

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 0579 OF 2008

BETWEEN:

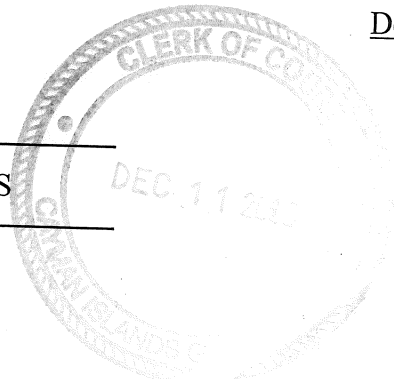
MAUREEN THERESA PITCAIRN

Plaintiff

AND:

MAPLES AND CALDER ("MAPLES")

Defendant



WRIT OF SUMMONS

To: The Defendant

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out in the attached Statement of Claim.

Within fourteen (14) days of 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 495, George Town, Grand Cayman, the accompanying Acknowledge of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement 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 11th day of December 2008

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 date of issue unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgement of Service are given with the accompanying form.

STATEMENT OF CLAIM

Maples & Calder

1. The Defendant, Maples and Calder (“Maples”), is a firm of Attorneys licensed to practice law in (and amongst other jurisdictions), the Cayman Islands.
2. Maples was established in the Cayman Islands in 1967 by expatriate British lawyers.
3. As at the filing of this action, Maples described itself, on its website, in the following way:

“An international law firm advising on the laws of the Cayman Islands, Ireland and the British Virgin Islands. Our reputation for delivering legal advice of the highest possible quality, on time and on budget, is unsurpassed.

We recruit candidates with first class academic backgrounds from leading commercial law firms in the City of London or its equivalents elsewhere. We place heavy emphasis on training and teamwork within a group structure, thus ensuring a consistent quality of service to our clients.

With specialists in every aspect of international and offshore law, we are proud of our reputation and strive hard to maintain it.”

Mrs. Pitcairn

4. The Plaintiff, Maureen Theresa Pitcairn, (“Mrs. Pitcairn”) was born on 22 February 1961 in George Town, Grand Cayman to Caymanian parents and is therefore a Caymanian as defined under section 2 of the Immigration Law (2007 Revision).
5. Mrs. Pitcairn was educated:
 - a. first, at Alpha Academy, South Camp Road, Kingston, Jamaica;
 - b. secondly, at the Bodden Town Primary School; and

11. Mrs. Pitcairn is a member of the Cayman Islands Law Society and of the Caymanian Bar Association. She is also a Notary Public of the Cayman Islands.
12. At all material times, Mrs. Pitcairn was a well-educated lawyer of the highest quality, integrity, ambition and ability.
13. As a well educated, female, black, Caymanian lawyer, Mrs. Pitcairn has always wanted to succeed. Her ambition to succeed has not only been for herself and her family, but also for the benefit of Maples and for the Caymanian community as a whole, all of which have always been of great importance to her.
14. To thrive in and ultimately to become a partner in Cayman's leading law Firm was important to Mrs. Pitcairn. Maples well knew that. Mrs. Pitcairn made no secret of that fact.
15. Mrs. Pitcairn joined Maples as a highly qualified Caymanian, a matter of which Maples were, no doubt, both pleased and proud. Her employment with Maples fitted well with the political climate in the Cayman Islands regarding Immigration and the grant of Work Permits, with Maples' relationship with the Immigration Department's statutory boards, and with Maples' later developed "Core Values".

The Political Climate regarding Immigration and the grant of Work Permits at or around the time of Mrs. Pitcairn's employment by Maples

16. From the 1970s onward there was significant increase in the number of immigrants settling in the Cayman Islands. Whilst on the one hand those immigrants had contributed greatly to the Islands' economic success, on the other, their presence brought with it a marked increase in tensions, especially with regard to employment.

- c. thereafter, at the Cayman Islands High School until the age of 15.
6. Mrs. Pitcairn attended:
 - a. York University, in Toronto, Ontario, Canada between 1986 and 1988, completing a three year bachelor of arts degree in political science (which degree is offered to all students intending to complete a law degree in Ontario, Canada) and was awarded the Ashe Davis Liberal Award scholarship and a scholarship awarded to overseas students who maintained an "A" average; and thereafter
 - b. Bristol University, in England, between 1988 and 1991, from which university she graduated with an LLB (Hons) degree in 1991.
 7. Following her degree at Bristol University, Mrs. Pitcairn attended the Cayman Islands law School, where she passed her Professional Practice examinations in early to mid-1993.
 8. With the assistance of Mr. Arthur Hunter, Mrs. Pitcairn's political science degree and law degree were both sponsored by the Cayman Islands law firm, Hunter & Hunter, now Appleby ("Appleby"). She also received a scholarship from the Business and Professional Women's Club of the Cayman Islands whilst pursuing her degree at York University.
 9. Mrs. Pitcairn was employed as an Articled Clerk at Maples between July 1991 and July 1993 and was admitted as an Attorney-at-law ("Attorney") of the Cayman Islands on 23rd July 1993.
 10. Thereafter, Mrs. Pitcairn was employed as an Attorney by Maples from 23rd July 1993 to 5 May 2008. During that period of employment, Mrs. Pitcairn worked loyally and tirelessly for Maples and contributed to the success of the firm over that period.

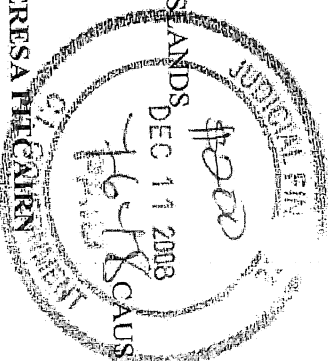
IN THE GRAND COURT OF THE CAYMAN ISLANDS

DEC 11 2008

CAUSE NO:

OF 2008

G05709



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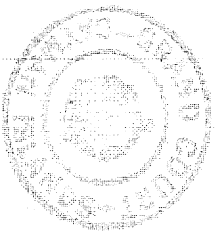
MAUREEN THERESA HITCHKIN

Plaintiff

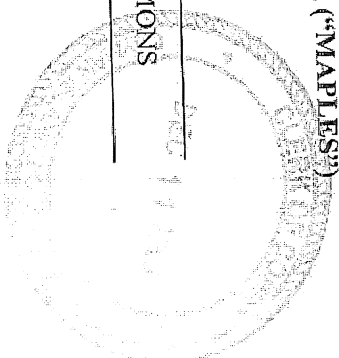
AND:

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11. Mrs. Pitcairn is a member of the Cayman Islands Law Society and of the Caymanian Bar Association. She is also a Notary Public of the Cayman Islands.
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The Political Climate regarding Immigration and the grant of Work Permits at or around the time of Mrs. Pitcairn's employment by Maples

16. From the 1970s onward there was significant increase in the number of immigrants settling in the Cayman Islands. Whilst on the one hand those immigrants had contributed greatly to the Islands' economic success, on the other, their presence brought with it a marked increase in tensions, especially with regard to employment.

17. Accordingly, in 1971, a law was passed, the Caymanian Protection Law and amended in 1984 to address the concerns relating to these issues.
18. Mr. Ormond Panton became chairman of the Board (defined below) from 1977-1984.
19. Section 5 of the Caymanian Protection Law 1984 ("CPL 1984") defined the Caymanian Protection Board ("Board").
20. The functions and powers of the Board were prescribed by Section 6 of the CPL 1984. Those functions and powers included, amongst others:
 - "(d) the grant of gainful occupation permits to certain persons of non-Caymanian status."
21. Section 24 of the CPL 1984 provided that:
 - "Save as otherwise provided by this Law, no person of non-Caymanian status shall be gainfully occupied in the Islands unless licensed in that behalf by the Board"
22. Section 25 of the CPL 1984 provided for the making of an application for a gainful occupation licence, by the person seeking the licence, or by the prospective employer of such person.
23. Section 27 of the CPL 1984 provided, amongst other things:
 - "(1) The Board, in considering any application under section 25 shall, subject to any general directions which the Governor may from time to time give in respect of the consideration of such applications, take particularly into account -
 -
 - (c) the availability of the services of persons already resident in the Islands;
 - (d) the protection of local interest[s];
 - (e) the economic and social benefit which the applicant may bring to the Islands or enhance by his presence;
 -
 - (i) generally, the requirements of the community as a whole;

_____ and such other matters as may arise from the application.”

24. However, in due course the protection afforded to Caymanians by the CPL 1984 was perceived by the Cayman Islands Government as inadequate.

25. Accordingly, on 22 February 1989 a Select Committee of the Legislative Assembly was established by the passing of Government Motion No. 2 of 1989 to consider the then existing CPL 1984, the Trade and Business Licensing Law (Revised) and the Local Companies (Control) Law (Revised).

26. On 8 July 1992, the Honourable J. Lemuel Hurlston (“Mr. Hurlston”) moved the Second Reading of the Immigration Bill 1992 before the Legislative Assembly.

27. In moving that Bill, Mr. Hurlston said, amongst other things:

“Clause 29 makes a slight change to the previous provision to make it plain that the protection of local interest includes particularly the interest of Caymanians. Clause 29 introduces two new matters which the Board is obliged to have regard to when considering the grant of work permits. Firstly, the Board will be required to have regard to availability of suitable accommodation for workers and dependents. Secondly, in the case of an application in respect to a professional, managerial or skilled occupation, to take account of whether an adequate training program to ensure that a Caymanian is being trained to fill the position has been established.”

28. During the course of that Second Reading of the Immigration Bill, on 10 July 1992, Mr. Roy Boddan said, amongst other things:

“.....one of the things this new Immigration Law is expected to deal with is the whole question of work permits. I relish the name change from Gainful Occupation Licence to Work Permit. It may just be an exercise in semantics but I think it is more realistic in that, right away, it strikes at the root of the problem, a work permit as against a more aesthetically sounding Gainful Occupation Licence. This business of work permits, Madam Speaker, has been a concern of legislators in all walks of life and it is business that we will soon have to come to grips with because in a population where there are

16,000 people employed, according to information, there are more people on work permits than there are Caymanian people. Even in the Civil Service, one third are foreign nationals. In a country of this size, Madam Speaker I am saying that that is out of balance. There is a maladjustment and this maladjustment will manifest itself first in economic frustration because Caymanians will find that they will not have access to certain kinds of jobs and this economic frustration will in turn, manifest itself in social disruption and resentment.

Upon this law rests the hopes of Caymanians that there can be a more equitable balance.”

29. In July 1993, the Immigration Law 1993 (the “1993 Law”) received the Governor’s assent.

30. Section 5 of the 1993 Law introduced a new section 27, in the following terms:

“27. Except as otherwise provided by this Law, a person who does not possess Caymanian status must not carry on any gainful occupation in the Islands unless authorised to do so by a work permit.”

Maples’ Qualified lawyers as at July 1991

31. When Mrs. Piccainn commenced employment with Maples as an Articled Clerk in July 1991, Maples had six Partners, all of whom were expatriates from the United Kingdom (“UK”), five qualified expatriate lawyers, all of whom were from the UK, three qualified Caymanian lawyers, and one other Articled Clerk, who was also Caymanian.

32. Those 6 Partners were Timothy Christopher John Ridley (“Mr. Ridley”), Anthony Brian Travers (“Mr. Travers”), Colin Shaw (“Mr. Shaw”), John Dyke (“Mr. Dyke”), Andrew Moon (“Mr. Moon”) and Andrew Jones (“Mr. Jones”). Mr. Shaw retired from Maples in 1994, Mr. Dyke in November 1998, Mr. Ridley in 2000, Mr. Moon in 2005, Mr. Travers in May 2006 and Mr. Jones in 2006, although Mr. Jones continues to act as a consultant for Maples.

33. Those five qualified expatriate lawyers were Ian Lambert ("Mr. Lambert"), Charles Jennings ("Mr. Jennings"), Henry Harford ("Mr. Harford"), Julian Reddyhough ("Mr. Reddyhough") and Adrian Pope ("Mr. Pope"). Mr. Lambert became a partner of Maples in 1996, Mr. Jennings became a partner of Maples in or about 1995 or 1996, Mr. Harford became a partner of Maples in 1994, Mr. Reddyhough became a partner of Maples in 1994 and Mr. Pope became a partner of Maples in 1992.

34. Those three qualified Caymanian lawyers were Olivaire Watler ("Mr. Watler"), Sharon Pierson ("Mrs. Pierson") and Andrew Reid ("Mr. Reid"). Mr. Watler qualified as an attorney in the 1989, became a salaried partner in 1998 or 1999 and resigned or retired from Maples in 2002 or 2003. Mr. Watler is presently employed by Conyers Dill & Pearman ("CD&P") as an associate. Mrs. Pierson qualified as an attorney in the 1987 after completing her law degree with the Cayman Islands Law School, became a partner in 1992 and retired from Maples in 2003. Mrs. Pierson is now with CD&P and runs Codan Trust. Mr. Reid became articled to Maples from around 1994, attended the Cayman Islands Law School, qualified as an attorney in 1989 and became a partner at Maples in 1998. As at the date of these pleading he is the only indigenous Caymanian partner with Maples.

35. The one other Articled Clerk was Patrick Schmid ("Mr. Schmid"). Mr. Schmid commenced his articles with Maples in 1990, qualified as an Attorney-at-law in 1998 and left Maples in 2004.

Mrs. Pitcairn's Recruitment by Maples

36. So far as recruitment was concerned in 1991, the policy of Maples was, amongst other things, to seek to recruit talented Caymanians.

37. Maples knew that the recruitment, training, development and promotion of Caymanians within Maples was essential to its development and prosperity within and later the Cayman Islands.
38. That was particularly so because of Maples' origins, having been established by expatriate British lawyers, and because of the need under the immigration and labour law not to be perceived as an employer that employed expatriate lawyers exclusively in so far as the employment of its professional lawyers was concerned.
39. From 1980 until 2000, Mr. Travers was the joint senior partner of Maples with Mr. Ridley. Thereafter, and until 2006, Mr. Travers was the sole senior partner of Maples.
40. Mr. Travers recognised that:
 - a. Mrs. Pitcairn was a well-educated Caymanian woman of the highest quality, integrity, ambition and ability;
 - b. Mrs. Pitcairn was a person who complied with the Maples 'fit' in terms of their recruitment policy;
 - c. the employment, training, development and promotion of Mrs. Pitcairn by Maples would probably benefit not only Maples' business but also its reputation within the Cayman Islands as an employer of talented Caymanians.
41. Mrs. Pitcairn's employment by Maples, from July 1991 to July 1993, was at the instigation and with the encouragement of Mr. Travers.
42. Having been sponsored during her University courses both at York University and at Bristol University by Appleby, Mrs. Pitcairn had been offered, and had secured, Articles of Clerkship ("Articles") with Appleby.

43. Mr. Travers resolved to seek to persuade Mrs. Pitcairn to become his Articled Clerk at Maples. Mrs. Pitcairn recognised and acknowledged and was grateful for all the support which she had received from Appleby, and was only prepared to join Maples, and to become Mr. Travers' Articled Clerk, if Appleby were willing and prepared to release her from her obligation to undertake Articles with Appleby.
44. Mr. Travers negotiated with Mr. Arthur Hunter, of Appleby, for, and secured the consent of Mr. Arthur Hunter to, the release by Appleby of Mrs. Pitcairn's obligation to undertake Articles with Appleby.
45. Thereafter, Mrs. Pitcairn was employed as an Articled Clerk to Mr. Travers, between 1991 and 1993. Throughout her Articles, Mr. Travers, recognising Mrs. Pitcairn's potential for development and, in due course, promotion, and the benefits to Maples of her employment with them, encouraged Mrs. Pitcairn to remain with Maples as an Attorney upon her qualification as such.
46. Having been admitted as an Attorney-at-law of the Cayman Islands, in July 1993, Mrs. Pitcairn was employed as an Attorney by Maples from 23rd July 1993 to 5 May 2008.

Maples' Expectations of their Caymanian Employees

47. The policy of Maples was that the Caymanian lawyers employed by them should not only meet their expectations as to their industry and the quality of their work but that they should also meet the expectations of the Caymanian community, so as to further the reputation and standing of Maples in the Cayman Islands.
48. Mrs. Pitcairn fulfilled all of Maples' expectations in that regard.
49. Mrs. Pitcairn was always willing to seek out and to listen, learn and take advice. She worked hard, was dedicated and energetic to the task in hand, whatever that might have

been. Mrs. Piccain also expressed a desire to be involved in community matters, which said matters benefited Maples' reputation and standing.

50. In addition to serving Maples loyally and assiduously, and meeting the expectations of Maples in that regard, in addition to her work in and for the community, Mrs. Piccain is:
- a. the Deputy Chair of the Planning Appeals Tribunal;
 - b. a former Chair of the Labour Appeals Tribunal;
 - c. a former Council member of the Education Council;
 - d. a former President (and the first female President) of the Caymanian Bar Association;
 - e. a former Chair of the Cayman Islands Museum;
 - f. a former member of the Cayman Islands Tourism Attraction Board;
 - g. a past member of the Board of Trustees of the Cayman Islands National Trust;
 - h. a former Chair of the Employment Services Forum;
 - i. a former Chair of the Miss Cayman Islands Committee;
 - j. a member of the Cayman Islands Law Society;
 - k. a member of the Caymanian Bar Association.

Maples' training and advancement of their Caymanian lawyers

51. As early as 1996, and notwithstanding the requirements under the 1991 Law, by way of an internal memorandum, the Partners of Maples recognised the unfairness as between Caymanian Attorneys and expatriate Attorneys in relation to the employment practices of Maples. In particular they recognised that:
- a. they "had tended to treat Caymanian" lawyers as "second class citizens";
 - b. that had resulted in a "lack of loyalty" amongst staff;
 - c. they would need to arrange matters in such a way as would allow Caymanian lawyers to compete with expatriate lawyers and "become part of the team";

- d. the then present system operated unfairly because Attorneys who had been employed from the Cayman Islands' Law School, namely Sharon Pierson and Andrew Reid, were "automatically put at a huge disadvantage";
 - e. it was impossible for them "to compete" with persons who had 5 year's post qualification experience (in the City of London, England), "even if they were of equal ability, which most were not";
 - f. the problem was compounded because the partner or lawyer to whom the young Caymanian reported was also judged on his billing, and therefore had "no incentive to train anyone";
 - g. in order to "have friends" in government and "on the Immigration Board", Maples needed Caymanians who were loyal to Maples;
 - h. in order to achieve that, Maples had to ensure that system had to provide Caymanians with a real prospect of being able to compete with expatriate lawyers;
 - i. at that time Caymanian Attorneys were deemed "certain losers" and the Caymanian Attorneys resented that fact.
52. Mrs. Pitcairn from time to time raised with partners of Maples the inadequacy of the training provided to Caymanians and also the inequality in the remuneration paid to Caymanians when compared with that paid to expatriate lawyers.
53. By way of example, in January 2001 Mrs. Pitcairn met with Mr. Moon, Maples' then managing partner, and Mr. Pope, and asked them to ensure that there was a fairer distribution of work files and responsibility amongst the Attorneys.
54. At that same meeting Mrs. Pitcairn asked Mr. Moon and Mr. Pope if Maples would consider granting an increase in salary so that it was more in line with the salary that was then being paid to similarly qualified Attorneys. Mrs. Pitcairn was promised a salary increase within 6 months. Despite Mr. Pope's promise to increase her salary, it later proved to be an empty one and no such increase was ever forthcoming

55. In the meeting in January 2001, and in that context, Mr. Pope commented that Maples was “pleased” to see that Mrs. Pitcairn had “turned the corner”. From that statement, and from the promise of a salary increase, Mrs. Pitcairn believed that Maples were very satisfied with her work to date and with her overall development as an attorney.

56. However, whilst Mrs Pitcairn did receive some further files following that meeting, after a review by her of those files, she was disappointed to discover that the files were of little substance, and would not assist in the development of her career and her ability to generate reasonable fees or her potential as a future partner of Maples.

57. Subsequently, and consequently to the meeting in January 2001, Mrs. Pitcairn had a meeting with Mr. Travers, Mr. Pope and Mr. Moon, at which she again raised those issues of unfairness. Mr. Travers seemed unaware of the details of the earlier meeting which she had in January with Mr. Moon and Mr. Pope, and knew nothing of the promised salary increase. Mr Travers pointedly asked both Messrs. Moon and Pope whether such an increase of salary was promised and Mr. Moon confirmed this to be the case.

58. The result of that meeting, and of a particular remark made to her by Mr. Pope, “why don’t you just leave”, served seriously to undermine Mrs. Pitcairn’s confidence in what she had been told at the earlier meeting, in January of that year.

The Requirements of the Immigration Law 2003

59. By mid 2003, the then current workforce employed in the Islands on work permits ranged from some 14,000 to 16,000 persons each year.

60. The Cayman Islands Government recognised that the issue of immigration was increasingly becoming a very sensitive and emotive one due also in no small part to the

- public heated concerns raised by Caymanian articulated clerks, especially those graduating from the Cayman Islands Law School, that were unable to obtain engagements as articulated clerks.
61. The Government also recognised that, in any Immigration Policy for the Islands, a balance had to be struck between the need to protect the Islands' citizens, and the Islands themselves, from being overrun by Immigrants wanting to settle, and the need to ensure that the Islands continued to attract persons of the requisite quality sufficient to grow and maintain the Islands' economy.
62. As a result of those concerns, on 25 September 2003, the Hon. McKeever Bush, the then Leader of Government Business, laid before the Legislative Assembly the Immigration Bill 2003.
63. The express purpose of that Immigration Bill 2003 was to create a new Immigration Policy of growth management, together with a comprehensive system of progressive rights that would be fair, both to Caymanian citizens and to immigrants to the Islands.
64. On 15 December 2003, the Immigration Bill 2003 received its Second Reading.
65. It was fundamental to the Immigration Bill 2003 that, when enacted, the new immigration law would set criteria to ensure that no Caymanian who is able, willing and qualified would be deprived, directly or indirectly, of gainful employment. It was also fundamental to that Bill that there should be a requirement for employers to provide Caymanians with proper training and opportunities to be promoted to the highest levels possible, according to their abilities.
66. The proposed Immigration Policy was *inter alia* to be implemented so far as Work Permits and various other matters were concerned, by a new Work Permit Board and

Business Staffing Plan Board thereby replacing the powers of the then existing Board in that respect.

67. Under the proposed new Immigration Law, the Immigration Bill provided that in respect of each employer making an application for a Work Permit for an Immigrant employee, the Board would have to satisfy itself of, amongst other things, the following matters:

- a. that the prospective employer had proved that there was no person of Caymanian status within the Cayman Islands who is ready, willing and able to undertake the job in question, and that the prospective employer has taken all necessary measures, including advertising internally and externally, to ascertain that fact;
- b. that the applicant had shown that there is no Caymanian in the employ of his prospective employer suitable or capable of filling the position;
- c. that the prospective employer had established an adequate training or scholarship programme, as well as comprehensive succession planning to ensure that a Caymanian is being trained to fill the position.

68. During the Second Reading of the Immigration Bill, the Hon McKeever Bush said, amongst other things, that:

- a. all too often mere lip service is paid to those requirements (as set out in paragraph 67. a to c above);
- b. employers must be held accountable;
- c. that the proposed new Immigration Law would ensure that the upward mobility of Caymanians is not simply talked about, as it had been for years, but becomes a reality.

69. In addressing the position of professional firms, he said:

“No professional in any company, firm or partnership operating within the Islands should be made a shareholder or partner, whether an equity partner or not, until an application for change of occupation has been made to the Board, and the Board has approved such change.

In considering such an application, all employers must be able to satisfy the Board that they have established adequate training and sponsorship programmes to ensure that Caymanians are being trained in that profession. The Board must also have regard for the effect such a change of occupation would have on the opportunity for advancement, to partner level, of qualifying Caymanians already engaged in the same profession within that company, firm or partnership.

This will guarantee that our young professional Caymanians, particularly in law firms, accounting firms and so on, do not get left behind, or lost in those firms. Under this Law, they will have to be considered for partnerships as a matter of priority. That is why we say that this Law protects the advancements of Caymanians, and, in fact, gives new opportunity for advancement to Caymanians.”

70. In relation to Business Staffing Plans, he said, amongst other things:

“A new and improved Business Staffing Plan system will ensure that employers are training Caymanians and putting in place proper succession planning for the medium to long-term future.”

71. In relation to the grant of work permits, he said, amongst other things, that:

- a. work permits for professional employees will be subject to specific restrictions relating to employment in the private sector;
- b. professional employees included lawyers;
- c. no professional should be granted a work permit as a self-employed person, save in exceptional circumstances;
- d. no professional should be made a shareholder or partner, until an application for change of occupation has been made to, and approved by, the Board.

72. On 1 January 2004, the Immigration Law 2003 (the “2003 Law”) came into force.

73. Part V of the 2003 Law is concerned with the Gainful Occupation of Non-Caymanians.

74. Section 43 of the 2003 Law provides:

“(1) Every company, firm or other business enterprise employing-

- (a) fifteen or more work permit holders, shall; and
- (b) fewer than fifteen work permit holders, may,

within one year of the commencement of this Law or the establishment of the business, submit to the Business Staffing Plan Board a Business Staffing Plan in accordance with the Third Schedule to the Regulations.

(2) An employer may, in the Business Staffing Plan, make request for the approval by the Board of a specific number of positions for exempted employees and such number or such other number as the Board shall approve after consultation with the employer shall be designated by the Board in relation to that employer for the duration of the period covered by the Business Staffing Plan, but the designated number may be varied from time to time during that period upon application by the employer by the Board and after any further consultation that the Board may consider appropriate.”

75. On different occasions in 2003 Mrs. Pitcairn revisited the issue of training, opportunity, additional work and responsibility with Mr. Pope who represented that he would speak to Mr. James Wauchope and between them would let her “have a full year’s run” of work which he would supervise. This “full year’s run” of work from Mr. Wauchope and Mr. Pope never materialised in spite of Mrs. Pitcairn’s repeated requests for an explanation.

Maples and the Immigration and Work Permit Policy in the Islands

76. The concerns of the Government in relation to the training, promotion and employment practices under the immigration laws as they related to Caymanians and its intention to make Employers more accountable were, or ought to have been, well known to Maples.

77. Those concerns and intentions were well known to Mrs. Pitcairn.

78. In light of increasing disquiet by the Immigration Board at the respective levels of expatriate lawyers and Caymanian lawyers employed in the Islands, from about 2001, Maples submitted to the Immigration Board applications for work permits, representing to that Board that Maples was providing to Caymanian lawyers both training and partnership opportunities.

Maples' Business Staff Plan in 2004

79. As a firm employing fifteen or more work permit holders, Maples was required, by the 2003 Law, to submit to the Business Staffing Plan Board a Business Staffing Plan in accordance with the Third Schedule to the Immigration Regulations.

80. On or about 5 March 2004, Maples submitted to the Business Staffing Plan Board a "Business Staff Plan" dated 5 March 2004.

81. In that Plan, Maples said, amongst other things:

"3. Culture of the Firm

The Firm does not operate on a commission basis remuneration system for its attorneys because we are of the view that this places young Caymanian lawyers at a serious competitive disadvantage. Whilst Caymanian lawyers qualifying through the Cayman Islands Law School cannot hope to bring any significant client contacts to the Firm, transactional flows in our Firm are distributed by Group Partners in accordance with ability levels as demonstrated. Training programmes are provided and attendance noted. The Firm has substantial precedent bases and know how now available to all lawyers through the IT systems, by desktop or remotely by laptop access. Laptops are provided to all lawyers.

The success of the work distribution system, which we believe to be unparalleled, is clearly evidenced by the chargeable hours obtained by all new lawyers in the Firm. This evidences equal opportunity and compares most favourably with the results at other law firms in the Islands."

"19. Maples and Calder's contribution to the Cayman Islands

There are significant benefits to the Cayman Islands arising from the continued development of the Firm as a source of employment for Caymanians, and as a source of revenue for the Cayman Islands Government. Our lawyers and senior staff benefit the Cayman Islands by building homes and through trickle down economics. Our lawyers and staff and their families have become involved in the local community. We must now compete with overseas law firms with Cayman Islands capability which provide no similar benefits for the Cayman Islands.

The Firm undertakes a great deal of pro-bono work for the Cayman Islands Government, local charities and clubs. The Firm has a long history of regularly sponsoring and contributing to local community initiatives, providing money, equipment and time for worthy causes, from the Firm itself or from individual lawyers of the Firm on a personal basis.

Lawyers of the Firm are members of many Government committees, have rendered significant advice in relation to initiatives and strategies, drafted many laws and been a significant contributor to the development of the Cayman Islands. In addition, the Firm collects and pays over US\$20,000,000 of revenue each year to the Cayman Islands Government on its own behalf and on behalf of its clients.”

Mrs. Pitcairn’s legitimate expectation of a Partnership

82. Each of Maples and Mrs. Pitcairn knew of the political climate in the Cayman Islands regarding immigration, the grant of work permits and upward mobility of Caymanians.
83. In particular, each of Maples and Mrs. Pitcairn knew of the purposes behind the enactment of the 2003 Law, the Government’s concerns and requirements for the provision of adequate training opportunities, and equality of opportunities for the advancement of professionally trained, Caymanians.
84. Further, from time to time Maples informed the Immigration Board, the Work Permit Board, and the Business Staffing Plan Board that they had made adequate provision to meet those concerns and requirements.
85. In the premises, Mrs. Pitcairn had a legitimate expectation that Maples would comply with those requirements, and that in due course she would be made a partner in Maples.

86. In 2003 and 2004, Mrs. Piccain renewed her attempts to further her career. From time to time she asked Mr. Henry Smith, her supervising partner, about the prospects of her becoming a partner. In response, whilst being non-committal, Mr. Smith was always encouraging, saying to her, “You can go as far as you want to go Theresa”, “continue to work hard”, and “you are moving in the right direction”.
87. As such comments were made by her supervising partner, they confirmed Mrs. Piccain’s belief that if she continued to work hard and loyally for Maples, in time she would be made a partner in Maples.
88. Further, on 30 March 2004, Mrs. Piccain, met with Mr Travers. He said he told Mrs. Piccain that he was happy with her performance at work, that although she needed more drafting experience she was definitely on “track for partnership”, and could expect to be made up.
89. Consistent with those comments, at Mrs. Piccain’s annual review for 2004/2005 both Mr. Smith and Mr. Travers told her that they were “very happy” with her progress, and commented favourably on the number of hours that she had worked in that year.
90. At that same review, Mr. Travers reiterated that Maples were thinking of elevating Mrs. Piccain to partnership. In response to Mrs. Piccain’s question as to when that would be, Mr. Travers said that it would not happen that year but would occur “no later than next year”.
91. As a result of that meeting Mrs. Piccain was left in no doubt that she was meeting the performance criteria for becoming a partner and was left with a legitimate expectation of becoming a partner within a reasonable time frame.

92. Mrs. Pitcairn was, as Maples well knew, very pleased with all she had been told as becoming a partner was the goal that she had worked tirelessly towards. She had been through some difficult times at Maples, feeling at times undervalued, underused, abused and unfairly treated, as Maples well knew.
93. Accordingly, the recognition of her services to Maples by the promise of a partnership was not only welcomed, but encouraged her to stay at Maples and to work towards that promised partnership.
94. Following that annual review, Mr. Smith and Mr. Jon Fowler (who was made an equity partner with Maples in 2007), visited Mrs. Pitcairn and promised to provide her with transactions involving sophisticated fund work in addition to the CDO work and structured finance transactions which she had already been undertaking. Mrs. Pitcairn saw that request as a testament to the faith which Maples had in her abilities and hard work and in recognition of her career progression towards the promised partnership. She willingly accepted the extra work, and undertook the challenge with skill, efficiency and enthusiasm.
95. However it was disappointing to Mrs Pitcairn that, having completed one new fund by the end of 2005, and having a real interest in, and aptitude, for this additional area of work, when she asked for more of the same, none was forthcoming. No explanation was given to Mrs. Pitcairn as to why it was not forthcoming notwithstanding numerous requests for such explanation.
96. Meanwhile, on 22 March 2005 Mrs. Pitcairn wrote to Mr. Smith:
- a. referring to the fact that, at a meeting between Mr. Travers, Mr. Smith and herself in 2004, at which Mr. Travers had said that he (that is to say, Maples) would not make Mrs. Pitcairn a Partner that year, but would do so in 2005;

b. asking Mr. Smith if he thought it would be useful for her to attend a marketing trip to a law firm (O'Melveny & Myers LLP ("OMM") in California; and

c. stated that she agreed with Mr. Travers idea to develop strategic relationships with other women in the other law firms with which Maples routinely dealt.

97. Mrs. Piccain had, by email dated 3 June 2004 to Mr. Travers, previously brought to Mr. Travers' attention that consistent with what was discussed at her review, she had been developing a very good business relationship with OMM with whom she had been doing some Mutual Funds work due to files that she inherited from Mrs. Pierson and "debt work".

98. Mrs. Piccain's role was perceived by Mr. Travers, and Maples, to be one of value to the implementation of that strategy.

99. During the second half of 2005, at a lunch meeting with Mr. Travers, Mrs. Piccain discussed her appointment to partnership at Maples. It was the practice of Mr. Travers to have a series of lunches with Maples' senior Attorneys individually to discuss with them their progress and any issues concerning their advancement within Maples and to listen to any problems which they felt they were experiencing. Mr. Travers had developed that practice as part of his "senior partner function"

100. Mr. Travers told Mrs. Piccain that the partners had reviewed her billable hours and "the numbers", and that he and the partners were happy with them. He also informed Mrs. Piccain that she had "come back strong after the hurricane" (that is hurricane Ivan). He complimented Mrs. Piccain on her attitude towards her work and towards Maples, saying that her "attitude towards the Firm was where it should be", and that "on an objective analysis" she was "on track" for partnership.

101. The expression "on track" was well understood within Maples by both the partners and the Attorneys. It conveyed, as it was intended by Maples so to do, that the Attorney was

performing to the level that would result in a favourable consideration for partnership. It was intended, as in Mrs. Piccairn's case it did, to dissuade the Attorney from seeking alternative employment with another law firm. It was intended to carry with it the implication that, whilst it did not guarantee a partnership, if the Attorney continued to perform to the standard demonstrated by that Attorney, the Attorney would have a legitimate expectation of a partnership.

102. Mr. Travers specifically said that Maples were satisfied that Mrs. Piccairn "worked hard" and that there were no issues with her "loyalty to the firm". He said that Maples had a "duty to make up Caymanians within the Firm" in the spirit of the Immigration Law and indicated again Maples' intention to make Mrs. Piccairn a partner. In fact Mr. Travers went as far as saying if not that year by the end of the following year. These comments allayed the lingering doubts that Mrs. Piccairn had regarding the previous comments made by Mr. Pope referred to in paragraph 58 above.

103. Such was the organisation and management of Maples at the time that Mr. Travers, as Senior Partner, had authority, and was held out as having authority, to communicate and represent to Mrs. Piccairn that she would be admitted to partnership at Maples. Mrs. Piccairn believed that Mr. Travers had that authority, and Mr. Travers knew that she believed that to be the case (as, in fact, it was).

104. In making the representations which he did, Mr. Travers intended that Mrs. Piccairn should rely upon them in her future conduct and in any consideration by her whether to remain at Maples, or whether to pursue her career elsewhere. Mrs. Piccairn did indeed rely on the representations as Mr. Travers intended, and as Maples well knew. Mrs. Piccairn had no reason to doubt the sincerity with which those representations were made, and did not do so.

105. The representations made to Mrs. Piccairn by Mr. Travers were subsequently reinforced at a lunch meeting which Mrs. Piccairn had with Mr. Pope. Mrs. Piccairn told Mr. Pope

that Mr. Travers had represented that she would be made a partner by Maples. Mr. Pope said nothing to counter that representation, or her belief in its accuracy. Indeed, such was the nature of the meeting that Mrs. Pitcairn and Mr. Pope discussed a paper which Mrs. Pitcairn had prepared and sent to Mr. Pope which dealt with delicate issues pertaining to staff, organisational alignment, and bridging the apparent Caymanian/expatriate divide within Maples.

106. In reliance on the representations which had been made to her by Mr. Travers and Mr. Pope, and believing that appointment to partnership for her was fairly imminent, Mrs. Pitcairn continued to work hard and loyally for Maples.

107. By email dated 16 January 2006, Mrs. Pitcairn wrote to, amongst others, Mr. Smith:

- a. stating that she had set herself a billing target for that financial year;
- b. asked for their assistance in helping her meet it; and
- c. asked if she could assist with their work, and in particular with collateral debt/loan obligations or other structured financing transactions.

108. By a subsequent email of that same date to Mr. Smith (and to Mr. Jon Fowler), Mrs. Pitcairn stated that she would also like to develop her Mutual Funds portfolio and skills to build on the files previously inherited from Mrs. Pierson, and asked for a time when it would be convenient to meet and discuss her proposal.

109. Mrs. Pitcairn felt that this was very important as it would involve work that generated high fees and this combined with her developing CDO practice would enable her to meet her billing target even though she never received a response from Mr. Smith regarding the proposed fund work mentioned at paragraphs 94 and 95 above.

110. Mrs. Pitcairn also continued to ask Mr. Smith to consider sending her on marketing trips to develop her clientele base as Maples did routinely with its expatriate lawyers.

Mr. Travers ceases to be Senior Partner of Maples

111. On or about 12 May 2006 Mr. Travers ceased to be senior partner of Maples.

Maples' Core Values

112. On 19 September 2006, Mr. Pope sent to all employees of Maples, the following email:

“The partners believe that at Maples we distinguish ourselves from the competition not only by the quality of our work but also by our approach to each other, our clients and the outside world. As the firm grows, it is increasingly important that the key elements of what we see as our ‘culture’ are retained and strengthened. The firm has therefore decided to crystallise its core values and communicate these more widely within the firm.

These core values are to be used as guiding principles in the management and operation of the firm and in our conduct with each other and with our clients.

The core values of the firm are attached and they will also be posted on the firm’s intranet under “Core Values”. Please take a few moments to read them and to think how you can apply them to your work for the firm.

If you have any questions, please contact your group partner.”

113. The Core Values, attached to Mr. Pope’s email, were in the following terms:

“The Core Values of the Maples Group

A firm’s core values define how the firm will operate as it strives to achieve its goals.

The core values of our firm are:

Excellence

We value excellence in our work product and in client service. We measure the quality of our work product and client service by reference to the standards of the leading law firms in the onshore financial centres.

Teamwork

While we value and recognize individual contributions, we believe our best results are achieved - and the interests of our clients best met - by adopting a team approach to client service. We value a culture of collegiality, shared knowledge and shared ideas. We will not compete with one another for work, and for "credit" for the work.

One Firm

We make decisions that advance the best interests of our firm as a whole.

Integrity

We adhere to the highest standards of ethics and professionalism in everything we do.

People

We are committed to attracting and retaining lawyers, professionals and other personnel who maintain our values, demonstrate initiative, accept responsibility and enhance the business and growth of our firm. We expect each individual to be equally committed.

Communication

We will listen to each other, fairly consider the opinions of others and communicate honestly with each other on issues that directly affect us."

114. Mrs. Pitcairn read them. Having read them and Mr. Pope's email, and notwithstanding that Mr. Travers was no longer senior partner of Maples, Mrs. Pitcairn was further comforted that Maples would honour Mr. Travers' representations on the basis that the failure to do so would contravene Maples' own core values.

Mrs. Pitcairn's Reviews in 2006 and 2007

115. Prior to her 2006 review, Mrs. Pitcairn talked with Mr. Paul Lumsden about her advancement to partnership. Encouragingly, he said to her that Maples had no issues or concerns with her dedication, hard work, loyalty or legal knowledge. He supported this by representing that he monitored her performance through regular discussions with Mr. Henry Smith who confirmed that he was happy with her work, dedication and performance. Mrs. Pitcairn also spoke with Mr. Henry Harford. When they discussed her advancement to partnership, he did not deny that Maples were very serious about her appointment. She also spoke to Mr. Jon Fowler, whom she regarded as a friend and who

- along with Mr. Paul Lumsden and Mr. Henry Smith actively encouraged her to submit an application for partnership.
116. In reliance on all such representations and encouragement, Mrs. Pitcairn prepared and submitted an extensive application for partnership in November 2006.
117. Mrs. Pitcairn's 2006 review took place on the evening of 15 November 2006. Shortly before the review, Mr. Pope circulated an email to all partners and to Mrs. Pitcairn. That email set out some proposed new roles for various partners, including Mrs. Pitcairn, within Maples. Mrs. Pitcairn was listed therein as being responsible for staff and "staff morale".
118. After reading the email Mrs. Pitcairn attended her 2006 review, which review was led by Mr. Pope. Mr. Fowler and Mr. Smith were also in attendance. However, contrary to Mrs. Pitcairn's expectations which had been bolstered by the new responsibilities proposed in the email, and contrary to the promises previously made to her, Mr. Pope told her that in his view she was "not there yet".
119. Mrs. Pitcairn was shocked, and stunned. She was also told for the first time that a grading system for partnership had been implemented and that she had been rated by the partners at a "2.5" level. Mrs. Pitcairn had no idea what that meant as the grading system was an entirely new concept. Of great concern to Mrs. Pitcairn was the startling admission made by Mr. Pope that he had not even reviewed Mrs. Pitcairn's substantial application for partnership.
120. As a result of the deep disappointment which Mrs. Pitcairn felt, she raised her immediate concern about what, she felt, was Maples' betrayal of trust and the lack of integrity displayed in the whole process and questioned whether Maples truly intended to move in a new direction as expressed in its Core Values. Mr. Pope responded by saying that Mrs. Pitcairn should not be upset as she "was 90% there" (that is, towards partnership) and that

“it would be a shame” if she decided to leave (that is, Maples) or gave up her quest for partnership at this time. Mr. Pope suggested that Mrs. “take all the time” that she “needed” over the Christmas holidays to think over what was discussed at the review and discuss in January.

121. Notwithstanding her immense disappointment and sense of injustice, Mrs. Pitcairn did not withdraw her application for partnership and, in reliance on the unequivocal representation made by Mr. Pope that Mrs. Pitcairn was “90% there”, she decided not to resign from Maples and informed Mr. Smith and Mr. Pope of her decision.

122. By letter dated 15 December 2006, Maples wrote to Mrs. Pitcairn stating that for 2007 her salary would remain at US\$265,000 notwithstanding the fact that other foreign attorneys at the same level or less received substantial increases in salary. Mrs. Pitcairn was given a bonus of US\$48,401 which Mr. Pope represented at the 2006 review to reflect the performance of an Attorney performing with a level 3 rating.

123. Notwithstanding that by that date Mrs. Pitcairn had given to Maples 15 years loyal service, and during which she had been qualified for 13 years, the salary which she was receiving and which she would receive in 2007 was the upper limit of the salary band awarded to Attorneys with 5 years post qualification experience.

124. By awarding Mrs. Pitcairn a salary at that level Maples discriminated unfairly between her as a Caymanian Attorney and her expatriate colleagues with equivalent, or less, post qualification experience than she had. Mrs. Pitcairn was disappointed.

125. During 2007, Mrs. Pitcairn worked tirelessly and loyally for Maples without the usual clerical support, in the belief and expectation that she could rely on the representations made to her by Maples, and which Maples had intended she should do, and that she would in due course achieve partnership. Mrs. Pitcairn continued to enquire whether it was Maples’ intention to keep its promise to send her on marketing trips to develop her

client base. On these occasions Mr. Smith represented that she would be “immersed” in capital markets in light of her transfer to the capital markets team led by Mr. Lockington and attend the marketing trips that they organised.

126. In November 2007 Mrs. Pitcairn attended yet another review. Neither Mr. Smith nor Mr. Pope was in attendance. This meeting was led by Mr. Lockington as equity partner, along with Mr. Mark Matthews, Mr. Alasdair Robertson, and Mr. Tim Frawley, all salaried partners in the capital markets team. None of those partners had any substantial knowledge of the work which Mrs. Pitcairn had been doing throughout the year. During such review Mrs. Pitcairn asked about the promises previously made concerning her elevation to partnership, and initially Mr. Lockington outright refused to address them.

127. Determined that she would not be stalled further, Mrs. Pitcairn specifically asked whether or not she would be made a partner. Despite the resistance to Mrs. Pitcairn’s forthright questioning, the Partners eventually relented and allowed a discussion on the topic as they saw that Mrs. Pitcairn would not simply allow the matter to be brushed aside.

128. Mrs Pitcairn threatened to resign if she was not made a partner and made it abundantly clear that, in light of Maples’ behaviour towards her, she would submit her resignation if the firm did not honour its promises. Mrs. Pitcairn also stated that if her performance level was still at a 2.5 why was “there no effort on the part of Henry” or Mr. Lockington to notify her of “the steps” that she needed to take to redress this. Mrs. Pitcairn further asked whether the partners were “comatose” or “sleepwalking” when it came to the way Maples treated her historically. Mr. Robertson asked that Mrs. Pitcairn “put the past behind” her and start afresh. Mr. Lockington asked that Mrs. Pitcairn refrain from doing “anything rash” and requested that she submit a memorandum to him setting out the history of her experiences concerning the promises of partnership which had been made to her.

129. On 6 November 2007, Mrs. Pitcairn submitted to Mr. Lockington a document entitled "My Candidacy for Partnership within the Firm" ("the Candidacy Memorandum").
130. On 7 November 2007, Mr. Jennings sent an email to all Attorneys employed at Maples stating that associate partner progression forms should be submitted by 9 November 2007.
131. In view of the fact that the Candidacy Memorandum dealt with exactly the same subject matter, Mrs. Pitcairn sent an email to Mr. Lockington saying that she would do nothing, as he instructed, in response to Mr. Jennings' email. Mr. Lockington told Mrs. Pitcairn that he would give Mr. Jennings a call. Mr. Lockington also thanked Mrs. Pitcairn for providing him with a copy of the Candidacy Memorandum which he reviewed and found "astonishing". Mr. Lockington said that "knew nothing" about the matters expressed therein. Mr. Lockington further stated that this was "typical Maples dishonesty" and asked Mrs. Pitcairn to "do nothing". As a result Mrs. Pitcairn reasonably assumed that Mr. Lockington would forward to all relevant Maples' partners a copy of the Candidacy Memorandum, and that she need do nothing more in relation to her application for partnership.
132. Subsequently, after the partners' annual meeting, Mrs. Pitcairn was invited to a meeting with Mr. Lumsden and Mr. Lockington. At that meeting she was told that "all promises are off" and that Mrs. Pitcairn "was not there yet".
133. Such statements were clearly intended by Maples, and were taken by Mrs. Pitcairn, to be interpreted as confirming to her that that there had been promises made by Maples to her in the past, but that they were no longer to be honoured. Mrs. Pitcairn was absolutely devastated.
134. By letter dated 14 December 2007, Maples wrote to Mrs. Pitcairn stating that for 2008 her salary would remain at US\$265,000, and that she would receive the same bonus of

US\$48,401. This was notwithstanding the fact that other expatriate attorneys of similar or lesser post qualification experience were given salary increases and bonuses, in certain cases bringing their salary to US\$500,000. When delivering the letter dated 14 December 2007 to Mrs. Pitcairn, Mr. Lockington reiterated that “all promises were off” as “you are not there yet”.

135. Notwithstanding that by that date Mrs. Pitcairn had given to Maples 16 years loyal service, and during which she had been qualified for 14 years, the salary which she was receiving and which she would receive in 2008 was just below the upper limit of the salary band awarded to Attorneys with between 3 and 4 years post qualification experience on the 2008 Levels (whereas in 2007 she received the salary awarded to Attorneys with 5 years post qualification experience based on the 2007 salary band levels as per paragraph 123 above).

136. By awarding Mrs. Pitcairn a salary at that level Maples discriminated unfairly between her and expatriate lawyers with equivalent, or less, post qualification experience than she had. Mrs. Pitcairn was again disappointed.

137. Notwithstanding the many representations made to her by Maples, the inescapable conclusion reached by Mrs. Pitcairn was that Maples had no genuine intention of making her a partner. In addition, Maples was seeking to maintain Mrs. Pitcairn salary at a level which was below the level of a lawyer with less post qualification experience.

Duties owed by Maples to Mrs. Pitcairn and legitimate expectations of Mrs. Pitcairn

138. At all times during her employment with them, Maples owed to Mrs. Pitcairn a duty of good faith and a duty to maintain a relationship of trust and confidence.

139. Further at all material times, Mrs. Pitcairn had legitimate expectations that:

- a. Maples would provide adequate training facilities and support to Caymanian Attorneys employed by Maples, including herself, so as to facilitate their advancement within Maples;
- b. Maples would provide equal opportunities, including a fair distribution of work, and a career structure for the advancement to partnership within Maples to Caymanian Attorneys employed by Maples, including herself, at least equal to those provided to expatriate Attorneys employed by Maples; and;
- c. Maples would not discriminate between the Attorneys employed by Maples on the grounds of gender, race or otherwise than on merit and ability.

140. Further, based on the representations made to her from time to time by Maples, Mrs. Pitcairn had a legitimate expectation that she would be made a partner of Maples by the end of 2006 at the latest.

141. In breach of the duty of good faith, the duty to maintain a relationship of trust and confidence, and of Mrs. Pitcairn's legitimate expectations, as set out in paragraph 139 (a-c) above, Maples:
- a. failed to provide adequate training facilities and support to her so as to facilitate her advancement within Maples;
 - b. failed to provide her with fair opportunities, or a career structure for her advancement to partnership within Maples;
 - c. failed to provide a fair distribution of work;
 - d. failed to remunerate her on terms equal to those upon which expatriate Attorneys employed by Maples were remunerated;
 - e. failed to remunerate her according to her ability and experience;
 - f. failed to make her a partner of Maples in or before 2006;
 - g. in acting in the manner set out in this paragraph, discriminated between her as a Caymanian attorney and other non-Caymanian Attorneys, and against Mrs.

Pitcairn on grounds of her gender and/or her race, and otherwise than on merit and ability.

142. In the premises, Maples wrongfully repudiated the contract of employment which they had with Mrs. Pitcairn, which repudiation Mrs. Pitcairn was entitled to accept.

143. By an email dated 9 April 2008 Mr. Jennings wrote to Mrs. Pitcairn and copied the same to Mr. Reddyhough and Mr. Robertson stating the following:

“Theresa, thank you for joining us for a meeting yesterday evening.

The following points were discussed:

The purpose of the meeting was to ask why you have chosen not to sign your career advancement form. While emphatically confirming that you still do not intend to do so, you gave no explanation as to why. For an associate to sign the form does not imply his/her agreement with the firm's assessment of him/her. It is simply an acknowledgement that the discussions have been held and the firm's proposals for career development explained to him/her. Management would prefer you to sign it.

You are the only associate in the firm worldwide who has not done so. I told you that since 2006 the steps for admitting associate partners have changed to a more transparent procedure whereby the associates themselves apply for partnership on a written form, amongst other things putting the business case for admission. Subsequently one or more interviews are held by the equity partners with the candidate. I told you that that is the only means by which an associate can become a partner.

You submitted a partnership application form at the end of 2006 but then withdrew it for unknown reasons. You did not submit an application in 2007. As a result, you rendered yourself ineligible for consideration for partnership in the years 2006 and 2007. (By the

way, you mentioned an email that Graham Lockington sent to you suggesting that you do not submit a partner application form last year, which you said was copied to me. I do not recall it. You promised to send me a copy of that email. Please could you do so as soon as possible).

You say that both Anthony (Tony) Travers and Adrian (Gus) Pope effectively "promised" you partnership. Of course, Tony has long since left the firm, although you said he made his "promise" in the presence of Henry Smith. We have asked Henry, who confirms he has no recollection of any offer of partnership by Tony. I have approached Gus about his "promise". He confirms as follows, "what was said was along the lines of [Theresa] was unlikely to make the grade as a partner on the basis solely of her legal skills, which still had room for improvement. Therefore if she wanted to progress (which was not barred to her but, equally, was not assured) she would have to demonstrate "partner level" value to the firm in other ways. The obvious way in which she could distinguish herself was with her "local" contacts. She should look to ways in the coming year to demonstrate that she could use those to add value. The immediate project then given to her to give her a chance to demonstrate some ability in this area arose out of her expressing concerns over staff morale and the perception of the firm in the local community. She was told to report back to Manco with a coherent plan of action." I think you will agree that that falls far short of any "promise".

As I explained during our meeting, it is not in the gift of any partner, even a Managing Partner or a Senior Partner, to offer partnership to anyone. Associates are offered partnership pursuant to a vote of the equity partners. As a result, while indications can be, and frequently are, given to associates that they are on the right track for partnership and/or that they need to concentrate on various specific points, that is emphatically not a promise of partnership, particularly if, as is so in your case, you scored on your assessments only a 2+ for each of the past two years. We expect someone of partnership material to be consistently scoring in the 3+/4 range.

I said we are disappointed that you have chosen to seek independent advice. Apart from whether or not to sign the assessment form, it is still not clear what you are seeking that advice on. I reminded you that if you have a grievance, the Lawyers' Policy Manual contains a clear internal grievance procedure and asked why you had chosen not to use it. You did not provide me with a specific reply. While constrained by not knowing what you are seeking advice on, I sought to make it clear that if you at any stage allege discrimination or bad faith on the part of the firm (neither of which you mentioned at the meeting, I agree), it would be wholly inappropriate for you to do so while still an employee.

For the record, the Maples Group is committed to integrated and non-discriminatory employment practices, and we do not tolerate discrimination in any form whatsoever. Those principles are clearly stated in the Lawyers Policy Manual (which you have no doubt read) and any allegation that we have not followed them would be categorically denied and, if needs be, contested. If you think otherwise, then you would have to make such allegations outside the employment context; in other words, you would first have to resign and then pursue whatever remedy you think you are entitled to from outside the firm.
CJ”

144. Mr. Jennings’ email inaccurately described the content of the meeting. In light of the inaccuracy of Mr. Jennings’ email Mrs. Pitcairn sent an email dated 19 April 2008 to Mr. Jennings as follows:

“Dear Charles,

I refer to your e-mail of the 9th April 2008 (the “E-mail”) and my brief reply to you of the 10th April 2008 in which I thanked you for the same. I hope to be in a position later next week to let the partners have a more substantive indication of my overall position following on from our recent meeting (the “Meeting”) and the E-mail. I have been

delayed from providing this sooner than I had hoped due to my health. I apologise for this, however there are some matters which arise from the E-mail itself that I must correct in the meantime just in case you mistakenly believe that I accept them. This memorandum is not exhaustive and should not be regarded as my complete response to the E-mail but I respectfully wish to make the following points in the interim:

(1): You say “While emphatically confirming that you still do not intend to...” [...sign the form...].] “I gave no explanation as to why.” This assertion, with respect, is not in my view an entirely accurate representation of what transpired. The Meeting consisted of a 45 minute discussion which was almost entirely directed to my asking why the partners had yet again apparently vacillated in their position regarding my eligibility and application for partnership. I think I made it clear that the progression of this issue has for some years now been consistently avoided, overlooked, denied, and in my view misrepresented. I also wish to record that I sensed more than a little hostility directed toward me in the Meeting which was in my view, considering my 17 years with the Firm, uncalled for. Early in the Meeting I had to remind you that the Meeting was “not intended to be combative” and you replied “Okay, okay”. I record this as it is representative of the immense frustration, disappointment, and disbelief I have experienced, and continue to experience, when the question of my advancement in the Firm is ever discussed or in issue.

At the beginning of the Meeting I asked, very deliberately, what exactly the Firm meant when Graham (“GCL”), an equity partner with the Firm, said to me recently that, “All promises are off” and “that I was not there yet”. In response you asked me “Is that what he said?” I replied “Yes”. I proceeded to put GCL’s comments into the context in which they were made and I briefly referred to the earlier promises which had been made to me in the past about partnership. In particular, I referred to the representation made by Tony (“ABT”) in Henry’s (“HNS”) presence, at my 2004/2005 review and my subsequent luncheon with Tony.

I think the history that I briefly relayed at the Meeting, and which I don't see any merit in repeating, demonstrated clearly why I was not prepared to sign my career advancement form. In doing so I hope I am making the very clear point to the partnership that I feel that there has been nothing more than nominal interest displayed by the partnership in realistically seeking to advance my career despite countless meetings, promises and discussions. When I take all discussions and representations into consideration I feel I have been given differing and inconsistent reasons by the partnership as to why this is.

(2): You assert in the E-mail that I am “the only associate in the Firm worldwide who has not” signed my career advancement form. Whilst this may or not be the case, I do not think this changes what I believe to be an untenable position shown towards me by the Firm and I cannot in all conscience or fairness to myself sign the form under such circumstances. This is especially relevant when I address the obvious errors contained in the E-mail which are mentioned in paragraphs (3) and (4) below.

(3): At the Meeting itself you indicated that I did not submit an application form for partnership **in either 2006 or 2007**. I had to correct this misapprehension on your part and told you that I *did* submit an application in 2006. I am glad that you now accept that I did indeed submit an application; however you now make a different assertion in the E-mail. You now assert that I “submitted a partnership application form at the end of 2006 but withdrew it for unknown reasons”. To reiterate, I submitted an application in 2006; however the application was far more than a form. In fact the application ran to some 13 pages and annexed to it were 11 indexed attachments which cumulatively filled an entire 1 1/2 inch ring binder. My application was never withdrawn as you allege and I have no idea why you or the partners assert that it was. Certainly you did not allege this during the Meeting or I would have immediately corrected your misapprehension.

(4): You also say in the E-mail that I “did not submit an application in 2007.” I found it odd that you did not acknowledge in the Meeting, or in the E-mail, that I sent GCL on the 6th November 2007 a 7 page memorandum entitled “My Candidacy For Partnership

Within The Firm" (the "Candidacy Memorandum"). I prepared this at GCL's request. GCL's request was made in the presence of all the capital markets partners (with the exception of Dale Crowley) at my 2007 review in November. In light of the E-mail, I can only assume that you are still unaware of this memorandum. As co-managing partner with Julian ("JNR") I would have expected the Candidacy Memorandum to have reached one or other, if not both, of you. The Candidacy Memorandum sets out as its intention (amongst other things) the "*opportunity to clarify the discussions that I have had over the years with other senior partners of the firm which led me to believe that I was going to be made a Partner within the Firm.*" It ends by saying "*Thank you again Graham and I will give you my word that I will do nothing until I hear from you further. Let me know if you have any queries or concerns you want addressed.*"

On the 7th November 2007 you circulated an email to all lawyers in the Firm reminding associates that associate partner progression forms should be sent to you by the 9th November 2007. In view of the Candidacy Memorandum of the 6th November 2007 that I sent to GCL, I sent an email to GCL on the 9th November saying that I have done "*nothing more*" in response to you [CSJ] as I had been waiting to hear from GCL. GCL replied to me on the 9th November 2007 at 9:16 a.m. saying: "*Thanks. Don't worry I'll give CJ a call. Unfortunately AKP is away and doesn't seem to be picking up e-mails.*" When I mentioned this in the meeting, your response was "Why to me? Why me?" which I understood to mean 'why would GCL call or contact you?' It seemed reasonable for me to conclude that GCL would have contacted you in response to the email you circulated to all lawyers on the 7th November 2007 regarding the submission of the associate partner progression forms and especially so in view of GCL's email to me of the 9th November 2007 and his confirmation that he spoke to you, Paul ("PEL"), HNS and Shaun Denton.

You can probably now understand why I felt it reasonable to take this to mean that the contents of my Candidacy Memorandum of the 6th November 2007, was discussed between you and GCL and thereafter received proper consideration at the highest level of the Firm at the annual partnership meeting in Hong Kong. GCL assured me that the

whole issue of whether or not I was to be made a partner within the Firm “should be voted on once and for all”. It is now quite obvious to me from the E-mail that no or at least no serious attention has been paid to my applications to become a partner, either in 2006 or 2007. GCL also received another follow up e-mail from me dated the 4th January 2008 in which I observe: “*In light of all that has transpired I feel cheated, gutted, battered and dehumanized. Kicked around like a football.*” Perhaps you can now further appreciate why I feel that way and how the latest episode has done nothing to shake my belief in that statement; if anything your comment as expressed in paragraph (8) below, the final sentence in the second paragraph, merely adds insult to injury.

(5): In the E-mail you assert that “You rendered yourself ineligible for consideration for Partnership in the years 2006 and 2007”. In the Meeting you asserted that the fact that I had not been considered for partnership was “your [my] fault” and “your [my] fault entirely”. I totally reject this in view of the facts that I have set out and suggest that such an assertion is neither supported by the written submissions I made in 2006 and the Candidacy Memorandum I sent to GCL in 2007, nor is it representative of the overall facts. The E-mail also does not record the surprise I expressed at the fact that the equity partners did not communicate effectively, or perhaps even at all, amongst themselves regarding the materials I had submitted.

(6): I note what you say about HNS’ recollection of the 2004/2005 review led by Tony and you asked if I thought that HNS “was a liar”, which perhaps suggests that you think I am. I do not accept that his recollection is accurate and it seems clear that substantial issues of fact arise which fall for discussion and/or resolution outside the medium of an inter-office memorandum.

(7): I do not accept Gus’ assertion as set out in the E-mail but I do not intend to reply to them in this response. It is also clear that as far as his recollection is concerned issues of fact arise which too fall for discussion and/or resolution outside the medium of an inter-office memorandum.

(8): You say that you are “disappointed that I have chosen to seek independent advice”. In the Meeting you expressed such action taken by me as being “extraordinary”. I am advised that I have every right to take independent legal advice concerning my livelihood and career and will continue to do so. I am told that what is “extraordinary” is that such an international law firm such as Maples would approach delicate employment relations in such an ebullient manner. I am also advised that I am not precluded from taking independent advice just because the Firm happens to have a grievance procedure.

As mentioned earlier, I will try to respond to you later next week in relation to all aspects of the Firm’s actions and conduct demonstrated toward me over the years. I note that in the E-mail you raised the issue of “discrimination and/or bad faith” as you did in the Meeting, however, it is interesting that you entirely accept that neither concept was mentioned by me at all at the Meeting.

Theresa Pitcairn”

145. Mr. Jennings has to date not responded to Mrs. Pitcairn’s email dated 19 April 2008.

146. By email dated 28 April 2008, Mr. Graham Hampson (“Mr. Hampson”) wrote to Maples stating, amongst other things, that:
- a. he had been instructed by Mrs. Pitcairn in relation to her employment with Maples;
 - b. Rannon Alberga, QC and he, Graham Hampson, had been asked to advise Mrs. Pitcairn, and that they had taken her instructions;
 - c. as was the case, Mrs. Pitcairn was suffering from stress and anxiety;
 - d. that he, Mr. Hampson, would communicate with Maples when Mrs. Pitcairn was fit enough to give him sufficient instructions.

147. By email dated 29 April 2008, Mr. Reddyhough wrote to Mr. Hampson, stating, amongst other things, that:

- a. Maples were, of course, sorry to hear that Mrs. Pitcairn was unwell;
- b. asked that their best wishes for a speedy recovery be sent to her;
- c. they would allow Mrs. Pitcairn to benefit from the enhanced sick leave entitlement;
- d. “You will appreciate that it is highly unusual for a lawyer who is still employed within a firm to be seeking external legal advice in relation to that employment.”

148. By letter dated 5 May 2008, Mr. Hampson wrote to the Managing Partners of Maples, stating, amongst other things, that:

- a. he had been retained to advise Mrs. Pitcairn in relation to certain aspects of her employment with Maples and, specifically, in relation to representations made to her during the course of her employment concerning her advancement to partnership at Maples;
- b. notwithstanding those representations, when at her 2007 review Mrs. Pitcairn was told that she was “not there yet”, Mrs. Pitcairn was shocked, and stunned;
- c. notwithstanding the many representations made to her, the inescapable conclusion reached by Mrs. Pitcairn was that Maples had no genuine intention of making her a partner;
- d. Mrs. Pitcairn believes that Maples, as her employer, had acted in breach of the implied term of trust and confidence and of its duty of good faith towards her as an employee;
- e. in particular, Maples had consistently made promises to Mrs. Pitcairn about her impending admission to partnership which they had broken;
- f. such promises were made to Mrs. Pitcairn to induce her to remain with Maples and she, acting in reliance on them, did;

- g. Mrs. Pitcairn had been treated unfairly; she had not been treated equally in terms of allocation of work, availability of training, and remuneration with the many expatriate Attorneys employed by Maples during Mrs. Pitcairn's tenure;
- h. such had been the conduct of Maples that the trust and confidence formerly reposed by Mrs. Pitcairn in Maples as her employer had ceased to exist;
- i. Mrs. Pitcairn regarded Maples' conduct as amounting to a wrongful repudiation of her employment agreement with Maples, and that she elected to treat her employment with Maples as at an end without prejudice to any claim she may have for all loss and damage sustained by reason of Maples' actions;
- j. whilst he had received Mrs. Pitcairn's instructions to commence proceedings against Maples forthwith, she had instructed him that she would prefer to reach some satisfactory accommodation with Maples, rather than having her disputes with Maples aired in public;
- k. on Mrs. Pitcairn's instructions he therefore proposed a meeting between representatives of Maples, on the one hand, and representatives of Mrs. Pitcairn's legal advisers, on the other, to see if a formula for an amicable resolution of the dispute was possible.

149. By letter dated 8 May 2008, Mr. Jennings wrote to Mr. Hampson in the following terms:

"Thank you for your letter dated 5 May 2008.

Theresa's allegations are denied and we will treat your letter as notice of her resignation effective 5 May 2008. Theresa's employment, salary and all benefits ceased on that day. Theresa has already been paid until 30 April 2008, so I enclose a cheque for US\$3,630.14 representing her salary to 5 May 2008.

There is only one route to partnership at Maples and Calder: convincing the equity partners of one's suitability. Since October 2006, associates wishing to apply for partnership have been required to submit the prescribed associate progression form and to be interviewed by the equity partners as part of the assessment process. Theresa chose not to undertake that process, so she was not considered for partnership. It is as simple as that.

Several partners, including Henry Hartford and Henry Smith, have taken considerable time over the years to train Theresa, for example by explaining and re-explaining transactions, structures etc, and Theresa was given the opportunity to work on good quality transactions alongside senior attorneys. She also attended from time to time the training seminars that we organise. Despite those efforts, however, Theresa scored "2+" (out of a possible 5) for 2 years running in her annual associate assessments in accordance with the associate assessment procedures introduced in October 2006. That score is defined as lower than the standard expected of a Maples and Calder attorney of the relevant level of qualification and, as Theresa knew, was not of a standard to have made partner had an application been made. While Theresa can deal adequately with certain types of transactional work, she has not yet proved herself capable of detailed technical analysis, difficult problem solving or leading complex or novel transactions without supervision by a partner.

As for the alleged promises of partnership, we have repeatedly told Theresa that none has ever been made to her. Promotion to partnership requires (and has at all relevant times required) the consideration of the equity partners as a whole - a point I specifically made to Theresa at our recent meeting. She is under the mistaken impression that partnership is an entitlement arising as a result of long service.

The truth is that we have treated Theresa extremely well over the years, for example by giving her nearly four months leave on full pay to recover from Hurricane Ivan.

In light of the above, we see no purpose in the meeting you propose. Your letter, and the request for a meeting, are a crude attempt to extract payment from us based on unmeritorious threats and the perceived embarrassment of litigation. Any such action will cause more embarrassment to Theresa than it will to us.

You will no doubt have advised Theresa of her duty to mitigate her alleged losses by seeking alternative employment without delay.

Yours sincerely

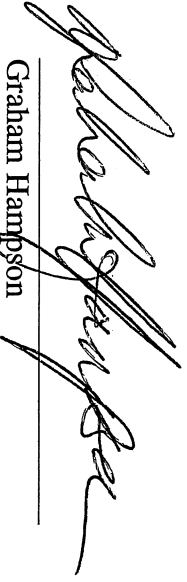
Charles S. Jennings"

AND Mrs. Pitcairn claims:

1. The loss of salary increases which should have been given to Mrs. Pitcairn in the years commencing 2001 which were withheld;

2. Any disparity in bonuses which she actually received for the years commencing 2001 and which she ought to have received;
3. The loss of what she would have been entitled to receive as a Maples partner from the year 2006 until the date of her retirement. Full particulars of the extent of this claim will be delivered after discovery of the audited accounts of Maples for the years 2001 – 2008 inclusive all of which will be relevant to the nature and the extent of Mrs. Pitcairn's claim herein.
4. Damages
5. Interest at such rates and for such periods as the court thinks fit pursuant to S.34 of the Judicature Law.
6. Costs.
7. Further or other relief.

DATED this 11th day of December 2008



Graham Hampson
Attorney-at-Law for the Plaintiff

SETTLED BY:
RAMON D. ALBERGA QC
AND BY MICHAEL TODD QC

To: The Clerk of the Court
And to: The Defendant

This Writ of Summons is filed by Graham Hampson, Attorney-at-Law for the Plaintiff whose address for service and correspondence is 2 Lakeshore Villas, P.O. Box 31347 SMB, Grand Cayman, KY1-1206, Cayman Islands

Acknowledgement of writ of summons (0.12, r.3)

**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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2008

BETWEEN:

MAUREEN THERESA PITCAIRN

Plaintiff

AND:

MAPLES & CALDER (“MAPLES”)

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.

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

[Defendant in person]

Address for service:

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.

Graham Hampson
Attorney at Law
2 Lakeshore Villas,
West Bay
P. O. Box 31347 SMB
Grand Cayman KY1-1206
CAYMAN ISLANDS

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