

**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

**Cause No. 17 of 2021**

**BETWEEN: THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS**

**Applicant**

**AND:**

**BILIKA HARRY SIMAMBA**

**Respondent**



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**ORIGINATING SUMMONS**

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LET ALL PARTIES concerned attend before the Judge of the Grand Court on the      day of  
2021 on the hearing of an application by the Applicant for the following orders:

- (i) That the Respondent be restrained from issuing any claims or actions or proceedings or making applications in any court concerning any matter involving or relating to or touching upon those raised in the following Grand Court and Court of Appeal causes (the "**Proceedings**"):
- a. *Simamba v the Health Services Authority of the Cayman Islands* Cause No. GC 32 of 2014 (the "**Personal Injury Claim**");
  - b. *Simamba v The Health Services Authority/Simamba v The Attorney General and Governor of the Cayman Islands* CICA Cause No 36 of 2019
  - c. *Simamba v The Attorney General and Governor of the Cayman Islands* Cause No GC 93 of 2020; and
  - d. *Simamba v The Honourable Justice Ian Kawaley and anor* Cause No. GC 161 of 2020,

without first obtaining the permission of a Judge of the Grand Court, such restraint remaining in effect for a period of 2 years from the date of such order unless extended by the Grand Court.

- (ii) An order that it shall be competent for a Judge to dismiss any application by the Respondent, to determine an application for leave on papers and to make the decision final without possibility of appeal.
- (iii) A direction that in the event of the Respondent applying for leave to issue a claim or make an application in relation to the Proceedings or to amend or discharge this Order, he shall first serve notice of an application for permission of the Grand Court on the Applicant.
- (iv) An Order that in the event of the Respondent issuing any claims or actions or proceedings or making applications in any court concerning any matter involving or relating to the Proceedings without the permission of the Grand Court, such claim, action, proceeding or application be automatically dismissed without further order and without the need for the Applicant to respond; and
- (v) The Applicant's costs of this application and order be paid by the Respondent to be taxed if not agreed.

The grounds of the application are that:

- (i) The Respondent has repeatedly filed claims or proceedings in the Grand Court and Court of Appeal in relation to the dismissal of his Personal Injury Claim which are wholly devoid of merit and vexatious and/or abusive.
- (ii) In each of the various proceedings, the Respondent rehearses the same complaints about certain decisions made by the Grand Court in the Personal Injury Claim. Broadly, the Respondent's complaints are as follows:
  - (a) the Honourable Mr. Justice Kawaley ("**Kawaley J**"), in the Personal Injury Claim, failed to give meaningful reasons and refused to consider 52 authorities cited by the Respondent and various issues of law on the immunity provision in section 12 of the Health Service Authority Act;
  - (b) the Respondent was denied a fair hearing by Kawaley J;
  - (c) the Respondent was denied justice within a reasonable time due to various adjournments in the proceedings by the Honourable Madam Justice Mangatal;
  - (d) Kawaley J erred in requiring the Respondent to submit expert evidence rather than allowing the matter to proceed to trial; and

- (e) Kawaley J applied the wrong criteria in determining whether to strike out the Respondent's claim after allowing him further time within which to file his expert evidence.
- (iii) The complaints made in the various proceedings were considered by the Court of Appeal in dealing with an application for leave to appeal out of time in the Personal Injury Claim and an application for leave to file a constitutional motion pursuant to section 26 of the Bill of Rights, CI Constitution Order 2009 in CICA Appeal No. 36 of 2019, both of which were separately dismissed on 5 August 2020. In its rulings the Court of Appeal held that the Respondent's complaints were wholly without merit.
- (iv) Notwithstanding the rulings of the Court of Appeal, the Respondent proceeded to file further claims or proceedings and make applications in the Grand Court raising the same or substantially the same issues as those before the Court of Appeal and which were based on complaints which, in any event, are wholly devoid of merit.
- (v) The Respondent has threatened to issue or file further claims or actions or proceedings and make applications in relation to the Proceedings such that it is reasonably anticipated that, unless restrained, the Respondent will continue to institute vexatious and abusive claims. This is supported by the following:
- a. In correspondence to the First Defendant in Cause No. 161 of 2021 the Respondent indicated that his suits against him would continue and that he will use all lawful means to ensure the First Defendant's removal from judicial office. He further indicated that he plans to seek prosecution of the First Defendant for various alleged offences; and
  - b. In a radio interview on 19 October 2020 the Respondent made complaints in relation to or connection with the Personal Injury Claim and stated that he was "going after [Kawaley J] with every little bit that I can find in every corner of the Law in the Cayman Islands" and "I am not done with that judge."
- (vi) The Respondent's filing of proceedings (as well as his other attempts to impugn Kawaley J and any other judges or Justices of Appeal who have dealt with the Proceedings or the Respondents' complaints relating thereto and court staff), if unrestrained, will continue to place an unreasonable burden on the Applicant and the administration of justice.

Dated this 1<sup>st</sup> day of February 2021

*Attorney General's Chambers*

**Attorney General's Chambers**

Attorneys for the Applicant

TO: The Clerk of the Court

AND TO: Bilika Harry Simamba

Time estimate: ½ day

This Originating Summons was filed and served by the Attorney General's Chambers whose address for service is 4<sup>th</sup> Floor, Government Administration Building, 133 Elgin Avenue, PO Box 136, Grand Cayman KY1-9000, Cayman Islands.