

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.

6. On 15th June 2006, some four weeks after the Operation, the First Defendant referred the Plaintiff to Dr. Kasner at Baptist Hospital, Miami, Florida for removal of the lens material in the posterior portion of his eye, a procedure known as a right pars plana vitrectomy (“the Remedial Operation”).
7. Subsequent to and as a result of the Remedial Operation, the Plaintiff suffered a retinal detachment, a known possible complication of the procedure carried out. The Plaintiff’s eyesight remained poor.
8. In October 2005, on the advice of Dr. Foley, the Plaintiff underwent a further operation to re-attach his displaced right retina. This operation successfully re-attached the retina, but the Plaintiff’s eyesight remained poor, at 20/400 in his right eye, and he continued to suffer pain and discomfort.
9. Subsequently, the Plaintiff’s sight in his right eye has deteriorated further, such that his right eye is of no use.
10. The Plaintiff is not expected to recover any useful vision in his right eye, which remains inflamed, swollen, painful and irritated and has developed a complete ptosis (drooping eyelid). It is likely that the Plaintiff will have to use topical medication on his right eye for the rest of his life.
11. The injuries to the Plaintiff’s right eye were caused by the First Defendant’s negligence in his preparation and conduct before, during and after the Operation on 18th May 2005.

PARTICULARS

The First Defendant was negligent in that he:-

- a) Conducted the Operation when the facilities provided by the Second Defendant were inadequate and unsuitable for doing so, due to incorrect and incomplete equipment and supplies;

- b) Failed to refer the Plaintiff for treatment overseas at a facility with correct and complete equipment and supplies;
- c) Failed to note, or recognise the significance of the rupture of the lens and its release of cortical lens fragments into the body of the eye, during the Operation;
- d) Failing to check, prior to closure, for the presence of cortical lens fragments in the body of the eye;
- e) Failing to remove the cortical lens fragments from the body of the eye, prior to closure;
- f) Failing, in all the circumstances, to exercise the reasonable care and skill to be expected from a specialist ophthalmologist surgeon in and about the conduct of the Operation;
- g) Failed to recognise, on post-operative follow up on 19th, 20th, and 24th May 2005 that the Plaintiff's capsule lens had ruptured and to refer him for remedial treatment promptly;
- h) Failed to carry a dilated fundus examination of the Plaintiff's right eye until 31st May 2005;
- i) Failed, following the 31st May 2005 dilated fundus operation, during which the First Defendant identified large fragments of lens material in the vitreous humour of the right eye, to recognise the severity of this condition and/or the need for prompt remedial action and, accordingly, failed again to refer the Plaintiff for corrective surgery;
- j) Failed to refer the Plaintiff to Baptist Hospital until 15th June 2005; and
- k) Failing, in all the circumstances, to exercise the reasonable care and skill to be expected from a specialist ophthalmologist surgeon in and about the Plaintiff's post-operative care and diagnosis and treatment of post-operative complications.

12. The Second Defendant is vicariously liable for the negligence of the First Defendant, set out above. Further, the Second Defendant was independently negligent in that it
- a) Failed to provide suitable and complete equipment and supplies for the Operation at the Second Defendant's premises;
 - b) Failed to exercise sufficient control over the First Defendant so as to direct him not to carry out operations, such as the Operation, which were beyond the capability of the Second Defendant's facilities;
 - c) Failed to have due regard and attention to the health, safety and comfort of the Plaintiff prior and during the Operation; and
 - d) Failed by itself, or through the First Defendant, to exercise all necessary caution and preparation in order to avoid any personal injury, loss and damage to the Plaintiff.

13. If the First Defendant had exercised due care and skill:

- a) The Plaintiff would have been referred to a suitable overseas medical facility for treatment; alternatively
- b) The First Defendant would have removed the fragments of lens material from the Plaintiff's eye prior to completion of the Operation

thus avoiding the post-Operation complications including the vitrectomy and retinal attachment surgery which in fact followed. The Plaintiff would not have been put in the position where he had to have surgery with a known risk of retinal detachment (the vitrectomy) and would not have had to have repeat surgery, which left the Plaintiff's eye vulnerable to deterioration, ptosis, infection, inflammation, irritation and pain.

14. As a result of the failures of both the First and Second Defendant, the Plaintiff who was born on 23rd March 1933, suffered significant personal injuries, expense, loss and damage.

PARTICULARS OF PERSONAL INJURIES

The Plaintiff has suffered the following injuries:

- a) cystoid macular oedema;
- b) retinal detachment
- c) corneal ulcer
- d) iris rubeosis;
- e) monocular legal blindness with a visual acuity of 20/800 vision in his right eye;
- f) chronic pain in his right eye;
- g) anxiety and depression.
- h) Complete ptosis
- i) The Plaintiff's eye sight deteriorated further in late December 2005 when he developed a corneal ulcer on his right eye. The ulcer was a direct result of the treatment the Plaintiff received and required following the Operation.

15. The Plaintiff's home life and enjoyment of life has been significantly affected by his injuries.

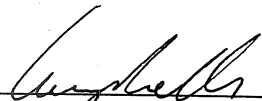
PARTICULARS OF SPECIAL DAMAGE

16. The Plaintiff is unable to continue his hobby of model boat building, which, in addition to providing much enjoyment and satisfaction, provided the Plaintiff with a regular source of income during his retirement years.

17. The Plaintiff has incurred, and continues to incur medical expenses and loss of income as a result of his injuries. The Plaintiff faces ongoing future medical expenses which are currently being assessed. Full particulars of the Plaintiff's damage and loss, which are continuing, will be provided at trial by means of a separate schedule.

AND THE PLAINTIFF claims:

- 1) General damages;
- 2) Special damages;
- 3) Pre-judgment interest in accordance with section 34 of the Judicature Law (1995 Revision);
- 4) Further and applicable other relief as this Honourable Court deems necessary, and
- 5) Costs.



CAMPBELLS
Attorneys for the Plaintiff

DATED: 13TH JULY 2007

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, Grand Cayman KY1-1106, Cayman Islands.

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 Acknowledgment 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.

OF 2006
L/A 35/06

BETWEEN: JAMES EDWARD BODDEN

PLAINTIFF

AND: CAYMAN ISLANDS HEALTH
SERVICES AUTHORITY

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 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.

 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 no
-

Service of the Writ is acknowledged accordingly

(Signed).....
Attorney for

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.

CAMPBELLS
Attorneys-at-Law
4th Floor, Scotia Centre
PO Box 884
Grand Cayman KY1-1103
CAYMAN ISLANDS
(Ref: STM/BJH/sm/13078)

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]