

IN THE SUMMARY COURT OF THE CAYMAN ISLANDS

CAUSE NO. SC 51 OF 2020



ALBERT DAVIS
ORLANDO FRASER
MARK PHILLIPS
KENUTE TULLOCH
DEVON HENRY
SOPHIA McDERMOTT
GARRETT FRANCIS



PLAINTIFFS

THE RCIPS COMMISSIONER OF POLICE
THE ATTORNEY GENERAL
PS#341 KEVIN BOGLE

DEFENDANTS

PLAINT

To the Defendants

Royal Cayman Islands Police Service
George Town
Grand Cayman

The Hon. Attorney-General
c/o Attorney-General's Chambers
Government Administration Building
Elgin Avenue
George Town
Grand Cayman

PS#341 Kevin Bogle
c/o Royal Cayman Islands Police Service
Grand Cayman



THIS PLAINT 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 service of this Complaint on you, counting the day of service, you must either satisfy the claim or return to the Court Office, PO Box 495GT, George Town, Grand Cayman, the accompanying Acknowledgement of Service form stating whether you intend to contest this action. If you intend to defend the action, in whole or in part, you must set out **full particulars of your defence** in the space provided in the Acknowledgement of Service form.

If you fail to satisfy the claim or fail to return the Acknowledgement of Service form containing full particulars of your defence, the Plaintiff may apply for default Judgment without any further notice to you.

Issued this 24th day of April 2020

See overleaf for particulars

PARTICULARS OF CLAIM

1. The Plaintiffs were at all material times residents of the Grand Cayman Island, Cayman Islands.
2. The First Named Defendant is the Commissioner of Police of the Cayman Islands and is made a party to these proceedings as the matters complained of relate to a failure by a member or members of the Royal Cayman Islands Police Service to effectively implement an Order of the Summary Court made on or about the 30th day of January 2020 for the return of certain property to the Defendants following their acquittal on Charges brought under the Gambling Law (2016 Revision) and the Proceeds of Crime Law (2018 Revision).
3. The Second Named Defendant is made a party to these proceedings by virtue of The Crown Proceedings Law (1997 Revision).

4. The Third Defendant was at all material times a member of the Royal Cayman Islands Police Service acting or purportedly acting in his capacity as such. Alternately, he acted in his own regard.
5. On or about the 14th day of December 2018 the Plaintiffs were lawfully at premises being Apartment #4, 203 Owen Roberts Drive, George Town, Grand Cayman.
6. On the aforesaid date members of the Royal Cayman Islands Police Services, led by the Third Named Defendant, purportedly acting on information received, carried out an operation at the said premises.
7. The Plaintiffs were arrested by the said Police party and accused of being engaged in acts of gambling, contrary to The Gambling Law and in being in possession of moneys which were the proceeds of crime contrary to the Proceeds of Crime Law.
8. Funds in the possession of the persons arrested by the Police party, including those of the Plaintiffs, at the time, purportedly amounting to US\$337.00 and CI\$3,182.00 was confiscated by the Police on the basis that they were proceeds of crime.
9. Neither the Third Named Defendant nor any other member of the Police raiding party provided the Plaintiffs with a receipt in respect of the funds taken from them or counted the said funds in their presence.

10. The Plaintiffs assert that the funds actually taken by the Third Defendant and members of the Police Raiding Party was actually CI\$3,366.00 and US\$337.00 of which the Plaintiffs claim that all but CI\$182.00 taken from another Defendant in the criminal proceedings belonged to them.

11. The Plaintiffs were subsequently charged on or about the 18th day of June 2019 with Possession of Criminal Property contrary to Section 135(1) of the Proceeds of Crime Law (2018 Revision) and Illegal Gambling contrary to Section 5 of The Gambling Law (2016 Revision), being Summary Court Charges 01315-21 of 2019.
12. The Plaintiffs pleaded Not Guilty to the said Charges and eventually all of the said Charges were formally withdrawn by the Crown and Dismissed by the Court.
13. Despite the withdrawal and dismissal of the said Charges the Crown applied to the Court for the funds seized from the Plaintiffs by the Police to be forfeited pursuant to The Gambling Law.
14. The Defendants opposed the said Application by the Crown.
15. On the 30th January 2020 the Crown formally withdrew its forfeiture application and the same was accordingly dismissed by the Court who ordered that the funds seized by the Police from the Plaintiffs be returned to them via the offices of their Attorneys-at-Law, Murray & Westerborg.
16. Since the making of the said Order attempts to secure the return of the said funds have been unsuccessful.
17. Attempts by the Plaintiffs to recover the said sums included:
 - (i) Writing letters of the Office of the Director of Public Prosecutions for the funds to be returned as per the Courts Order
 - (ii) Writing to the First Named Defendant requesting assistance in the recovery of the funds seized which was ordered to be returned
 - (iii) Attendance at the Central Police Station to collect the funds on the 16th April 2020 where the Plaintiffs learnt that the Defendants were claiming that the only funds seized by the Third Named Defendant and the Police raiding party on the 14th December 2018 were:
 - (a) A sum of CI\$1,828.47 allegedly seized by the Police from the Plaintiffs was deposited into an account operated by the Royal Cayman Islands Police Service; and
 - (b) A sum of CI\$600.00 and US\$237.00, which was not deposited along with the funds held above.
18. In consequence of the same the Plaintiffs refused to accept the moneys being offered in settlement of their loss.
19. In consequence of the matters stated herein the Plaintiffs have suffered loss and damages.

Particulars of Loss

- (a) CI\$3,366.00
- (b) US\$337.00

Schedule of Interest Calculated CI\$ +US\$

Principal amount	CI\$3,649.92
Interest rate – 2.38% per annum	
(\$3,649.92x2.38/100x489/365)	
(\$3,649.92x.0238)x(489/365)	
(CI\$86.87x(1.33))	CI\$115.53

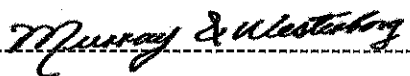
Particulars of Interest (CI\$3,366.00)

- (a) The prescribed rate of interest from the 14th December 2018 to the date of filing is 2.3/8% per annum.
- (b) The accrued interest to date 17th April 2020 is CI\$115.68
- (c) The per diem interest as of the 14th December 2018 is CI\$0.32

AND THE PLAINTIFFS CLAIM

- (a) The sum of CI\$3,649.92
- (b) Accrued Interest of CI\$115.53
- (c) Continuing Interest pursuant to the Judicature Law
- (d) Costs

Dated the 17th day of April 2020



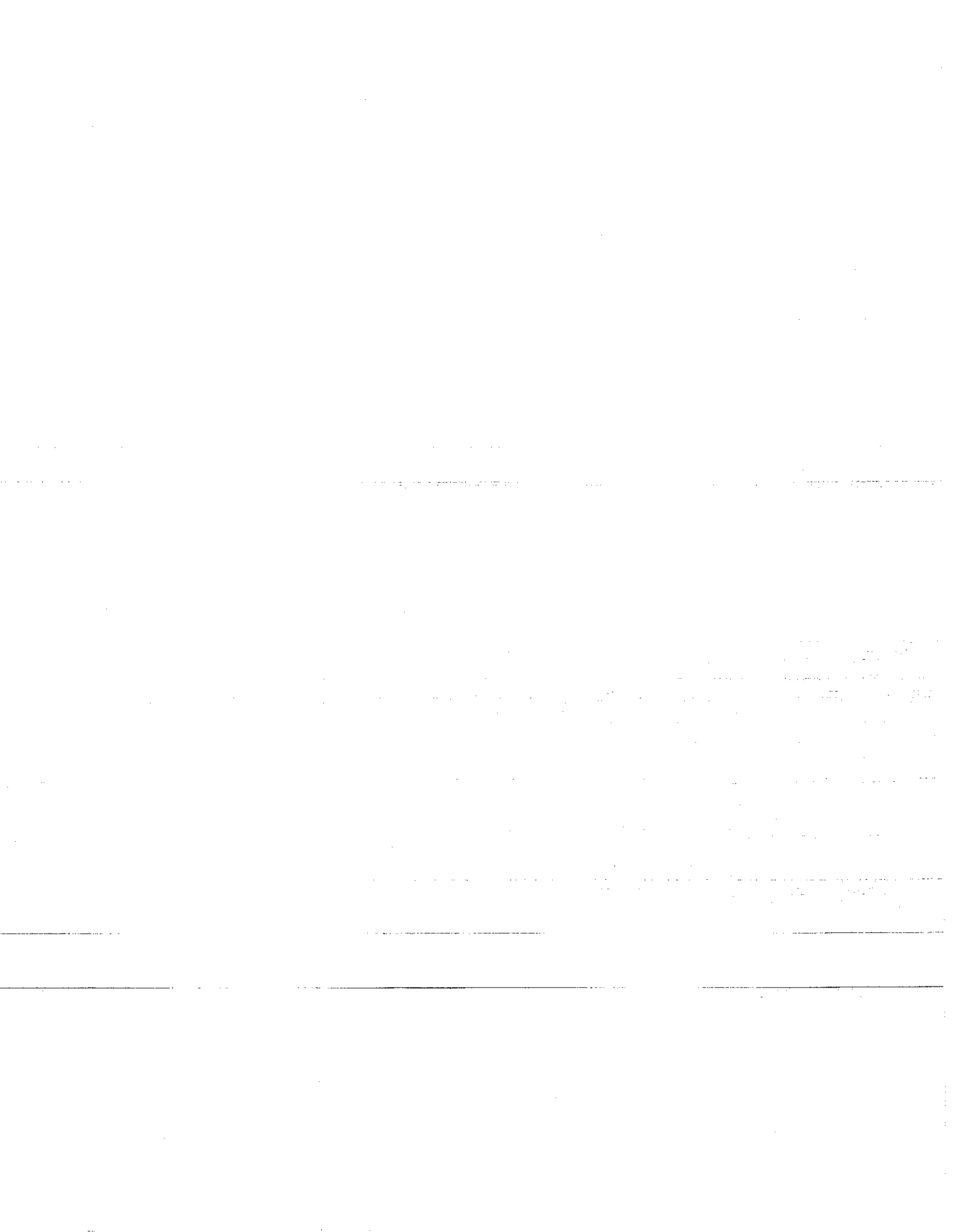
Murray & Westerborg

Plaintiffs' Attorneys-at-Law

Plaintiffs' Address For Service:

The Cayman Shipping Centre Building (South
West Wing, 2nd Floor)

10 Shipping Lane, George Town, Grand Cayman



PARTICULARS OF DEFENCE

(Here set out in numbered paragraphs the grounds upon which the Defendant says that he is not liable to the Plaintiffs, or is not liable for the full amount claimed).

Defendant's Signature

REMINDER - This form must be taken or sent to the Court Office, PO Box 495GT, George Town, Grand Cayman within 14 days of receipt otherwise a default judgment may be entered against you.