

**IN THE GRAND COURT OF THE CAYMAN ISLAND**

**CAUSE NO. 319 of 2001**

**BETWEEN: LOUIE MAE PARCHMENT**

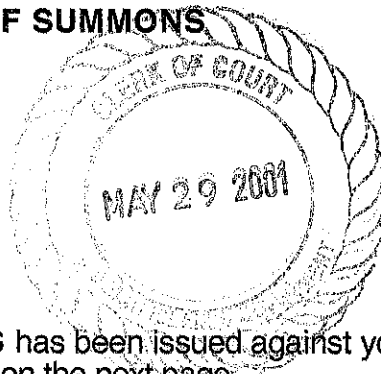
**PLAINTIFF**

**AND; WIMAR LIMITED**

✓  
**DEFENDANT**

**WRIT OF SUMMONS**

**TO; Winmar Limited  
c/o Myers & Alberga  
Attorneys At Law  
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 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 495 G, 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 Judgement may be entered against you forthwith without further notice.

Issued this                      day of May, 2001.

**NOTE:** This Writ may not be served later than 4 calendar months beginning with the date of the issue unless renewed by Order of the Court.

**IMPORTANT**

Directions for Acknowledgement of Service are given with the accompanying form

## STATEMENT OF CLAIM

1 The Plaintiff is a Caymanian who resides at West Bay, Grand Cayman. She was born on 18th October, 1946 and is therefore 54 years old.

2 The Defendant is a company licensed to carry on business under the laws of the Cayman Islands. It has its registered office at Myers & Alberga, Attorneys At Law. It is the owner and operator of a hotel, known as the Grand Cayman Marriott Beach Resort ("the Hotel") which is located on West Bay Road, Grand Cayman. The Defendant's insurers are Cayman General Insurance Co. Ltd.

3 The Plaintiff was, on or about 23rd June, 1997 employed by the Defendant as a chambermaid. She was later promoted in or about April, 1999 to Housekeeper whereby her duties included inspecting rooms and with gratuities she earned approximately CI\$1,100.00 to CI\$1,200.00 every fortnight. After the accident the Defendant's insurers and/or the Defendants paid the Plaintiff CI\$644.82 every fortnight until on or about October, 1999 at which time her salary was reduced to approximately CI\$200.00 per fortnight due to her being able to work half days only.

4 The Plaintiff was carrying out her duties inspecting rooms on the fourth floor at the Defendant's hotel on 14th June, 1999. On the fourth floor of the said hotel in the area directly in front of the elevator the floor finish is a tile surface which tiles lead off to a carpeted surface. This carpeted floor finish continues throughout the corridor where the rooms are located. On 14th June, 1999 as the Plaintiff was walking towards a set of rooms to conduct her inspection, whilst in the tiled area in front of the elevator, she slipped and fell on a wet floor. All areas other than the tiled area in front of the elevator are covered with carpet. Since the Plaintiff's accident the tiled floor surface in front of the elevator has been replaced with carpeting. When she fell, the Plaintiff fell on her left knee and as a result of the fall she was unable to stand or walk. Prior to the fall the Plaintiff was a known diagnosed diabetic on oral medications.

5 The Plaintiff had to be admitted to the George Town hospital as a result of injuries sustained during the fall and she was severely injured as a result of the accident. At the time of the accident the plaintiff was wearing the Defendant's regulation uniform:

### PARTICULARS OF INJURIES

- (a) A swollen, painful and tender left knee.
- (b) A comminuted fracture of the left patella and hemarthrosis.
- (c) A fractured left patella

On 15th June, 1999 after her general condition and diabetes were stabilised, the Plaintiff underwent surgery under anaesthesia. The surgery consisted of open reduction and internal fixation. Post operative recovery was uneventful and physiotherapy was commenced immediately after surgery. She was discharged from the hospital on 24th June, 1999 and arrangements were made for her to attend physiotherapy as an out patient and to be seen in a clinic as an out patient.

Staples were removed from the knee on 30th June, 1999 and it appeared that the wound was healing well. Further physiotherapy was advised .

As a result of her fall the Plaintiff sustained a fractured left patella. The patella had fragmented which made it impossible to put together into anatomical position, so that she was diagnosed with a very high risk of developing osteo arthritis of the knee. At the time it was also indicated that she would require a second surgical procedure to remove the hardware from her knee before full activity could commence and that a third surgical procedure would also be necessary for total knee arthroplasty depending on the development of osteo arthritis in the future.

(b) She returned to work part time on 1st October, 1999 on the advice of her doctor but the symptoms grew worse with her having severe pain in the knee. The hardware was removed from her patella on 18th November, 1999. Post operative recovery and wound healing continued well. She was advised to return to work on 10th January, 2000.

(c) Between 28th January, 2000 and 1st February, 2000 she returned to the hospital with symptoms of pain in the knee. X rays showed a healed fracture of the patella and some degree of disuse atrophy (osteopenia) at the knee. At this time she was advised by her doctor that she was unfit to continue working as a housekeeper which required her to be on her feet and walking throughout the day. The doctor also recommended that she should be given alternative duties which required her to sit and work for most of the time and he also advised that if such alternative employment was not available then the Plaintiff should retire from housekeeping.

(d) An alternative position was offered to the Plaintiff by the Defendant in its letter to her attorneys of 21st February, 2001. The alternative position was that of laundry attendant which duties included loading and unloading washers and dryers, folding linen/running linen through the ironer and stacking and sorting linens. The Plaintiff commenced these alternative duties on a part time basis in April, 2000.

In or about February or March 2001 the Plaintiff was able to commence full time employment with the Defendant in the alternative post of a laundry attendant. She still however, finds it difficult to perform these duties because of the amount of standing and/or walking which she is required to do. The Defendant has made allowances for this by allowing her to rest as and when she feels that it is necessary.

6 The Plaintiff's fall and injuries were the result of the Defendant's negligence:

### **PARTICULARS OF NEGLIGENCE**

(a) Failing to take any or any reasonable care to see that the Plaintiff would be reasonably safe in carrying out her duties at the Defendant's premises ;

(b) Failing to provide a safe place of work for the Plaintiff;

(c) Failing to take any or any adequate precautions for the safety of the Plaintiff while she was engaged upon her duties;

(d) Causing or permitting the Plaintiff to walk over a floor surface which was in a dangerous condition;

(e) Causing or permitting the floor to be and/or remain in a dangerous condition;

6 By reason of the Plaintiff's injuries and the negligence of and the breach of duty of the Defendant in providing an unsafe, hazardous and dangerous environment, the Plaintiff has been seriously and permanently injured and has thereby been put to expense and prejudice in the labour market and has suffered loss and damage.

### PARTICULARS OF SPECIAL DAMAGE

(a) Medical Expenses at the Cayman Islands Health Services Department to 8th February, 2000 (continuing) CI\$3,419.20

(b) Loss of Income : income previously paid at CI\$1,100 - CI\$1,200.00 per fortnight

(i) June, 1999 - October, 1999 paid CI\$644.82 per fortnight (\$1,100.00 - 644.82 = CI\$ 455.18 shortfall per fortnight)

4 months = 8 fortnights x CI\$455.18 = CI\$3,641.44

(ii) November, 1999 - December, 1999 paid CI\$200.00 per fortnight (CI\$1,100.00 - CI\$200.00 = CI\$ 900.00 x 2 fortnights = CI\$1,800.00

(iii) 10th January, 2000 (returned to work) - March, 2001 worked only part-time and received only CI\$200.00 per fortnight which is CI\$900.00 per fortnight shortfall (CI\$900.00 x 28 fortnights = CI\$ 23,200.00

Total Claimed (Loss of income) CI\$28,641.44  
(continuing)

(c) Payment for George town hospital's medical report 60.00

The Plaintiff although able to work, still requires medical attention and treatment so that her losses and damages are continuing.

The Plaintiff has suffered pain, suffering and loss of amenities and will continue to suffer such loss and damages.

Moreover the Plaintiff may develop osteo arthrisis and may well require homecare in the future.

The Defendant is liable for all damages suffered by the Plaintiff as a result of her fall set out herein.

The Defendant has refused to compensate the Plaintiff for her injuries.

**AND THE PLAINTIFF CLAIMS:**

- (1) Special damages in the amount of CI\$32,120.64  
(and continuing)
- (2) General damages
- (3) Pre-judgement interest in accordance with the provisions of the Judicature Law.
- (4) Post judgement interest in accordance with the provisions of the Judicature Law .
- (5) Further and/or other relief
- (6) Statutory Interest
- (7) Costs

Dated this 28<sup>th</sup> day of May, 2001.

*Brooks & Brooks*  
**BROOKS & BROOKS**  
Attorneys At Law for the Plaintiff

To: The Clerk of the Courts

And To: The Defendant  
c/o Myers & Alberga  
Attorneys At Law  
George Town  
GRAND CAYMAN

**THIS WRIT OF SUMMONS** was filed by Brooks & Brooks Attorneys At Law for and on behalf of the Plaintiffs herein whose address for future service of process is that of their said Attorneys At Law One, Artillery Court , P O Box 1355GT GRAND CAYMAN

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 319 of 2001

BETWEEN: LOUIE MAE PARCHMENT PLAINTIFF

AND: WIMAR LIMITED DEFENDANT

ACKNOWLEDGEMENT 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 judgement 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

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 judgement entered by the Plaintiff( Please tick box)

Yes

No

Service of Writ is acknowledged accordingly

Signed \_\_\_\_\_

Please complete oveleaf

(Attorney) for

(Defendant in Person)

Address for service:

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 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 the Plaintiff's Attorney (or by the plaintiff if suing in person) of his name, address and residence, if any in the box below

**Brooks & Brooks  
Attorneys At Law  
P O Box 1355 GT  
GRAND CAYMAN**

**(One, Artillery Court, George Town, Grand Cayman)**

Indorsement by the defendant's attorney (or by the defendant if suing in person) of his name, address and residence, if any in the box below