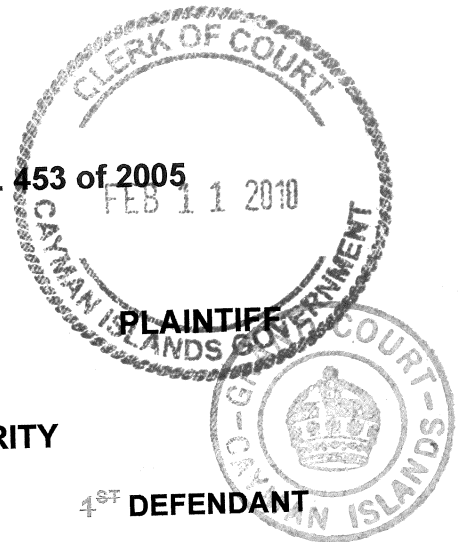


IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN

CAUSE NO. 453 of 2005



BETWEEN JHANELLE NIKIETA ENNIS

AND THE CI HEALTH SERVICES AUTHORITY

4ST DEFENDANT

~~AND THE ATTORNEY GENERAL~~ 2ND DEFENDANT

RE-AMENDED WRIT OF SUMMONS

To: The Health Services Authority
C/o The attorneys
Bodden & Bodden
West Bay Road

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out as follows:-

Within 14 days after 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, 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 that you intend to contest these proceedings, the Plaintiff may proceed with the action and judgement may be entered against you forthwith without further notice.

Issued this 6th day of October, 2005.

Re-amended on the 10th day of February, 2010 pursuant to the Order of the Honourable Mr. Justice Jones

ENDORSEMENT

The Plaintiff's claim is compensation for personal injury, loss damages and expenses suffered by the Plaintiff by reason of the negligent actions of the Cayman Islands Health Services Authority, or whether by their servants and or agents and the George Town Hospital. Further particulars are set out in the accompanying Statement of Claim.

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.

This writ is filed by Brooks & Brooks, attorneys for the Plaintiff, whose address for service is Two Artillery Court, Shedden Road, George Town, Grand Cayman

STATEMENT OF CLAIM

1. ~~That at all material times the Plaintiff was a student at the John Gray High School. At the time of the First Defendant's / Government's breach of duty of care/ negligence as hereinafter pleaded the Plaintiff was 16 years of age. At all material times the Plaintiff's mother was responsible for the care, control and had parental responsibility for the Plaintiff. As at the date of this Writ the Plaintiff is 19 years of age.~~ George Town, Grand Cayman. At the time of the incident described herein, the Plaintiff was 16 years of age, and at all material times, the Plaintiff's mother was responsible for the care and control of the Plaintiff and had parental responsibility for making decisions, including decisions regarding the medical and other health care of the Plaintiff. As at the date of issue of this Writ of Summons herein, the Plaintiff was 19 years old.

2. ~~That the first Defendant is a body corporate created by virtue of the Health Services Authority Law (2003 Revision) and was the successor of the Health Services Department and took over the ownership and operation of all Government Health Care Facilities and the administration of medical services in schools, the giving of advice on medical matters, the provision of medical services throughout the Cayman Islands including, but not limited to the inoculation and vaccination of students.~~

2. That at the time of the incident resulting in the injuries sustained by the Plaintiff herein, the Defendant was a Statutory Corporation established on the 1st day of July, 2002 by virtue of the Health Services Authority Law. That the Defendant, by virtue of being a corporate body, is to sue and be sued in its corporate name.

3. ~~That at all material times the role of the First Defendant was carried out by its employees, its servants and agents and also by the Government, its agents and servants and/ or the First Defendant and at the material time the First Defendant was an arm of the Government ("the Government"). By virtue of the Crown Proceedings Law the Government is represented by the Second Defendant.~~

3. That at all material times, the Plaintiff was a student and enrolled at John Gray High School.

4. ~~That the Government required the immunization against certain diseases of children of school age.~~

4. That by letter dated October 2, 2002, under the hand of Leonie Rankin, school nurse, John Gray High School Health Centre, a letter was sent to the Plaintiff's mother offering free vaccinations to the Plaintiff against Hepatitis B, and

also attaching thereto, an alleged "information sheet" and a consent form for signature by the Plaintiff's mother.

That the said letter indicated that the Public Health Services were offering the said vaccine to the Plaintiff, upon presentation to them of the consent form signed by the Plaintiff's mother as parent. That in the event that the Plaintiff's mother consented to the administration of the vaccine, the first of three scheduled vaccinations was to be administered to the Plaintiff on 10th October, 2002.

~~5. That on or about 10th October, 2002 the first in a series of Hepatitis B vaccine ("the vaccine") was administered to the Plaintiff by the agents and/or servants of the First Defendant and / or the Government.~~

5. That at all material times, the Health Services Authority Law provided that the Defendant the Health Services Authority, shall provide health care services and facilities within the Cayman islands in accordance with directions as shall be issued from time to time. That further, it was the duty of the Health Services Authority, pursuant to that Law, to provide health care for persons as agreed with the Minister responsible for health within the Cayman Islands.

~~6. That prior to, or at the administration of the vaccine no information was provided to the Plaintiff or her mother and /or guardian about the vaccine or the risks associated with the administration of the vaccine which would have provided the Plaintiff or her mother and/ or guardian with appropriate information for her or her mother to give informed consent to the vaccination.~~

6. That it is the position of this Plaintiff therefore, that in offering and later administering the said vaccine for Hepatitis B to the Plaintiff, through the John Gray High School, that it was carrying out the policies and directions issued under the Health Services Authority Law of the Cayman Islands acting through the Department of Education responsible for the John Gray High School, for the vaccination of students at High Schools within the Cayman Islands.

~~7. That it was the duty of the First Defendant and/ or the Government to give advice and warnings regarding the risks associated with the administration of the vaccine. The First Defendant and or the Government either knew of such risks or could with reasonable diligence, skill and care have become informed of such risks which were at the time widely published.~~

7. That further, the Defendant or whether through its servants and agents, later issued a press release dated at or approximately October, 2002, reminding parents and guardians of primary and secondary school students, including year 11 students at the John Gray High School (which students included the Plaintiff), that the Hepatitis B vaccine was being offered free to them, and that the parents

were to sign and complete the consent forms forwarded to them, to enable their children to be vaccinated.

PARTICULARS OF NEGLIGENCE

~~8. — In the premises the First Defendant and/ or Government was negligent in failing to advise, warn and notify the Plaintiff's mother of the risks associated with the vaccination despite having the aforesaid knowledge.~~

8. That the Plaintiff's mother later completed the said consent form, and remitted it to the John Gray High School, giving her consent to the vaccination of the Plaintiff.

PARTICULARS OF INJURY, LOSS AND DAMAGE

~~9. — That within a few days of the administration of the vaccine, the Plaintiff started developing symptoms. Firstly, she developed an erythematous rash that became scabbed over and desquamated and spread over most of her body. Later she developed severe headaches, sleep disturbances, other body pains, difficulty concentrating and other neurological problems. With the passage of time her symptoms have progressively worsened manifesting in numerous seizures, fainting, chronic joint and muscle pain, symptoms consistent with chronic fatigue immune dysregulation syndrome, neurally mediated hypotension, fibromyalgia and numerous infections requiring attendance for emergency medical care or hospitalization.~~

9. That subsequent to the receipt of the consent form, on 10th October 2002, the first in the series of three injections for the Hepatitis B vaccination, was administered to the Plaintiff by the school nurses at John Gray High School, acting as the servants and agents of the Defendant .

~~10. — That due to administration of the vaccine to the Plaintiff, she has suffered great pain and suffering. Further, as a promising vibrant teenager she has been deprived of simple joys and quality of life. As a result of the illnesses caused by the administration of the vaccine, the Plaintiff has been repeatedly hospitalized or has suffered illnesses which have caused her to be absent from work and school frequently. Her future has been seriously blighted and her hope for any quality of life is seriously compromised.~~

10. That the Plaintiff sustained injury, loss and damage caused by the negligence of the Defendant as a result of the administration of the first injection of the Hepatitis B vaccine.

That further and / or in the alternative, the Defendant, was negligent in offering and later through it's servants and/ or agents, in administering the said vaccine

for Hepatitis B to the Plaintiff, in breach of their duty of care toward the Plaintiff and / or her mother as her parent/ guardian.

11. — That as a result of the vaccine and the negligent actions of the First Defendant and/ or Government, the Plaintiff has suffered loss and damage, pain and suffering.

11. That at all material times leading up to the provision of the Hepatitis B vaccination to the Plaintiff, the Defendant owed a duty of care to the Plaintiff, inter alia, to inform the Plaintiff and / or her mother as her parent and guardian, in advance, of the risk or potential risk to the recipients of the vaccination for Hepatitis B, of contracting or developing inter alia, seizures, fainting, chronic fatigue syndrome, immune-dysregulation syndrome, neurally mediated hypotension, fibromyalgia, chronic infections, and any and all other potential side effects or adverse effects of the said vaccine (hereinafter referred to as the adverse side effects).

12. That implicit in this duty of care owed by the Defendant to the Plaintiff and or her mother, as parent and guardian, as the person responsible for making decisions regarding the health care of the Plaintiff, was the provision of information on the potential side effects of the said vaccine in advance of the giving of the vaccine to the Plaintiff, to enable her to determine whether to give or withhold her consent to the provision of the vaccine to the Plaintiff. This duty was to ensure that the Plaintiff's mother's consent was an "informed consent".

13. That at all material times, including previous to and up to and including, inter alia, the 2nd October 2002, the date of the letter addressed to the Plaintiff's mother as parent and or guardian, the date of the press release referred to herein, and 10th October, 2002 when the first injection for the vaccine was administered to the Plaintiff, the Defendant was aware, or ought to , with reasonable skill, care and diligence, and should have been aware of the risks or potential risks and danger to the Plaintiff as a recipient or potential recipient of the said vaccine of the adverse side effects.

14. That in breach of this duty of care to the Plaintiff and her mother as parent/ guardian, the Defendant failed, refused and or neglected to advise of these side effects or potential effects or risks associated with the said vaccine, which it was aware of, or should reasonably have been aware of, resulting in the signature by the Plaintiff's mother of the consent form attached to the letter of 2nd October 2002, without the proper information on these side effects. That in the premises, the Plaintiff's position, is that this consent was not, in the circumstances, informed consent.

15. That further, the Plaintiff will say at the trial of this matter, that had the Defendant observed it's duty of care in advising of these side effects or potential adverse risks associated with the Hepatitis B vaccine, that her mother would

have refused to give her consent to the administration of the vaccine, or the first or any of the injections for the vaccine to the Plaintiff.

16. That in the premises, the Defendant was negligent in failing to advise, warn and or notify the Plaintiff or her mother of the risks associated with the vaccine, as a result of which the Plaintiff suffered injury, loss and damage.

PARTICULARS OF INJURY, LOSS AND DAMAGE

17. That within a few days of the administration of the first injection of the vaccine, the Plaintiff started developing symptoms. Firstly, she developed an extensive rash distributed over her entire body, including the soles of her hands and feet, save and except her face, then later, headaches, ecchymosis, abdominal pain, fatigue, lethargy, joint and muscle pain, and insomnia. She was later diagnosed with fibromyalgia, neurally mediated hypotension, immune-dysregulation syndrome, chronic fatigue syndrome as well as numerous infections requiring attendance for emergency medical care and hospitalization within the Islands as well as overseas.

That at the trial of the matter, the Plaintiff will refer to and rely upon reports by a succession of medical doctors from whom she sought medical treatment for her symptoms and medical conditions over the years since receiving the vaccine.

18. That due to the administration of the vaccine and the consequent medical symptoms and conditions, the Plaintiff has suffered great pain and suffering. Further, as a promising, vibrant teenager, and later, young adult, she has been deprived of the simple joys and every day activities that person of similar age enjoy. As a result of the illnesses she has developed, the Plaintiff has been repeatedly hospitalized which have caused her to be absent from work and school frequently, and often for weeks at a time. Her future and potential has been and will continue to be seriously curtailed, and her quality of life seriously reduced as a result of the injuries she has suffered due to the vaccine.

19. That as a result of the vaccine and the negligent acts of the Defendant, the Plaintiff has suffered loss and damage, and continues to undergo pain and suffering.

PARTICULARS OF SPECIAL DAMAGES

1. Medical costs for USD \$ 9,500.00 and continuing.
2. Costs for travel and accommodations for medical assistance locally and overseas, in the sum of USD \$ 4,500.00 and continuing.

3. Loss of wages at the rate for \$ 7.50 per hour for 28 hrs per week from November 8, 2004 to April 22, 2005 in the amount of CI \$ 5,040.00 and at the rate of \$ 10.00 per hour for 36.5 hrs per week from April 25, 2005 ongoing.

4. Pursuant to S.34 of the Judicature Law, the Plaintiff is entitled to interest on any sums adjudged to be due and owing in these proceedings, at such rates and for such periods as the court thinks fit.

AND THE PLAINTIFF CLAIMS:

a. General Damages

b. ~~Special Damages for medical costs, travel expenses and loss of wages.~~

b. Coverage of the cost of her medical care for the injuries loss and damage suffered, for the remainder of her natural life.

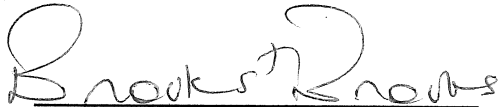
c. ~~Interest pursuant to Section 34 of the Judicature law (2004 Revision)~~

c. Special damages

d. ~~Such further and other relief~~

d. Interest pursuant to the Judicature Law

e. Costs



**Brooks & Brooks
Attorneys at Law**

This Re-Amended Statement of Claim is filed by Brooks & Brooks, of Two Artillery Court, Shedden Road, George Town, Grand Cayman, for the Plaintiff.