

**STATE GRAND COURT OF THE CAYMAN ISLANDS**

G0192

**CAUSE NO: OF 2008**

**BETWEEN**

**DAPHNE LOUISE ORRETT**

**PLAINTIFF**

**AND**

**ERA KIRKCONNELL REALTY (CAYMAN ISLANDS) LTD**

**WRIT OF SUMMONS**

**TO: ERA KIRKCONNELL REALTY LTD**  
**306 North Church Street**  
**George Town**  
**Grand Cayman**



**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, 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      day of April 2008.

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 citizen of the Cayman Islands and currently resides at 20 Conch Point Road, West Bay, Grand Cayman. The Plaintiffs d.o.b. is 23/6/1941. At all material times to the action the plaintiff was employed by the Defendant as a realtor and held this position since 1996.
2. The Defendant was at all material times to the action as a company lawfully trading in the Cayman Islands as a firm of Realtors.
3. The plaintiff was employed at the defendant's office premises at North Church Street, George Town.
4. On or about the 21<sup>st</sup> April 2005 the plaintiff was at work in the offices on North Church Street when in the course of her employment she tripped over an unmarked raised floor tile area causing her to fall and suffer injury as hereinafter particularized.
5. The plaintiff's accident was caused by the Defendant's negligence and/or by the breach of statutory duty of the Defendant, their servants or agents.
6. Particulars of Negligence
  - (a) Failing to warn the Plaintiff either adequately or at all of the hazard.
  - (b) Failing to provide any or adequate lighting, warning or identification of the step.
  - (c) Causing or permitting the step to become or remain a danger and a trap to persons using the premises.
  - (d) Failing to heed the fact that the plaintiff and others had stumbled on this area on previous occasions.
  - (e) Failing to heed complaints made by the Plaintiff and others to management over the dangerous nature of the area.
  - (f) Failing to institute or enforce any or any adequate system for the inspection and maintenance of the said area whereby the defect might have been remedied before the Plaintiff's accident.

- (g) Causing or permitting a step to exist which posed a substantial risk of tripping.
- (h) Failing to take any or adequate steps to ensure that the floor was flush.
- (i) In the premises the Defendant failed to provide the Plaintiff with a safe place or safe system of work and exposed her to an unnecessary risk of injury.

7. By reason of the matters aforesaid, the Plaintiff has suffered personal injury, loss and damage.

#### 8. Particulars of Personal Injury

The Plaintiff, whose date of birth is 23/6/1941 was caused pain, suffering and loss of amenity as follows;

Principal injury, pain and suffering are:

- (a) Post-traumatic articular cartilage damage to the right knee.
- (b) Intervertebral disc herniation L5 - S1
- (c) Rotator Cuff Sprain Right Shoulder
- (d) Post-traumatic lateral epicondylitis Right Elbow

Hospital Treatment, nursing and domestic care and attention required

Subsequent to the accident the Plaintiff left work and returned home. Gradually the pain increased and the following day the Plaintiff attended at George Town Hospital for treatment. The Plaintiff had x-rays taken and was released with pain killing medication.

Due to on-going pain and difficulties with pain to the right shoulder, arm knee and to the back the Plaintiff attended at the Orthopaedic Clinic on numerous occasions. The Plaintiff's condition continues to deteriorate and she will undergo further treatment.

#### **In-patient Treatment**

On the 10<sup>th</sup> January 2006 the Plaintiff underwent an operation for an arthroscopic abrasion chondroplasty to trim the damaged articular cartilage to the right knee.

On the 17<sup>th</sup> October 2006 the Plaintiff underwent further surgery for manipulation and intra-articular steroid injection to the right shoulder.

Plaintiff has undergone spinal injections to attempt to minimize pain levels.

#### **Outpatient Treatment**

The Plaintiff's injuries has necessitated her attendance at hospital on numerous occasions. These visits are in relation to investigation of her knee, back , shoulder and elbow pain.

The Plaintiff has attended and continues to attend at the Cayman Orthopedic Clinic.

The Plaintiff is on constant pain medication and is currently taking five separate prescriptions.

#### **Nursing care, domestic care and attention required.**

The Plaintiff has difficulty performing a variety of household tasks and requires assistance to do so. The plaintiff has difficulty carrying shopping and lifting any weight of note. The Plaintiff will continue to suffer difficulty with these tasks and will require assistance for the rest of her life.

#### **Loss of Amenity**

The Plaintiff has suffered and will continue to suffer from a loss of amenity.

The Plaintiff has been forced to retire from work due to the physical effects of the accident.

The Plaintiff has suffered an estimated Total Whole Person Impairment of 26% in accordance with the American Medical Association Guide 5<sup>th</sup> edition with impairment as follows;

Right Knee	12%
Right Shoulder	6%
Lumbar Spine	8%

**Particulars of Medical Reports**

Dr Ajit Ambekar 4<sup>th</sup> April 2007

Further updated medical reports will follow.

Full care report and loss of earnings calculations will follow to quantify special damages.

**AND THE PLAINTIFF claims:**

1. General Damages
2. Special Damages
3. Interest in accordance with the Judicature Law (2007 Revision)
4. Costs

Samson & McGrath

**Samson & McGrath**

**Attorneys for the Plaintiff**

**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 495G, 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 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.



**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.

Samson & McGrath  
Attorneys at Law  
3rd Floor Genesis Building  
Genesis Close  
PO Box 446  
George Town  
Grand Cayman

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