



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

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

CAUSE NO. <sup>320</sup> OF 2001

MAY 29 2001  
BETWEEN  
AND

CHARMAINE JANET HAASE  
ATTORNEY GENERAL

PLAINTIFF  
DEFENDANT

SPECIALLY ENDORSED WRIT OF SUMMONS

TO: DEFENDANT Attorney General c/o *Mr. Sam Burgin, Minister General  
Legal Department, Tower Building, 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 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 *29* day of May 2001

NOTE - This Writ may not be served later than 4 calendar 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 employed by the Caymans Islands Government in the Health Service Ambulatory Care Department as a staff nurse.
2. At all material times the Defendant in light of the Cayman Islands Government has a duty to provide a safe place of work for its employees who are employed at and provide services for the purposes of George Town Hospital (the "hospital").
3. On or about the 31<sup>st</sup> of May 1998 the Plaintiff was working on the Surgical Ward, when a 17 year old male patient namely David Kramer was admitted. The patient appeared to be suffering from a seizure disorder. The patient was approximately five (5) feet nine (9) inches in height and weighed approximately 200 lbs. The patient was restless and during the assessment process made various attempts to remove an intravenous line from his arm.
4. The patient had been placed in a hospital bed by the ambulance officers and was being attended to by the Plaintiff and two other staff members namely, Karen Rankine and Michella Bush who were at the time a practical nurse and a ward assistant respectively.
5. It was decided to place the patient in a restraint but each time he would break loose from it. In order to prevent the patient from harming himself by removing a Urethral Foley catheter it was decided to put a diaper on him. Whilst performing this manoeuvre the patient was asked to lift his posterior off the bed which he did. The Plaintiff with the assistance of the two staff members was holding onto the diaper when without warning the patient deliberately placed his entire weight onto the diaper. The Plaintiff was caused to bear the entire weight of the patient and as a result felt that she had strained her lower back such that she felt immediate pain in it. The Plaintiff notified her immediate colleagues of what had happened.
6. The Plaintiff completed her duties that day and went home. The Plaintiff continued to feel pain and discomfort. As a result of the pain and discomfort that she was feeling she self prescribe panadol. By or about 2 June 1998 the Plaintiff's pain had increased in her lower back. She reported the matter to Dr. Sekhar on the same day who advised that in his opinion she should continue to take panadol. The Plaintiff spoke to Dr. Sekhar about her condition on 5 June 1998. He advised that in his opinion she should not sit too long, stand too long bend, lift, push or pull and again continue to take panadol and obtain physiotherapy. He diagnosed that the Plaintiff had a lumbo-sacral strain. Since the injury had persisted and appeared to get worse the Plaintiff formally reported her condition and what had caused it to her supervisor. An incident report was completed and handed to her employers on 6 June 1998.
7. The Plaintiff has suffered personal injury as a result of the negligence and/or breach of statutory duty of the Defendant, its servants or agents to provide a safe place of work for the Plaintiff.

### **PARTICULARS OF NEGLIGENCE**

- a) Negligently and/or in breach of the Labour Law, failing to ensure so far as reasonably practicable the health, safety and welfare at work of its employees.
- b) In the premises failure to take reasonable care for the Plaintiff's safety.

8. Shortly thereafter, the Plaintiff underwent unrelated abdominal surgery for the removal of fibroids and was permitted to take sick leave in order to recuperate. The Plaintiff used that time to travel to Canada.
9. On or about 13 July 1998 the Plaintiff flew to Canada. During the flight she experienced numbness in her right leg. On or about 19 July 1998 and whilst in Canada following various visits to a general practitioner, the Plaintiff was admitted to Scarborough Grace Hospital, Scarborough, Ontario, onto the emergency ward. She was prescribed sedatives and painkillers for pain that she was experiencing in her back and right leg and it was ordered that she have a CT scan after which she was discharged from the hospital that day.
10. On or about 4 August 2001 the Plaintiff returned to the hospital where she underwent a CT scan whilst at the Scarborough Grace Hospital, which showed, in short, that she had a herniated disc. It was recommended that she should have an MRI performed on her return to Grand Cayman.
11. The Plaintiff returned to Grand Cayman where she informed the various doctors who were treating her who were servants or agents of the Defendant of the finding and recommendation of Scarborough Grace Hospital. However, they recommended that she first undergo a course of physiotherapy. The Plaintiff continued to complain of pain in her lower back, pain in her right leg and loss of sensation to her toes in her right foot. She continued to insist that an MRI be performed on her.
12. On 19 October 1998 the Plaintiff had an MRI performed on her. The findings were that at L-5 to S-1 she had a large central and right para-central herniated disc with significant sac compression and compression of the existing and right S1 root. The Plaintiff is concerned that the delay in diagnosing her condition caused her to suffer undue pain and may have made her condition worse.
13. The Defendant, its servant or agents treated the Plaintiff negligently, in that it failed to provide adequate medical advice and treatment.

#### **PARTICULARS OF NEGLIGENCE**

- (a) In light of the Plaintiff's said history and of her said injury, her repeated complaints and the CAT scan examination, failing to recognise the real cause of the Plaintiff's pain and loss of sensation in her right leg, failing to have the Plaintiff examined by more experienced medical staff, treating the Plaintiff inexpertly;
- (b) Failing to monitor the Plaintiff's progress either properly or at all in the circumstances mentioned above.

14. The Plaintiff has suffered personal injury as a result of the negligence and/or breach of statutory duty of the Defendant, its servants or agents to provide a safe place of work and proper medical advice and treatment.

#### **PARTICULARS OF INJURIES**

- a. The Plaintiff's date of birth is 11 September 1954. Following the accident on 31 May 2001 the Plaintiff suffered an intervertebral disc prolapse that required a laminectomy. The back is now weak and vulnerable and the Plaintiff will always

be unfit for heavy manual work. There is a substantial loss of earning capacity in the labour market.

15. As a result of the Defendant's said negligence and/or breach of statutory duty the Plaintiff has suffered loss and damage.

**PARTICULARS OF SPECIAL DAMAGE**

Date	Description	Costs (CIS)
July 1998 to Aug. 1998	Chiropractic Treatment	171.00

AND the Plaintiff claims

(i) Damages

(ii) Further, pursuant to The Judicature Law (1995 Revision), the Defendant 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.

(iii) Costs



**BROOKS & BROOKS**

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

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

CAUSE NO. <sup>320</sup> OF 2001

BETWEEN  
AND:

CHARMAINE JANET HASSE  
ATTORNEY GENERAL

PLAINTIFF  
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.

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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 a 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

Address for service: (please see overleaf)

*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.*

C. H. Allen  
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.*