

IN THE GRAND COURT OF THE CAYMAN ISLANDS

42
CAUSE NO: OF 2004

BETWEEN:

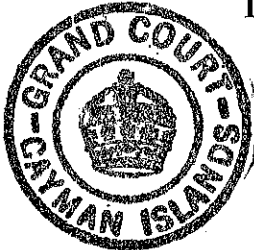
ALEXANDRA CLAIRE MCGHEE

PLAINTIFF

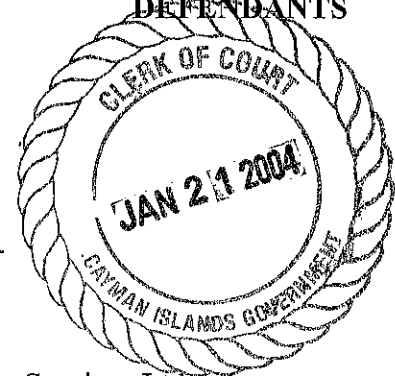
AND:

(1) PAUL ANNO AKAL
(2) PARAMOUNT MEDIA SERVICES
LTD.

DEFENDANTS



WRIT OF SUMMONS



TO THE DEFENDANTS:

(1) Paul Anno Akal
Apartment 17
Kentsville Drive
North Sound Road
George Town
Grand Cayman

(2) Paramount Media Services Ltd.
c/o Woodward Terry and Company
P.O. Box 1366 GT
Block A, 2nd Floor West Wind Building
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 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 21st day of January, 2004

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 Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiff is an individual born on 13th July 1976.

2. At all material times the First Defendant was the driver of an orange/blue Dodge Ram Quad Cab truck, registration VIBE FM, owned by the Second Defendant (“the Vehicle”) and was acting in the course of his employment of the Second Defendant.

3. At approximately 1:54 p.m. on 30th August 2003 the Plaintiff was using a call box on the pavement outside the Public Library on Edward Street, George Town when the First Defendant who was driving south along Edward Street negligently drove and/or failed to control the Vehicle so that he caused or permitted the same to collide with the Plaintiff, causing her to be thrown into the air leaving her to land on the ground.

4. The said collision was the result of the negligence of the First Defendant. The Second Defendant is vicariously liable to the Plaintiff for the negligence of the First Defendant, as the First Defendant was driving in the course of his employment.

PARTICULARS OF NEGLIGENCE

- (a) Failing to heed the wet conditions and to slow down appropriately
 - (b) Failing to keep a proper look out
 - (c) Driving without due care and attention
 - (d) Failing to have any or any adequate regard for pedestrians
 - (e) Failing to heed the Plaintiff's presence by the call box
 - (f) Failing to give any or adequate warning of his approach
 - (g) Failing to stop, to slow down, to steer, manage or control his vehicle so as to avoid colliding with the Plaintiff
 - (h) Failing to drive within his breaking distance
 - (i) Speeding
 - (j) Failing to heed the nature, condition and likely degree of use of Edward Street by pedestrians and vehicles at the time of the accident.
5. On Sunday, 31st August 2003 the First Defendant was arrested on suspicion of Dangerous Driving (speed) and Dangerous Driving (manner). The First Defendant was subsequently charged with Dangerous Driving (manner) contrary to section 68 of the Traffic Law (2003 Revision). The First Defendant has pleaded not guilty. In the event that the First Defendant is convicted of the said charge or any lesser or other offence the Plaintiff reserves the right to plead this fact as evidence of the First Defendant's negligence.

6. As a result of the First Defendant's negligence the Plaintiff has suffered serious personal injuries, loss and damages.

(a) The Plaintiff was aged 27 at the time of the accident. As a result of the accident the Plaintiff sustained a number of severe fractures to her upper right tibia. After the accident the Plaintiff underwent examination at the George Town Hospital and then an emergency operation to try and save her leg. At this time, the Plaintiff was told by a doctor that she could lose her leg. Between 30th August 2003 and 3rd September 2003 the Plaintiff stayed in George Town Hospital, in traction. On 3rd September 2003 the Plaintiff was transferred by Air Ambulance from Grand Cayman to the Atlanta Medical Center in Atlanta, the United States of America, so that further surgical stabilisation by means of open reduction and internal fixation could be performed. On 9th September 2003 the Plaintiff was transferred to the rehabilitation unit at this hospital where she received physiotherapy and occupational therapy. On 12th September 2003 the Plaintiff was discharged. The Plaintiff required on-going extensive care and therefore returned to the U.K. so that she could be looked after by her parents. In the UK, the Plaintiff required intensive physiotherapy twice weekly to promote movement of the knee and the ankle/foot. The Plaintiff also attended 7 consultations with a consultant surgeon. The Plaintiff's general practitioner also referred the Plaintiff to a counsellor because she was demonstrating symptoms of post-traumatic stress syndrome and thereafter the Plaintiff attended counselling sessions. It is possible that the Plaintiff will need to undergo further surgery in due

course in order to have the pins in her leg removed.

- (b) Further particulars of the injuries sustained by the Plaintiff and treatment received subsequent to the accident are provided in the reports from the Atlanta Medical Centre and a letter from the Plaintiff's physiotherapist, appended hereto as Appendix "1". The Plaintiff anticipates being able to provide a copy of the discharge summary from George Town Hospital, and reserves the right to adduce further expert evidence and/or medical reports regarding her injuries, the treatment received and long term prognosis, in due course. Scanned photographs of the Plaintiff's injuries are provided at Appendix "2". A photocopy of an X-ray of the Plaintiff's leg dated 14th November 2003 showing the pins inserted in her leg in order to heal the fracture is at Appendix "3". The Plaintiff's future prognosis and further medical treatment remains uncertain but it is reasonably anticipated that she will suffer loss of amenity as a result of the injury for the rest of her life.

7. Particulars of the Plaintiff's special damages are set out in the Schedule appended hereto marked Appendix "4".
8. The Plaintiff is entitled to and claims interest on general and special damages pursuant to the provisions of Section 34(1) of the Judicature Law (2002 Revision) at such rate as the Court thinks fit.

AND THE PLAINTIFF CLAIMS:

1. Damages as aforesaid.
2. Pre and post judgment interest in accordance with Section 34(1) of the Judicature Law (2002 Revision).
3. Costs.
4. Such further or other relief as this Honourable Court thinks fit.

STATEMENT REGARDING INTEREST
(GCR ORDER 6 RULE 2(f))

1. The prescribed rate of interest on the Plaintiff's claims for special damages are:-
 - (a) from 30th August 2003 to 31st August 2003 @ 4½%
 - (b) from 1st September 2003 to date @ 3%

2. The rate of interest claimed on the Plaintiffs' claim for general damages is 4%

INDORSEMENT REGARDING INSURER

(GCR ORDER 6 RULE 4)

1. The vehicle being driven by the First Defendant was insured by Motor and General Insurance Co. Ltd., P.O. Box 1094 GT, 320 Shedden Road, Grand Cayman and whose attorneys are Samson Murray Jackson, P.O. Box 10067 APO, Sigma Building, George Town, Grand Cayman (ref: Mr. Delroy Murray).

Dated the 21st day of January 2004

Filed the 21st day of January 2004

Campbells
CAMPBELLS, Attorneys at Law for the
Plaintiff

This Writ and Statement of Claim was filed by Campbells, Attorneys for Plaintiffs, whose address for service is Fourth Floor, Scotia Bank Building, George Town Grand Cayman. (JRM/MDJ/sec/10930).

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2004

BETWEEN:

ALEXANDRA McGHEE

PLAINTIFF

AND:

(1) PAUL ANNO AKAL

**(2) PARAMOUNT MEDIA SERVICES
LTD.**

DEFENDANTS

APPENDIX 1

MICHAEL PETTIGREW
Chartered Physiotherapist
Tel/Fax : 01254 245215

To Whom It May Concern:

15 November 2003

Re : Alex McGhee DOB : 13/7/76 Accident date : 30/8/03

Diagnosis : Comminuted Compound Fracture of the upper Tibia involving the articular surface. The fractures were secured by internal fixation devices.

This means : The upper part of the shin was broken in several places. There was also extensive damage to the soft tissues, eg skin, muscles, blood vessels and nerves. The breaks involved the knee joint as well as the bone. The breaks were fixed by using plates and screws as they were not stable enough to be treated in a plaster cast or by traction.

Treatment to date has consisted of intensive physiotherapy to promote movement at the knee and the ankle/foot. These joints have been very stiff and painful following the injury. Progress is slow but sure, in keeping with such a serious injury. It may take a year or more for full recovery to take place and for the breaks to fully heal. Physiotherapy will be ongoing until full movement at the knee and ankle is complete and normal activity can take place in the absence of pain.

Prognosis (long term outcome) is uncertain at this time. Alex is working very hard to help secure a good outcome and return to normal function.

'Heathfield' 244 Ramsgreave Drive, Blackburn, BB1 8LL.

Atlanta Medical Center



Patient Name: MCGHEE, ALEXANDRA
Hospital #: 0004934881
Physician: Eric S. Furie, M.D.
Surgery Date: 09/04/2003
Admit Date: 09/03/2003

Preoperative Diagnosis:

1. Open right bicondylar tibial plateau fracture.
2. Status post calcaneal contraction.
3. Status post open reduction and internal fixation right tibia.

Postoperative Diagnosis:

1. Open right bicondylar tibial plateau fracture.
2. Status post calcaneal contraction.
3. Status post open reduction and internal fixation right tibia.

Procedure:

1. Open reduction and internal fixation right open bicondylar tibial plateau fracture.
2. Removal of traction pin, right calcaneus.
3. Removal of implants, right tibia.
4. Irrigation and debridement, right tibial plateau fracture.

Surgeon: Eric S. Furie, M.D.

Assistant: Richard E. Alexander, M.D.

Findings: Appropriate reduction and internal fixation right tibial plateau fracture as per interoperative fluoroscopy.

Complications: None.

Drains: One.

Estimated Blood Loss: 200 cc.

Disposition: The patient arrived to the recovery room in stable condition.

Operative Procedure: After appropriate general anesthesia was established, the right lower extremity was prepped and draped in the usual sterile fashion. A bolt cutter was used to cut the calcaneal traction pin and a hand drill was used to remove it from the opposite side. All sutures were removed from the prior incision and open wound of the proximal tibia. Serosanguinous

ATLANTA MEDICAL CENTER

PT: MCGHEE, ALEXANDRA
MR #: 0004934881

drainage and hematoma was removed. Both condyles of the tibial plateau were noted to be exposed down to bone. At this point in time, using the appropriate large screw driver, the screws were removed from the medial aspect of the tibial plateau along with the plate. 6 liters of normal saline pulsatile lavage were then irrigated through the wound. The fracture was debrided of hematoma. The skin, subcutaneous tissue, and muscle required a small amount of debridement for avascularity. At this point in time, the right lower extremity was exsanguinated, tourniquet was elevated to 300 mmHg. The tibial tubercle was noted to be part of a large fragment that was repaired with two 3.5 mm lag screws placed from anterior to posterior. A posterolateral fragment with cortical section and a large cancellous piece was also lagged from front to back. After these screws were placed, the appropriate length Synthes fixed angle plate was chosen and applied temporarily to the lateral aspect of the tibia. Dissection laterally was only slightly increased from that with which the patient came in with in order to allow the tibial plate to be brought posteriorly as far as necessary. After plate positioning was checked under fluoroscopy in the AP and lateral views and after the meniscal tibial ligament was incised anteriorly in order to allow visualization of the articular surface noting that it was in appropriate position although comminuted anteriorly, the three guide-wires in the proximal part of the plate were placed parallel to the joint surface. Then, three screws including one initial lag screw followed by placement of two locking screws were placed through this plate. It should be noted that prior to any of these screws being placed, the temporary lag device was used to hold the shaft part of the plate down to the shaft of the bone. A lag screw was then placed distally in order to bring the plate down to the bone and then three fixed angled screws were placed through the plate including one through the most distal hole. The wound was once again copiously irrigated, fluoroscopy was used to verify appropriate alignment of the fracture in multiple planes. The meniscal tibial ligament was reapproximated as well as the iliotibial band using interrupted absorbable suture. A deep drain was then placed. The anterior compartment was left open in order to prevent the compartment syndrome from forming. The skin and subcutaneous tissues were reapproximated with nylon vertical mattress sutures. Nonadherent dry, sterile dressings were applied, and the patient was brought to the recovery room in stable condition.

Eric S. Furia, M.D.

711985

DD: 09/04/2003 20:20:15 DT: 09/05/2003 15:15:54

Operative Report

PAGE 2 of 2

Atlanta Medical Center



Patient Name: MCGHEE, ALEXANDRA
Hospital #: 0004934881
Physician: Vernon J. Henderson, M.D.
Discharge Date:
Admit Date: 09/03/2003

Admitting Diagnosis: Right tibia fracture.

Discharge Diagnosis: Status post open reduction internal fixation of right tibial plateau fracture.

Consults: Orthopedics--Eric S. Furie, M.D.

History And Physical: See admission History & Physical but briefly the patient was a 27-year-old female transported by air from the Cayman Islands secondary to a motor vehicle accident versus pedestrian. The patient suffered a right tibial fracture which was subsequently repaired in the Cayman Islands by ORIF. No other injuries were noted at that time. The patient was transferred to AMC for further evaluation and repair of her right tibia fracture.

Past Medical History: None.

Past Surgical History: Status post ORIF x4 days ago of the right tibia.

Medications: Flagyl and OCP.

Physical Examination: The patient was pleasant. Lungs were clear to auscultation bilaterally. She had a regular rate and rhythm of chest. Abdomen: Soft, nontender with positive bowel sounds. Extremities: The right leg was in a cast with calcaneal pin in place. She had +2 distal pulses. Toes were noted to move up and down and sensation was intact. The patient had an x-ray performed which noted a spinal fracture of the right tibia with internal fixation in place.

Hospital Course: On September 4, 2003 the patient underwent ORIF of the right tibial plateau fracture. For more details please see operative note. The patient tolerated the procedure well and was further evaluated for postoperative care with no complications. The patient underwent consult from PT/OT who helped with ambulation and preparing the patient for rehabilitation transfer. On September 9, 2003 the patient was transferred to the acute rehab facility for further evaluation and rehabilitation of that right tibia.

Disposition: The patient will be discharged to the acute rehab center in good condition.

Atlanta Medical Center



Patient Name: MCGHEE, ALEXANDRA
Hospital #: 0004934881
Physician: Ernest Lee Howard, M.D.
Discharge Date: 09/12/2003
Admit Date: 09/09/2003

Disposition: The patient is discharged tentatively back to England via commercial air flight, first class to accommodate her tibial plateau fracture and medical necessity of keeping her leg straight and elevated throughout the flight. She is discharged on Coumadin 1 mg p.o. q.d. for 13 days, Duragesic patch 25 mcg patch every 72 hours, two boxes of five patches, Percocet 5 mg 1-2 tablets p.o. q.4h. p.r.n. The patient was given a medical summary of her events at Atlanta Medical Center. Her ORIF and tibial plateau fixation/debridement was performed by Dr. Eric Furie.

The patient was maintained on Keflex while on inpatient rehabilitation. At the time of discharge she will be given Keflex 500 mg tabs one p.o. q.i.d. for an additional five days.

Discharge Medications: Which were obtained prior to her flight include Duragesic patch, Percocet, Coumadin and Keflex. She is in agreement with the above plan. She received Ancef for the three days she was on inpatient rehabilitation and this was transitioned to Keflex. She was started on Zoloft 25 mg once a day but the patient demonstrated much improvement with her anxiety and depression obviously and appropriate reactive depression to her situation and injuries. This is optional post discharge and was not written at the time of discharge due to her returning back to England, the patient is in agreement with the above plan.

Ernest Lee Howard, M.D.

717628

DD: 09/11/2003 09:04:52 DT: 09/12/2003 15:00:55

ATLANTA MEDICAL CENTER

PT: MCGHEE, ALEXANDRA
MR #: 0004934881
Clinical Resume

Follow Up: The patient will continue evaluation in the acute rehab center and then be transferred back to the Cayman Islands. The patient may follow up as needed.

Vernon J. Henderson, M.D.
Dictated by: Dr. Methodius-Ngwodo

715931

DD: 09/09/2003 17:08:38 DT: 09/10/2003 13:14:29

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ALEXANDRA McGHEE

PLAINTIFF

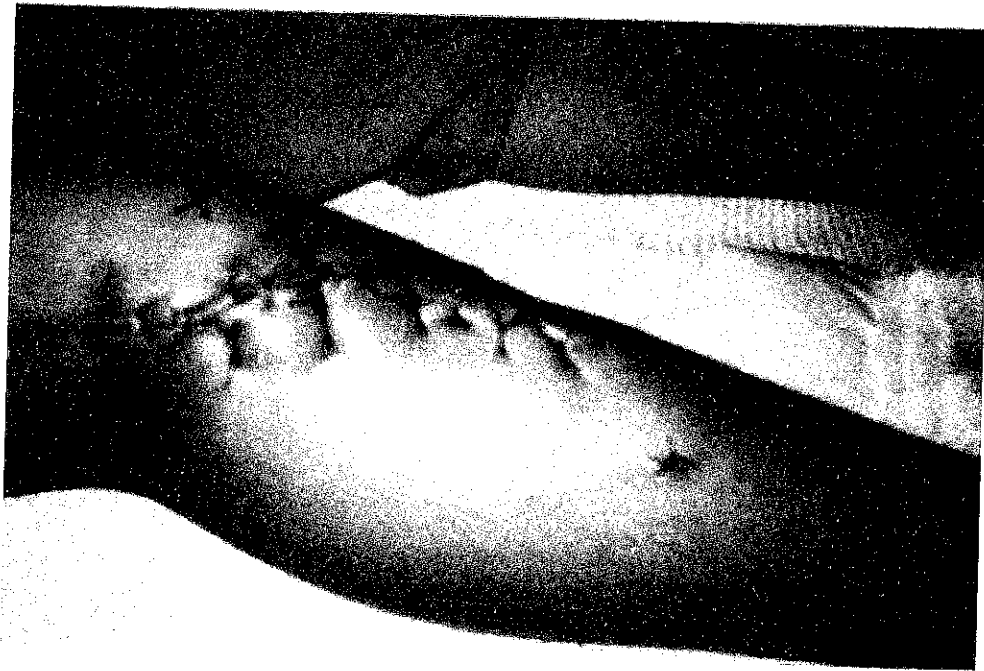
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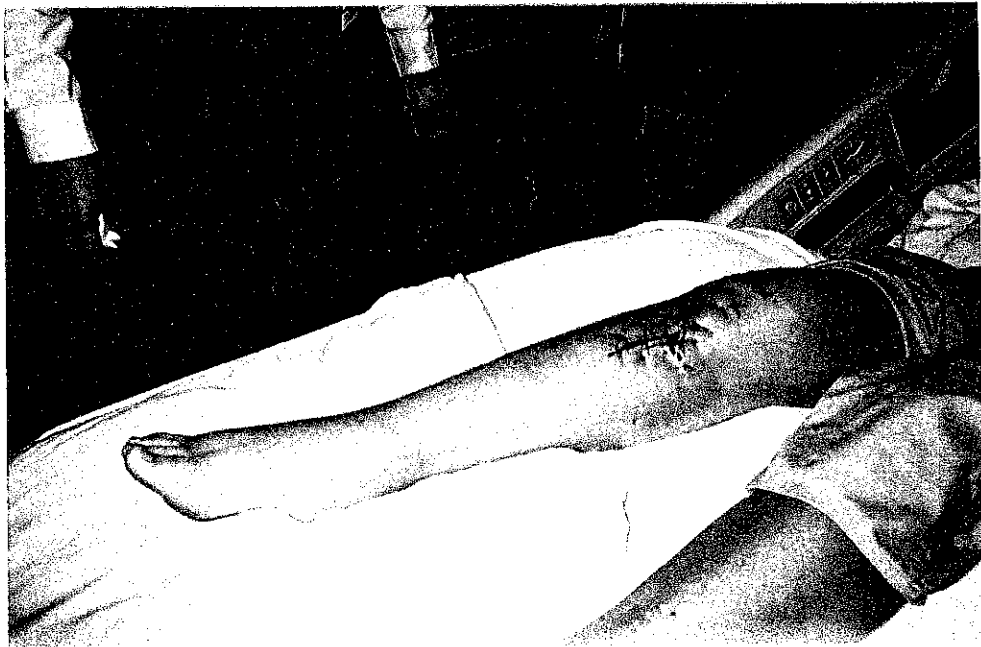
(1) PAUL ANNO AKAL

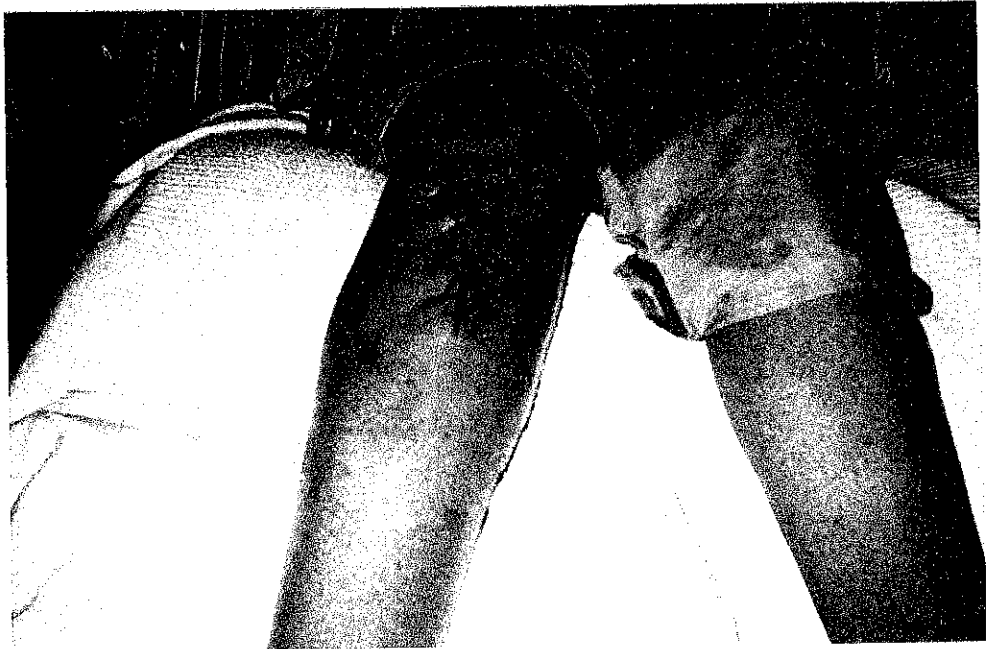
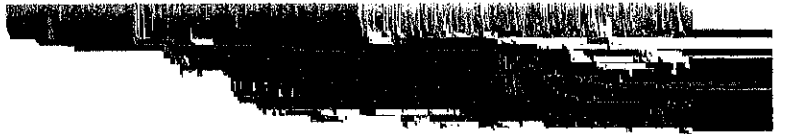
**(2) PARAMOUNT MEDIA SERVICES
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DEFENDANTS

APPENDIX 2







IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2004

BETWEEN:

ALEXANDRA McGHEE

PLAINTIFF

AND:

(1) PAUL ANNO AKAL

**(2) PARAMOUNT MEDIA SERVICES
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DEFENDANTS

APPENDIX 3

MC GEE, ALEXANDER CLAIR
Q1091856
QPP 13 11 2003
WRIGHTS HOSPITAL

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2004

BETWEEN:

ALEXANDRA McGHEE

PLAINTIFF

AND:

(1) PAUL ANNO AKAL

**(2) PARAMOUNT MEDIA SERVICES
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DEFENDANTS

APPENDIX 4

SCHEDULE OF SPECIAL DAMAGES UP TO 19TH JANUARY 2004

Loss of Earnings:

Salary:

Month

September 2003	US\$4,400.00
October 2003	4,400.00
November 2003	4,400.00
December 2003	4,400.00
January 2004 (until 15.01.04)	<u>2,233.44</u>
Total	19,833.44

Pension contribution by the Plaintiff's Employer

September 2003	220.00
October 2003	220.00
November 2003	220.00
December 2003	220.00
January 2004 (until 15.01.04)	<u>110.00</u>
Total	990.00

Overtime

September 2003	1,550.00
October 2003	1,550.00
November 2003	1,550.00
December 2003	1,550.00
January 2004 (until 15.01.04)	<u>775.00</u>
Total	6,975.00

Loss of Plaintiff's mother's paid holiday entitlement
due to the need to take time off work to care for the
Plaintiff (gross)

GBP£1,327.97

Grand Total

GBP£1,327.97

US\$27,798.44

Medical Expenses:

Treatment in Grand Cayman:

Details to be provided in an amended schedule.

Treatment in Atlanta:

US\$62,874.53

Prescription Charges up to 14.01.04:

US\$ 289.41

GBP£ 10.90

GBP£ 6.30

GBP£ 18.90

GBP£ 12.60

GBP£ 6.30

GBP£ 6.30

GBP£ 12.60

GBP£ 18.90

GBP£ 18.90

Total:

GBP£111.70

Consultant's Fees

GBP£690.00

Physiotherapy (until 5.01.04):

GBP£720.00

Wheelchair hire (£20 for approximately
10 weeks (no National Health Service
wheelchairs available)

GBP£200.00

Grand Total

GBP£1,721.70

US\$63,163.94

Travel Costs:

Air Ambulance from Grand Cayman		US\$11,529.00
Return airfare for Ms. Samantha Bull, who accompanied the Plaintiff via air ambulance from Grand Cayman to Atlanta		US\$ 646.90
Expenses incurred by Ms. Samantha Bull (food & Beverages, transport, ATM charges)		US\$ 53.43
Return airfare for the Plaintiff's parents (Manchester UK to Atlanta USA)	GBP£1,153.00	
Amendments to plane tickets		US\$ 236.00
Single airfare for the Plaintiff (Atlanta USA to Manchester UK)		US\$ 4,337.00
Taxi fares		US\$ 85.00
Return airfare for the Plaintiff (Manchester UK to Grand Cayman)	GBP£ 722.00	
Return airfares for the Plaintiff's parents: (It was necessary for them to travel to Grand Cayman in order to assist the Plaintiff)	GBP£1,444.00	
Grand Total	GBP£3,319.00	US\$16,887.33

Additional Clothing:

Nightwear (to wear in hospital in Atlanta) US\$ 149.76

Clothing to travel home in US\$ 201.16

Clothing/underwear in UK (Plaintiff has no
Clothes in the UK as she does not maintain a
home there) GBP£1,073.53

Grand Total GBP£1,073.53 US\$ 350.92

Miscellaneous Expenses:

Bag to carry bone stimulator home		US\$ 19.99
Disposable camera	GBP£ 9.35	
Cash withdrawn and spent by the Plaintiff's Mother whilst in Atlanta on, <i>inter alia</i> , food and beverages	GBP£ 600.57	
Cost skiing holiday deposit (2 x £95.00 for the Plaintiff and a friend)	GBP£ 190.00	
Postage (Parcel Force)	GBP£ 43.40	
Telephone calls to Grand Cayman	GBP£ 220.27	
Gym membership (given necessity for Plaintiff to attend gym on a regular basis to exercise her leg)		US\$ 236.25
Grand Total	GBP£ 1,063.59	US\$ 256.24

Non-Exclusive List of Further Claims, details of which will be provided in an amended schedule:

- 1) Further Payment of holiday and/or lost wages for the Plaintiff's parents. Due to the severity of the Plaintiff's injuries it was necessary for them to take time off work to care for the Plaintiff.
- 2) Payment in respect of the gratuitous care provided by the Plaintiff's parents.
- 3) Mileage Claims in respect of car journeys made by the Plaintiff's parents to take the Plaintiff to inter alia her physiotherapist, consultant orthopedic surgeon, general practitioner and practice nurse.
- 4) Cost of taxi to and from work in Grand Cayman.
- 5) Plaintiff's UK accommodation costs.
- 6) Potential UK tax liability.
- 7) Loss of Plaintiff's holiday entitlement.

SUMMARY OF SPECIAL DAMAGES CLAIMED
UP TO 19TH JANUARY 2004

	£	US\$
Loss of Earnings (Page 1 of Schedule of Special Damages)	1,327.97	27,798.44
Medical Expenses (Cayman Islands) (Page 2 of Schedule of Special Damages)		Details to follow
Medical Expenses (USA) (Page 2 of Schedule of Special Damages)		63,163.94
Medical Expenses (U.K.) (Page 2 of Schedule of Special Damages)	1,721.70	
Travel Costs (Page 3 of Schedule of Special Damages)	3,319.00	16,887.33
Clothing (Page 4 of Schedule of Special Damages)	1,073.53	350.92
Miscellaneous Expenses (Page 5 of Schedule of Special Damages)	1,063.59	256.24
TOTAL SPECIAL DAMAGES	8,505.79	108,456.87