centre, Third Floor
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.

[Empty box for defendant's attorney indorsement]