

ENDORSEMENT

The Plaintiff claims against the Defendants in the Third Named Defendant maliciously and without reasonable cause prosecuted the Plaintiffs in the Summary Court of the Cayman Islands on charges of Gambling, and Possession of Criminal Property contrary to the Gambling Law and the Proceeds of Crime Law respectively and for the unlawful seizure and detention of moneys taken from the Defendants by him on or about the 14th December 2018 and which was ordered to be returned to the Plaintiffs by a Magistrate of the Summary Court on or about the 30th day of January 2020. The action is brought against the First Named Defendant in that the acts of the Third Named Defendant was done whilst in the course of his employment as a uniformed member of the Royal Cayman Islands Police Service, and the Second Named Defendant is made a party to these proceedings pursuant to the provisions of the Crown Proceedings Law.

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

AND THE PLAINTIFF CLAIMS:

1. Damages, including aggravated and exemplary damages for malicious prosecution;
2. A Declaration that the Defendants or any one of them do return to the Plaintiffs the sum of CI\$3,366.00 with Interest thereon at the relevant Statutory rate as of the 14th Day of December 2018 or such other period as the Court deems just and appropriate.
3. Costs.
4. Special Damages

Dated this 23rd day of September 2020



MURRAY & WESTERBORG
Plaintiffs' Attorneys-at-Law

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

PLAINTIFFS

AND **THE POLICE COMMISSIONER**
AND **THE ATTORNEY-GENERAL**
AND **PS#341 KEVIN BOGLE**

1st DEFENDANT
2nd DEFENDANT
3rd DEFENDANT

ACKNOWLEDGEMENT 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 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.

OF 2020

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

PLAINTIFFS

AND *THE POLICE COMMISSIONER*

1st DEFENDANT

AND *THE ATTORNEY-GENERAL*

2nd DEFENDANT

AND *PS#341 KEVIN BOGLE*

3rd DEFENDANT

STATEMENT OF CLAIM

- 1 The Plaintiffs' were at all material times residents of Grand Cayman, Cayman Islands.
- 2 The First Defendant is liable for the acts and omissions of the Third Defendant in the performance or purported performance of his duties as a member of the Royal Cayman Islands Police.
- 3 The Second Defendant is a party to these proceedings by virtue of the Crown Proceedings Law.
- 4 The Third Defendant was at all material times a uniformed Police Sergeant 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.
- 5 On or about the said 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 On or about the 14th day of June 2019 the Third Named Defendant maliciously and without reasonable and probable causes caused charges of, 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, to be laid in the Summary Court against the Defendants.
- 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 Plaintiff's 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.
- (c) Filing claim in the Summary Court, being SC 51 of 2020, which the Plaintiffs have now discontinued.

- 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 aforesaid, the Plaintiffs were injured in their reputation and were put to considerable trouble, inconvenience, anxiety and expense and have suffered loss and damage.

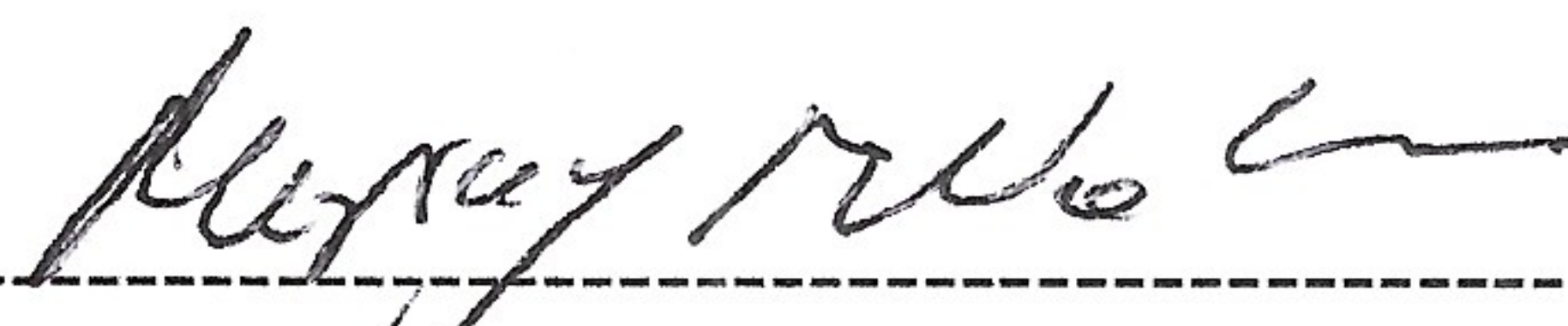
Particulars of Special Damages

(a) Legal Fees Incurred in Defending Charges	CI\$3,500.00
(b) CI\$ Loss of Funds Seized by Third Defendant	CI\$3,366.00
(c) US\$ Loss of Funds Seized by Third Defendant	US\$ 237.00

And the Plaintiff claims:

- A. Damages for malicious prosecution
- B. Exemplary Damages malicious prosecution
- C. Aggravated Damages malicious prosecution and loss of usage of funds seized by the Third Defendants
- D. Costs incurred in these proceedings as well as in SC51 of 2020
- E. Special Damages of CI\$6,866.00 and US\$237.00

Dated the 23rd day of September 2020



Murray & Westerborg
Plaintiff's Attorneys-at-Law