

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. <sup>34</sup> OF 2009

BETWEEN:

KEITH B. HENDERMAN

Plaintiff

-AND-

- (1) COURTYARD BY MARRIOTT
- (2) HIR CAYMAN LIMITED
- (3) FOURTH QUARTER PROPERTIES (CAYMAN ISLANDS) LIMITED
- (4) PREMIER HOTEL CORPORATION LIMITED
- (5) COLUMBIA SUSSEX CORPORATION

Defendants

\_\_\_\_\_  
WRIT OF SUMMONS  
\_\_\_\_\_

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 495GT, George Town, Grand Cayman, the accompanying Acknowledgement 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 Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this      day of January 2009

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.

General Indorsement

The Plaintiff is Keith B. Henderman. On or about the 26<sup>th</sup> of January 2006, the Plaintiff attended the hotel known as the Courtyard Marriott located on Seven Mile Beach (the "Property"). While walking along a concrete path on the Property the Plaintiff slipped and fell causing him injury and loss. The path was uneven with split elevation, gaps, and was unsafe to walk on. Despite the unsafe condition of the path there were no signs, notices, barriers or any other marking around or near the area highlighting the danger.

The Defendants are the owners and/or occupiers and/or licensee of the Property. The Plaintiff's injuries and loss were caused by the Defendants' negligence and/or breach of duty of care towards the Plaintiff.

The Plaintiff's claim is for damages so arising from the injury and loss.

Dated this 21<sup>st</sup> day of January 2009

BROADHURST BARRISTERS  
**Broadhurst Barristers**  
Attorneys-at-Law for the Plaintiff

This Writ of Summons was issued by Broadhurst Barristers, Attorneys-at-Law for the Plaintiff, whose address for service is 40 Linwood Street, P.O. Box 2503 GT, George Town, Grand Cayman, Cayman Islands, British West Indies.

**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE  
OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgement 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, PO Box 495, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement 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 endorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2). The defence must be served within fourteen (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 endorsed on the Writ, the defence need not be served until fourteen (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 fourteen (14) days after his Acknowledgement, 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 installments or otherwise.

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement of Service and return it to the Courts Office.
2. For the purpose of calculating the period of fourteen (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 authorized to act on behalf of the Company, but the Company can take no further steps in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL HEALTH 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.

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- (4) PREMIER HOTEL CORPORATION LIMITED
- (5) COLUMBIA SUSSEX CORPORATION

Defendants

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ACKNOWLEDGEMENT OF SERVICE  
OF WRIT OF SUMMONS

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If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important

*Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.*

*Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.*

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

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2. State whether the Defendant intends to contest the proceedings (*tick appropriate box*)

Yes [ ] No [ ]

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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 [ ]

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Service of the Writ is acknowledged accordingly

(Signed) \_\_\_\_\_

[Attorney] for

[Defendant in Person]

Address for service:

*Please see 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 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.

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

**BROADHURST BARRISTERS**  
ATTORNEYS-AT-LAW  
40 LINWOOD STREET  
PO BOX 2503 GT  
GEORGE TOWN, GRAND CAYMAN  
CAYMAN ISLANDS, BRITISH WEST INDIES

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

[Empty box for Defendant's Attorney endorsement]

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Plaintiff

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Defendants

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STATEMENT OF CLAIM

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1. The Plaintiff is an individual whose date of birth is June 28<sup>th</sup> 1945. The Plaintiff's address is Laguna Del Mar # 10, 441 West Bay Road, Seven Mile Beach, Grand Cayman, Cayman Islands.
2. The Defendants are and were the owners and/or occupiers and/or licensee of the property known as the Courtyard Marriot located on Seven Mile Beach (the "Property"). The Defendants were in occupation and/or in control of the Property at the material time.
3. On January 26<sup>th</sup> 2006 the Plaintiff was a lawful visitor to the Property and was walking along a concrete path when he slipped on a gap in the path and fell to the ground suffering injuries loss and damage. The portion of the path where the Plaintiff slipped was uneven with split elevation and was unsafe to walk on. There were no signs, notices, barriers or handrails on or around the area to notify persons using the path of the danger.
4. The accident was caused by the negligence and/or breach of duty of the Defendants, their servants or agents.

Particulars

- (a) Failing to warn the Plaintiff of the dangerous condition of the path.

- (b) Failing to place any sign, or notice, to inform persons using the path of the danger;
  - (c) Allowing the path to deteriorate to such an extent that it became dangerous to persons lawfully using it;
  - (d) Failing to repair the path and thereby avoid risks to visitors such as the Plaintiff;
  - (e) Failing to ask the Plaintiff to use another path;
  - (f) Failing to take any steps to bar visitors from using the path;
  - (g) In all the circumstances, exposing the Plaintiff to a risk of injury of which they knew or ought to have known.
5. The day following the accident the Defendant had marked the area where the fall occurred with blue and white tape highlighting the risk to customers and patrons. A few weeks later the area was resurfaced removing the danger.
6. Because of these matters the Plaintiff suffered injury, loss and damage.

#### Particulars of Injuries

The Plaintiff suffered a fracture of his left patella. The Plaintiff underwent surgery as a result of his injuries. The Plaintiff further underwent a comprehensive physiotherapy program. The Plaintiff continues to suffer from his injuries and suffers permanent impairment in the function of his knee.

#### Particulars of Special Damage

- (1) Medical expenses in the Cayman Islands and abroad;
- (2) Traveling expenses for treatment overseas.

The Plaintiff's losses are ongoing and there is a significant risk of further surgery/treatment being necessary in the future. Further particulars of the Plaintiff's loss will be provided prior to trial.

AND THE PLAINTIFF claims:

- (1) Damages;
- (2) Interest on damages pursuant to the Judicature Law;
- (3) Costs.

Dated the 12<sup>th</sup> day of February 2009

BROADHURST

**Broadhurst Barristers**

Attorneys-at-Law for the Plaintiff

This Statement of Claim is filed by Broadhurst Barristers, Attorneys-at-Law for the Plaintiff, whose address is 40 Linwood Street, P.O. Box 2503 GT, George Town, Grand Cayman, Cayman Islands, B.W.I.