

IN THE GRAND COURT OF THE CAYMAN ISLANDS

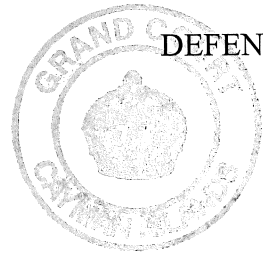
CAUSE NO 65 OF 2005

BETWEEN: RONALD HARTZ PLAINTIFF

AND: MICHAEL CARY (also known as CARY MICHAEL) DEFENDANT



WRIT OF SUMMONS



TO: Michael Cary, 244 Mount Pleasant Road, West Bay, 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, PO Box 495G, George Town, Grand Cayman, the accompanying Acknowledgment 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 17th day of February, 2005

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 Acknowledgment of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiff is a United States citizen who visited the Cayman Islands on vacation in February, 2002.
2. The Defendant is a Caymanian and/or a resident of the Cayman Islands who still resides in the Cayman Islands.
3. At about 2:20 pm on 23rd February, 2002, the Plaintiff was stationary in a rented motor vehicle at the traffic lights on Eastern Avenue at the jurisdiction of West Bay Road, George Town, Grand Cayman. The Defendant was travelling along West Bay Road heading south. On reaching the traffic lights, the Defendant made a left turn into Eastern Avenue and while doing so, lost control of his vehicle which collided into the Plaintiff's vehicle. As a result of this collision the Plaintiff suffered serious injuries.
4. The Plaintiff's injuries were caused as a result of the negligence of the Defendant;

PARTICULARS OF NEGLIGENCE

- a) The Defendant failed to heed the presence of the Plaintiff in his vehicle;
- b) The Defendant failed so to brake or manoeuvre his vehicle so as to avoid colliding with the Plaintiff's vehicle and/or
- c) The Defendant drove at a speed which was excessive and dangerous in the circumstances;

5. The Defendant was convicted of the offence of careless driving before a magistrate sitting in Grand Cayman which conviction was related to the accident on 23rd February, 2002. The Plaintiff intends to rely upon this conviction in support of his allegation that the Defendant was negligent.
6. As a result of the Defendant's negligence the Plaintiff who was born on 25 March, 1945 sustained severe injuries;

PARTICULARS OF INJURY

- a) The dashboard, steering column and driver side door were pushed into the Plaintiff causing three separate fractures to his hip and pelvis area being fractures of his acetabulum, ischium and inferior pubic ramus of the right pelvic bone.
 - b) His head hit and broke the windshield causing an abrasion on the right side of his forehead.
 - c) He received multiple scratches and abrasions on his body and right knee and thigh.
 - d) He subsequently had to have his entire right hip replaced.
 - e) The fracture of his acetabulum progressed to avascular necrosis and severe osteoarthritis.
 - f) Further particulars of his injuries and his hip replacement operation are set out in the reports of Dr. Finn attached hereto as appendix 1.
7. As a result of the injuries he sustained the Plaintiff has suffered loss and damage;

PARTICULARS OF LOSS AND DAMAGE

Particulars of special damages are contained in the schedule attached hereto as appendix 2.

8. Further the Plaintiff claims general damages in respect of his pain and suffering.
9. Further the Plaintiff claims interest to be assessed upon such damages as may be awarded pursuant to the Judicature Law (2004 Revision).

AND THE PLAINTIFF claims:

1. Damages.
2. Interest pursuant to the Judicature Law (2004 Revision)
3. Costs.

Dated this 17th day of February, 2005

Turner & Roulstone

TURNER & ROULSTONE
Attorneys-at-law for the Plaintiff

THIS WRIT was issued by Turner & Roulstone, Attorneys-at-Law for the Plaintiff whose address for service is Strathvale House, 90 North Church Street, P.O. Box 2636GT, George Town, Grand Cayman, Cayman Islands.

APPENDIX 1

Henry A. Finn, MD, FACS
 MEDICAL DIRECTOR
 PROFESSOR OF CLINICAL SURGERY

Craig S. Phillips, MD
 ASSISTANT PROFESSOR OF
 ORTHOPAEDIC SURGERY

Heidi R. Huff, RN
 CLINICAL MANAGER

Tanya Hulewicz, RN
 NURSE CLINICIAN

Jennifer Swartz, RN, BSN
 NURSE CLINICIAN

Brenda Bucher
 ADMINISTRATIVE ASSISTANT

JoAnn Riley
 ACADEMIC SECRETARY

Louis A. Weiss Memorial Hospital
 4646 North Marine Drive
 Chicago, IL 60640

Phone: 773-564-5888

Fax: 773-564-5886

November 4, 2002

Stephen Gabriel, M.D.
 102 S. Hennepin Avenue
 Dixon, Illinois 61021

RE: Hartz, Ronald

Dear Dr. Gabriel:

Thank you for referring Mr. Hartz. He is a 57-year-old gentleman who complains of severe right groin pain which has been present and progressive since February 23rd when he had a motor vehicle accident in the Cayman Islands where he was broad-sided and he sustained an acetabular fracture. He was treated with supportive care and returned to the United States. He eventually saw you and you referred him. He states his pain gets worse on a day to day basis. It interferes with his sleep. Any weightbearing increases his pain. He has tried anti-inflammatories to no avail. He was told on CT scan that the socket had not completely healed and he is referred for evaluation and possible treatment.

His past medical history includes cardiac arrhythmia for which he was treated by cardioversion. He is presently in normal sinus rhythm. He also has hypertension. He has had an angiogram with no coronary artery disease. His past surgical history includes a right toe surgery. He is presently taking Norvasc, Atenolol, Amiodarone and Ecotrin. He has no allergies. He does not smoke. He occasionally drinks. He has stairs in his home which are difficult to negotiate. He works in the insurance industry.

His physical examination reveals he is 6 feet 6 inches and 289 pounds. He has an antalgic gait and a positive Trendelenburg sign. His leg lengths are equal. His hips have a 20° flexion contracture. He flexes to 90°. He has no internal rotation. Pain is reproduced on forced internal rotation. He has 20° of external rotation, 5° adduction and 30° of abduction. Any movement of his hip is painful. He has thigh and gluteal atrophy.

In review of his x-rays, he sustained a stellate-type fracture of his acetabulum, which has progressed to avascular necrosis and severe osteoarthritis. In addition, he has a CT scan from October that shows a fibrous nonunion of his medial wall.

I explained to him that he would benefit from a total hip replacement. I would suggest that he have press-fit technology and a metal-on-metal bearing. I explained the theoretical risk of carcinogenesis, in my

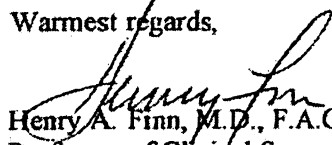


Stephen Gabriel, M.D.
RE: Hartz, Ronald
November 4, 2002
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opinion, is outweighed by the durability of the metal-on-metal bearing. I reviewed a CT scan which demonstrates his acetabular nonunion. I think this can be easily handled with cancellous grafting and one screw in the dome or possibly a pate of cement. I explained all the potential risks including infection, blood clot, dislocation and other issues. He will donate two units of autologous blood. He is interested in going ahead.

I will keep you informed of his progress. I am grateful for this referral.

Warmest regards,



Henry A. Finn, M.D., F.A.C.S.
Professor of Clinical Surgery
Section of Orthopaedic Surgery and Rehabilitation Medicine
Chief, Orthopaedic Surgery
Weiss Memorial Hospital/University of Chicago Hospitals

HAF:jb

LOUIS A. WEISS MEMORIAL HOSPITAL

The University of Chicago
Hospital Serving the North Side

4646 N. Marine Drive
Chicago, IL 60640

PATIENT NAME: Hartz, Ronald
ATTENDING PHYS: Henry Finn, M.D.
SURGEON: Henry Finn, M.D.
PROCEDURE DT: 12/05/2002

MR #: 4243630
PT #: 17895483
DOB: 03/25/1945
PT. LOC: 8SOU082102
PT. TYPE: I

REPORT OF OPERATION

ASSISTANTS:

Neil Pasia, D.O.
Vivek Neginhal, M.D.

PREOPERATIVE DIAGNOSIS:

Right hip osteoarthritis secondary to avascular necrosis of the right femoral head from a previous acetabular fracture nonunion.

POSTOPERATIVE DIAGNOSIS:

Right hip osteoarthritis secondary to avascular necrosis of the right femoral head from a previous acetabular fracture nonunion.

OPERATION PERFORMED:

Right total hip arthroplasty.

ANESTHESIA:

General endotracheal intubation.

ESTIMATED BLOOD LOSS:

600 cc.

URINE OUTPUT:

50 cc.

FLUIDS:

4500 cc crystalloid.

SPECIMENS:

Femoral head, to pathology.

COMPLICATIONS: None apparent.

DISPOSITION:

To the recovery room in good and stable condition.

COMPONENTS:

Biomet components: A Balance primary femoral stem, 13 mm x 170 mm, right, porous coated. A Biomet modular head component, 32 mm head diameter, standard neck. A Biomet acetabular shell, Mallory head, radial alternating bearing, 56 mm, two-hole shell with apical plug. A Biomet metal liner, M2A, tapered liner, 32 mm inner diameter, and low-profile,

REPORT OF OPERATION

Page 1 of 3

COPY FOR: Henry Finn, M.D.

PATIENT NAME: Hartz, Ronald
MR #: 4243630

LOUIS A. WEISS MEMORIAL HOSPITAL

self-tapping screws times two, one of them measuring 25 mm, one measuring 35 mm. Cancellous bone chips, 30 cc.

INDICATIONS FOR PROCEDURE:

The patient is a 57-year-old male, who has a long history of right hip pain since an accident in February 2002. He had suffered a right acetabular fracture, which went on to nonunion. He also suffered avascular necrosis of his femoral head and has had progressive pain at his right hip since that time. The patient has failed conservative therapy. Different treatment options were given to the patient, and all the risks and complications of total hip arthroplasty were explained to him in detail, and the patient decided to proceed with right total hip arthroplasty. After a thorough explanation of the risks and complications and answering all of his questions to the best of our ability, the patient signed an informed consent.

DESCRIPTION OF PROCEDURE:

After obtaining informed consent and evaluation by anesthesia, the patient had prophylactic IV Ancef and vancomycin. The patient was brought to the operating room, where he was transferred to the operating room table, sedated and intubated by anesthesia in standard fashion without any complications, and the patient was then positioned on the operating room table in the right lateral decubitus position with the right hip up, being careful to provide adequate padding for all bony prominences and pressure points. The right lower extremity was then prepped and draped in normal standard fashion, and a posterolateral incision site was determined and established at the posterolateral aspect of his right thigh, centered over the greater trochanter. Dissection was taken down sharply through the skin and subcu tissue, down to the level of the IT band. The IT band was bent sharply at the center of the greater trochanter and distally along the femoral sheath, and proximally in line with the fibers of the gluteus maximus being split bluntly. This exposed the lateral aspect of the hip and the external rotators and the gluteus maximus insertion at the shaft of the femur. The insertion of the gluteus maximus was dissected from its insertion with Bovie electrocauterization, and then the posterior capsule and short external rotators were dissected from their insertion with Bovie electrocauterization from the posterior aspect of the greater trochanter. These were tagged in a retracted position. With this accomplished, the hip was dislocated and the femoral neck cut was established in good position, and the femoral head was removed to be sent to pathology. Proper retraction was established to expose the acetabulum and the soft tissue and acetabular labrum were dissected away to provide adequate exposure of the acetabulum. With this accomplished, reaming was begun in sequential fashion, starting with a 48 mm reamer, and progressing sequentially to a 64 mm reamer. There was an area of nonunion at the posterior wall of the acetabulum, which was curetted out and filled with cancellous allograft bone, which was reverse reamed in place. With this accomplished, a 66 mm Mallory head Biomet acetabular liner was chosen and malleted into position with excellent anterior/posterior pinch. The two screw holes were placed in the posterior superior aspect, and two self-tapping screws, 35 mm and 25 mm, were placed in the posterior superior quadrant with excellent bony purchase and fixation of the acetabular liner to the acetabulum. With this accomplished, a metal-on-metal bearing was selected for a 32 mm head, and the bearing was positioned and malleted in place and found to be secure. With this secured, attention was focused on the femur. The proximal femoral sheath was reamed sequentially with a starting reamer, and then sequentially upward to a 13 mm reamer, being careful to appropriately lateralize and remove all the cancellous bone at the proximal aspect. A 13 mm broach component was sized and found to be an adequate size, and a 13 mm Balance primary femoral hip stem was chosen and utilized and secured into the femoral sheath in excellent alignment and position with excellent proximal fit and fill. Different heads were trialed, and a standard 32 mm head was chosen and positioned in place securely and checked to make sure it was secure. With this secured, the area was irrigated and dried, and the hip was reduced and taken through a range of motion and found to have excellent stability throughout the range of motion. The wound was then copiously irrigated and suctioned dry, and the posterior capsule and short external rotators were then reapproximated to their insertion at the posterior aspect of the greater trochanter, using transosseous sutures with 5-0 Ethibond. With this accomplished, the gluteus maximus was reapproximated to its insertion with 5-0 Ethibond, and the wound was again irrigated and suctioned dry. Two fenestrated drains were inserted at the posterior aspect of the wound and deep into the wound. The IT band was then closed well with 5-0 Ethibond figure-of-eight sutures throughout its entirety to achieve excellent reapproximation. With this accomplished, the subcu layer was irrigated and dried and closed with 2-0 Vicryl for the subcu layer, and then 4-0 Vicryl for the subcuticular layer of closure. The wound was cleaned and dried and dressed with sterile Benzoin, Steri-Strips, 4 x 4's, ABDs and tape. The drapes were broken down. The patient was woken up by anesthesia with the hip held reduced, and placed in an abduction splint, and transferred back to his hospital bed, and extubated in standard fashion without any complications. He was brought to the recovery room in good and stable condition, and will be admitted for continued DVT prophylaxis with Coumadin, pain control, physical therapy weightbearing as tolerated, and IV antibiotic prophylaxis with

REPORT OF OPERATION

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COPY FOR: Henry Finn, M.D.

PATIENT NAME: Hartz, Ronald
MR #: 4243630

LOUIS A. WEISS MEMORIAL HOSPITAL

vancomycin. We will have medicine with Dr. Dudek and cardiology with Dr. Cohen to consult on the patient as well for continued follow up, and we will continue to follow the patient closely throughout his postoperative course.

Henry Finn, M.D.

DD: 12/05/2002 10:37 A
TD: 12/05/2002 2:27 P
JOB#: 000018641
cc: Henry Finn, M.D.

LOUIS A. WEISS MEMORIAL HOSPITALThe University of Chicago
Hospital Serving the North Side4646 N. Marine Drive
Chicago, IL 60640

PATIENT NAME:	Hartz, Ronald	MR #:	4243630
ATTENDING PHYS:	Henry Finn, M.D.	PT #:	17895483
SURGEON:	Henry Finn, M.D.	DOB:	03/25/1945
PROCEDURE DT:	12/05/2002	PT. LOC:	8SOU082102
		PT. TYPE:	I

REPORT OF OPERATION**ASSISTANT:**

Vivek Negirhal, M.D.

PREOPERATIVE DIAGNOSIS:

Early postoperative dislocation of right hip.

POSTOPERATIVE DIAGNOSIS:

Early postoperative dislocation of right hip.

OPERATION PERFORMED:

Closed reduction under general anesthesia with succinylcholine.

ESTIMATED BLOOD LOSS:

Nil.

COMPLICATIONS:

Nil.

INDICATIONS FOR PROCEDURE:

This is a 57-year-old male, who had a long history of right hip pain. Also, had suffered from a right acetabular fracture with nonunion, avascular necrosis, and the patient was operated on with a right total hip arthroplasty, and the patient was shifted out from the operating room uneventfully with the hip in position. The patient was then shifted to the recovery room, where it was found that there was shortening of the right lower limb, and on examination, it was found that it was dislocated, which was confirmed by taking a portable x-ray. The patient was then given sedation and the attempt was made to reduce the dislocation in the recovery room, failure upon which the patient was shifted back to the OR.

DESCRIPTION OF PROCEDURE:

The patient was given general anesthesia, including succinylcholine, and once the patient was appropriately under, a longitudinal traction was given, the hip was externally rotated, and then gradually internally rotated. A few attempts were made. On the third or fourth attempt, the hip was relocated without any difficulty, which was then confirmed by taking a portable x-ray. The patient was then shifted to the recovery room, care being taken not to dislocate the hip again. Postoperative care will include application of an abduction brace and dislocation precautions, antibiotic prophylaxis and DVT prophylaxis on the eighth floor. The x-ray was examined to reconfirm if there was any movement in the acetabular component, which was found to be negative, which was very well placed, and the hip was in the acetabular cavity. The patient will then be followed up on the eighth floor.

REPORT OF OPERATION

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COPY FOR: Henry Finn, M.D.

PATIENT NAME: Hartz, Ronald
MR #: 4243630

LOUIS A. WEISS MEMORIAL HOSPITAL

Henry Finn, M.D.

DD: 12/15/2002 12:45 P
TD: 12/16/2002 2:24 P
JOB#: 000019325
cc: Henry Finn, M.D.

APPENDIX 2

APPENDIX 2

RONALD HARTZ

Schedule of Losses following automobile accident 23 February 2002

1	Doctor and Hospital Fees in the United States	79,120.12
2.	Doctor and Hospital Fees in the Cayman Islands	1,977.69
3.	Fees for various medication	1,851.00
4.	Loss of Earnings	37,454.40
5.	Loss of Pension Contribution	1,872.72
6.	Lost Cost of Holiday to Cayman	
	(a) Flights	607.00
	(b) Accommodation	5,121.95
	(c) Car hire in Cayman (approx)	609.76
7.	Cayman Islands Police Accident Report	91.46
8.	Fee to have rental car appraised	152.44
9.	Transport to medical visits	
	(a) Van rental (3 times in Illinois & twice in Cayman)	250.00
	(b) Travel 6x to Chicago including fuel, parking and tolls.	600.00
	(c) Travel to other doctor's appointments	300.00
10.	Accommodation in Chicago while visiting hospital	250.00
11.	Cost of transportation of visitors to Chicago (wife and daughter twice)	400.00
12.	Hire of hospital bed for home	835.50
	TOTAL:	129,621.32
	Less Amount Paid:	[1,997.69]
	TOTAL AMOUNT DUE:	129,496.35

Note: Items 6(b) and (c), 7 and 8 are converted from CI Dollar to US Dollar with conversion rate of 0.82.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO 65 OF 2005

BETWEEN: RONALD HARTZ PLAINTIFF

AND: MICHAEL CARY (also known as CARY MICHAEL) DEFENDANT

**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 Delay may result in judgment being entered directions and notes for guidance against a Defendant whereby he may have to carefully before completing this form. If pay the costs of applying to set it aside. any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

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 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 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.

**Turner & Roulstone
P.O. Box 263GT
Strathvale House
90 North Church Street
George Town
Grand Cayman**

AD/as/0168-0001

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

[Empty box for defendant's attorney indorsement]