

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION



CAUSE NO. ¹⁶⁰ of 2013
LEGAL AID NO. LACV0018/2013

BETWEEN:

CHRIS STEPHEN CONOLLY

PLAINTIFF

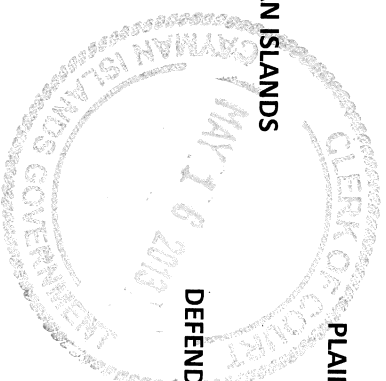
AND:

THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS

DEFENDANT

WRIT OF SUMMONS

TO: The Attorney General's Chambers
DMS House
20 Genesis Close
George Town
Grand Cayman



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 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 Acknowledgement of Service, stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or 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 16th day of May, 2013

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 Acknowledgement of Service are given with the accompanying form

STATEMENT OF CLAIM

1. The defendant is and was at all material times the body responsible for policing the Cayman Islands and is made a defendant by virtue of Section 11(2) of the Crown Proceedings Law (1997 Revision)
2. On 24 March 2012 Jessica Hodgson who was aged 8 at the time made a complaint of burglary, indecent assault and threatening violence against the Plaintiff. She alleged the Plaintiff broke into her house by damaging a door with a machete, tied her up, indecently assaulted her and anally raped her.
3. The account given to the police was inconsistent and was further discredited by evidence obtained by the police on 27 March 2012 from Jessica Hodgson's mother who provided a statement indicating the door had been broken prior to this incident and that Jessica Hodgson informed her the Plaintiff had indecently assaulted her by inserting his finger into her vagina and that the Plaintiff had not removed his pants.
4. It was also inconsistent with two medical examinations performed on Jessica Hodgson by Dr. Alexander at George Town Hospital on 24 and 29 March 2012. On the first occasion her hymen was found to be intact and on the second no evidence of trauma was observed.
5. Notwithstanding this, the Plaintiff was arrested on 29 March 2012 by DC 339 Howell and taken to George Town police station. Acting on the instructions of the Office of the Director of Public Prosecutions, DC 339 Howell maliciously and without reasonable and probable cause charged the Plaintiff with burglary, contrary to section 243(1)(a) Penal Code (2010 Revision), indecent assault on a female, contrary to section 132(1) Penal Code (2010 Revision) and threatening violence, contrary to section 88(b) Penal Code (2010 Revision). DC 339 Howell was at all material times under the direction and control of the defendant in the performance of his functions.
6. The Plaintiff was wrongly imprisoned by the defendant for a period of 5 days until he was granted bail by Magistrate Hall on 3 April 2012 subject to conditions of curfew, non-contact and exclusion from East End. These conditions meant the Plaintiff was unable to continue his gardening business which is based in East End and lost considerable custom. The Plaintiff was also forced to rent a property in West Bay at his own expense in order to house himself and his family pending the resolution of the case.
7. Mr. Conolly remained on bail until the case against him was discharged on 4 September 2012. The prosecution offered no evidence after Jessica Hodgson admitted she had lied in her first complaint to police during a forensic interview on 23 August 2012.

8. Mr. Conolly was wrongfully arrested in relation to the allegations made by Jessica Hodgson as at the time of arrest the police had obtained evidence which demonstrated Jessica Hodgson's account to be false. The five (5) months the Plaintiff was forced to spend on bail damaged his reputation in the community as well as commercially.
9. Whilst on bail for these matters the Plaintiff was again arrested on 17 August 2012 in the Heritage car park by the four-way stop in West Bay.
10. The Plaintiff was standing near his car in the car park but was not in it. The Plaintiff was approached by two police officers and arrested on suspicion of driving under the influence of alcohol. When the plaintiff tried to enquire why the police suspected this given he was not in his car and had not been driving the plaintiff was wrongly assaulted and beaten by being threatened with pepper spray and roughly handled causing his property, including a Rolex watch to fall to the floor.
11. The plaintiff was wrongfully arrested and was conveyed to George Town police station where he was denied a phone call to his wife or attorney. At no stage was the plaintiff breathalysed despite the reasons given for arrest.
12. The Plaintiff was detained for approximately 3-4 hours before being released. On having his property returned he discovered his Rolex watch was broken.
13. **Particulars of First Unlawful arrest**
 - (a) The plaintiff had not committed an offence.
 - (b) D.C. Howell could not reasonably have suspected that any offence had been committed or that the plaintiff had committed any offence and did not actually suspect that the plaintiff had committed any offence in light of the evidence contradicting the account of Jessica Hodgson from her family and the medical examiner.
 - (c) D.C. Howell wrongfully arrested the Plaintiff
14. The Plaintiff was unlawfully deprived of his liberty.
15. **Particulars of First False Imprisonment**
 - (a) The Plaintiff was arrested on 29 March 2012 and was held in custody until 3 April 2012 whereupon the Plaintiff was bailed.
 - (b) The plaintiff was thereafter on conditional bail with significant restrictions on his liberty until 4 September 2012.
 - (c) On 4 September 2012 the prosecution offered no evidence on the charges against the plaintiff in the Summary Court of the Cayman Islands.
 - (d) In the premises, the defendant was unlawfully detained by police officers and deprived of his liberty for a period of 5 days.

16. The Plaintiff was maliciously prosecuted in this matter.

17. Particulars of Malicious Prosecution

- (a) There was a prosecution of the Plaintiff initiated by the investigation of the defendant.
- (b) The prosecution terminated on 4 September 2012 when the prosecution offered no evidence against the Plaintiff.
- (c) The prosecution was malicious as it was based upon evidence that had already been demonstrated to be false by the prosecution's own witnesses and the defendant failed to act expeditiously in conducting further forensic interviews with Jessica Hodgson to explore her false account; and as such
- (d) The defendant acted without reasonable or probable cause for the prosecution.
- (e) The prosecution caused the Plaintiff loss and damage, both commercial and to his reputation in the community.

18. Particulars of Second Unlawful arrest of the 2nd Plaintiff

- (a) The plaintiff had not committed any offence.
- (b) The arresting officer could not reasonably have suspected that any offence had been committed or that the plaintiff had committed any offence and did not actually suspect that the plaintiff had committed any offence.
- (c) The plaintiff was wrongfully arrested.

19. The Plaintiff was unlawfully assaulted by the arresting officers.

20. Particulars of Assault and Battery on the Plaintiff

- (a) The Plaintiff was threatened with pepper spray.
- (b) The Plaintiff was grabbed by the officers.
- (c) The Plaintiff was pushed, pulled and manhandled by the officers into the police vehicle.
- (d) The actions of the officers as set out above at (a) to (c) were intentional.

21. The Plaintiff was unlawfully deprived of his liberty.

22. Particulars of False Imprisonment of the 2nd Plaintiff

- (a) The Plaintiff was arrested at approximately 9:45pm. He was booked in to the George Town Police Station at 11:58pm and was held in police detention until 1:30am whereupon the plaintiff was released without charge.
- (b) In the premises, the defendant wrongfully imprisoned the plaintiff and deprived him of his liberty for a period of between 3 and 4 hours.

23. As a result of the matters as alleged in the Statement of Claim the plaintiff has suffered loss and damage and the plaintiff claims aggravated damages in respect of the second wrongful arrest and false imprisonment.

24. The plaintiff will rely upon the following matters in support of his claim for aggravated damages:
- (a) The second arrest and assault of the Plaintiff was conducted in a public car park in front of potential witnesses.
 - (b) The Plaintiff was savagely and unnecessarily assaulted to his great embarrassment.
 - (c) The Plaintiff was subjected to violence and humiliation by the officer out of proportion to the offence alleged when the plaintiff offered no resistance at the outset.
 - (d) The behavior of the officer was unnecessary, offensive, insulting and malicious and was intended to and did humiliate the Plaintiff.

Particulars of Loss and Damage

25. As a result of the conduct of the defendant the Plaintiff has suffered loss due to the damage caused to his property during the second arrest by the arresting officer. The lengthy time spent on bail as a result of the malicious prosecution has caused the Plaintiff to suffer loss through being forced to rent a second home and being unable to work in East End in order to comply with his bail conditions.
26. The conduct of the officers involved in these matters was arbitrary and oppressive. As such, the Plaintiff also claims aggravated damages and particulars will be forwarded once complete as for special damages.
27. The Plaintiff claims interest on damages for at the rate of 2 3/8 per cent pursuant to section 34 of the Judicature Law (2007 Revision) on the amount found to be due to the Plaintiff at such rate and for such periods as the court thinks fit.
28. And the Plaintiff claims:
- (1) damages for malicious prosecution;
 - (2) damages for false imprisonment;
 - (3) damages for assault and battery;
 - (4) aggravated damages;
 - (5) Interest pursuant to Section 34 of the Judicature Law (2007 Revision)
 - (6) Costs



Samson & McGrath
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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. of 2013
LEGAL AID NO. LACV0018/2013

BETWEEN:

CHRISTOPHER STEPHEN CONOLLY

PLAINTIFF

AND:

THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS

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.

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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.

 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.

Samson & McGrath
Attorneys at Law
5th Floor Genesis Building
Genesis Close
PO Box 446
George Town
Grand Cayman

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