

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: *90076* /2015

BETWEEN:

ALDEN MCLAUGHLIN

PLAINTIFF

AND

W. MCKEEVA BUSH

DEFENDANT



WRIT OF SUMMONS

TO: W. McKeeva Bush
Captain Allie's Road
West Bay
Grand Cayman

THIS WRIT OF SUMMONS has been issued against you by the above named Plaintiff, of Prospect, Grand Cayman in respect of the claims set out on the next page.

Within 14 days after service of this Writ on you, (or where this Writ is served on you out of the jurisdiction pursuant to an Order of the Court, within 28 days) counting the day of service, you must either satisfy the claim or return to the Courts Office, P.O. Box 495, George Town, Grand Cayman, KY1-1106, Cayman Islands the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein any intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

ISSUED this 7th day of May 2015.

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 original issuance unless renewed by order of the Court

IMPORTANT

Directions for the Acknowledgement of service are given with the accompanying form

BETWEEN:

ALDEN MCLAUGHLIN

PLAINTIFF

AND

W. MCKEEVA BUSH

DEFENDANT

STATEMENT OF CLAIM

1. The Plaintiff is an elected member of the Legislative Assembly, the Premier of the Cayman Islands, and leader of the People's Progressive Movement ("the Progressives"), the political party which holds the majority of seats in the Legislative Assembly of the Cayman Islands ("the Legislative Assembly"), and an attorney-at-law admitted to the Bar of the Cayman Islands. The Defendant is an elected member of the Legislative Assembly, the Leader of the Opposition, and leader of the United Democratic Party ("the UDP").

The Prosecution

2. In the year 2010 the Royal Cayman Islands Police Service ("RCIPS") opened an investigation into the Defendant relating to alleged financial irregularities dating from October 2004 and the Defendant was arrested and subsequently charged with several offences. At that time the Defendant was Premier of the Cayman Islands and remain so until 18 December 2012. On that date and consequent upon the prosecution he was removed as Premier following a vote of no confidence by the Legislative Assembly, and the Deputy Premier, Mrs Julianna O'Connor Connolly, was appointed Premier.

The Election

3. At an election held on May 22, 2013, the UDP, the then governing party, was defeated and the Progressives were elected into government. The Plaintiff then became and has at all times since remained as Premier. Prior to that date and at all material times before that date the Plaintiff had been the Leader of the Opposition.

The Trial

4. The criminal charges against the Defendant, being six counts of misconduct and five counts of breach of trust, came on for trial in September 2014 and on 6 October 2014 he was acquitted of all charges. He continued to sit in the Legislative Assembly as a member, as Leader of the Opposition, and leader of the UDP.

5. The arrest and the prosecution of the Defendant, his consequent removal as Premier and his trial and acquittal were fully reported in the Cayman Islands press and was accordingly generally known by the public.

The Defamatory Statements

6. On April 14, 2015 the Defendant invited various members of the press as set out below to the larger Committee Room in the precincts of the Legislative Assembly Building (a room to which the public had access) for the purpose of holding a press conference. Representatives of the following newspapers and media attended in consequence of the Defendant's said invitation: Wendy Ledger and Kenneth Bryan both of Cayman News Service, Brent Fuller of Cayman Compass, Ralph Lewis of Cayman Weekly, Deon Ebanks of The Cayman Reporter, Austin Harris of Cayman Crosstalk (which airs on "the Rooster" FM 101.9), Chanda Gallego of Radio Cayman and others not as yet identified.
7. The Defendant then read out the contents of a document ("the document") and handed copies of the document to the said members of the press. In doing the above acts the Defendant fully intended that the words that he spoke and the contents of the document should be republished to the public as widely as possible. The Defendant authorised their said republication and their republication in the press was a natural and foreseeable consequence of his said words and actions.

The words spoken by the Defendant and the document.

8. The Defendant stated to the assembled members of the press that the document was a motion he proposed to put before the Legislative Assembly. It was in the following words which the Defendant read out aloud:

"PRIVATE MEMBER'S MOTION NO. /2015

UNCONSTITUTIONAL INTERFERENCE, CONSPIRACY TO TOPPLE AN ELECTED GOVERNMENT AND VIOLATION OF INDIGENOUS POPULATION'S RIGHTS UNDER UN CHARTER OF HUMAN RIGHTS AND EU CHARTER OF HUMAN RIGHTS

WHEREAS there has emerged irrefutable documentary evidence of the interference by the Office of the Governor of the Cayman Islands in planning and conspiring with the help of civil servants and elected representatives of the Legislative Assembly to topple a democratically elected government while misusing the power of the state and its judicial and law enforcement arms;

AND WHEREAS the indigenous people of these Islands have had their rights infringed by using the jurisdiction as a instrument to further the economic designs that were contrary to the interest of the indigenous people and through systemic policies of discrimination that constitutes a gross violation of their fundamental human rights protected under the UN Charter and the EU Regulations;

AND WHEREAS there is irrefutable evidence of the involvement of the then Leader of the Opposition, now the Premier- 3rd elected member from George Town- and others in the undemocratic plan to remove the then constitutionally elected Premier- the 1st elected member of West Bay.

BE IT NOW THEREFORE RESOLVED that Government take immediate and appropriate action on this matter through the means of UN and EU bodies to address the following matters.

1. Commission an independent review of the involvement of the Foreign and Commonwealth Office, Office of the Governor, Commissioner of Police and the then Leader of the Opposition in the conspiracy to remove the then constitutionally elected Premier.
 2. Take appropriate responsibility for the conspiracy, by making public the inquiry and initiate legal action at the appropriate international legal forum.
 3. Conduct an independent historical review of legislations and legal measures taken by the Foreign and Commonwealth Office and the Office of the Governor with the connivance of law enforcement that has led to the marginalisation of the indigenous Caymanian population and disrepute of its financial industry."
9. The references to "the then Leader of the Opposition, now the Premier- 3rd elected member from George Town" and the reference in paragraph 1 of the document to the "then Leader of the Opposition", were intended by the Defendant to mean and be understood to mean and would mean and be understood by the members of the press present and the public to whom the document and its contents would be republished, as a reference to the Plaintiff.
10. The reference to "to toppl[ing] a democratically elected government while misusing the power of the state and its judicial and law enforcement arms", was intended by the Defendant to mean and be understood and would mean and be understood by the members of the press present and the public to mean, that the Plaintiff and others mentioned in the document had conspired together wrongly and by abuse of executive power to institute and maintain the prosecution of the Defendant, not by reason of any evidence against the Defendant but wrongfully, illegally and criminally as a means of removing him as Premier and for their own personal political ends.
11. At the said press conference the Defendant was asked to clarify what "irrefutable evidence" he possessed. The Defendant falsely and maliciously stated that he had written correspondence between the various parties including the then Leader of the Opposition thereby asserting that the Plaintiff was a party to correspondence which proved his involvement in the undemocratic plan to remove the Defendant from office. The Defendant was further asked whether he thought the "violations" he had described were serious enough for the territory to consider voiding the results of the 2013 vote and holding new elections and responded that he did "not necessarily" want fresh elections, but indicated that he did have concerns - in light of the correspondence he had received - as to the fairness of the vote saying "I do not believe the election last time was held above board,"
12. The words and the document so published by the Defendant (insofar as they referred to the Plaintiff) were seriously defamatory of the Plaintiff and were false and malicious.
13. In their natural and ordinary meaning the words so stated and published of the Plaintiff meant and were understood to mean:
- (i) That the Plaintiff had conspired with members of the Legislature and the executive wrongly ("misusing") the coercive powers of the state, the courts and the police (the "judicial and law enforcement arms") by instituting or proceeding with the prosecution of an innocent man (the Defendant) to achieve his and their own political ends – the removal of the Defendant and his democratically elected party from government and interfere with the democratic process and that as a result the election held in 2013 was corrupt, improper, or "not above board".

- (ii) That the Plaintiff, a member of the Legislative Assembly, in a clear abuse of authority had used the police and the courts for his and/or his party's private and political benefit namely in order to interfere with the democratic process and remove an innocent man (the Defendant) through a wrongful prosecution, rather than for the proper purposes of detecting, prosecuting and punishing crime, in a way that was prejudicial to the rights of the Defendant thereby committing a criminal offence contrary to the Anti-Corruption Law (2014 Revision) s. 17.
 - (iii) That by his above actions, the Plaintiff, as a member of the Legislative Assembly in connection with the duties of his office, had committed fraud or breach of trust thereby committing a criminal offence contrary to the Anti-Corruption Law (2014 Revision) s. 13.
 - (iv) That the Plaintiff had conspired together with others to commit the above criminal offences and thereby was guilty of offences under s. 321 and/or 322 of the Penal Code (2013 Revision).
 - (v) That the Plaintiff as a public officer had committed the common law offence of misconduct in a public office either on his own or by conspiring assisting aiding and abetting others wilfully to neglect to perform his or their duty and/or wilfully to misconduct himself or themselves, to such a degree as to amount to an abuse of the public's trust.
14. As intended, authorised and foreseen by the Defendant, the above false, malicious and defamatory statements were republished widely throughout the Cayman Islands and overseas. The Plaintiff will rely upon each and every such republication as a libel by the Defendant but has presently been able only to identify the following:
- Cayman Compass: articles dated April 15 and 16, 2015
 - Cayman News Service: article dated April 14, 2015
 - Cayman 27 News television broadcast and Facebook page April 14, 2015
 - Radio Cayman broadcasts on 14 and 15 April 2015
 - The Cayman Reporter: article dated April 16, 2015
 - ieyenews: article dated 24 April 2015
 - Caribbean News Now: article dated April 27, 2015
 - Turks and Caicos Weekly News: article dated 18 April 2015
15. Further, as would have been foreseen and intended by the Defendant, the above false, malicious and defamatory statements were repeated in numerous internet "blogs" by various individuals who had read the above publications or seen or heard the above broadcasts.

The Text Message

16. By letter dated April 24, 2015 the Plaintiff by his attorneys, Hampson and Company, referred to the above libels and falsehoods, called upon the Defendant to apologise and refrain from repeating them and threatened legal action. The Cayman News Service contacted the Defendant to ask him about his position in relation to the threatened legal action. On Friday May 1, 2015 he sent a text message to Cayman News Service stating as follows:

"There was once a certain minister of government in an overseas territory who was accused of getting a business for granting an oil license to a certain oil company. The minister demanded an apology. When the member of the House refused the minister took him to court. The member of the House produced the document in court showing that indeed the minister had made a deal with the oil company to get a gas station."

17. As intended, authorised and foreseen by the Defendant, the contents of the text message were published by the Cayman News Service on May 1, 2015, and republished by other news services including Caribbean News Now on May 4, 2015.
18. In their natural and ordinary meaning the words so stated and published of the Plaintiff meant and were understood to mean that the Plaintiff (the "certain minister of government") had in fact been guilty of the conduct alleged against him by the Defendant (the "member of the House") and that the Defendant had a document which showed the Plaintiff to be guilty.
19. Alternatively, by way of innuendo, the words complained of meant and were reasonably understood to mean that the Plaintiff had in fact been guilty of the conduct alleged against him by the Defendant and that the Defendant had a document which showed him to be guilty. Members of the public who became aware of the Defendant's false and defamatory allegations as published in the various newspaper and media outlets set out above and who read the words of the text message in the Cayman News Service would understand the Defendant to be asserting by the text message that the Plaintiff had in fact been guilty of the conduct alleged against him by the Defendant and that the Defendant had a document which showed the Plaintiff to be guilty.
20. The text message so published by the Defendant was seriously defamatory of the Plaintiff and was false and malicious.
21. By reason of each such publication and republication the Plaintiff's reputation has been seriously harmed as a politician and as an attorney-at-law, and the Plaintiff has suffered considerable hurt, distress and embarrassment.

Causes of action

22. The Plaintiff claims damages for libel and/or slander and for malicious falsehood in relation to each and every one of the following libels as set out above:
 - (i) The Defendant's oral statements set out in paragraphs 7, 8, 9, 10 and 11 above;
 - (ii) The Defendant's statements contained in the document handed to the press as set out in paragraphs 7 and 8 above;
 - (iii) The republication of the defamatory statements in the press as set out in paragraphs 14 and 15 above;
 - (iv) The publication of the text message to the Cayman News Service and its republication as set out in paragraphs 16 and 17 above.

General, Aggravated and Exemplary Damages

23. The Plaintiff will rely on the following facts and matters in support of a claim for damages, including aggravated damages. The Defendant will have known perfectly well and it is the case that the above allegations against a public figure, in this case the Premier of the Cayman Islands would be highly destructive of public confidence and likely to destroy the political and legal career of the Plaintiff. Notwithstanding the seriousness of the allegations made against the Plaintiff, the Defendant made no attempt to contact the Plaintiff prior to the press conference, to put to him the allegations he intended to make, and give him the opportunity to refute them. The Plaintiff will ask the Court to infer that this was because the Defendant believed or suspected the allegations against

the Plaintiff were completely untrue, but did not wish to take any steps which would turn that belief or suspicion into certainty. The letter referred to in paragraph 13 from the Plaintiff's attorneys has received no reply.

24. Further, the Plaintiff will rely on the above matters and the following facts and matters in support of a claim for exemplary damages. The Defendant convened the press conference on April 14, 2015 to ensure that his defamatory allegations had the widest possible media coverage and circulation so that they could do the greatest possible damage to the Plaintiff, his reputation, political and professional position. On the basis that "some mud sticks" the damage would be suffered before there could be any refutation by the Plaintiff. In the premises, the Defendant published the words complained of knowing that they were false, or recklessly, not caring whether they were true or false, in the hope or expectation that the prospect of personal and political gain to him outweighed the risk of paying any or any substantial damages to the Plaintiff.

Injunction

25. Unless restrained by this Honourable Court, the Defendant will further publish or cause to be published the words complained of or similar words defamatory of the Plaintiff.

Endorsement as to interest

26. The Plaintiff claims pre and post-judgment interest on his damages pursuant to s.34 of the Judicature Law (2013 Revision) and the Judgment Debts (Rates of Interest) Rules 1995 as amended.

AND THE PLAINTIFF THEREFORE CLAIMS:

1. GENERAL AGGRAVATED AND EXEMPLARY DAMAGES FOR LIBEL AND/OR SLANDER AND FOR MALICIOUS FALSEHOOD BY REASON OF:-
 - (i) The Defendant's statements made in the larger Committee Room to members of the press on April 14, 2015 as set out in paragraphs 6, 7, 8, 9, 10 and 11 above;
 - (ii) The Defendant's statements contained in the document handed to the press as set out in paragraphs 7 and 8 above;
 - (iii) The re-publication of the defamatory statements in the press as set out in paragraphs 14 and 15 above;
 - (iv) The publication of the text message to the Cayman News Service and its republication as set out in paragraphs 16 and 17 above.
2. AN INJUNCTION restraining the Defendant whether by himself his servants or agents or otherwise from publishing or causing to be published the same or similar words defamatory of the Plaintiff.
3. PRE-JUDGMENT AND POST-JUDGMENT INTEREST pursuant to s.34 of the Judicature Law (2013 Revision) and the Judgment Debts (Rates of Interest) Rules 1995 as amended; and

4. His costs of this action.

DATED at Grand Cayman this 7th day of May 2015

Hampson and Co.
Hampson and Company
Attorneys for the Plaintiff

THIS WRIT OF SUMMONS AND STATEMENT OF CLAIM is filed by Hampson and Company, attorneys for the Plaintiff, whose address for service is that of his said attorneys, at Citrus Grove, 5th Floor, Goring Avenue, George Town, P.O. Box 698, Grand Cayman KY1-1107, Cayman Islands.