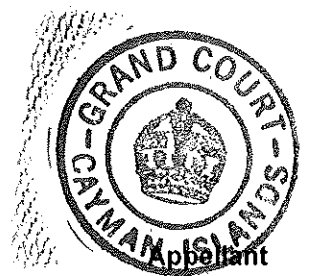


IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. **G0008** OF 2014

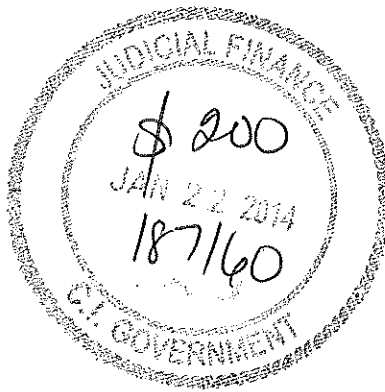
IN THE MATTER OF AN APPEAL OF PROCEEDINGS BROUGHT PURSUANT TO THE GENDER EQUALITY LAW, 2011

AND IN THE MATTER OF A DETERMINATION MADE BY THE GENDER EQUALITY TRIBUNAL: GET/1301



BETWEEN:

KRISTA LATREILLE



AND

THE DA VINCI CENTRE

Respondent

**NOTICE OF ORIGINATING MOTION**

TAKE NOTICE that the Court at the Law Courts, George Town, Grand Cayman will be moved as soon as Counsel can be heard, by Counsel on behalf of the Appellant, for an Order for relief in the terms and on the grounds to be set out forthwith, and that the Determination of the Gender Equality Tribunal made on 28 December 2013 (the "Determination"), including its adverse Costs order made against the Appellant, be overturned.

AND for an Order that the costs of and occasioned by this Appeal be paid by the Respondent.

AND FURTHER TAKE NOTICE that the grounds of this Appeal include:

1. The Tribunal's Determination dated 28<sup>th</sup> December 2013 (hereinafter referred to as the "Determination") is perverse both in fact and in law;
2. The Tribunal's Determination on the merits of the Appellant's Complaint of Discrimination is contrary to the evidence;

3. The Tribunal's Determination that neither the Respondent nor its agent / employee had committed acts of discrimination is contrary to the evidence and law;
4. The Tribunal's Determination failed, properly or at all, to consider section 17 of the Gender Equality Law (2011 Revision) (hereinafter referred to as "The Law") and the effect and totality of the evidence in relation to the question of whether the Respondent (whether individually or together with its employee) was by its acts, omissions or otherwise liable for the acts specified in the Appellant's Complaint;
5. The Tribunal's Determination failed to consider, properly or at all, the Respondent's targeting / harassment of the Appellant and whether such conduct amounted to discrimination within the ambit of the Law;
6. The Tribunal's Determination failed to consider, properly or at all, the Respondent's pleaded case /evidence and its subsequent metamorphosis on the issue of the integrity of the Appellant's Complaint and evidence and the credibility of the Respondent's evidence;
7. The Tribunal's Determination in the context of sections 3 (1) and 35 of the Law that because the Respondent had never previously made an application for Key Employee pursuant to the previously operable part of the Immigration Law, it could not conclude that the Respondent was guilty of discrimination in its treatment of the Appellant;
8. The Tribunal's Determination on the issue of the Respondent's burden of proof following the establishment by the Appellant of a *prima facie* case was perverse;
9. The Tribunal's Determination on the payment of costs (the members of Tribunal and the Respondent) was equally perverse by reason of the fact that the Appellant was not given an opportunity to address the Tribunal on this issue and by reason of the metamorphosis of the Respondent's evidence as set out in paragraph 6 above;
10. The Tribunal's Determination on the issue of its costs rested on its application of the *Gender Equality (Tribunal Members Remuneration) Regulations 2012*. The Appellant contends that these regulations are incompatible with Section 7 of the *Bill of Rights and Fundamental Freedoms of the Cayman Islands Constitution*. The Appellant thereby seeks a declaration of incompatibility pursuant to section 26 of the Constitution on this issue.

In all the circumstances the Appellant seeks the following relief on this de novo Appeal to the Grand Court:

1. An Order that the Tribunal produce its Record of the proceedings (written and digital) forthwith;
2. An Order quashing the Tribunal's Determination;
3. An Order finding that the Respondent, whether by itself or through its employee committed acts of discrimination against the Appellant;
4. An Order quashing the Tribunal's determination that the Appellant should pay the Respondent's Costs;

5. An Order declaring that the provisions of Gender Equality (Tribunal Members Remuneration) Regulations 2012 permitting the payment of the Tribunal Members' Costs by the Appellant is contrary to the Constitution;
6. An Order staying the Tribunal's Determination that the Appellant should pay all costs attributable to the Hearing of the Appellant's Complaint;
7. Any other Orders that this Honourable Court thinks fit.

  
**Stuarts Walker Hersant**

Dated the 21st day of January, 2014.

**TO: The Clerk of the Court**

**AND TO: Travers Thorpe Alberga, Attorneys for the Respondent**

**Harbour Place, 2nd Floor  
PO Box 472  
103 South Church Street  
Grand Cayman, KY1-1106**

**Attn: Mr. Ian Huskisson**

**AND TO: The Gender Equality Tribunal  
c/o Ministry of Education, Employment and Gender Affairs  
Government Administration Building Box 108  
133 Elgin Avenue, Grand Cayman KY1-9000**

**Attn: Ms. Aubrey Bodden**

This Notice of Originating Motion was issued by Stuarts Walker Hersant, Attorneys-at-Law for the Appellant, whose address for service is Stuarts Walker Hersant, Attorneys-at-Law, Cayman Financial Centre, PO Box 2510 GT, 36A Dr. Roy's Drive, George Town, Grand Cayman, Cayman Islands. AA/5934

IN THE MATTER OF AN APPEAL OF PROCEEDINGS BROUGHT PURSUANT TO THE GENDER EQUALITY LAW, 2011

AND IN THE MATTER OF A DETERMINATION MADE BY THE GENDER EQUALITY TRIBUNAL: GET/1301

BETWEEN:

KRISTA LATREILLE

Appellant

AND

THE DA VINCI CENTRE

Respondent

**ACKNOWLEDGMENT OF SERVICE  
OF NOTICE OF ORIGINATING MOTION**

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 Respondent whereby he may have to pay the costs of applying to set it aside.

1. State the full name of the Respondent by whom or on whose behalf the service of the Notice of Originating Motion is being acknowledged.

2. State whether the Respondent intends to contest the proceedings (tick appropriate box)

Yes  No

3. If the claim against the Respondent is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Respondent intends to apply for a Stay of Execution against any judgment entered by the Appellant (tick box)

Yes  No

Service of the Notice of Originating Motion is acknowledged accordingly

(Signed) \_\_\_\_\_  
Attorney for

**NOTE ON ADDRESS FOR SERVICE**

*Attorney:* Where the Respondent is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Respondent may not act by a foreign attorney.

*Respondent in person:* where the Respondent is acting in person, he/she must give his post office box number and the physical address of his/her residence or, if he/she does not reside in the Cayman Islands, he/she must give an address in Grand Cayman where communications for him/her should be sent. In the case of a Limited Company "residence" means its registered or principal office.

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

Anthony Akiwumi  
STUARTS WALKER HERSANT  
Attorneys-at-Law  
4<sup>th</sup> Floor, Cayman Financial Centre  
36A Dr. Roy's Drive  
P.O. Box 2510 GT  
George Town  
Grand Cayman, KY1-1104  
Cayman Islands

Tel: 345 949 3344  
Fax: 345 949 2888  
Ref: **AA/5934**

Endorsement by Respondent's Attorney (or by Respondent if responding in person) of his/her name, address and reference, if any, in the box below.

**Notes for Guidance:**

1. Each Respondent (if there are more than one) is required to complete an Acknowledgement of Service and return it to the Courts Office.
2. If you wish to defend claims made in the Notice of Originating Motion, or intend to attend the proceedings and to participate in them so far as necessary (although not necessarily in an adversarial manner) you should tick the "Yes" box in paragraph 2 of the acknowledgement of service.
3. For the purpose of calculating the period of 14 days for acknowledging service, a writ/motion served on the Defendant/Respondent personally is treated as having been served on the day it was delivered to him.
4. Where the Defendant/Respondent 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 Originating Summons/Notice of Originating Motion*)".
5. Where the Defendant/Respondent 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.
6. Where the Defendant/Respondent 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.
7. Where the Defendant/Respondent 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 acting on his behalf.
8. Where the Defendant/Respondent is a **MINOR** or a **MENTAL PATIENT**, the form must be completed by an Attorney acting for a guardian *ad litem*.
9. A Defendant/Respondent acting in person may obtain help in completing the form at the Courts Office.