

**IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION**

**CAUSE NO: OF 2020
LACV116 of 2020**

BETWEEN:

HERFA ROBINSON

PLAINTIFF

AND:

ATTORNEY GENERAL OF THE CAYMAN ISLANDS

DEFENDANT

WRIT OF SUMMONS

TO: The Attorney General of the Cayman Islands

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff of 9 Windsor Crescent Road, George Town, Grand Cayman in respect of the claim set out on the next page.

Within 14 days after the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495G, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 30th day of October 2020.

NOTE - This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

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



STATEMENT OF CLAIM

1. The Plaintiff was at all relevant times employed by the Cayman Islands Government as a Tally Clerk, within the Customs Department. She was assigned to work at the warehouse premises (the Warehouse) situated on Owen Roberts Drive, Grand Cayman.
2. The Defendant is named in these proceedings by virtue of Section 11 of the Crown Proceedings Law (1997 Revision).
3. The Plaintiff was employed by the Cayman Islands Government from 1 November 2001 until she was placed on early retirement for medical reasons effective 1 February 2018.
4. She was assigned to work in the filing area based on the first-floor mezzanine of the Warehouse in or about 2006. The room had no windows or other ventilation. The Warehouse was at all material times owned or controlled by the Cayman Islands Government.
5. In 2013, the Plaintiff reported suffering from a chronic sore throat, with symptoms occurring within 30 minutes of arriving at work. Following her complaints, the matter was reported to the Department of Environmental health who commissioned a report from RAMS Environmental Lab Inc.
6. An inspection of the area in which the Plaintiff worked was carried out on 7 November 2013. The report from RAMS Environmental Laboratory detailed that area in which the Plaintiff worked was overloaded with the following categories of fungal mold:
 - (a) Aspergillus
 - (b) Stachibotrys
 - (c) Cladosporium
7. The Plaintiff was under the treatment of Dr Glatz for her symptoms. In a letter dated 9 January 2014 Dr Glatz confirmed the Plaintiff was allergic to both Cladosporium and Stachibotys and recommended that the Plaintiff be moved from her working environment or alternatively that a fully sealed face mask be worn to prevent inhalation of the mold spores. The Plaintiff provided this letter to her superior Emalie Wilks, Deputy Enforcement collector.
8. The Plaintiff was not moved from her working location nor provided with any mask or equipment and continued to work in the filing room of the Warehouse.
9. The Plaintiff's employment with the Customs Department was terminated on 1 November 2017, when she was placed on early retirement effective 1 February 2018 for medical reasons resulting from her illness related to the exposure of fungal mold.
10. The Plaintiff's injuries were caused by the negligence of the Cayman Islands Government, their employees or agents acting in the course of their employment.
11. Particulars of Negligence

- (a) failed to ensure the health, safety and welfare of the Plaintiff;
- (b) allowed the Plaintiff to be exposed to mold without having made suitable and sufficient assessment of the risks to the health of the Plaintiff;
- (c) failed to prevent or adequately control the exposure of the Plaintiff to the mold;
- (d) failed to adequately monitor the exposure of the Plaintiff to the mold;
- (e) caused, permitted or required the Plaintiff to be exposed to conditions which they knew or ought to have known was detrimental to her health;
- (f) failed to ventilate those areas in which the Plaintiff had to work when she was at risk of inhaling the mold spores;
- (g) failed to provide the Plaintiff with any or any suitable personal protective equipment;
- (h) failed to provide or maintain for the Plaintiff safe plant and equipment;
- (i) failed to provide or maintain for the Plaintiff a safe system of work.

12. By reason of the aforesaid, the plaintiff who is 50 years old with a date of birth of 18 September 1970 has suffered personal injury, loss and damage.

Particulars of General Damage

- 13. The Plaintiff initially started to become aware of a sore throat and hoarseness commencing around 2010. Over the next few years, she noticed she was also speaking quietly, rubbing her ears and struggling to hear properly.
- 14. She attended at George Town Hospital on occasion in relation to these symptoms.
- 15. She attended with Dr Jha at George Town hospital on the 3 January 2014 with a sore throat and hoarseness, she was provided medication and referred to Dr Glatz an ENT specialist.
- 16. She attended with Dr Glatz in 2014 with a sore throat and underwent allergy testing. She was found to be allergic to cladosporium and stachybotris. Dr Glatz gave her allergy vaccinations and medication to alleviate her symptoms.
- 17. She attended with Dr Glatz on the 13 January 2016 with continued hoarseness and discomfort. He confirmed swelling of her vocal cords and polyps to both cords from straining to speak.
- 18. On 29 February 2016 she underwent an operation and biopsy of her vocal cords and both cords were stripped of nodules. The biopsy confirmed acanthosis and fibrosis consistent with a vocal cord nodule.
- 19. She saw a speech therapist at George Town Hospital as she was straining to speak and stammering.

20. She has been provided with Hearing Aids due to her hearing loss.
21. She remains under the care of Dr Glatz and undergoes weekly allergy vaccinations in both arms to assist her symptoms. The regular vaccinations cause her significant pain in her arms.

Particulars of Loss and Damage

22. The plaintiff's particulars of special damage will be forwarded in due course by way of a Schedule of Loss including but not limited to claims for loss of earnings, cost of medical treatment and gratuitous care.

Statement as to interest

23. The plaintiff will claim interest pursuant to section 34 of the Judicature Law (2017 Revision).

AND THE PLAINTIFF claims:

1. General and Special Damages
2. Interest in accordance with the Judicature Law (2017 Revision)
3. Costs

KSG

KSG
Attorneys for the Plaintiff

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS**

1. The accompanying form of Acknowledgment of Service should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495G, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings must also serve a defence on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A Stay of Execution against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, issue a Summons for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by instalments or otherwise.

See over for notes for guidance

Please complete overleaf

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (the name stated on the Writ of Summons)".
4. Where the Defendant is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
5. Where the Defendant is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
6. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.

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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

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.

KSG Attorneys at Law
4th Floor, Harbour Centre
42 North Church Street
PO Box 2255
George Town
Grand Cayman
KY1-1107

Indorsement 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 indorsement]