

IN THE GRAND COURT OF THE CAYMAN ISLANDS

799
CAUSE NO. OF 2003

BETWEEN:

PAULETTE MAY DUNCAN

Plaintiff

-AND-

CABLE & WIRELESS (CAYMAN ISLANDS) LTD.

Defendant

WRIT OF SUMMONS



TO: CABLE & WIRELESS (CAYMAN ISLANDS) LTD.
C/O Registered Office
3rd Floor, Leeward 4 Building
Safehaven Corporate Centre
P.O. Box 293 GT, Grand Cayman
Cayman Islands, B.W.I.

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, PO Box 495 GT, Grand Cayman, Cayman Islands, 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 December 2003

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 issued unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgement of Services are given with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiff was born on the 11th of December 1964 and resides at 56 Cyprus Road in George Town, Grand Cayman. She is a Cayman Status holder.
2. The Defendant is a company incorporated in the Cayman Islands, which does business as a telephone communications company. The Defendant and/or its subsidiaries are the sole telecommunications company in the Cayman Islands and are accordingly responsible for all of the telephone wires in the Cayman Islands.
3. On or about the 16th of December 2001 at approximately 6:30 am the Plaintiff was traveling in the back of a pickup truck along Eastern Avenue heading towards Shedden Road. As the truck passed through the vicinity of Morrisson's Plaza the Plaintiff was struck in the neck by a telephone cable, which was hanging across the street at a height of approximately 5-6 feet. The telephone cable struck the Plaintiff such that she was forcibly thrown to her back.
4. As a result the Plaintiff suffered personal injuries and pain and suffering and was driven to Chrissie Tomlinson Memorial Hospital where she received medical treatment.
5. The telephone cable across the road at a height of 5-6 feet obstructed the public roadway and constituted a public nuisance from which the Plaintiff has suffered actual loss and damage.
6. Further, or in the alternative, the accident was caused by the negligence of the Defendant.

Particulars of Negligence

- a) Failing to correctly install the telephone wires;
 - b) Failing to properly monitor the telephone wires;
 - c) Failing to take steps to remove the telephone wires;
 - d) Failed to take steps to warn the Plaintiff or the public in general of the low height of telephone wire;
 - e) The Plaintiff will rely upon the maxim *Res Ipsa Loquitur*.
7. By reason of the above nuisance and/or negligence, the Plaintiff suffered loss and damage.

Particulars of Injury

- f) Bruising and swelling to the right side of her neck;

- g) 6 inch long and 8mm wide graze to the neck;
- h) Injuries to her cervical spine and lumbar spine;
- i) Degenerative changes to the cervical and lumbar spine;
- j) Stiffness in neck and left shoulder region.

The medical advice thus far received by the Plaintiff indicates that the injuries to her back and neck are such that she can expect to have a much more rapid onset of degenerative problems than what would have occurred prior to the accident. The Plaintiff is presently still seeking further medical treatment and chiropractic care and further and better particulars of her injuries will be provided at the trial of this matter.

Particulars of Special Damage

The Plaintiff has incurred and continues to incur medical expenses and losses as a result of the accident. The Plaintiff is attempting to seek treatment for her injuries but is limited in the treatment she can seek due to the expense. The Plaintiff faces substantial future medical expenses and there is a high likelihood that her injuries may effect her ability to work in the future. The best particulars that can be provided with respect to the Plaintiff special damages so far are as follows:

a)	Chrissie Tomlinson Memorial Hospital	CIS 1,109.30
b)	Cayman Orthopedic Group	CIS 400.00
c)	Medication and X-Rays	CIS 117.48
d)	Chiropractic Care & Physiotherapy (as of August 22, 2003)	CIS 7,841.20
e)	Travel Costs seeking treatment (as of July 2002)	CIS 370.00
f)	Loss of Income	CIS 1,395.00
		CIS 11,232.98

The above is not a complete list of the Plaintiff's loss as the said loss is ongoing. Full particulars will be provided at the trial of this matter.

AND THE PLAINTIFF CLAIMS:

- (1) General Damages;
- (2) Special Damages;
- (3) Interest on the above damages pursuant to the Judicature Law (1995 Revision);
- (4) Costs of this action.

Dated this 8th day of December 2003

Broadhurst DaCosta

BROADHURST DaCOSTA

Attorneys for the Plaintiff

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

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgement 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, PO Box 495, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement 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 endorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2). The defence must be served within fourteen (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 endorsed on the Writ, the defence need not be served until fourteen (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 fourteen (14) days after his Acknowledgement, 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.

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement of Service and return it to the Courts Office.
2. For the purpose of calculating the period of fourteen (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 authorized to act on behalf of the Company, but the Company can take no further steps in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL HEALTH 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.

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CABLE & WIRELESS (CAYMAN ISLANDS) LTD.

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 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 see over leaf...

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 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.

Endorsement 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
PO BOX 2503 GT
GEORGE TOWN, GRAND CAYMAN
CAYMAN ISLANDS, BWI**

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