

IN THE GRAND COURT OF THE CAYMAN ISLANDS



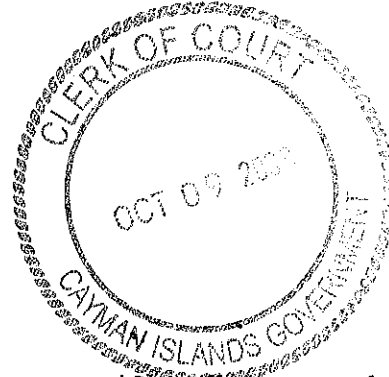
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CAUSE NO: OF 2008
Legal Aid 87/07

BETWEEN MARIE SHERYL ROSE PLAINTIFF

AND RELIABLE INDUSTRIES DEFENDANT

WRIT OF SUMMONS

TO: RELIABLE INDUSTRIES
 COMPASS DRIVE
 NORTH SOUND ROAD
 GEORGE TOWN



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 ^{9th} 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.

STATEMENT OF CLAIM

1. The Plaintiff is a female d.o.b 27th April 1976 and currently resides at Nash Street, Bodden Town and is employed as a telephone operator.
2. The Defendant was at all times a company formed in the Cayman Islands employed in the supply of cleaning personnel to businesses and offices.
3. The Plaintiff at all relevant times worked at Fosters Food Fair, Airport Road, George Town, Grand Cayman as a part time store level employee.
4. The Defendant was employed by the Plaintiff's, Fosters Food Fair, to provide cleaning services inside the store.
5. On the 21st October 2005 at approximately 9.50 p.m. the Plaintiff was working at the deli counter when an employee of the Defendant, in the course of their employment came to the area in order to clean the flooring.
6. To facilitate this, the employee of the Defendant lifted all the protective floor mats from the Plaintiff's work area and stacked them on top of each other. The mats were stacked in such a way as to cause an obstruction to the Plaintiff on her exit route from the deli counter. The lifting and stacking of the floor mats caused water and or other liquids which had gathered underneath the mats to be exposed.
7. As the Plaintiff was working in the area she attempted to exit the area. In order to do so the Plaintiff was forced to step over the mats on the floor whilst coming from an area of flooring that was wet.
8. As a result of this, the Plaintiff's footwear was wet and the Plaintiff lost her footing on the floor and slipped and fell, sustaining personal injuries.
9. These personal injuries were caused as a result of the negligence of the Defendant, its servants or agents.

10. The Plaintiff sustained injury to her back as a result of this fall.
11. On the 25th May 2006 the Plaintiff was working at the same store, Fosters Food Fair, Airport Road, George Town, Grand Cayman.
12. At approximately 10.35 p.m. the Plaintiff entered a female bathroom to use the toilet cubicle. At the time of entering the cubicle there was no-one else present in the bathroom.
13. Upon leaving the cubicle the Plaintiff slipped and fell upon a wet floor. After slipping it was clear to the Plaintiff that an employee of the Defendant had entered the area and mopped the floor leaving it wet and dangerous. An employee of the Defendant was in the bathroom at the time of the Plaintiff's fall.
14. The Plaintiff was given no warning that this was taking place and no warning signs had been placed in the area by the employee of the Defendant.
15. As A result of this fall the Plaintiff suffered injuries to her back. The Plaintiff continued at her work until December 2006.
16. The Plaintiff's injuries were sustained by reason of the negligence of the Defendant, their employees or agents or both.
17. Particulars of Negligence for incident 21st October 2005
 - (a) Causing the floor to be or to become or to remain in a dangerous condition and/or in such a condition as to hinder the use thereof by the Plaintiff.
 - (b) Failing to take any or reasonable care to see that the Plaintiff would be reasonably safe in using her workplace.
 - (c) Causing or permitting the floor to be or to remain a danger and a trap to persons lawfully using same.
 - (d) Failing to fence off the area of the area being cleaned and to provide any or any adequate alternative means of access and egress.

- (e) Causing or permitting the area to be or to become or to remain in a dangerous condition as a result of the presence thereon of obstruction and substances likely to cause persons to slip.
- (f) Permitting the Plaintiff to walk in an area when they knew or ought to have known that it was unsafe and dangerous for her to do so.
- (g) Failing to erect any or any adequate warning signs in respect of the dangers upon the area which the Plaintiff was injured.
- (g) Failing to devise or enforce any or any adequate system of work which would have ensured that the unsafe condition of the same was detected and the same remedied before the Plaintiff's accident.

18. Particulars of Negligence for incident dated 25th May 2006

- (a) Failing to take any or any reasonable care to see that the Claimant would be reasonably safe in using the premises as an employee.
- (b) Causing or permitting the floor to be or to become or to remain a danger and a trap to persons lawfully using the same.
- (c) Causing or permitting water or other moist or slippery substance to be present upon the floor.
- (d) Failing to cause the water or other substance to be cleaned up and the floor dried.
- (e) Failing to institute or enforce any or any adequate system for the cleaning of the floor.
- (f) Failing to give the Claimant any or any adequate or effective warning of the presence of the substance upon the floor.
- (g) Permitting the Claimant to walk in an area when they knew or ought to have known that it was unsafe and dangerous for her to do so.
- (h) Failing to place any barrier around the wet/moist area of floor

19. As a result of the Defendant's negligence, the Plaintiff has suffered personal injuries, loss and damage.

20. Particulars of Personal Injury

- (a) General pain and suffering including severe pain in the lower back and right leg.
- (b) Disc bulge at the 4 and 5 levels on the right side requiring surgical intervention.
- (c) Rupture of disc at L5-S1 on the right side requiring surgical intervention.

21. As a result of the accident on the 21st October 2008 the Plaintiff suffered pain to her back.

22. The Plaintiff worked at George Hicks High School as an assistant cook from Monday to Friday from 7 until 3.30p.m. and then at Fosters Food Fair from 4 p.m. until 11p.m. from Monday until Saturday.
23. The Plaintiff would take days off work due to the pain suffered from her injuries from 21st October onwards.
24. The Plaintiff would on some weeks take one or two days off per week from her job at Fosters due to the pain.
25. The Plaintiff visited her Doctor approximately once per month. The Plaintiff was prescribed Cataflam and took Voltaren injections. The Plaintiff was in daily pain.

Injuries subsequent to 25th May 2006.

26. After the incident on the 25th May 2006 the pain got worse to the lower back. On occasion the Plaintiff would switch her role within her employment due to her pain to one with no standing.
27. Due to the increased pain the Plaintiff received a back brace from Human Resources at Fosters in or around June 2006. The Plaintiff wore this every day at work for both jobs. The Plaintiff continued to be severely limited in her workplace and private life and suffered significant pain levels daily.
28. The Plaintiff continued to visit her Doctor and continued to be prescribed Cataflam and Voltaren injections.
29. In December 2006 the pain was becoming unbearable for the Plaintiff. The Plaintiff suffered shooting pains from her hip to her heel. This caused difficulty for the Plaintiff in standing, bending and all movements.
30. Due to the pain the Plaintiff was forced to give up her employment in both George Hicks and Fosters.
31. The Plaintiff visited Cayman Orthopaedic Group where she had x-rays and was ordered to have a CAT scan.

32. The Plaintiff went to Jamaica in January 2007 to receive further treatment and advice and to have a CAT scan.
33. The Plaintiff had a caudal epidural steroid injection in January 2007 and a second one in or around February 2007 and a third one in or around June 2007. These provided limited relief to the Plaintiff.
34. The Plaintiff changed her medication in January 2007 to Tramacetm, Neurontin and Gabapentin. The Plaintiff was taking these from January 2007 until May 2008. The Plaintiff was taking 15 tablets per day. The Plaintiff was wearing the back brace everyday until surgery in May 2008 also.
35. The Plaintiff was unable to work for approximately 8 months as a result of her injuries.
36. The Plaintiff underwent surgery on May 12 2008 under general anesthetic. The operation was a decompression of the two levels, L4-L5 and L5-S1. The Plaintiff was hospitalized for 8 days and was on medication for pain control.
37. The Plaintiff was advised that she was unfit to work from the date of surgery until 18th August 2008 when she returned to work.
38. The Plaintiff's operation was a success although the Plaintiff continues to have pain if standing or walking for a long period or if she undertakes repeated bending.
39. The Plaintiff will continue to suffer back pain indefinitely.
40. The Plaintiff is now restricted to working for 8 hours per day. The Plaintiff cannot lift items in excess of 10 lb.
41. The Plaintiff has been advised not to stand for long periods of time. The Plaintiff has suffered a diminution in her capacity to earn and in the fields of employment that she is eligible for.
42. The Plaintiff cannot go jogging or walking as she did previously.
43. The Plaintiff used to socialize at the weekends and week nights with friends. The Plaintiff no longer goes out due to the pain in her back and discomfort it would cause her.

44. The Plaintiff is single. The plaintiff has suffered impaired sexual function.
45. The Plaintiff suffers from depression; the plaintiff continues to take medication for depression.
46. The Plaintiff is no longer capable of carrying out daily tasks; the Plaintiff cannot lift any heavy objects, bend or clean the home.
47. The Plaintiff's mother has come to island to assist the Plaintiff with her daily tasks. The Plaintiff pays her mother's bills in Jamaica in exchange for her help.
48. The Plaintiff continues to suffer from the injuries sustained and relevant reports will be prepared in due course.
49. Particulars of Special Damage
- (a) The Plaintiff has incurred medical expenses and will continue to do so. Particulars of this claim will be forwarded when complete.
 - (b) The Plaintiff has suffered loss of earnings and will suffer loss of earnings from now until retirement age. Such losses will be particularized at a later date.
 - (c) The Plaintiff has suffered a loss in the labour market and claims under the rule in *Smith v Manchester*.
 - (d) The Plaintiff will need continued care and assistance domestically and will incur additional living expenses due to her injuries.
 - (e) The Plaintiff has suffered a diminution in her social life.
 - (f) All such losses will be particularized when complete.

AND THE PLAINTIFF claims:

1. Damages
2. Interest in accordance with the Judicature Law (2007 Revision)
3. Costs
4. Such further and other relief as this Court may deem just

Samson & McGrath

Samson & McGrath

Attorneys for the Plaintiff

THIS WRIT was issued by Samson & McGrath, Attorneys for the Plaintiff whose address for service is 3rd Floor Genesis Building, Genesis Close, P.O. Box 446 GT, George Town, Grand Cayman.

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.

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.