

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 149 OF 2017

BETWEEN GLEN ANDREW BUSH

PLAINTIFF

AND MICHAEL PEART

1ST DEFENDANT

AND THE POLICE COMMISSIONER

2ND DEFENDANT

AND THE ATTORNEY-GENERAL

3RD DEFENDANT

RE-AMENDED WRIT OF SUMMONS

TO: MICHAEL PEART
c/o Central Police Station
Elgin Avenue
George Town
Grand Cayman

& THE ATTORNEY-GENERAL
c/o The Attorney-General's Department
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 judgement may be entered against you forthwith without further notice.

Issued this 6th day of September 2017

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.

ENDORSEMENT

The Plaintiff claims against the Defendants in that on or about the 28th day of November 2014 the First Named Defendant unlawfully and wilfully assaulted and beat the Plaintiff, along Eastern Avenue, George Town by forcefully throwing him on the bonnet of his car and further assaulted him with a baton in the rear of a Police car whilst the same was travelling along the roadways from Eastern Avenue to the Central Police Station on Elgin Avenue in George Town, Grand Cayman, whilst the Plaintiff's hand was handcuffed behind his back and further that within the confines of the said Police Station he further assaulted and beat the Plaintiff by violently and unlawfully grabbing him forcefully by his neck and squeezing it. The First Named Defendant falsely imprisoned the Plaintiff in a marked Police Vehicle and at the George Town Police Station on the 28th-29th days of November 2017. The First Named Defendant maliciously and without reasonable cause prosecuted the Plaintiff in the Summary Court of the Cayman Islands on charges of Intentional harassment, alarm or distress contrary to Section 88A(1)(a) of the Penal Code (2013 Revision); Assaulting an unnamed female Police Officer contrary to Section 123(b) of the Police Law (2014 Revision); Resisting Arrest contrary to Section 123(b) of the Police Law; and Assaulting the First Named Defendant contrary to Section 123(b) of the Police Law (2014 Revision). The action is brought against the Third Named Defendant in that the acts of the First Named Defendant was done whilst in the course of his employment as a uniformed member of the Royal Cayman Islands Police Service, headed by the Second Named Defendant, and is accordingly added as a party to these proceedings pursuant to the provisions of the Crown Proceedings Law.

In the alternative the Plaintiff claims against the First Named Defendant in his personal capacity.

AND THE PLAINTIFF CLAIMS:

1. Damages, including aggravated and exemplary damages for assault and false imprisonment and malicious prosecutions;
2. Interest;
3. Costs.
4. Special Damages

Dated this 7th day of September 2017
Redated this 25th day of September 2017
Re-Redated 26th October 2017



MURRAY & WESTERBORG
Plaintiffs Attorneys-at-Law

THIS WRIT was issued by Murray & Westerborg, Attorneys-at-Law for and on behalf of the Plaintiff, whose address for service is that of his said Attorneys-at-Law, The Second Floor (South West Wing) Cayman Shipping Centre Building, 10 Shipping Lane, George Town, Grand Cayman

Acknowledgment of Service of Writ

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 complete and serve a Defence* on the Attorney for the Plaintiff (or on the Plaintiff if acting in person) within 14 days of the time for acknowledging receipt of the Writ of Summons, unless in the meantime a Summons for Judgment is served on the Defendant. The Plaintiff is at liberty to apply for Default Judgment against the Defendant if the Defence is not filed and served within 14 days of the time for acknowledging receipt of the Writ of Summons.
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 seek time to pay the claim or 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 or seeking time to pay, 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

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. 0149 OF 2017

*BETWEEN GLEN ANDREW BUSH
AND MICHAEL PEART
AND THE POLICE COMMISSIONER
AND THE ATTORNEY-GENERAL*

*PLAINTIFF
1st DEFENDANT
2nd DEFENDANT
3ND DEFENDANT*

**ACKNOWLEDGEMENT OF SERVICE
OF RE-AMENDED 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 judgement being entered against a Defendant whereby he May have to pay the costs of applying to set it aside.

1. State the name of the Defendant by whom or on whose behalf the service of this Writ is being acknowledged.

2. State whether the Defendant intends to contest the proceedings (tick the 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 judgement entered by the Plaintiff (tick box).

yes

Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for

[Defendant in person]

Address for service:

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 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 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:

Murray & Westerborg
Attorneys-at-Law
2nd Floor, South West Wing
Cayman Shipping Centre Building
10 Shipping Lane
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:

[Empty box for Defendant's Attorney indorsement]

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 0149 OF 2017

<i>BETWEEN</i>	<i>GLEN ANDREW BUSH</i>	<i>PLAINTIFF</i>
<i>AND</i>	<i>MICHAEL PEART</i>	<i>1st DEFENDANT</i>
<i>AND</i>	<i>THE POLICE COMMISSIONER</i>	<i>2nd DEFENDANT</i>
<i>AND</i>	<i>THE ATTORNEY-GENERAL</i>	<i>3ND DEFENDANT</i>

RE AMENDED STATEMENT OF CLAIM

- 1 The Plaintiff, a resident of West Bay, Grand Cayman, was at all material times the owner and driver of a Honda Civic motor vehicle along Eastern Avenue, George Town, Grand Cayman on or about the 28th day of November 2014.
- 2 The First Defendant was at all material times a uniformed Senior Police Constable in the employ of the Royal Cayman Islands Police and at all material times acted and/or purported to act as such or alternately in his own behalf.
- 3 The Second Defendant is liable for the acts and omissions of the First Defendant in the performance or purported performance of his duties as a member of the Royal Cayman Islands Police.
- 4 The Third Defendant is a party to these proceedings by virtue of the Crown Proceedings Law.
- 5 On or about the said 28th day of November 2014 the Plaintiff, whilst driving his aforementioned motorcar, was stopped by uniformed members of the Royal Cayman Islands Police Service, headed by the First Named Defendant, carrying out, inter alia, spot checks on motor vehicles.
- 6 The Plaintiff was requested by a member of the Police team to remove an unlawful license plate from the front of his said motorcar.
- 7 Whilst complying with the request the First Named Defendant requested vehicular documentation from the Plaintiff with which the Plaintiff complied. A further request was made of the Plaintiff by the First Named Defendant to produce his driver's licence and with which the Plaintiff complied.
- 8 The First Named Defendant violently assaulted and beat the Plaintiff at the location where he was stopped along Eastern Avenue by grabbing hold of him

and slamming his body violently and forcefully on the hood of the Plaintiff's said motorcar.

- 9 The Plaintiff was subsequently arrested by the First Named Defendant and placed in the back of a caged Police car, driven by a female Police Officer with a male Police Officer in the front passenger seat and the First Named Defendant in the rear seat with the Plaintiff, whose hands were shackled behind his back.
- 10 The Plaintiff was further assaulted and beaten by the First Named Defendant who used his baton to strike the Plaintiff forcefully to his upper and torso and his legs, as the Police car travelled from Eastern Avenue to the George Town Police Station located on Elgin Avenue in George Town, Grand Cayman.
- 11 The Plaintiff was falsely imprisoned inside the said Police car and at the George Town Police Station on the 28th-29th days of November 2014
- 12 The Plaintiff was further assaulted at the George Town Police Station by the First Defendant who grabbed him violently by his neck and squeezed it.
- 13 The Plaintiff on or about the 29th day of November 2014 made a formal complaint against the First Named Defendant, who was subsequently charged with the criminal offence of assaulting the Plaintiff and convicted following a trial on or about the 8th December 2016.
- 14 The said conviction is evidence of the unlawful assault by the First Named Defendant on the Plaintiff who will rely on the same in further proof of his claim against the Defendants.
- 15 By reason of the matters aforesaid the Plaintiff has suffered personal injuries loss and damage.

Particulars of Personal Injuries

- (a) Bruises and Contusions to the upper body
- (b) Bruising and swelling of the right knee

Particulars of Loss

- (c) Legal fees (Watching brief) CI\$5,750.00

- 16 The Plaintiff is entitled to and claims aggravated and exemplary damages.

Particulars

- (a) The Plaintiff relies on the facts and matters set out above.

- (b) The assault on the Plaintiff was particularly vicious and uncalled for in the circumstances and amounted to a gross abuse of power by the First Named Defendant
 - (c) The Plaintiff was at no time charged with any offence, which would have entitled the First Defendant to act in the manner complained of herein.
 - (d) The action of the First Defendant was repugnant to the duties expected of him as a law officer from members of the public
- 17 The Plaintiff claims damages including aggravated and exemplary damages for assault, interest thereon and costs.
- 18 On or about the 13th day of March 2015 the First Named Defendant maliciously and without reasonable and probable cause laid charges, in The Summary Court of the Cayman Islands, of Assaulting Police contrary to Section 123(b) of the Police Law (2014 Revision), being Charges 01776/15 (3) and (5); Intentional harassment, alarm or distress contrary to Section 88A(1)(a) of the Penal Code (2013 Revision) being Charge 01776/15(2); and resisting arrest contrary to Section 123(b) of the Police Law (2014 Revision), being Charge 01776/15(4).
- 19 On the 4th, 5th and 6th days of July 2017 and the 5th day of September 2017 the Plaintiff duly appeared before said Magistrates Court and the said Court after the summary trial of the Charges dismissed the same Charges following the making of a No Case Submission and acquitted the Plaintiff of the said Charges.
- 20 In consequence of the matters aforesaid, the Plaintiff was injured in his reputation and was put to considerable trouble, inconvenience, anxiety and expense and has suffered loss and damage.

Particulars of Special Damages

(a) Legal Fees Incurred in Defending Charges

CI\$24,850.00

And the Plaintiff claims:

- A. Damages for assault, false imprisonment and malicious prosecution
- B. Exemplary Damages for malicious prosecution, false imprisonment and assault
- C. Aggravated Damages for assault, false imprisonment and malicious prosecution
- D. Costs
- E. Special Damages of CI\$30,600.00

Dated the 6th day of September 2017

Redated 25th day of September 2017

Re-Redated the 26th October 2017

Murray & Westerborg

Murray & Westerborg
Plaintiff's Attorneys-at-Law