

STATEMENT OF CLAIM

1. The Defendant is and was at all material times the occupier of the premises known as Morritts Tortuga Club & Resort located in East End.
2. At all material times, the Plaintiff was an employee of the Defendant. The Plaintiff was employed by the Defendant (hereafter known as the "Employer") at Morritts Tortuga Club & Resort as a house keeper in the House Keeping Department. She commenced employment with the Employer in or about March 1999.
3. On 7 February 2000 the Plaintiff was on duty at her place of work. She commenced work at 9.00 a.m. and was due to finish work at 5.00 p.m.
4. The work was allocated by the supervisor, whose name is Rupert Scotchman. She had been allocated about 10 rooms to clean.
5. At or about 4.45 p.m. the Plaintiff had completed her duties. She went to the laundry room to punch her work card. When she arrived at the laundry room there were other members of staff already there. They had completed their duties and were waiting to punch their work cards at 5.00 p.m. Two of the employees, namely Kerry Henry and Anita Rankine, were sitting on chairs in the room.
6. The Plaintiff who is a diabetic felt that she should have something to eat. She sat down on the remaining chair. The Houseman, who is known to the Plaintiff as Oliver, entered the room and was carrying some linen. He asked the Plaintiff if she could move her chair to the corner of the room. The Plaintiff moved the chair as instructed to the corner of the room and resumed sitting on it. Whilst eating, suddenly and without warning the chair collapsed underneath her.
7. As a result of falling to the ground the Plaintiff has sustained an injury to her right hand and her lower back. She could not stand up and three staff members came to the Plaintiff's assistance and helped her to her feet.
8. The supervisor, who is known to the Plaintiff as Hose, had just finished using the bathroom which was adjacent to the laundry room. He entered the laundry room just as the Plaintiff fell to the ground. He took her to his office and wrapped her hand in a bandage and advised her to go to the doctor.
9. On leaving work the Plaintiff went to the clinic in Boddan Town. Her right hand became inflamed and she could not use it. The doctor gave her five (5) days sick leave. During that period she noticed a pain in her lower back.
10. When she returned to work the pain started to get worse so she attended the medical practice of Dr. Tomlinson. He examined the Plaintiff and indicated that she had suffered a soft tissue injury to her lower back. He referred her to a chiropractor where she underwent treatment for a period of three (3) months but her condition did not improve.
11. She suffered personal injuries to her right hand, across her shoulder and her lower back, and in consequence the Plaintiff sustained injuries, loss and damage.

PARTICULARS OF INJURIES

- a. The Plaintiff will rely on a report dated 4 March 2000 of Dr. S.A. Thomlinson, MB, BS, FRCS, LRCP which in short states that as a result of the work related fall the Plaintiff has suffered direct trauma to the lower back and right hand. The Plaintiff suffers from pain which has caused her considerable discomfort. The

pain may be as a result of the vertebrae resting on the spinal cord. Every day the Plaintiff has pain in her right side, down her right leg, in her lower back and in her neck. The pain is such that on sometimes the Plaintiff feels as though she is going to collapse onto her right hand side. The Plaintiff's sleep is disturbed as a result of the pain.

PARTICULARS OF SPECIAL DAMAGE

- a. The Plaintiff is still undergoing medical treatment and these items of special damage will be itemised in due course.
12. The injuries, loss and damage were occasioned to the Plaintiff by reason of the breach of the general duty of care under the Labour Law (1996 Revision) and (2001 Revision), section 56 and 58 respectively and/or by the negligence of the Defendant their servants or agents.

PARTICULARS OF NEGLIGENCE

- (a) Failing to take any or any reasonable care to see that the Plaintiff would be reasonably safe in using the premises.
- (b) Exposing the Plaintiff, whilst at her place of work, to a risk of damage or injury as a result of an unsafe chair of which they knew or ought to have known.
- (c) Failing to take any adequate or effective precautions to ensure that the chair safe and would not cause injury to the Plaintiff.
- (d) Causing or permitting the chair to become or to remain in an unsafe and dangerous state, in that it collapsed under pressure.
- (e) They failed to give the Plaintiff any or any sufficient warning of the state and the condition of the chair.
- (f) In the circumstances, failing to discharge the common duty of care to the Plaintiff in breach of the Act.

AND THE PLAINTIFF claims:

- (1) Damages;
- (2) Further, pursuant to The Judicature Law (1995 Revision), the Plaintiff 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.
- (3) Costs.



WOODWARD TERRY & COMPANY

THIS WRIT was issued by Clyde H. Allen whose address for service is Woodward Terry & Company, Attorneys-At-Law PO Box 822 GT, West Wind Building, Harbour Drive and Fort Street, Grand Cayman, Cayman Islands, BWI.

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