

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: ⁴⁶⁸ of 2008

BETWEEN: APRIL L. WEBB

PLAINTIFF

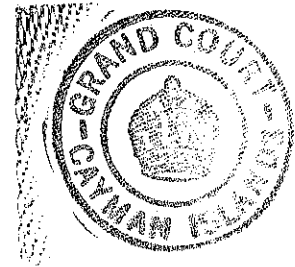
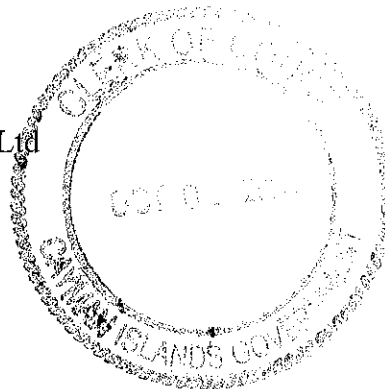
**AND: CARIBBEAN PUBLISHING COMPANY
(CAYMAN) LIMITED**

DEFENDANT

WRIT OF SUMMONS

TO THE DEFENDANT:

Caribbean Publishing Company
(Cayman) Limited
c/o Cayman Management Services Ltd
P.O. Box 1569GT
Ground Floor, Harbour Centre
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 6th day of October 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: of 2008

BETWEEN: APRIL L. WEBB PLAINTIFF

**AND: CARIBBEAN PUBLISHING COMPANY
(CAYMAN) LIMITED DEFENDANT**

STATEMENT OF CLAIM

1. The Plaintiff, who was born on 20 December 1971, was at all material times resident in Grand Cayman, Cayman Islands.
2. The Defendant was at all material times a company incorporated in the Cayman Islands (registration number 2842) and carried on the business of a publishing house from premises at, *inter alia*, Trinity Square, George Town, Grand Cayman (“the Defendant’s Premises”).
3. The Plaintiff was an employee of the Defendant for a period in excess of twelve (12) years from 8 May 1995 to 24 April 2007 at the Defendant’s Premises, which premises were a workplace within the meaning of the Labour Law (2007 Revision and predecessors) (“the Law”).
4. From on about, 14 December 1998, the Plaintiff was employed as the production manager and on, or about, 5 November 2003, the Plaintiff was promoted to the position of publishing manager (Western Caribbean), being responsible for directing and controlling publishing activities relating to the directories for the Cayman Islands Publishing Unit and ensuring all work was completed within the Defendant’s standards of deadlines, quality control, budget, policies and procedures.

5. The Plaintiff was also required to work in all areas of production, graphic art and sales, personnel support, including utilizing the computer facilities of the Defendant such as Adobe Photoshop, Microsoft Office (Excel, Word and Outlook) and the Yellow Magic Data Systems (contact entry, contract modifications and all other work necessary for the completion of directories) on a constant basis while sitting at her work station.

The Plaintiff's duties at work

6. During the course of her employment, it was an implied term of the Plaintiff's contract of employment by the Defendant that the Defendant would provide a safe workplace environment and safe system of work for the Plaintiff. Further or alternatively, the Defendant owed the Plaintiff a statutory duty to provide a safe workplace environment and safe system of work for the Plaintiff pursuant to sections 58, 60(c), 61(b) and (d) of the Law. Further or alternatively, the Defendant owed the Plaintiff a duty of care in like terms.
7. During the course of carrying out her work duties the Defendant failed to provide the Plaintiff with a safe workplace environment and safe system of work in that:
 - (i) Her immediate work space was poorly designed;
 - (ii) She was required to sit in an inappropriate and insufficiently adjustable chair in excess of nine (9) hours a day;
 - (iii) While she sat at her work station the Plaintiff was required to access and monitor two (2) different computer screens which were poorly and inadequately positioned, being insufficiently adjustable;
 - (iv) Her position at the work station was not safe and no other immediate obvious alternative was available to her, nor was one provided at any point prior to February 2006 by the Defendant;
 - (v) She constantly typed and used the computer "mouse" on a daily basis for hours at a time undertaking and completing numerous tasks; including, but not limited to, repetitive data entry;
 - (vi) No form of positive support was provided by the Defendant;

- (vii) Work equipment was inappropriately positioned by the Defendant and unable to be moved by the Plaintiff;
 - (viii) The Defendant failed to provide the Plaintiff with a safe place and system of work;
 - (ix) The Defendant failed to acknowledge the recommendations of the medical expert/specialist;
 - (x) The Plaintiff was given no training or instruction as to what symptoms to be mindful of, or alert for, or what steps to take when and if symptoms developed or persisted in her hands, wrists or arms;
 - (xi) The Plaintiff will contend that at all relevant times the Defendant had, or ought to have had, knowledge that in the above circumstances the Plaintiff was exposed to a foreseeable risk of injury that was avoidable and ought to have been avoided.
8. In failing to provide the Plaintiff with a safe workplace environment and safe system of work as set out in Paragraph 7 above, the Defendant acted in breach of the implied term set out in Paragraph 6 above, further or alternatively in breach of the statutory duty owed to the Plaintiff under sections 58, 60(c), 61(b) and (d) of the Law alternatively negligently as set out below:

PARTICULARS OF BREACH

The Defendant acted in breach of implied term, alternatively in breach of statutory duty alternatively negligently in that it:

- (i) Failed to take any or any adequate steps to prevent the risk of the Plaintiff's injuries whether by educating and warning employees, or by substituting or altering the immediate working environment for its employees;
- (ii) Failing to inform employees of the likelihood of the risk of the development of repetitive strain injuries and of the injuries the Plaintiff suffers;

- (iii) Failed, in particular, to inform the Plaintiff when she first started in her employed position, or at any other time, that she was to report any aches, pains or adverse affects, which she felt were caused by her employed position;
- (iv) Failed, when devising the system of work, to consider the consequences of requiring the Plaintiff to perform such repetitive movements each day.
- (v) Failed to devise a system of work whereby the Plaintiff's tasks were varied or rotated throughout the day, so that period of work involving repetitive movements were interspersed with significant periods of other work.
- (vi) Failed to provide the Plaintiff with any, or any, sufficient, or adequate, periods of rest throughout the working day, but instead insisted that the Plaintiff work beyond normal working hours, weekends and holidays, as required.
- (vii) Failed to provide and keep any proper, or detailed, or adequate, records of risk assessments throughout the Plaintiff's term of employment.
- (viii) Failed to provide the Plaintiff with a safe place and safe system of work, adequate instructions, training or supervision and exposing her to an unnecessary risk of injury.
- (ix) Failed to take any or any adequate care to ensure the health, safety and welfare of the Plaintiff pursuant to the Labour Law (2007 Revision).
- (x) Failed, either before employing the Plaintiff, or regularly during her employment, or after introducing new technology, to warn the Plaintiff:
 - (a) of the risks she ran of developing repetitive strain injury or kindred conditions;

- (b) of what hand, wrist and arm symptoms to be mindful of, or alert for, and what steps to take when and if such symptoms arose and/or persisted;
 - (c) of what steps she should take obviate or minimize the risk of development or progression of those symptoms or of repetitive strain injury or kindred conditions.
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- (xi) Failed adequately or at all in time or at all to devise, institute or operate or ensure the institution or operation of a system of work rotation or regular rest breaks for a less repetitive system of work or a more ergonomically considered system, or otherwise to obviate or minimize the risk of the Plaintiff suffering repetitive strain injury.
 - (xii) Failed adequately or at all in time or at all to heed or act upon the incidents of repetitive strain injury sustained by the Plaintiff.
 - (xiii) Failed regularly to monitor the workforce generally or the Plaintiff in particular so as to identify promptly any symptoms of repetitive strain injury when they occurred.
 - (xiv) Continued to assign the Plaintiff to her aforesaid work after she first developed symptoms and/or made them known to the Defendant.
 - (xv) Failed to warn the Plaintiff of the dangers of working as aforesaid or otherwise to prevent her from doing so.
 - (xvi) Provided her with a poorly designed work station which was not based on ergonomic design principles;
 - (xvii) Required the Plaintiff to sit in an inappropriate and insufficiently adjustable chair in excess of nine (9) hours a day;

- (xviii) Required the Plaintiff, whilst seated at her poorly designed work station, to access and monitor two (2) different computer screens which were poorly and inadequately positioned, and were insufficiently adjustable;
- (xix) Provided the Plaintiff with a work station and chair which were not safe and failed to provide an alternative to her at any point prior to February 2006 by the Defendant;
- (xx) Required the Plaintiff to type and used the computer mouse on a daily basis for hours at a time undertaking and completing numerous tasks; including, but not limited to, repetitive data entry;
- (xxi) Failed to provide any or any adequate support for the Plaintiff's back, neck, shoulders and arms whilst sitting at her work station
- (xxii) Work equipment was inappropriately positioned by the Defendant and unable to be moved or adjusted by the Plaintiff;
- (xxiii) Failed to provide the Plaintiff with a safe place and system of work;
- (xxiv) The Defendant failed to acknowledge the recommendations of the medical expert/specialist;
- (xxv) Gave the Plaintiff no training or instruction as to what symptoms to be mindful of, or alert for, or what steps to take when and if symptoms developed or persisted in her hands, wrists or arms;
- (xxvi) Exposed the Plaintiff to a danger or a foreseeable risk of injury.

9. As a result of the Defendant's breach of implied term alternatively breach of statutory duty alternatively negligence, the Plaintiff has suffered personal injuries, loss and damage.

PARTICULARS OF PERSONAL INJURIES

The Plaintiff, as a result of her cumulative injuries imposed consequent to her poor working environment, suffers from the following injuries:

1. DeQuervain's tenosynovitis;
2. Recurrent right dorsal wrist Ganglion;
3. Mild carpal tunnel syndrome;
4. Paresthesias and swelling in her left arm and hand;
5. Chronic recurrent musculoligamentous sprain/sprain of the cervical, thoracic and lumbar spine;
6. Cervical brachialgia;
7. Headaches;
8. Non-restorative sleep pattern:
 - (a) Fatigue;
 - (b) Insomnia;
 - (c) Depression;
 - (d) Fibromyalgia (known as sleep deprivation syndrome)

It is possible that the above injuries contributed to compromise her immune system, leading to vulnerability to Epstein Barr Virus, from which the Plaintiff now suffers. It is not pathognomic.

Following further diagnosis of her medical condition by a specialist in physical medicine and rehabilitation and electrodiagnosis, Dr. Caroline Quartly, the Plaintiff has required substantial periods of time off work. The Plaintiff's home life, parenting, and social life have been detrimentally affected. The Plaintiff was dismissed from her employment as a result of her injuries, and is at a severe handicap in the labour market.

PARTICULARS OF SPECIAL DAMAGE

- 1) Past Loss of Earnings.
- 2) Past Medical Expenses including travel and accommodation
- 3) Costs of special equipment
- 4) Additional particulars of loss and damages will be provided prior to trial.

Further, the Plaintiff claims:


- 1) Continuing loss of earnings.
- 2) Future medical expenses.
- 3) Costs of replacement special equipment.
- 4) An award under the principles in **Smith v. Manchester**.

AND THE PLAINTIFF claims;

- (a) Damages;
- (b) Pre and post Judgment Interest in accordance with section 34 of the Judicature Law (1995 Revision);
- (c) Further and /or other relief as this Honourable Court deems fit and;
- (d) Costs

Dated this 6th day of October 2008

Filed this 6th day of October 2008



CAMPBELLS

Attorneys-at-Law for the Plaintiff