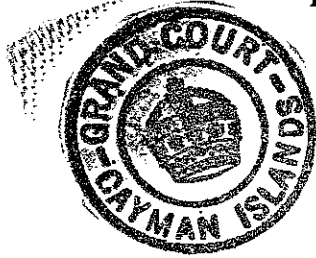


IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: <sup>56</sup> 2004

BETWEEN:

LEONORA MASTIN



AND

ATTORNEY GENERAL OF THE CAYMAN ISLANDS.

Defendant

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WRIT OF SUMMONS

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TO: The Attorney General of the Cayman Islands  
Government House  
George Town  
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 495 GT, George Town, Grand Cayman, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

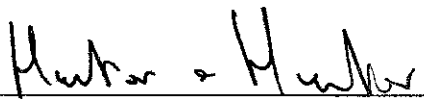
If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the

proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 23<sup>rd</sup> 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 issue unless renewed by order of the Court.

**IMPORTANT**- Directions for Acknowledgement of Service are given with the accompanying form.



A handwritten signature in cursive script, appearing to read "Hunter & Hunter", is written above a horizontal line.

HUNTER & HUNTER

THIS WRIT was issued by Hunter & Hunter Attorneys-at Law for the Plaintiff, whose address for service is The Huntlaw Building, 75 Fort Street, P.O. Box 190 GT, Grand Cayman, Cayman Islands, (Ref. WS/09648.001).

Acknowledgement of service of writ of summons (O.12, r.3)

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE  
OF WRIT OF SUMMONS

1. The accompanying form of *Acknowledgment 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, P.O. Box 495G, George Town, Grand Cayman.

2. A Defendant who states in his *Acknowledgment 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 indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 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 indorsed on the Writ, the Defence need not be served until 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 14 days after his *Acknowledgment*, 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 instalments or otherwise.

*See over for notes for guidance*  
*Please complete overleaf*

## 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 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 authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a **MINOR** or a **MENTAL 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. <sup>56</sup> OF 2004

BETWEEN: LEONORA MASTIN PLAINTIFF

AND: ATTORNEY GENERAL OF THE DEFENDANT  
CAYMAN ISLANDS

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 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

[Defendant in person]

Address for service:

*Please complete overleaf*

**Notes on address for service**

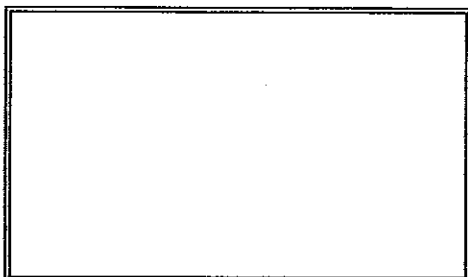
Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

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 communication 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.

Hunter & Hunter  
Attorneys-at-Law  
The Huntlaw Building  
75 Fort Street  
P.O. Box 190  
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.



IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: <sup>56</sup> OF 2004

B E T W E E N:

LEONORA MASTIN

Plaintiff

AND

ATTORNEY GENERAL OF THE CAYMAN ISLANDS

Defendant

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STATEMENT OF CLAIM

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**The Parties**

1. The Plaintiff at all material times was a citizen of the United Kingdom whose address is H87 Beresford Avenue, Skegness, Lincolnshire, England. The address for service is in care of her Attorneys, Hunter and Hunter, PO Box 190, Fort Street, George Town, Cayman Islands.
2. As of 15 March 2002, the date of the accident, the Plaintiff was 55 years of age having a birth date at 15<sup>th</sup> May 1947.
3. The Defendant is the Attorney General of the Cayman Islands. The premises upon which the accident occurred and the averments set out in the Plaintiff's claim relate to the property and conduct of the Cayman Islands Government. In accordance with the Crown Proceedings Law (1997 Revision) the named Attorney General is the required Defendant.

4. The Crown is the registered proprietor of the property where the accident took place, namely Registration Section West Bay North West Block 4E Parcel 455 (hereinafter described as "the Property"). As of March of 2002, the Property was operated and maintained by the Cayman Islands Government.

### **The Accident**

5. The Plaintiff received serious injuries in an accident when visiting a Cayman Islands tourist attraction.
6. The Plaintiff and her husband were passengers on the Royal Caribbean Cruise Lines ship, "Enchantment of the Seas", for a cruise intended to be from 3rd March 2002 to 18 March 2002. The Plaintiff and her husband reside in the United Kingdom and travel to and from the UK was specifically to take the cruise.
7. On 15 March 2003, the stated ship harboured at George Town, Cayman Islands. The operators of "Enchantment of the Seas" invites local tour operators and taxi drivers to ferry passengers to various Cayman Islands tourist attractions, including the Hell Post Office in West Bay, Grand Cayman, (the "Attraction"). Once ashore, the Plaintiff along with her husband chose an island tour with a local taxi driver, and the Attraction was to be the first stop on this tour.
8. The Attraction is managed by the Lands and Survey Department, a department of the Cayman Islands Government, (the "Department"), and the Department is responsible for planning, construction, maintenance and site supervision in relation to the Attraction. Retail shopping and snack facilities at the site are leased out to various Caymanian business entities.
9. As the Department is part of the Cayman Islands Government, by virtue of s.3 of the Crown Proceedings Law (1997 Revision), the Crown represented by the Attorney General, is subject to liabilities in tort, and as such, requires that civil proceedings be issued in the name of the Attorney General as Defendant

10. On Friday 15<sup>th</sup> March 2002, at approx 11:30 am, the Plaintiff was an invitee to the Attraction, when she slipped and fell, receiving *inter alia* serious injuries to her arm, necessitating emergency treatment at the George Town Hospital. The details of the accident are as set out below.
11. The Plaintiff was returning to the car park after viewing the volcanic rock attraction behind the gift shop/post office located on the Property, when walking on the sidewalk between two buildings in the direction of the car park (the "Passageway"), she tripped due to an unmarked drop in the elevation between the sidewalk and the parking area surface. The difference in elevation of approx 1" was not immediately visible to the Plaintiff due to:
  - a. Large numbers of tourists congregate or move back and forth in the Passageway area, which was the main pedestrian thoroughfare between the volcanic rock attraction to the rear of the retail buildings, and the car park.
  - b. The Passageway narrows at or near the point of the drop in elevation which in itself creates pedestrian traffic congestion;
  - c. There are no warning signs of the drop in elevation;
  - d. Merchandise on display in or near the passageway area also creates distractions to pedestrians using the passageway.
12. The Plaintiff attempted to arrest a fall but was unable to do so and which resulted in her falling on her back with her left elbow underneath her, the elbow striking the raised edge of a section of the sidewalk.
13. The rough concrete edge of the sidewalk tore through the flesh of the Plaintiff's left elbow, severely damaging tissue and ligaments, and causing immediate trauma and substantial blood loss. It was later confirmed that the Plaintiff's bone was broken above the elbow
14. There was no first aid post at the Attraction, and a fellow tourist who was a British Army paramedic, rendered first aid until an ambulance could arrive from the capital George Town.

15. The said accident, injuries, loss and damage suffered by the Plaintiff, was solely caused by the negligence of the Department, its servants and or agents for which the Defendant is liable.

### **Particulars of Negligence**

16. The Department, and therefore the Crown, its servants, employees or agents were negligent in that:
- (a) It failed to take adequate steps or at all to make the Attraction safe and free from danger to the tens of thousands of visitors to the Attraction on an annual basis.
  - (b) It permitted or maintained a design and construction of the pedestrian walkways at the Attraction that had an unsafe sharp change in elevation of approximately 1" in a busy portion of the pedestrian Passageway sidewalk.
  - (c) It permitted the erection of stands and commercial promotions which contributed to the congestion in the Passageway and created further distractions to users of the Passageway.
  - (d) The said raised concrete shaved edge of the sidewalk against which the Plaintiff fell, was not adequately smoothed off, leaving rough uneven concrete fragments exposed.
  - (e) Failed to take reasonable steps to monitor or supervise the movement of thousands of tourists invited to the Attraction for possible hazards and accidents, and failed to provide adequate first aid facilities.
  - (f) Failed to provide signage, and or other forms of warning notice to visitors, in order to better inform invitees to the Attraction of the potential danger posed by the differences in walking elevation.

- (g) Failed in the premises to take reasonable care for the Plaintiff's safety, or to provide a safe and secure area for the movement of large numbers of tourists at the Attraction, many of whom are elderly or have ambulatory difficulties.

### **Treatment**

17. Following first aid administered by another invitee to the Attraction, the Plaintiff was transported to the George Town Hospital for emergency treatment. The Plaintiff was informed by medical staff that the broken bone had missed the main artery by less than 1".
18. On leaving George Town Hospital, the Plaintiff and her husband were provided with emergency seats on a flight to the UK where she underwent two further operations on her left elbow at Pilgrim Hospital, Boston, Lincolnshire, England, the first operation to repair the wound, and the second to remove 'debris' which had invaded the wound area as the Plaintiff's elbow struck the sidewalk at the Attraction.
19. The operations were followed by extensive out patient treatment over several months at Pilgrim Hospital, to remove plaster, change dressings and weekly visits for physiotherapy and consultations with the surgeon.
20. The Plaintiff's elbow did not satisfactorily heal following these procedures and was diagnosed as unstable. A referral was then made to a specialist in orthopaedics at the Pilgrim Hospital with particular expertise in joint trauma.
21. The Plaintiff received further and continuing care from a Consultant Orthopaedic Surgeon, Dr. Rajiv G Deshmukh, of Pilgrim Hospital, Boston, England, who recommended further surgery including a bone-graft in January 2003.
22. Further surgery was conducted in November of 2003 to remove debris caused by the bone graft the long term success is not known as of the date of the commencement of this proceeding.

23. Additional surgery is likely over the near future and the general consensus appears to be that no matter how many operations are conducted and even if the damage to the elbow does eventually heal, the Plaintiff will never fully regain full movement of her arm.
8. By reason of the matters aforesaid the Plaintiff suffered pain and injury and sustained loss and damage, and continues to do so.

#### **Particulars of Plaintiff's Injury**

24. The Plaintiff has sustained the following injuries and treatment:
  - a. Torn ligaments and broken left arm;
  - b. Massive bruising to her upper left thigh;
  - c. A deep laceration to her lower right stomach area above the hipbone;
  - d. Scarring to the injured areas;
  - e. Loss of mobility and dexterity

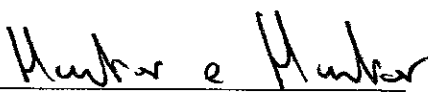
#### **Special Damages**

20. As a result of her injuries, the Plaintiff has or will incur loss either on her own behalf or will claim on behalf of those providing assistance to her, as follows:
  - a. Medical expenses incurred for the treatment of the injury;
  - b. Expenses incidental to the obtaining of medical treatment;
  - c. Loss of employment income from the date of the accident until her intended retirement date.

- d. Loss of business income due to the Plaintiffs absence from the family business and the resulting premature closure of the business resulting from the Plaintiff's inability to work;
  - e. Expenses of modifications to the family residence to facilitate the Plaintiffs reduced mobility;
  - f. Loss of vacation;
  - g. Claims for unpaid assistants on the behalf of those providers;
21. Full particulars of the Special Damages will be provided upon particulars being fully known to the Plaintiff and in any event prior to trial.
22. The Plaintiff will contend at the trial that by reason of the injuries she will suffer a serious disadvantage in seeking any kind of employment possibilities suitable for her age, and will likely never be able to straighten her left arm again, or lift objects heavier than 2lb.
23. Further the Plaintiff claims interest pursuant to Section 34 of the Judicature Law (1995 Revision) on the damages to be awarded at such rate and for such period as the court shall think fit.

AND the Plaintiff claims:

- (1) General damages for pain and suffering and loss of amenities.
- (2) Special damages, details of which are to be provided prior to trial.
- (3) Interest as aforesaid.
- (4) Costs.

  
HUNTER & HUNTER  
Attorneys-at-Law for the Plaintiffs'

Dated: 23<sup>rd</sup> January 2004

To: The Clerk of the Court

And to: The Attorney General of the Cayman Islands  
Government House  
George Town  
Grand Cayman

THIS STATEMENT OF CLAIM was filed by Hunter & Hunter, Attorneys-at Law for the Plaintiff whose address for service is The Huntlaw Building, 75 Fort Street, P.O. Box 190 GT, Grand Cayman, Cayman Islands (Ref WS/09648.001).