

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. *G0012* OF 2013

**BETWEEN: MARIA M DIAZ**

**PLAINTIFF**

**AND: COMMISSIONER OF POLICE**

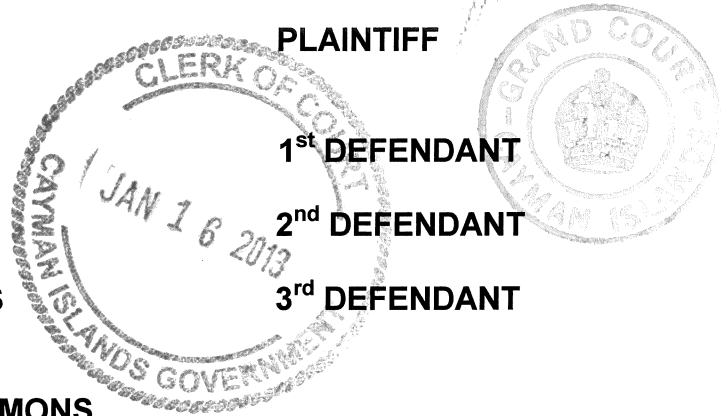
**1<sup>st</sup> DEFENDANT**

**AND: CONSTABLE IAN TERRY**

**2<sup>nd</sup> DEFENDANT**

**AND: CONSTABLE URIEL WILLIAMS**

**3<sup>rd</sup> DEFENDANT**



**WRIT OF SUMMONS**

**TO: COMMISSIONER OF POLICE**  
Police Headquarters, Elizabethan Sq.  
George Town, PO Box 909, Grand Cayman KY1-1103

**AND TO: CONSTABLE IAN TERRY**  
Police Headquarters, Elizabethan Sq.  
George Town, PO Box 909, Grand Cayman KY1-1103

**AND TO: CONSTABLE URIEL WILLIAMS**  
Police Headquarters, Elizabethan Sq.  
George Town, PO Box 909, Grand Cayman KY1-1103

**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 495G, George Town, Grand Cayman, the accompanying Acknowledge of Service stating therein whether you intend to contest these proceedings.

If you fail to supply 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 17<sup>th</sup> day of January 2013.

NOTE – This Writ may be served later 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 Acknowledgement of Service are given with the accompanying form.

This Writ of Summons was filed by Hanson P. Ebanks, Attorney at Law, for the Plaintiff, whose address for service is whose address for service is A4 Queen's Court, West Bay Road, Grand Cayman, KY1-1202, Cayman Islands.

## STATEMENT OF CLAIM

1. The Plaintiff at the material time in January 2010 resided at Apartment 12 Silver Oaks, Crewe Road, George Town, Grand Cayman ("the Residence").
2. The 1<sup>st</sup> Defendant was at all material times the Commissioner of Police with responsibility for members of the Royal Caymans Island Police Force and for the carrying out of policing duties in the Cayman Islands.
3. The 2<sup>nd</sup> and 3<sup>rd</sup> Defendants were at material times police constables and purporting to act in the execution of their duty during an incident at the Residence on the 16<sup>th</sup> day of January 2010.
4. The 2<sup>nd</sup> and 3<sup>rd</sup> Defendants attended the Residence of the Plaintiff purporting to be attending for the purpose of preventing a breach of the peace by Mr. and Mrs. Range, the parents of the Plaintiffs' boyfriend Astor Range, then recently missing at sea and who remains missing as at the date hereof ("missing boyfriend"), who accompanied the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants to the said Residence purporting to be there to demand the handover of the personal effects of the missing boyfriend and their son.
5. Other family members also accompanied the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants to the Residence.
6. During the incident the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants were present whilst there was a trading of insults between the Plaintiff and family members of the missing boyfriend.
7. The 2<sup>nd</sup> Defendant requested the plaintiff allow him entry into the said Residence and the Plaintiff and on being informed that a purpose for which the police were

attending was to avoid dispute between the Plaintiff and family members of the missing boyfriend and under the pressure of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendant to so do, the -Plaintiff conceded and allowed the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants entry to the Residence but not to the family members of the missing boyfriend.

8. The Plaintiff sought to have that 2<sup>nd</sup> and 3<sup>rd</sup> Defendant remain at the Residence while she handed over all the belongings of her missing boyfriend as it was evident that police presence would be required due to the family members' behavior and the perceived possible use of violence.
9. On the arrival of the Plaintiffs sister, Roxanne Diaz to the Residence sometime after the incident had commenced, the police insisted on ascertaining her name and address and told her that it was an offense to obstruct the police in the lawful execution of duties.
10. The Plaintiff and the sister Roxanne Diaz in their own Residence were protesting the police behavior and the presence and behaviour of the family members of the missing boyfriend and were warned by the 2<sup>nd</sup> Defendant. If any profanity was used, which is denied, it was in the confines of the Plaintiff's private residence into which the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants had been permitted to enter on the invitation of the Plaintiff.
11. During the protesting the 2<sup>nd</sup> Defendant arrested the Plaintiff's sister, Roxanne Diaz, following which Plaintiff sought to go with her arrested sister and was pushed by the 3<sup>rd</sup> Defendant and was thereafter unlawfully assaulted:

**12. Particulars of assault.**

- A. The Plaintiff was restrained with handcuffs by the 3<sup>rd</sup> Defendant.

B. Despite being informed by Roxanne Diaz that Plaintiff was pregnant, the 3rd Defendant without any lawful justification or reasonable cause sprayed or caused to be sprayed pepper to the face and upper body and on the clothing of the Plaintiff causing severe physical distress and injury to the Plaintiff.

C. After the pepper spraying of the Plaintiff, the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants refused and/or neglected to take action to afford the Plaintiff's face and body parts exposed to the pepper spray to be rinsed or neutralized at the earliest possible opportunity and the Plaintiff was forced to endure the severe physical distress caused by the pepper spray for an unnecessary and extended period of time.

D. There was no lawful justification or excuse for the conduct of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants.

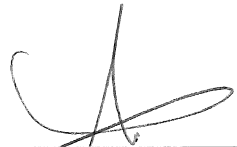
E. The conduct of the police was abusive and designed to humiliate the Plaintiff for daring to stand her ground.

13. As a result of the actions of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants, the Plaintiff suffered stress, burns and injury to her face, the upper part of her body and damage to her clothing as well as emotional distress for the welfare of her then unborn child.

**14. AND the Plaintiff claims:**

Damages against the Defendants including:

- (i) Special Damages in the sum of **\$150**.
- (ii) Damages for Assault and Battery.
- (iii) Vindictory Damages



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**H. Phillip. Ebanks**  
**Attorney-at-Law**

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

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

After completion it must be delivered or sent by post to the Law Courts, PO 495G, 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 defense on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is not endorsed 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 defense 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 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.

**See overleaf for notes for guidance**

**Please complete overleaf**

## Notes of 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 14 days for acknowledging service, a writ served on the Defendant personally is treated as having 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 form 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 step in the proceedings without an Attorney 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. The Defendant acting in person may obtain help in completing the form at the Court Office.



(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.

H. Phillip Ebanks  
Attorney-at-Law  
A4 Queen's Court, West Bay Road  
Grand Cayman, KY1-1202, 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.