

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO.

338

OF 2006



BETWEEN: NETTIE WALKER

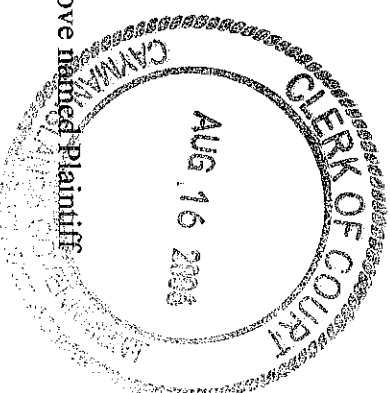
PLAINTIFF

AND: LITTLE CAYMAN BEACH RESORT

DEFENDANT

WRIT OF SUMMONS

To: The Defendant, Little Cayman Reef Resort Ltd.  
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 service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Courts Office, P. O. Box 495 G. T., Grand Cayman the accompanying 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 at George Town this            day of            , 2006

NOTE: This Writ may not be served later than four (4) calendar months (or if leave is required to effect service out of the jurisdiction, six (6) months) beginning with the day 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. At all material times the Plaintiff was an employee of the Defendant. The Plaintiff was employed by the Defendant (hereinafter referred to as the 'Employer') in the capacity of a Kitchen Assistant at the Little Cayman Beach Resort ('the Resort'). She commenced employment with the Employer on or about April 6, 2002.
2. The Defendant is and was at all material times the owner of the said Resort at Little Cayman, Cayman Islands and the Employer of the Plaintiff.
3. On or about August 18, 2003, the Plaintiff was on duty at her place of work. She had a work schedule from 10am to 2pm and 5pm-9pm, 6 days a week except Fridays.
4. At around 8 p.m., on August 18, 2003 the Plaintiff was carrying out her normal duties at the said Resort. She went outside to fetch the mop to clean the kitchen. As she was walking on the loading dock, one of the boards on the boardwalk gave way causing her to fall off the boardwalk onto the ground below.
5. She was unconscious for a while but upon regaining consciousness, she felt pain in her head, back and shoulder. She called for her supervisor who in turn called the manager who summoned the nurse. The nurse had her taken to the Nurse's Clinic and attended to her injuries. However, because of the excruciating pain she was in, the Plaintiff was later that night transported by boat to Cayman Brac Faith Hospital where she remained for 4 days under the care of Dr. Jefferson.
6. Upon her release from the hospital on Aug 21, 2003, she was given painkillers and 10 days sick leave which she spent in Jamaica. During this time, she continued to suffer from the shoulder injuries but more so the back pain but remained on her medication to alleviate the pains.
7. Despite these persistent pains, and due to financial constraints, she tried to force herself to return to work in September, 2003. However, she continued to suffer from great discomfort and pain from her back injury and was unable to properly carry out her duties.
8. She then attended Dr. Newsome who administered painkillers and referred her to Dr. Russell Crider at Cayman Orthopaedic. She was given additional sick leave but due to a shortage of staff she was recalled back to work where she did the best she could.
9. Shortly thereafter, both Dr. Jefferson and Dr. Shaker recommended the use of injections in her back to ease her pains. As a result, she traveled to Cayman Brac to attend Faith Hospital once a week for 3 weeks for this purpose. This did not

afford her much relief and so was sent back to Grand Cayman to Dr. Ansan who put her on more painkillers and took a CT scan and recommended an MRT. She subsequently traveled to Jamaica where the MRI Examinations were carried out.

10. The accident was caused by the negligence of the Defendant.

### PARTICULARS OF NEGLIGENCE

- a) The Defendant was negligent in:-
- (i) Failing in its duty to take any or any reasonable care to see that the Plaintiff would be reasonably safe in her place of work.
  - (ii) Exposing the Plaintiff whilst at her place of work, to the risk of damage or injury as a result of an unsafe loading dock or boardwalk of which the Defendant knew or ought reasonably have known.
  - (iii) Failing in its duty to take any adequate or effective precautions to ensure that the loading dock or boardwalk is safe and would not cause injury to the Plaintiff.
  - (iv) Failing in its duty to give the Plaintiff any or any sufficient warning of the state and condition of the loading dock or boardwalk.
  - (v) In all the circumstances, failing to discharge its Common Law duty of care to the Plaintiff as well as its Statutory duty under Part 1X of the Employment Law 2004, in breach of the said Law.
10. As a result of the said accident, the Plaintiff suffered pain and injury and sustained loss and damage.

### PARTICULARS OF INJURY

Injury and tenderness to the lower back in L3/S1 area and right shoulder. Plaintiff diagnosed with significant prolapsed disc at L4/L5 and L5/S1.

The Plaintiff was born on October 31, 1961 and was 41 years, 10 months old at the date of the accident. She feels pain in her lower back all the time. On certain days the pain is not so bad so she can get up and do a little work. On other days the pain is so severe that she has difficulty even getting out of bed.

She has had physiotherapy and various medications, largely in the form of painkillers. She has also had 2 epidural blocks, CT & Cat Scan and MRI. Nothing seemed to have helped.

While she has some difficulty with the right shoulder, her main problem is her lower back where she is very tender in the lumbosacral region and right sciatic notch.

She is unable to go about her normal life without experiencing pain and sometimes tingling in her right foot. Prior to the accident the Plaintiff enjoyed a fairly healthy lifestyle but due to restrictions of movement in her shoulder and her lower back pains, she has had to undergo many lifestyle modifications. She can't do any prolonged sitting and standing, no repeated squatting or bending, no lifting of weights above 10 lbs and or vibration of the lower back.

She is no longer able to sweep, mop and clean generally without pain. She has no skill other than being a domestic. She is the provider of her family. She cannot indulge in any vigorous activity or exercise and finds sexual intercourse difficult and uncomfortable. Her life will never be the same again.

After the said accident, the Plaintiff was unable to work for approximately 36 days. She was off work for a further three weeks which she used to see doctors and specialists mostly in Jamaica. Since her termination by the defendant she has not worked nor is she able to work due to her injuries and pain. Future surgery to the lower back cannot be ruled out.

At trial, the Plaintiff will rely on all her medical reports from doctors/specialists who treated or examined her in Cayman Brac, Grand Cayman and Jamaica.

#### PARTICULARS OF SPECIAL DAMAGES

19/9/03 Plane ticket from LC to CB for med treatment	CIS	66.00
31/12/03 Plane ticket from CB to GCM for med treatment		50.25
31/12/03 Plane ticket from LC to CB for med treatment		55.00
31/12/03 Plane ticket from GCM to Jamaica		240.00
3/4/04 Plane ticket from LC to CB for med treatment		55.25
5/8/04 Plane ticket from LC to Grand Cayman (GCM) for Medical treatment		125.00
12/1/04 Plane ticket from LC to CB for med treatment		50.25
23/4/04 Plane ticket from LC to CB for med treatment		50.24
9/5/05 Plane ticket from LC to GCM for med treatment		111.30
11/3/05 Plane ticket from Little Cayman (LC) to Cayman Brac (CB) for medical treatment.....		50.25
18/5/05 Plane ticket from LC to CB for med treatment		50.25

Medical Report( Cayman Is.)

CIS\$120.00

07/1/05	UHWI-MRI-I/S spine	JAS	45,000.00	or	CIS\$586.78
25/7/05	Med Service (JA)		800.00	or	CIS\$10.43
27/7/05	Med. Service (JA)		1,500.00	or	CIS\$19.56
28/7/05	Dr. Hayman	JAS	3,000.00	or	CIS\$ 39.12
18/11/05	Dr.Hayman		1,500.00	or	CIS\$19.56
3/8/06	Dr. Hayden		2,500.00	or	CIS\$32.60
	Various dates prescribed medication (pharmacy)		4,839.28	or	CIS\$63.10
	Various dates prescribed medication (pharmacy)		5,373.48	or	CIS\$70.06
	Various dates prescribed medication (pharmacy)		396.24	or	CIS\$5.17
	Various dates prescribed medication (pharmacy)		460.00	or	CIS\$6.00
	Various dates prescribed medication (pharmacy)		345.00	or	CIS\$4.50
	Various dates prescribed medication (pharmacy)		396.24	or	CIS\$5.17
	Various dates prescribed medication (pharmacy)		460.00	or	CIS\$6.00
06/8/	Unpaid balance to Dr. Wright to date for ongoing medical Treatment	JAS	15,000.00	or	195.60

Total to date

CIS\$2,087.36

- The Plaintiff also claims damages for pain, suffering and loss of amenities resulting from the injuries she sustained in the accident as well as psychological damages.
- The Plaintiff further claims from the Defendant future medical expenses and Past loss of income and future loss of income.

**AND THE PLAINTIFF CLAIMS:**

- Special, general and provisional damages
- Pre-judgment interest according to statute and/or Law
- Post Judgment interest according to statute and/or Law
- Costs
- Further and or other relief.

Dated this 14<sup>th</sup> day of August, 2006.

  
Morris M Garcia

Attorney-at-Law for the Plaintiff  
To: The Clerk of Courts

And To: The Defendant, c/o its Attorneys-at-Law  
Della Campbell and Co.

This Writ was issued by Morris M Garcia, Attorney-at-Law for the Plaintiff herein whose  
address for service is Suite #2, Newlaw Bldg, 180 Shedden Rd, Grand Cayman

**STATEMENT REGARDING INTEREST**

- (i) The Plaintiff claims interest upon any such damages awarded to her pursuant to the Judicature Law and Judgment Debts (Rates of Interest) Rules.
- (ii) The Plaintiff is unable to state the total amount of interest claimed as her claim is unliquidated.
- (iii) The date from which the Plaintiff wishes the interest to be calculated is, in the case of special damages, the dates on which they were paid and in the case of general damages, the dates on which they were sustained.

**ENDORSEMENT AS TO INSURERS**

The Defendant's insurer for, inter alia, accident liability insurance is Cayman General Insurance, PO Box 2171, George Town, Grand Cayman, Cayman Islands, British West Indies.

**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 495, 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 acting in person).

If a Statement of Claim is endorsed 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 acknowledgment service of the writ, unless in the meantime a summons for judgment is served on the defendant.

If a Statement of Claim is not endorsed 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<sup>3</sup> 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 affidavit of his means. The affidavit should state any offer which the defendant desires to make for the payment of the money by installments or otherwise.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 338 OF , 2006

BETWEEN: NETTIE WALKER PLAINTIFF

AND: LITTLE CAYMAN REEF RESORT DEFENDANT

**ACKNOWLEDGEMENT OF SERVICE OF THE 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. pay the cost of applying to set it aside. If 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 sum, 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 no

**Notes on address for service**

**Attorneys:** 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 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 acting in person)** of his name, address and reference, if any, in the box below.

--

**Filed by Morris M Garcia, Suite #2, Newlaw Building, Grand Cayman, Attorney-at-Law for the Plaintiff.**

**Notes for Guidance**

1. Each defendant (if there are more than one) is required to complete an **Acknowledgment of Service and return it to the Courts Office.**
2. For the purpose of calculating the period of 14 days for acknowledgment 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 a PARTNER by name, 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 authorized to act on behalf of the company, but the company can take a 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 for a guardian ad litem.
8. A defendant acting in person may obtain help in completing the form at the Courts Office.