

Amended pursuant to an Order of the Grand Court dated 20 March 2009

IN THE GRAND COURT OF THE CAYMAN ISLANDS

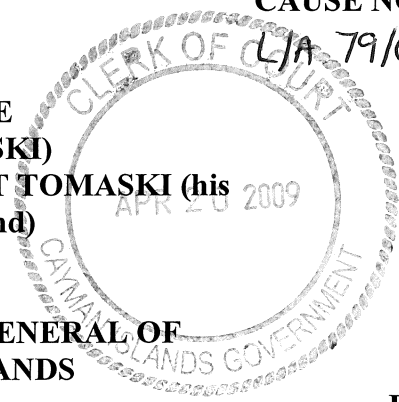
CAUSE NO. 107 OF 2005

LJA 79/04 and 177/06

BETWEEN



**JAMES LAWRENCE
(aka JAMES TOMASKI)
(a minor) by JANNET TOMASKI (his
mother and next friend)**



PLAINTIFF

AND

**(1) THE ATTORNEY GENERAL OF
THE CAYMAN ISLANDS**

**(2) ~~THE HEALTH SERVICES
AUTHORITY~~**

DEFENDANTS

AMENDED WRIT OF SUMMONS

TO: THE ATTORNEY GENERAL
Attorney General Chambers
c/o Legal Department
George Town,
Grand Cayman.

TO: ~~THE HEALTH SERVICES AUTHORITY~~
~~e/o the Cayman Islands Government~~
~~George Town,~~
~~Grand Cayman.~~

THIS AMENDED 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 Amended Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. 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 9th day of March, 2005.

Amended this 17th day of April 2009

NOTE - This Amended 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 the order of the Court.

IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

INDORSEMENT

The Plaintiff's claim is for damages for personal injury to the Plaintiff and loss and expense suffered by the Plaintiff by reason of the negligence of the Government of the Cayman Islands ("Government"), by its servants or agents employed at the George Town Hospital (Public Health Services – School Health Program) now operating as the Health Services Authority, Grand Cayman.

The injury, loss and expense occurred in the following circumstances:

1. The Plaintiff was at all material times a Caymanian student residing in the Cayman Islands and enrolled at Triple C School between the period 1995 and 1998.

~~2. The Second Defendant is a corporate body created by virtue of the Health Services Authority Law (2002) and established to take over, own and operate Government Health Care facilities in the Cayman Islands and to assume the general management of health care facilities, programs and services in the Cayman Islands and for the purposes set out under the Health Services Authority Law (2003 Revision).~~

2.3. At all material times the role and function of the ~~Second~~ Defendant would have been carried out by the Government, its servants or agents employed at the George Town Hospital, Grand Cayman. The role and function of the Defendant would have extended to responsibility for the operation of Government's health care facilities in the Cayman Islands and the general management of health care facilities, programs and services in the Cayman Islands. The Government is represented herein through the ~~First~~ Defendant.

3.4. The Government, through its servants or agents, specifically through the Public Health Services, School Health Program, at all material times, enforced a policy which required immunization against certain diseases for all children attending schools in the Cayman Islands.

4.5. Under the program administered by the Public Health Services with respect to all children in the Cayman Islands, the Plaintiff was vaccinated against Polio, Diphtheria, Pertussis, and Tetanus, Measles, Mumps and Rubella between the period 3rd July 1987 through 30th January 1992. The Plaintiff's immunization record notes that following the 1st of the recommended 2 dosages of the vaccine to immunize against Measles, Mumps and Rubella, the Plaintiff developed a seizure within 2 weeks of administration of the 1st dose with the result that the 2nd dose was not recommended and was not administered.

5.6. On 18th November 1993 the BCG vaccine to provide protection against tuberculosis was administered to the Plaintiff.

6.7. On the 11th December 1998 whilst the Plaintiff was at Triple C School, the Government through its servants or agents of the Public Health Services, administered to the Plaintiff

the 1st dose of the Hepatitis B Vaccine, without first informing his parent or guardian or obtaining the prior consent of the Plaintiff's parent or guardian.

7.8. The Plaintiff's mother and next friend, who was at that time assisting at Triple C School, was subsequently informed by a public health nurse, being a servant or agent of the ~~First~~ Defendant that the Plaintiff had been immunized and asked to provide her consent. No information relating to the vaccine was provided to the Plaintiff or to the Plaintiff's mother and next friend either at the time the consent was sought nor subsequently. The Plaintiff's mother and next friend relied on the knowledge and expertise of the Government through its servants or agents who had complete information of the Plaintiff's immunization record and of his adverse reaction to the 1st dose of the Measles, Mumps and Rubella vaccine administered on the 28th September 1998. Notwithstanding that the Government, through its servants or agents, knew or ought to have known of the increased risk of administering the Hepatitis B Vaccine to the Plaintiff, it failed to take any or any proper steps to give appropriate consideration to the likelihood of an adverse reaction of the Hepatitis B Vaccine on the Plaintiff's health, provide appropriate notice and information to the Plaintiff's mother and next friend about the Hepatitis B Vaccine, or provide the Plaintiff's mother and next friend with a reasonable time to take advice to enable her to give an informed consent to the administration of the Hepatitis B Vaccine to the Plaintiff.

8.9. The Plaintiff's mother and next friend did sign the consent form as requested by the Government through its servants or agents, after the Hepatitis B vaccine had been administered to the Plaintiff, but was not informed by the Government through its servants or agents of any possible health risks associated with the Hepatitis B Vaccine. Neither was the Plaintiff's mother and next friend informed by the Government through its servants or agents of the possibility of the Plaintiff having an adverse reaction to the Hepatitis B Vaccine or the manifestation in which such reaction could present. The Plaintiff's mother and next friend at the time she signed the consent form was not informed nor did she give her formal consent to subsequent doses of the Hepatitis B Vaccine being administered to the Plaintiff.

- ~~9.10.~~ Within a day of receiving the 1st dose of the Hepatitis B Vaccine, the Plaintiff complained of and manifested symptoms of generalized headaches, fatigue and flu-like symptoms. The Plaintiff was unable to attend school for several weeks over which time other symptoms manifested in the form of swollen joints, low-grade fever, poor appetite and weight loss.
- ~~10.11.~~ The Plaintiff's condition gradually improved and eventually he returned to school. On the 15th January 1999 the Government through its servants or agents, without first contacting the Plaintiff's mother and next friend to obtain her informed consent and without inquiring into and obtaining the Plaintiff's medical history before administering the second Hepatitis B Vaccine, administered the 2nd dose of the Hepatitis B Vaccine to the Plaintiff. The following day the symptoms which had been manifested following the 1st dose reappeared and the Plaintiff's condition worsened.
- ~~11.12.~~ The Plaintiff was subsequently diagnosed at the Miami Children's Hospital as having Chronic Fatigue Immune Dysfunction Syndrome secondary to the Hepatitis B Vaccine he received from the Government through its servants or agents.
- ~~12.13.~~ The Plaintiff remains ill and for the purpose of obtaining medical treatment, resides in Florida with his mother and next friend.
- ~~13.14.~~ Due to the illness caused by the Hepatitis B Vaccine, the Plaintiff has been deprived of the opportunity to lead a normal life as a teenager. In the result, the Plaintiff lives in chronic pain and fatigue and his quality of life since having received the Hepatitis B Vaccine is seriously compromised. The Plaintiff has incurred expenses for treatment since 1999.
- ~~14.15.~~ In the premises, the Plaintiff has suffered loss and damage, full particulars of which will be contained in a separate Statement of Claim.
- ~~15.16.~~ The Plaintiff's mother and next friend has been in correspondence with the Ministry of Health Services, Agriculture, Aviation and Works, the Director of Health Services, the

Chief Medical Officer and various other personnel within the Ministry of Health Services, Agriculture, Aviation and Works with respect to the Plaintiff's condition.

[N.B. The above particulars are given in compliance with Order 77 rule 3 of the Grand Court Rules]

AND THE PLAINTIFF through his mother and next friend CLAIMS:

1. Damages.
2. Further or other Relief.
3. Interest pursuant to Section 34 of the Judicature Law (2004 Revision) and the rules made thereunder, and Costs.



Charles Adams, Ritchie & Duckworth
Attorneys-at-Law for the Plaintiff

THIS AMENDED WRIT was issued by Charles Adams, Ritchie & Duckworth, Attorneys-at-Law, for and on behalf of the Plaintiff herein, whose address for service is that of their said Attorneys-at-Law, P.O. Box 709G, Zephyr House, Mary Street, George Town, Grand Cayman, B.W.I.