



GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. of 2024

DR CHRISTINE CHEN

PLAINTIFF

-and-

**CENTRE FOR WOMEN,
FAMILY AND CHILD HEALTH
LTD**

1st DEFENDANT

-and-

**DR. AWARNATH HOWARD
DEOSARAN**

2nd DEFENDANT

WRIT OF SUMMONS

TO: Centre for Women, Family and Child Health Ltd
Unit #15C Caribbean Plaza
878 West Bay Road
PO Box 10708
Grand Cayman, KY1-1006
Cayman Islands

Dr Awardnath Howard Deosaran
c/o Unit 15C Caribbean Plaza
878 West Bay Road, PO Box 10708
Grand Cayman KY1-1006
Cayman Islands

THIS WRIT OF SUMMONS has been issued against you by the above – named Plaintiff, Bransens attorneys for the Plaintiff whose address for service is Grand Pavilion, 802 West Bay Road PO Box 930, Grand Cayman KY1-9006, Cayman Islands, in respect of the claim set out on the next page.

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

If you fail to satisfy the claim or fail to return the Acknowledgement of Service form 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 judgement may be entered against you forthwith without further notice.

Issued this 8th day of February 2024

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 renewed by order of the Court.

IMPORTANT

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

STATEMENT OF CLAIM

1. The Plaintiff was at all material times employed by the 1st Defendant.
2. The 1st Defendant was at all material times a company duly incorporated in the Cayman Islands to carry on the business of medical services.
3. The 2nd Defendant was at all material times the managing director and employee of the 1st Defendant.
4. The Plaintiff was employed by the 1st Defendant from 1 March 2020. Prior to this the Plaintiff worked with Trincay Medical Services Ltd ("**Trincay**") from 1 December 2013 under the tutelage of Dr Awardnath Howard Deosaran, the 2nd Defendant. However, as a result of the separation arrangement with Trincay and the 2nd Defendant, the Plaintiff agreed to transfer her employment to the 1st Defendant in March 2020 on the same terms and conditions of the employment with Trincay. All of the parties concerned treated the arrangement as a continuation of the employment and any benefits then owed by Trincay to the Plaintiff were to be paid by the 1st Defendant. An updated contract bearing the name of the 1st Defendant was not provided to the Plaintiff.

Particulars of Wrongful and Unfair Dismissal

5. On 21 December 2023, the 1st Defendant wrongfully and unfairly terminated the Plaintiff's employment in breach of sections 50 and 51 of the Labour Act (2021 Revision) and in breach of contract.
6. The termination letter dated 21 December 2023 (the "**Termination Letter**") stated that the Plaintiff was being terminated for "financial constraints" and that one months' notice was being given.
7. However, the termination date was stated to be 14 January 2024 despite the Termination Letter being dated 21 December 2023. The 1st Defendant was aware that the Plaintiff would have been on sick leave from 15 December 2023 until 20 December 2023 and on vacation leave from 21 December to 11 January 2024. The Plaintiff therefore did not receive the Termination Letter until she returned to office on the 11 January 2024. Therefore the 1st Defendant failed to give adequate notice to the Plaintiff.
8. Additionally, the 1st Defendant failed to have just cause to terminate the Plaintiff. The reason for the Plaintiff's termination being "financial constraints" is false. The Plaintiff is aware that the 1st Defendant is in the process of hiring two new doctors, one of which is scheduled to start on or around March/April 2024.
9. To date the 1st Defendant has not paid the following:
 - 9.1. salary to the date of dismissal
 - 9.2. severance pay pursuant to section 40 of the Labour Act; and
 - 9.3. damages for the wrongful dismissal.

Particulars of Breach of Contract

10. Pursuant to the terms of the contract of employment between the 1st Defendant and the Plaintiff (the "**Contract**"), the 1st Defendant is obligated to pay *inter alia*:
 - 10.1. A salary of CI\$16,000 per month to the Plaintiff payable monthly in arrears on the last working day of each month;

- 10.2. The Plaintiff's medical malpractice insurance during the period of employment;
 - 10.3. The employer's contribution of 5% of the Plaintiff's gross salary and the employee's contribution of 5% on behalf of the Plaintiff to the 1st Defendant's pension plan pursuant to the National Pension Act (2012 Revision);
 - 10.4. 50% of the health insurance premiums for the Plaintiff during the period of employment; and
 - 10.5. The annual RERC fee.
11. The 1st Defendant breached the contract of employment with the Plaintiff by failing to:
 - 11.1. pay her salary on time or at all between Aug 2018 to January 2024;
 - 11.2. pay and maintain the Plaintiff's medical malpractice insurance from 30 September 2023;
 - 11.3. pay the employer's portion of the pension contributions to the Company's pension plan on behalf of the Plaintiff since June 2019 to March 2020 and October 2022 to January 2024; and
 - 11.4. pay health insurance premiums for the Plaintiff for the period October 2019 to January 2024;
 - 11.5. pay the annual RERC fee.
 12. In addition to being in breach of contract, the 1st Defendant has been acting in breach of the Labour Act (2021 Revision), Health Insurance Act (2021 Revision) and National Pensions Act (2012 Revision) for a number of years.
 13. The 1st Defendant's failure to pay and maintain the Plaintiff's medical malpractice insurance resulted in:
 - 13.1. Loss of patients;
 - 13.2. lost privileges at the Health Services Authority hospital;
 - 13.3. irreparable damage to the Plaintiff's reputation and professional relationships within the medical fraternity and with patients;
 - 13.4. mental distress and damage to the Plaintiff's self-esteem and morale; and
 - 13.5. the Plaintiff incurring additional expense to independently procure malpractice insurance coverage.

Breach of Promissory Note and Personal Guarantee

14. In acknowledgement of the amount outstanding to the Plaintiff, the 1st Defendant agreed to issue a Promissory Note to the Plaintiff dated 14 November 2023 and then a revised promissory note dated 14 December 2023 (the "**Promissory Note**") for the repayment of the outstanding salaries, benefits, goodwill payment and interest (the "**Debt**") to the Plaintiff.

15. Pursuant to clause 2 of the Promissory Note, the 1st Defendant acknowledged and unconditionally promised to pay the Plaintiff, the Debt as defined therein by 15 December 2023.
16. In breach of the Promissory Note, the 1st Defendant has failed to pay the Debt or any part thereof to the Plaintiff despite numerous requests.
17. In acknowledgement of the amount outstanding to the Plaintiff, the 2nd Defendant executed a personal guarantee dated 14 November 2023 and a further guarantee on 14 December 2023 (the "**Personal Guarantee**") in which he agreed pay on demand the Debt owed to the Plaintiff under the Promissory Note. Pursuant to clause 16 of the Personal Guarantee, the Plaintiff may proceed against the 2nd Defendant before proceeding against any other party in relation to the repayment of the Debt.
18. Pursuant to clause 13 of the Personal Guarantee, all present and future indebtedness of the 1st Defendant to the 2nd Defendant has been assigned to the Plaintiff. The 2nd Defendant is therefore prohibited from accepting any payment, salary, insurance payments from the 1st Defendant until the Plaintiff is paid in full. Any money received by the 2nd Defendant from the 15 December 2023 shall be held in trust for the Plaintiff and shall be immediately paid over to the Plaintiff.
19. In breach of the Personal Guarantee, the 2nd Defendant has failed to pay the Debt or any part thereof despite numerous requests.

Particulars of Breach of Duty of Care for the Health, Safety and Welfare of the Employee/ Negligence

20. The 1st Defendant's failure to pay the Plaintiff's salary and benefits caused undue mental and financial stress, anxiety, and loss of sleep to the Plaintiff.
21. The actions of the 2nd Defendant towards the Plaintiff created a stressful work environment for the Plaintiff and caused the Plaintiff to suffer sleepless nights, headaches and stress related illnesses. The 1st Defendant failed to create and maintain a safe work environment for the Plaintiff.
22. The 1st Defendant's failure to pay the Plaintiff's salary and benefits also posed financial hardship for the Plaintiff with the inability at times to meet her basic needs and financial obligations.
23. The 1st Defendant also acted negligently by failing to maintain the Plaintiff's malpractice insurance, which is a requirement under the Health Practice Act (2021 Revision). The Plaintiff has had to endure the uncertainty, anxiety and stress associated with the cancellation of her malpractice insurance while continuing to care for her patients in the office in order to fulfill her contractual obligations to the 1st Defendant. The Plaintiff lost her privileges at the HSA hospital temporarily and was forced to obtain the insurance herself. The loss of privileges and the lack of insurance has negatively impacted the Plaintiff's reputation with her patients and medical counterparts and has caused embarrassment and decreased self-esteem for the Plaintiff.
24. The 1st Defendant has acted negligently and with complete disregard for the health safety and welfare of the Plaintiff.

Particulars of Damages

As result of the aforementioned breaches, the Plaintiff has suffered losses and damages and seeks compensation form the 1st Defendant as follows:

- | | | |
|-----|---|-----------------|
| 1. | Payment of the Debt as per Promissory Note including interest to Dec 15 | CI\$ 512,858.83 |
| 2. | Damages for breach of the Promissory Note | TBA |
| 3. | Loss of salary for 1 January 2024- 31 January 2024 | CI\$15,720.88 |
| 4. | Additional notice period payment 10 February 2024 (CI\$524.59 daily) | CI\$ 5,245.90 |
| 5. | Unpaid salary for August 2018- January 2019 | CI\$19,086.84 |
| 6. | Reimbursement for annual RERC fee (Nov 2023 - Jan 2024) | CI\$2,843.75 |
| 7. | Severance pay (CI\$3,750 per week x 10 years) | CI\$ 37,500 |
| 8. | General Damages for wrongful dismissal | TBA |
| 9. | General Damages for breach of duty (health welfare and safety) | TBA |
| 10. | General damages for Negligence | TBA |
25. Further, the Plaintiff claims interest upon any debt at the rate of 2 per cent per month pursuant to the Promissory Note and section 34 of the Judicature Act (2021 Revision) from 15 December 2023 and continuing at a daily rate of CI\$333.88 until judgment or sooner payment. Interest is also claimed on any further damages the courts orders pursuant to section 34 of the Judicature Act (2021 Revision) or otherwise as such rate as this Honourable Court deems fit.
26. The Plaintiff Claims against the 1st Defendant for:
- 26.1. Payment of the Debt
 - 26.2. Damages for breach of the Promissory Note
 - 26.3. Alternatively to the claim under the Promissory Note, payment for unpaid salary from Aug 2018 to the 31 December 2023;
 - 26.4. Payment of the unpaid salary from 1 January 2024 to 10 February 2024;
 - 26.5. Payment of the unpaid severance pay;
 - 26.6. Order to pay outstanding pension benefits to the relevant pension provider;
 - 26.7. Damages resulting from the 1st Defendant's negligence;
 - 26.8. Damages for pain and suffering resulting from the 1st Defendant's failure to provide a safe workplace environment without regard for the health and welfare of the Plaintiff;
 - 26.9. Damages for unfair and wrongful dismissal for breach of her employment contract;
 - 26.10. Interest;
 - 26.11. Costs;
 - 26.12. Further or other relief as this Honourable Court deems fit.
27. The Plaintiff Claims against the 2nd Defendant for:
- 27.1. The payment of the Debt;

- 27.2. Damages for breach of the Personal Guarantee
- 27.3. Interest;
- 27.4. Costs;
- 27.5. Further or other relief.

DATED at Grand Cayman this 8th February 2024

Bransens

Bransens

Attorneys for the Plaintiff

This Writ was issued by Bransens attorneys for the Plaintiff whose address for service is Grand Pavilion, 802 West Bay Road PO Box 930, Grand Cayman KY1-9006, Cayman Islands. Tel: 345-947-5656.

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 installments 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 2024

BETWEEN:

DR CHRISTINE CHEN

PLAINTIFF

-and-

CENTRE FOR WOMEN,
FAMILY AND CHILD HEALTH
LTD

1st DEFENDANT

-and-

DR AWARDNATH DEOSARAN

2ND DEFENDANT

ACKNOWLEDGEMENT OF SERVICE OF WRIT OF SUMMONS

If you intend to instruct an Attorney to act for you, give that Attorney 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 the Defendant 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 the Defendant

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, the Defendant must give the Defendant's post office box number and the physical address of the defendant's residence or, if the Defendant does not reside in the Cayman Islands, the Defendant must give an address in Grand Cayman where communications for the Defendant 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 that Plaintiff's name, address and reference, if any, in the box below.

Bransens attorneys for the Plaintiff whose address for service is Grand Pavilion, 802 West Bay Road PO Box 930, Grand Cayman KY1-9006, Cayman Islands. Tel: 345-947-5656.

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