

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 339 OF 2011

BETWEEN:

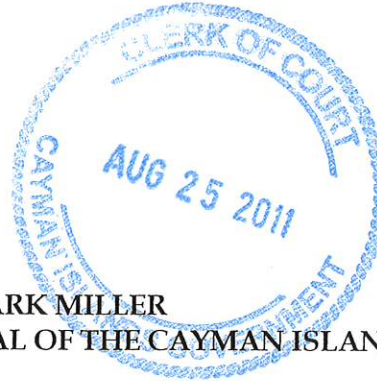
- (1) JOSET DELL
- (2) ANDREL HARRIS

PLAINTIFFS

AND:

- (1) SENIOR CONSTABLE MARK MILLER
- (2) THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS

DEFENDANTS



WRIT OF SUMMONS

TO: Senior Constable Mark Miller c/o RCIPS Police Headquarters, Elizabethan Square, Shedden Road, George Town PO Box 909, Grand Cayman KY1103 and The Attorney General of the Cayman Islands c/o Attorney General's Chambers, dms House, 20 Genesis Close, George Town, PO Box 907, Grand Cayman KY1-1103

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiffs 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 Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this day of August 2011.

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 ENDORSEMENT

The Plaintiffs' claim is for:

1. Damages, aggravated damages and exemplary damages for personal injury, damage and loss sustained in police custody as a result of deliberate and malicious acts of assault and battery committed at various times and places against the Plaintiffs on 26th August 2008 by the 1st Defendant, who at all material times was a police officer, on duty, and in the employ of the Royal Cayman Islands Police Service.
2. Damages, aggravated damages and exemplary damages against the 1st Defendant for unlawfully detaining the Plaintiffs at various times on 26 August 2008 and thereby falsely imprisoning them.
3. In the alternative, the Plaintiffs claim damages for the negligent treatment of the Plaintiffs by the 1st Defendant during their false imprisonment.
4. In his capacity as Attorney General, the 2nd Defendant is vicariously liable for the conduct of the 1st Defendant, who committed the assault and battery and false imprisonment of the Plaintiffs during the course of his employment as agent of the Crown.
5. Damages, aggravated damages and exemplary damages against the 1st and 2nd Defendants for the malicious prosecution of the 1st Plaintiff on foot of the following charges:
 - (i) Assault causing actual bodily harm, contrary to section 216 of the Penal Code, 2007 Revision;
 - (ii) Threatening violence, contrary to section 88 of the Penal Code, 2007 Revision;
 - (iii) Disorderly conduct, contrary to section 164(a) of the Police Law, 2007 Revision; and

This Writ was issued by Mourant Ozannes, Attorneys-at-Law on behalf of the Plaintiffs whose address for service is Second Floor, Harbour Centre, 42 North Church Street, George Town, PO Box 1348, Grand Cayman KY1-1108 (ref: 2040687/ODRIF/MdFJ/3589104/1

- (iv) Resisting arrest, contrary to section 63(b) of the Police Law, Law 5 of 1976, (2007 Revision).

The matter having been set down for trial commencing on 9 December 2009 and evidence having been presented by both the Crown and the 1st Plaintiff's attorney, the 1st Plaintiff was acquitted by a jury of all the charges on 14 December 2009.

- 6. Damages, aggravated damages and exemplary damages against the 1st and 2nd Defendants for the malicious prosecution of the 2nd Plaintiff on foot of the following charges:


- (i) Refusing to give name and address to a police officer, contrary to section 34 of the Police Law (2006 Revision);
- (ii) Assaulting a police officer, contrary to section 66(b) of the Police Law (2006 Revision);
- (iii) Resisting arrest, contrary to section 66(a) of the Police Law (2006 Revision);
and
- (iv) Damage to property, contrary to section 257 of the Penal Code (2007 Revision).

The 2nd Plaintiff was acquitted of all the charges upon the Crown offering no evidence at trial on 12 July 2010.

- 7. Interest pursuant to Section 34 of the Judicature Law (2007 Revision).

8. Costs.

9. Such further order or other relief as this Court deems just.



Mourant Ozannes

Attorneys-at-Law for the Plaintiffs.

Acknowledgement of service 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.

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.

**Mourant Ozannes
Second Floor, Harbour Centre
42 North Church Street
PO Box 1348
George Town
Grand Cayman KY1-1108**

Ref: 2040687/ODRIF/MdFJ/3589104/1

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