ND COURT OF THE CAYMAN ISLANDS

CAUSE NO GC: OF 2025

BILIKA HARRY SIMAMBA

PLAINTIFF

AND

GOVERNOR OF THE CAYMAN ISLANDS

1st DEFENDANT

ATTORNEY GENERAL OF THE CAYMAN ISLANDS

2nd DEFENDANT

==========

WRIT OF SUMMONS

==========

TO: Governor of the Cayman Islands and Attorney General of the Cayman Islands, both of 133 Elgin Avenue, 4th Floor, Grand Cayman KY1-9000, 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 the 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 495GT, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an 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 day of 2025

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 Acknowledgment of Service are given with the accompanying form.

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

==========

STATEMENT OF CLAIM

==========

Tale of Contents

PARTIES

1. The Governor, currently Jane Owen, is appointed under section 29 of the Cayman Islands Constitution Order 2009 UKSI No. 1379 (the Constitution Order). Under section 43(2) of the said Order, she is the representative of His Majesty's Government in the Cayman Islands who, together with the Cabinet, exercises the executive authority on behalf of His Majesty. Pursuant to that same authority, as read with section 31(3) of the Constitution Order, the Governor is enjoined to "*endeavour to promote good governance*

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

and to act in the best interests of the Cayman Islands so far as such interests are consistent with the interests of the United Kingdom."

2. More specifically, the Governor, under section 106(1) and (4) the Constitution Order, has the power to "*make appointments to the offices to which this section applies, and to remove and to exercise disciplinary control*" over the Chief Justice and the Attorney General vest in the Governor.

3. The Attorney General is a public officer appointed in accordance with section 106 of the 2009 Order who, under section 56(2) of the Order, is the "*principal legal adviser to the Government*". Further, under section 4 of the Public Service Management Act (Public Service Values) the Attorney General, as a public servant, is supposed to be "*impartial*" and must "*uphold the proper administration of justice and the principles of natural justice*". Also, he must "*adhere to the highest ethical, moral and professional standards*". Under section 5 (Public Service Code of Conduct) "*a public servant must behave honestly and conscientiously, and fulfil his duties with professionalism, integrity and care*". Attorney General Samuel Bulgin acted in breach of these precepts in pursuit of his desire to defame me.

4. As this is also a defamation suit (in addition to abuse of office and breach of statutory duty), the following paragraphs will give some details of my professional achievements and work, which has and will continue to suffer due to the defamation. I am a retired Cayman Islands Attorney at Law who was, from August 2003 to May 2015 employed by the Government, leaving as Senior Legislative Counsel in the Legislative Drafting Department of the Portfolio of Legal Affairs. I was called to the Bar in the Cayman Islands in 2016. I was first called to the Bar in Zambia in 1977. I have 3 degrees in law: LLM (Zambia, 1976); LLM (Zambia, 1989): LLM in Legislation Ottawa, Canada, 1987). I am also UK-trained in legislative drafting, January to May 1979, studying at what is now the Sir William Dale Institute of Legislative Studies, in the Institute of Advanced Legal Studies of the University of London, England.

5. I am currently an Instructor on the Graduate Diploma in Legislative Drafting program at Athabasca University, Alberta, Canada. Most of my students are qualified lawyers in Canada who are seeking to learn how to draft legislation, but I have had students in the Caribbean. I also used to be Visiting Instructor at the Institute of International Development Law in Rome, Italy, where I taught students, again qualified lawyers, from different parts of the world including from the Caribbean and Cayman in particular. I have also worked both long-term and short-term on projects for the Commonwealth Fund for Technical Cooperation, the World Bank, the United Nations Development Programme and the Common Market for Eastern and Southern Africa.

6. Over the years I have published a number of peer-reviewed papers relevant to legislative drafting, statutory interpretation, human rights and other substantive areas of law in the UK, South Africa, the Caribbean and Africa in the following journals: *Statute*

Law Review, Oxford University Commonwealth Law Journal, South African Law Journal, International and Comparative Law Journal of Southern Africa, Caribbean Law Review, Zambia Law Journal, Commonwealth Law Bulletin, Commonwealth Judicial Journal and other journals. I have also published the following 8 books:

(1) *The Legislative Process: A Handbook by Public Officials, 2009* (with foreword by the Cayman Attorney General, Sam Bulgin KC, JP)

(2) *How Laws are Written and Applied, 2010* (with foreword by the Cayman Chief Justice, Anthony Smellie KC, JP)

(3) *How to Exercise Statutory Powers Properly: Cayman Islands Administrative Law, 2013* (with foreword by the Cayman Deputy Governor, Franz Manderson Cert. Hon, JP)

(4) *Legislative Processes in the Commonwealth: From Proposal to Enactment and Implementation, 2015*

(5) *How to Make Effective Legislative Proposals: Cayman Islands Legislative Process, 2012*

(6) How to Make Effective Legislative Proposals: British Virgin Islands Legislative Process, 2013

(7) How to Make Effective Legislative Proposals: Trinidad and Tobago Legislative Process, 2013

(8) How to Make Effective Legislative Proposals: Jamaican Legislative Process, 2013

7. In the last few years, I was asked by the Commonwealth Association of Legislative Counsel to review books on legislative drafting and legal writing. They are as follows:

(1) *Introduction to Legislative Drafting*
By Rassie Malherbe, Anton Meyer SC and Heinrich Muller, Available from VitalSource Bookshelf, Juta Law, South Africa: 2023.
Published in *The Loophole*, December, Issue No. 2 of 2024.

(2) *Legal Usage: A Modern Style Guide*
By Emeritus Professor Peter Butt, published by Lexis Nexis Butterworths, Chatswood, New South, Wales, Australia, 2018
Published in *The Loophole*, February 2020

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

(3) *Thornton's Legislative Drafting 5th Edition*
By Professor Helen Xanthaki, published by Bloomsbury Publishing, West Sussex, UK, 2013
Published in *The Loophole*, August 2013

8. I designed 9 one-day and half-day courses, some of which I have facilitated in Cayman, intended for the training of public servants in Cayman. These are:

(1) How to Make Effective Legislative Proposals.

(2) How to Write Cabinet Papers.

(3) How to Navigate Statutes.

(4) How to Interpret Statutes.

(5) How to Use the Interpretation Act

(6) How to Succeed in Judicial Review Matters: Introduction.

(7) How to Succeed in Judicial Review Matters: Advanced.

(8) How to Draft Legal Documents in Plain English: Introduction.

(9) How to Draft Legal Documents in Plain English: Advanced.

ESSENCE OF SUIT

9. There are 2 causes of action in this suit. In relation to both suits I state that the Governor is liable in his/her own right as well as vicariously liable for all the actions stated in this Statement of Claim.

10. **First**, defamation and conspiracy to defame. Justice Ian Kawaley, as elaborated below:

(a) made two statements about me;
(b) those statements were false;
(c) the statements were published in his judgment to the public; and
(d) the statements lowered me as a person and as an attorney at law in the estimation of right-thinking members of society and the legal profession.

11. Regarding the conspiracy, Justice Kawaley conspired with other members of the judicial and legal services, the Attorney General, Governor Martyn Roper and Governor

Jane Owen and other persons/judges mentioned in this Statement of Claim to ensure that the facts that would prove that Justice Kawaley lied about me were suppressed and not made available to the public. All the actions and omissions cited in this Statement of Claim were committed or omitted maliciously with intent to defame, to abuse office, to refuse or neglect to perform statutory duties, and to participate in the conspiracy to do all the foregoing. The 4 elements of conspiracy were satisfied in that:

(a) there was an agreement;
(b) the agreement was between two or more people;
(c) the conspirators agreed to commit unlawful acts or lawful acts by unlawful means; and
(d) the actions (which word, as defined in section 2 of the Interpretation Act, includes “omission”) were directed at me and had, as the predominant purpose, to harm me as a person, my professional standing and my property.

12. In relation to the above, the actions of the defendants were particularly egregious as they knew that I am an attorney at law and that this would undermine my credibility as such. Further The defendants and their fellow conspirators, defamed me and participated in the conspiracy knowing full well that their actions would have the effect of reducing the credibility of my publications, hurting me monetarily and in terms of the credibility of my legal writings.

13. **Second**, breach of statutory duties and abuse of authority of office. The Defendants, in their own right and through officers acting in fact or ostensibly on their behalf and on behalf of the Crown in right of the Islands, acted in breach of their statutory duties and in abuse of their office to defame and participate in defaming me with the object of defending Justice Ian Kawaley unlawfully, considering that he had acted in breach of this oath, in abuse of office and dishonorably in a more general sense.

14. All in all, after the defamation by Justice Kawaley, all the members of the judicial and legal services, successive governors, the Commissioner of Police and institutions supporting democracy, including the Human Rights Commission and the Anti-Corruption Commission, engaged in egregious dereliction of duty and a massive suppression of facts, in particular, the 13 emails that conclusively proved that Justice Kawaley was lying about me, and actively concealed facts that would have vindicated my character and good standing in the legal profession and in the community. Since the first hearing of the human rights matter by Justice Jack Beatson, the total number of judges before whom the matter has been presented amounts to a total of 9 but there were others before whom it was assigned but who never sat. Further details appear below.

15. The actions described above and to be detailed below were unlawful. And for the purpose of demonstrating that they were unlawful, I quote below the provisions of the Penal Code and Anti-Corruption Act. I also quote from some of the rulings of the various

judges but only to demonstrate the intellectual dishonesty that constitutes part of the conspiracy to defame, and which is relevant to the Judicial Code of Conduct.

BACKGROUND TO MALICE

16. I developed the courses referred to above towards the end of my tenure with the Portfolio of Legal Affairs, which ended in 2015. A friend mentioned to me that Chief Officer Stran Bodden had heard about my courses and expressed an interest in learning more about them. I met with him, and he suggested that he would take the matter to the Chief Officers' meeting and see if they would approve my teaching them (for free), these being initially the course on the legislative process and judicial review. He did take them to the Chief Officer's Meeting. My then Solicitor General and Chief Officer Jacqueline Wilson (Now Madam Justice Wilson of the Trinidad and Tobago High Court) informed me early in 2014 that the matter had been tabled at the Chief Officers' meeting and there was a lot of interest in it. She also told me that, at a subsequent meeting, under "Any Other Business", one Chief Officer asked when the courses would be conducted. She also informed me that Stran Bodden and her had been tasked for arranging pilot courses.

17. Myrtle Brandt, honoured with the title of QC in 2018 when she had, at that point, never been to court for about 40 years, and had never conducted a single case in the Cayman Islands and who was then head of the Legislative Drafting Department, heard about the fact that the Chief Officers wanted the courses conducted. She expressed objection to Ms. Wilson at a meeting held between the 3 of us. Among many things she said to me later was, "Why do you want Caymanians to learn what we do? You want them to take over our jobs?" My response was that these courses will also help facilitate our work and that similar courses are taught in other Commonwealth countries.

18. I was then approached, in 2014, by a Caymanian named Jeana Ebanks, an Attorney at Law and a Chartered Public Accountant. She was in the process of incorporating a company called Nexus Training Limited. She offered to host my courses. Not wanting to violate the Personnel Regulations, I applied to Chief Officer Wilson for permission to teach the courses part-time with Nexus Training. Having earlier indicated that she (Ms Wilson) and other Chief Officers were interested in the training, she denied me permission to teach, stating that there would be conflict with my duties. Thus, I could not reach the courses in government (since they refused to allow me to do so) and I could not reach them outside government (since they were now denying me permission to teach them part-time).

19. In exercise of my then rights under the Public Service Management Act, section 54, I filed an appeal to the Civil Service Appeals Tribunal, then chaired by now-late Donovan Ebanks. I pointed out that there were about 151 civil servants, who had permission to engage in "*private gainful employment*" as was reported in *The Compass* dated April 26, 2013 on: https://www.caymancompass.com/2013/04/26/govt-sheds-light-

on-civil-servants-moonlighting/ **Gov't sheds light on civil servants' moonlighting**. Some of these included public servants including those authorized by the Portfolio of Legal Affairs as reported in another article in *The Compass* of April 17, 2014: https://www.caymancompass.com/2014/04/17/gov-t-lawyer-moonlighting-%E2%80%A8as-lawyer/ **Gov't lawyer moonlighting … as lawyer.** The article stated, in relation to those authorised by the Portfolio of Legal Affairs:

> Those included one person who was seeking to start a security company, another looking to "set up a legal database," a third who wanted to open an auto repair shop, and a fourth who sought to "practice law externally."

20. I was merely asking to teach privately, which is one of the commonest outside activities authorized and which was a real contribution to the community. This notwithstanding, the Civil Service Appeals Commission ruled that the decision of the Chief Officer was neither unfair nor biased. However, they recommended that I seek the intervention of the Deputy Governor.

21. I reported the matter to the Deputy Governor, who declined to intervene. I brought the matter to the attention of the Chief Officer of the Portfolio of the Civil Service, Gloria McField-Nixon. I pointed out to her that under s 24(c) of the Public Service Management Act, one of the duties of the Portfolio of the Civil Service was "*providing advice and technical assistance to civil service entities on human resource issues*". She never responded.

22. By 2014 when this was all unfolding, I had worked for the Attorney General for about 11 years. I had become a trusted advisor in a department where the emotional balance of some members of the department was suspect. The Attorney General had enough confidence in me to even ask me to accompany him to Caucus meetings, Cabinet meetings and even a meeting of the Judicial and Legal Service Commission. I had spent hundreds of hours developing the courses in my private time and developing books intended to assist public servants and politicians to do their work with greater knowledge and efficiency. I felt unfairly treated that I should be discriminated against in this manner.

23. In the circumstances, I informed the Attorney General that, unless the matter can be resolved amicably, I would seek judicial review of the matter. He responded to me as follows in an email of Friday 21, 2014, 5:36 AM:

> Good morning Bili,
> Thanks for a copy of this. This escalation is a massive distraction to an otherwise hectic work atmosphere in the Chambers.
>
> It is of course you (sic) right to pursue any action you wish. What you do not have a right to do is demand how a particular discretion by the CO should be exercised.

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

> Your action is an absolute disappointment to me. Your head of department is having a hard time dealing with what is considered to be very disruptive behaviour by you, a most senior member of staff.
>
> While I understandably value your work, an action against the SG which is in effect an action against the AG, can only result in an irretrievable breakdown in working and personal relationship. I understandably will not have that.
>
> I am therefore be having a discussion with the Hon. Deputy Governor this morning to decide how best to proceed.
>
> My disappointment in your conduct cannot be overstated.
>
> Regards,
> AG

24. To be sure, what the Attorney General refers to as my "*conduct*" leading to his "*disappointment*" was simply that I used the rights I have under the law to seek redress by appealing to the Civil Service Appeals Commission and, since I clearly was being discriminated against (since people had been allowed to run businesses, etc., while I was just asking to teach part time) I issued a Pre-Action Protocol letter indicating I would bring judicial review proceedings. Also, what he refers to a me "*demanding*" was simply asserting that the discretion of the Chief Officer was not being exercised in a matter that was, under section 19 of the Constitution, "*lawful, rational, proportionate and procedurally fair*." I brought the action as *Simamba v Chief Officer Portfolio of Legal Affairs GC0060 of 2014.* The late Mr. Justice Quin readily granted me leave at a hearing that lasted barely 15 minutes.

25. The hearing of the actual judicial review application was before Acting Justice Malcom Swift. The bias of this judge can easily be demonstrated. In his judgment delivered on 21 November 2014 he said:

> 59. I indicated at the hearing that costs would follow the event but that I would be willing to hear further submissions from the Applicant if he failed in his application. Subject to any further agreement at a time to be agreed, the order I make is to award costs to the Respondent against the Applicant. The order will take effect unless the court is informed that costs are agreed between the parties or a costs hearing will be arranged in order to determine the appropriate order to be made in respect to costs.

26. In saying this, Acting Judge Malcolm Swift was lying. On the tape recording of the hearing on 14 November 2014, lawfully made by the court at my request and later obtained from Ms. Suzanne Livingston, and which will be played at the trial, this is what Acting Judge Swift said in response to my statement that I will also be seeking costs in the cause if I was successful:

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

> I will not do anything today. I will allow you…if you are unsuccessful to argue the question of costs in the future. It shouldn't necessarily involve the Respondent under those circumstances to come fully armed to court. [Turning to the lawyer for the Attorney General] Mr. Lowe your attendance will be excused. What I will do in the future is that the parties will be notified of the date when the ruling will be available. It will be available in writing and a date will be fixed to deal with the issue of costs if it arises.

27. So, the judge was lying in paragraph 59 of his judgment when he said that he had indicated that costs will follow the event. What he said was that if I was unsuccessful, he would give me an opportunity to argue the costs. He did not. Following that order, the Attorney General served on me costs amounting to US$ 79, 720.05. This has been emblematic of what successive judges had done: They repeatedly lied and falsified the record in a manner that was not just disadvantageous to me but also defamatory.

28. In 2017, Justice Smellie decided some election cases. Purely as entertainment for myself and my close friends in Cayman, I wrote a satire entitled "*His Lordships Banana Peel: Rules on Election Eligibility in Cayman*". I have reason to believe that, together with my bringing judicial review proceedings against an irate Attorney General, and other factors, led to the punitive attitude towards me in relation to my subsequent suit on negligence, which later morphed into a human-rights proceeding and the current ongoing dispute. Below, I outline how the judicial and legal officers, and other institutions, conspired not to just to deny me justice but also punish me and thereby defame me.

29. For the purpose of indicating that the actions by the offices concerned were unlawful, I quote the following provisions of the Penal Code and the Anti-Corruption Act. From the Penal Code these are sections 118, 119 and 121:

> **Frauds and breaches of trust by public officers**
>
> **118.** A person who being employed in the public service, in the discharge of that person's duties, commits any fraud or breach of trust affecting the public, whether such fraud or breach of trust would have been criminal or not if committed against a private person, commits an offence. 119. Neglect of official duty 119. A person who being employed in the public service willfully neglects to perform any duty which that person is lawfully bound to perform, provided that the discharge of such duty is not attended with greater danger than a person of ordinary firmness and activity may be expected to encounter, commits an offence.
>
> …
>
> **Disobedience of lawful duty**
> **121.** A person who wilfully disobeys any law by doing any act which such law forbids, or by omitting to do any act which such law requires to be done, and which concerns the public or any part of the public, commits an offence and, unless the law provides some other penalty, is liable to imprisonment for two years.

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

30. The Anti-Corruption Act, in terms almost identical to section 118 of the Penal Code quoted above, provides:

> **Breach of trust by public officer or by a member of the Cayman Islands Parliament**
>
> **13.** A public officer or a member of the Cayman Islands Parliament who, in connection with the duties of that public officer's office, commits fraud or a breach of trust is liable on conviction on indictment to imprisonment for a term of five years, whether or not the fraud or breach of trust would be an offence if it were committed in relation to a private person.

PARTICULARS OF DEFAMATION AND BREACH OF STATUTORY DUTY

31. Because of the above the Plaintiff was slandered and defamed by actions and omission to the effect that I shall be held in odium, contempt and ridicule in my personal capacity as well as an attorney at law and author of legal materials.

Intellectual dishonesty of judges

32. Clause [35] of the Judicial Code of Conduct for the Cayman Islands Judiciary provides that a judge "*must display intellectual honesty in the reasoning on which his or her decisions are based*". As is shown below in relation to various aspects of the rulings of the judges in my matter, all judges have fallen far short of this ideal. They have deliberately ignored the clear words of the Grand Court Act and the Constitution of the Cayman Islands.

Negligence suit and lies by Kawaley J

33. Kawaley lied when he stated that I requested a remote hearing shortly before the time of hearing *("the First Lie")* and that my submissions were merely general statements (*"the Second Lie")*. Both lies were told in his judgment in *Simamba v Health Services Authority, CAUSE NO. 32 OF 2014*.

34. In relation to the **First Lie** para 5 of his judgment in Justice Kawaley stated as follows:

> Shortly before the hearing fixed for May 6, 2019 with no directions having been given to exempt the Plaintiff from the usual requirement of personal appearance in Court, the Plaintiff formally requested permission to participate remotely.

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

35. There are 13 emails, quoted below, which show that this was a deliberate lie by justice Kawaley, intended to defame me. The request for a remote hearing was actually made orally in court at the January 2019 remote hearing and the opposing counsel was asked by Justice Kawaley to take instructions. Then, it was followed by the first series of emails in March, 2 months before the scheduled hearing. The emails continued into very early May 2019. The judge has never explained why he so wrote in his judgement, nor did he apologize.

36. The **Second Lie** was told in para 75 where he said:

> These summary points were then elaborated upon, primarily through statements of broad principle which do not succeed in demonstrating any serious error of approach in Williams J's analysis.

37. Again, this was a lie. I cited 52 cases to him dealing with (a) general approach to interpretating statutes; (b) an articulation of the plain meaning rule; (c) the use of "unless" orders; and (d) transitional provisions. This can be seen from "The Plaintiff's [my] Skeleton Arguments" which are dated 11 January 2019 filed in *Simamba v Cayman Islands Health Services Authority GC 32/2014.* In those arguments, which were 41 pages single space, I had not just cases but also arguments, analogies and citation of statutes.

38. I am very well-versed in statutory interpretation, being a legislative counsel. In the last few years, among other articles, I have authored two articles in the UK on statutory interpretation. The more recent ones are "The Plain Meaning Rule: A Quibble About Nomenclature and A Lot More" in the *Statute Law Review* (Oxford University) and "The Plain Meaning Rule and Transitional Provisions" in *Amicus Curiae* (University of London). It was disappointing that the judge, apart from lying, treated my submissions so dismissively.

39. Returning to the **First Lie**, I wrote a letter to Chief Justice Anthony Smellie on 9 August 2020 in which I outlined and quoted verbatim the e**mails that show that it is not true that the parties or the court did not expressly address the issue of my appearing by video link before Justice Kawaley**

40. In Justice Kawaley's draft ruling dated 11 June 2019, referring to the request I had made to appear by video link, Justice Kawaley said in paragraph 5:

> *How the Plaintiff would participate in the two-day hearing of the Defendant's Summons was not expressly addressed by the parties or by the Court. Shortly before the hearing fixed for May 6, 2019 with no directions having been given to*

exempt the Plaintiff from the usual requirement of personal appearance in Court, the Plaintiff formally requested permission to participate remotely.

41. The two statements that the issue was not expressly addressed "*by the parties or by the Court"* and that my request was made "*Shortly before the hearing"* are simply not true. This is proved by a total of 13 emails which I will also quote verbatim below.

42. The following emails were **all sent and received on 14 March 2019, 8 weeks before the date of hearing which was to be 6 May 2019**.

43. Bridget Myers, PA to Justice Kawaley, sends an email to Michael Wingrave, lawyer for the defendant CI Health Services Authority (I am the plaintiff), with a copy to Yasmin Ebanks, Listing Officer, stating as follows:

Dear Mr. Wingrave
In relation to the upcoming 2 day trial, the Court has received a request from the Plaintiff for him to participate remotely via video-link. Therefore, can you please confirm to the court whether or not you have any objections to this request?

44. Mr. Wingrave replies, with a copy to Yasmin Ebanks:

Dear Ms Bridget,
Thanks for your email.
I will take instructions from my client and revert.

45. Then cryptically, Mr. Wingrave sends an email to Bridget with a copy again to Yasmin stating:

Dear Ms Bridget,
I assume you no longer require me to give a view on Mr Simamba's appearance by videolink.

[This email left me with the impression that there had been communication with Mr. Wingrave, to which I was not a party, whereby the court had indicated that it was not planning to grant a videolink hearing or was planning to grant it.]

46. Bridget Myers responds with a copy to Yasmin Ebanks:

Mr. Wingrave, please do.

47. To recap, all the above emails are dated 14 March 2019.

48. Then on 18 March 2019, Mr. Wingrave writes to Bridget with a copy to Yasmin:

> *Dear Ms Bridget,*
> *I am nearly there with obtaining instructions on this issue. Would it be possible to have a copy of Mr. Simamba's request to the Court please? I understand that he intended us to be copied on the same but inadvertently left us off the correspondence.*

49. So, it is simply not correct when Justice Ian Kawaley in paragraph 5 of his draft ruling (and eventually the final ruling also) that the issue of the video link it was "*not expressly addressed by the parties or by the Court*" or that my request was made "*Shortly before the hearing*". **In my view, it is either that Justice Ian Kawaley was deliberately lying, was excessively lazy, or, if he was being honest, had serious cognitive problems.** The other possibility (which I refused to accept) was that Bridget Myers was consistently communicating with the parties, at all material times, in her own right, and lying or representing that she was under the direction of Justice Kawaley when she was not.

50. Fast forward to Wednesday, 1 May 2019 (5 days before the scheduled hearing of 6 May) Bridget sends me an email to ensure that I am ready for the hearing and I remind her that I will be appearing by video link. She says that this is not possible: I respond on 1 May 2019:

> *What do you mean and what is the authority for that. I did mention weeks ago [about appearance by video link]*

[Frustrated that the issue was being reopened when I thought it was settled 8 weeks ago, I copied my response to Shiona Allenger, Jenesha Simpson, Yasmin Ebanks, Michael Wingrave and his team of Sylvester Dube and Olivia Connolly.]

51. Bridget responds on 1 May 2019:

> *Dear Mr. Simamba*
> *Please be advise (sic) that video link conference is for use of "**Judge**"only. I will, however, forward your email to Justice Kawaley for review and revert once I am in the position to do so.*

[This statement is wrong. Practice Direction 2 of 2004 is very flexible. It provides in paragraph 2.1 for "*for any part of any proceedings*" to be dealt with by video link and says in 2.2 that you can request it by "*letter, fax or email*". I requested mine by email in mid-March and there was no objection to the way it was requested. My request was put to Mr. Wingrave and went on from there. The PD actually concentrates on the administration of a video conference rather than when it can or cannot be used. It can be used even for witnesses. Mine was even easier since it was just to hear submissions (and we had done it twice before) since it was just the location of the court and my location to be considered. This has been in wide use since 2004 and two of my hearings before the disputed one

where on Zoom and one after that was on Zoom. When I was a government legislative counsel I drafted legislation to facilitate this in court proceedings.]

52. Bridget writes further on 1 May 2019:

> *Dear Mr. Simamba*
> *Before His Lordship can consider your request to appear via video link, can you please provide the Courts by way of letter with the justified reason as why you cannot appear in person to participate in the proceedings?*

[Quite apart from the fact that I had already made the request by email, as indicated above, the practice direction does not require a letter. A fax or email is fine too.]

53. At that point I am even more frustrated at being put through this again at the eleventh hour, having already indicated much earlier that I was away for health and family reasons. So, I write a long email on 3 May 2019 with copies to multiple parties (recalling how the judgement was delayed by Justice Mangatal) and among other things I say, practically begging the Judge:

> *In the circumstances, I would ask for the judge to reconsider whether we can still have this by video link. If this is not acceptable, I would be happy to address him by video link for only about 2 hours just to give an outline of my arguments if this will satisfy him. In any case, I believe I can still rely on my submitted documents and ask for a ruling on that basis. If it is necessary for me even to speak by video link for only 5 minutes to formally put my documents in that will be fine. I am sorry that since I am away from my research materials and* ***am not feeling well,*** *I cannot give the judge any authority for this. But overall this is a very unsatisfactory way of doing things. You should have dealt with this issue when Mr. Wingrave raised the matter weeks ago.* (Bold added)

[So, the judge wanted a reason, I gave a reason that I was not feeling well. I had, again, reiterated my reason]

54. Despite this, Bridget writes an email on 3 May 2019 stating:

> *You did not request a similar indulgence when the substantive hearing was fixed.*

[As shown above, this is patently not true. I first made the request in mid-March and there are multiple emails to multiple parties showing that the matter was being dealt with]

55. Then she goes on in the same email to state:

> *The judge has requested me to inform you, for the avoidance of doubt, that in light of your failure to advance any reasons why the Court should take the exceptional (and probably unprecedented) step of allowing you as a party to participate in a two-day substantive hearing by video-link. Monday's hearing will proceed on the usual basis.*

[This is again an excuse. This was not unprecedented. The practice direction allows it. It has allowed it since 2004. If he thought it was too long, why did he not suggest a shorter period? I suggested shorter periods but he refused.]

56. Undaunted, I wrote an email to multiple parties (clerks of court included) on 4 May 2019 stating:

> *The Judiciary,*
> *I will be ready to argue my case at the date listed for hearing that is 10.00AM Cayman time on Monday 6th May 2019. I will be ready for testing of equipment at 9:00AM unless otherwise informed.*
> *In case of emergency, I can be contacted at 647-745-0951.*

57. Nobody contacted me. I was informed by Mr. Wingrave and Bridget Myers at about noon that the matter took only 30 minutes. I asked the judge for the audio, but he refused to give it. I threatened to make it a ground of appeal, and he caved and it was sent to me. I was appalled by what I heard on the audio. He basically had already made up his mind and allowed Mr. Wingrave to be heard for 30 minutes *ex parte*, while he yessed him along. The used the word "yes" 22 times.

58. In the circumstances, appalled by the fact that Justice Kawaley was about to make a decision but clearly he had not really read my arguments. I practically begged him in subsequent emails to give me just a day, or even 2 hours but he refused. He finally made a decision in which he ignored all 52 cases I cited and 7 issues. He never mentioned them nor did he incorporate them in his reasoning.

59. There was of course no reason to deny me the hearing. I requested a video link hearing 8 weeks in advance and multiple emails to multiple parties show that. I had already mentioned, and it was well known that I was away for health and family reasons. When the issue was again raised on 1st May 2019, I responded on 3rd May 2019 that I was not well. Despite all this, I was denied a hearing.

60. What is more, the court did not act diligently to try and give me a hearing? I satisfied the requirements of giving notice in advance, as per relevant Practice Direction cited above, and giving a reason but I was still denied the hearing. If, for the sake of argument (which is fantastic in itself considering the antecedents) they had forgotten about the numerous emails on the issue in March (8 weeks before) surely with a few clicks a Zoom meeting could have been arranged. Also, since it was set down for 2 days, even if for the

sake of argument it was not possible for 6 May, one could have been arranged for 7 May. So, I had waited for more than 3 years for a right to be heard and when the time came, the judge treated it lightly and did not try to bring the long-standing matter to a definitive conclusion. But of course, the real reason is that he never intended to consider in detail my arguments anyway and appears to have been bent on deciding against me regardless of the authorities.

Beatson JJA: human-rights challenge

61. I brought a human rights challenge against Kawaley J. When the Constitutional Motion was filed, the Attorney General and Governor Roper, in a Response filed by Tom Lowe KC, Reshma Sharma KC and Heather Walker Crown Counsel, which was before Justice Sir Jack Beatson, the Respondents (AG and Governor) stated:

> 34. The Respondents further note with considerable concern the content of the Applicant's evidence submitted by way of an affidavit sworn on 10 November 2019. His evidence appears to raise significant allegations which should be tested by way of cross-examination and with reference to relevant documents provided by way of disclosure. While it is possible for the [Court of Appeal] to hear evidence, the initial testing of evidence is generally carried out by the Grand Court which has extensive rules in place to deal with the same.[1] (Emphasis added)

62. In his ruling of 5 August 2020 on the Constitutional Motion, what Mr. Beatson says about Justice Kawaley and Justice Mangatal is not exactly a ringing endorsement of their conduct. In paragraph 7 in relation to the failure to grant me a video link hearing, he says, *"while not every judge would have decided to proceed with written submissions rather than to adjourn the hearing listed for 6 May, . . ."* he goes on to say why he thought it was fine to do so in this respect. The reasons he gives there are either factually wrong or nebulous. In item (b) he says that the request was made "*very shortly*" before the hearing, which is his own invention since even Justice Kawaley only said "*shortly*".

Stevens J: human rights, immunity and vexatious litigator

63. However, when I brought the matter in the Grand Court, the Attorney General responded by asking that the matter be struck out and that I be declared a vexatious litigator. He got both orders. My appeals up to the Privy Council all failed, the Privy Council stating that I had no arguable point of law.

[1] *Quoted in the Record of Appeal 8 times.*

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

(a) Human rights challenge

64. My human rights matter brought under section 26 of the Constitution of the Cayman Islands was heard in the Grand Court by Justice Phillip St. John-Stevens in May 2021. My arguments were summarized in what I called Speaking Notes. They are summarized here, under different headings, not for the purpose of rearguing the issue of human rights not restraint but to prove that there was malice not just in the way Kawaley J behaved but also how Stevens J consider the matter.

65. In the Constitutional Motion I brought and which was first heard by Justice Beatson JJA and referred to above, the Attorney General and the Governor (the Respondents) responded in para 34 of the Response in the terms indicated above. In quoting this paragraph, Justice Stevens, deliberately, with intent to mislead and defame, omitted the underlined words, that is, the words where the Governor and the Attorney General said that there was need for a full hearing, discovery and calling of witnesses.

66. He truncated the paragraph in mid-sentence, saying only:[2]

> 34. The Respondents further note with considerable concern the content of the Applicant's evidence submitted by way of an affidavit sworn on 10 November 2019. His evidence appears to raise significant allegations…

This was deliberate and mendacious. He omitted words because they did not support what he held, which was that no full evidentiary hearing was necessary.

67. Also, there was a real issue to be determined whether section 26 of the Constitution, which allowed a citizen to bring an action in the Grand Court if their fundamental rights have been violated or are threatened applies to violation of rights by a Grand Court judge. This was a major constitutional issue which he glossed over in order to ensure that the defamatory words uttered by Kawaley J were not open to scrutiny.

(b) Immunity issue

68. Justice Stevens also considered whether a judge can be sued. Though in much of the common law world judges enjoy absolute immunity, Cayman is in that class of countries where, technically, a judge can be sued in certain circumstances. In several jurisdictions in Canada, by statute, a judge is not protected if they act maliciously.[3]

69. In Cayman, the Grand Court Act provides as follows:

---

[2] *Simamba v AG and Governor* G93/2020 (Grand Ct), *Simamba v Kawaley and Myers* G61/2020 (Grand Ct) (Consolidated), para 105.

[3] Alberta, British Columbia, Nova Scotia, Saskatwewan.

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

> **29.** (1) Neither the Chief Justice nor any Judge nor any person acting as Chief Justice or Judge under section 97 of the Constitution shall be liable to be sued in any civil court for any act done or ordered to be done by him —
>
> (a) when acting within his jurisdiction and in the discharge of his judicial functions; or
>
> (b) whether or not within the limits of his jurisdiction, provided that he, at the time and in good faith, believed himself to have the jurisdiction to do or order the act complained of, unless it is proved that he acted maliciously and without reasonable cause.[4] (Emphasis added)

70. In trying to bring his action within the exception that is clear in section 29, I cited the following definitions of "*bad faith*" found in Henry Campbell Black's famous work. In **Black's Law Dictionary** 5th Edition 1979, bad faith is defined as "*not simply bad judgement or negligence but rather it implies the conscious doing of a wrong because of dishonest purpose or moral obliquity*". Again, it is stated in **Black's Law Dictionary**, abridged 5th ed (1983), as follows:

> **Bad Faith**. The opposite of "good faith," generally implying or involving actual or constructive fraud, or a design to mislead or deceive another, or a neglect or refusal to fulfill some duty or some contractual obligation, not prompted by an honest mistake as to one's rights or duties ...

Finally, **Black's Law Dictionary**, 7th Edition, defines bad faith as a "*dishonesty of belief or purpose*".

71. As elaborated before Justice Stevens, few provisions of law can be clearer than section 29 of the Grand Court Act. Paragraph (a) makes is clear that if a judge is acting within his or her jurisdiction, they enjoy absolute immunity. However, paragraph (b) is also clear that if one does not act "*in good faith*", they cannot claim absolute immunity on the basis that they acted within their jurisdiction.

72. Despite this, Justice Stevens ruled:

> **98.** In short, paragraph (a) relates to absolute immunity when the acts are **within jurisdiction** and paragraph (b) relates to acts **without jurisdiction**. Such a distinction is consistent with Lord Denning's analysis in the ***Sirros***[...] case. However it is of note that within *that* case, a distinction is drawn between inferior courts and superior courts of record. The Grand Court, clearly being a superior court of record would enjoy absolute immunity, on the basis of the authority. (Emphasis added, except "**Sirros**" reference)

73. The reference to the case of *Sirros v Moore and Others*[5] was a red herring. This is because that case was decided in the United Kingdom in a context where there was no statute governing the issue. Even the distinction between superior courts and inferior courts was entirely out of place as that distinction did not arise under section 29 of the Grand Court Act. What is more, paragraph (b), in particular, makes it clear that it applies

[4] www.legislation.gov.ky

[5] [1975] Q.B. 118.

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

"*whether or not within the limits of his jurisdiction*". And the judge, totally ignoring the specific words of the statute, said that it applied only if one is acting outside their jurisdiction. This was clearly intellectual dishonesty, which is prohibited by the Code of Conduct of the Cayman Islands Judiciary.[6] When a judge goes to this extent, the hearing and decision are not only wrong in law, but they amount to a breach of fair trial rules and prohibitions against partiality. More than that, this is abuse of office. As if that was not enough, Martin JJA and the entire panel of the Court of Appeal agreed with Stevens J.

74. Also significant is how Stevens J handled the issue of discrepancy between the emails and what Kawaley J stated in paragraphs 5 of his judgment. Justice Stevens mentioned the emails in 5 different places but never quoted from them nor gave any indication regarding their content.[7] Significantly, he said "*the Plaintiff pleads that the emails sent by Bridget Myers were not directed by the judge but sent by her on her own volition without informing the judge*."[8] A quotation or indication of the contents of the emails would have made it clear that Kawaley J was not correct that the request for video link hearing was not made "*Shortly before the hearing*". There were 13 emails to and from the court evidencing that both parties and the court were aware of the request. Justice Kawaley was clearly lying. Justice Stevens just refused to acknowledge this.

75. Further, in support of my claims to an unfair trial on the negligence matters, I pointed out that Justice Kawaley had violated the Code of Conduct of the Cayman Islands Judiciary,[9] which provides that a judge:

- "shall be independent of judicial colleagues and solely responsible for his or her decisions".[10]
- "must display intellectual honesty".[11]
- "must avoid both partiality (or bias) in fact and the appearance of partiality" and that justice "must both be done and be seen to be done".[12]
- he perverted the course of justice contrary to section 107 of the Penal Code
- he committed the criminal offence of breach of trust contrary to section 118 of the Penal Code.[13]
- he committed the offence of neglect of official duty contrary to section 119 of the Penal Code.

---

[6] *Code of Conduct for the Cayman Islands Judiciary* (9 March 2012), para [34] at https://www.judicialandlegalservicescommission.ky/upimages/ckeditor/Code%20of%20Conduct%20-%20APPENDIX%20C.pdf (accessed 7 January 2024).

[7] *Simamba v AG and Governor* G93/2020 (Unreported), paras [178] (twice), [180], [184] (twice).

[8] *Simamba v AG and Governor* G93/2020 (Unreported), para [178] (twice), [180], [184] (twice).

[9] *Code of Conduct for the Cayman Islands Judiciary* (Grand Cayman: Judicial and Legal Services Commission, 9 March 2012)

[10] *Codef of Conduct for the Cayman Islands Judiciary*, para [10].

[11] *Code of Conduct for the Cayman Islands Judiciary,* para [34].

[12] *Code of Conduct for the Cayman Islands Judiciary,* Para [14].

[13] www.legislation.gov.ky

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

Justice Stevens did not acknowledge this.

76. The malice of Justice Stevens is also shown by the fact that, in the draft judgment which was distributed to the parties for comment (as is customary), took time to include the following statement in the draft judgement:

> *DRAFT. Delivered 28th July 2021. Attorneys' submissions for amendments are requested by the 30th July 2021 @ 5 p.m. Submissions accepted for the final document are within the sole purview of the Judge. The court reminds the parties that the Draft is for the identification of typographical and other obvious errors, and is not to be used for the purpose of attempting to reargue points.* (Italics in the original)[14]

77. Justice Stevens included this because he knew he had falsified the facts in a material way. Further, once the date of the hearing was fixed, Justice Stevens sent out an email saying that the parties must not just repeat their written submissions. Again, this was odd. Written submissions are to some degree repeated and expanded upon in oral argument. He was clearly trying to avoid the emails being read. I ignored him and read them in court verbatim. All the above facts, and those to be canvassed in the next section regarding vexatious litigation can lead to only one conclusion: Justice Stevens was acting in bad faith and with intent to defame.

(c) Vexatious litigator

78. As further elaborated elsewhere in this Statement of Claim, a lawyer of more than 20 years' standing and who happens to be the Ombudsman in the name of Sharon Roulstone, found the Judicial and Legal Services guilty of maladministration three times in relation to my matter. First, she found the Judicial Commission guilty of maladministration for failing, for 7 years, to update the rules governing complaints against judges. Second, she found the judiciary guilty of maladministration for deleting a record relating to my case and this after I made an official FOI request. That record was going to be further evidence of the fact that Justice Kawaley was lying. Third, the civil registry refused do accept my written application for a default judgment against Justice Kawaley on a pretext arsing from the Covid 19 measures. The Clerk of Court, Shiona Allenger, was forced to admit in writing that they had no right to refuse to accept my documents, but the harm had been done. Also, the Attorney General and the Governor had indicated that they expressed "considerable concern" about what Justice Kawaley had done. Notwithstanding all this, Justice Stephens ruled that I was a vexatious litigator and all appeal courts, including the Privy Council agreed.

[14] He did the same with the restraint judgment *AG v Simamba* (2021) (2) CILR 607.

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

78. The aspect of the matter as it relates to vexatious litigation is reported as *Simamba v Attorney General and Governor*.[15] In this regard, the Vexatious Actions Act states as follows:

> 2. If, on an application made by the Clerk of the Court under this section, the Chief Justice of the Grand Court is satisfied that any person has habitually, persistently and without any reasonable ground instituted vexatious legal proceedings, whether in the Grand Court or in any inferior court, and whether against the same person or against different persons, the Chief Justice may, after hearing that person or giving him an opportunity of being heard, order that no legal proceedings shall, without the leave of the Grand Court, be instituted by him in any court, and such leave shall not be given unless the Chief Justice is satisfied that the proceedings are not an abuse of the process of the court and that there is a prima facie ground for the proceedings. (Emphasis added)

79. This provision is very clear that it is the Chief Justice who must make such an order and not an ordinary judge of the Grand Court. Justice Stevens was not the Chief Justice nor was he an acting Chief Justice. In fact, he was just an acting judge. What is more, the application must be made by the Clerk and not the Attorney General. Despite these obvious flaws, all appeal courts upheld the order by Justice Stevens to declare me a vexatious litigator and prevented me from bringing any claim related to the matter for 2 years. They never even addressed the issue. It bears repeating that the Attorney General and the Governor, in their filing before Justice Beatson, had expressed "*considerable concern*" about the behaviour of Justice Kawaley and agreed that there should be a full hearing with the calling of evidence in the Grand Court. The Cayman Court of Appeal did not even delve into this issue either.

80. Justice Stevens also observed:

> 62 Not only were the series of actions attempting to re-litigate issues which were unarguable, the respondent sought a criminal avenue, that is, writing to the Director of Public Prosecutions on September 21st, 2020. He sought to explore the possibility of prosecuting Kawaley, J. In that letter he misreported that His Excellency the Governor and the Attorney General had described Kawaley, J.'s actions as serious, when in fact their response, which he in fact set out in his letter, describes them as "significant allegations." I reference the letter in response from the Governor—which clarifies this position and makes it clear it was not making admission to the matters.[16] (Emphasis added)

81. **First**, it is difficult to see how seeking the prosecution of a judge is relevant to a determination as to whether one is a vexatious litigator. Indeed, even Lord Denning, if we need cite him at all, stated that the reason what judges enjoy immunity was partly because there are other avenues of dealing with them, including criminal sanctions, which are, in appropriate cases, applied to judges. More is said below about the criminal aspect.

82. **Second**, the statement that the I "*misreported*" that the Governor and the Attorney General considered the allegations to be "*serious*" is grossly inaccurate. The portion of

[15] (2021) (2) CILR 621 (Grand Ct, St John-Stevens, Ag J).

[16] G93/2020 (Unreported).

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

para 34 (of the Response to the Constitutional Motion before Justice Beatson) which are most relevant to the issue of vexatious litigation were deliberately omitted, as pointed out above. The Respondents expressed "*considerable concern*" about what Kawaley J had done. It should be self-evident that something that causes "*considerable concern*" would have to be "*serious*". What is more, the Respondents went further in the same para to state that there should be "*cross-examination and … reference to relevant documents provided by way of disclosure*" in the Grand Court. These two portions, which are even more significant for purposes of the merits of the suit were omitted. The judge chose to refer to "*significant allegations*", which was the least significant portion of the passage.

83. **Third**, the argument before the court was not that the Respondents admitted the allegations, a red herring. It was that having conceded that the "*significant allegations*" made by sworn affidavit caused them "*considerable concern*", they went further to recommend that the matter be referred to the Grand Court where there would be a full hearing with full discovery and cross-examination of witnesses. Surely, that was an admission that there was a prima facie case calling for further inquiry. Again, it is noteworthy in this regard that no explanation was ever given to the court or to any public authority as to any material intervening cause justifying a change of position from the matter causing considerable concern to alleging that the allegations were frivolous or arguments without merit.

84. Stevens J then observed:

> 63 The respondent states within that letter that Kawaley, J. lied in his judgment in this matter, relating to being allowed to be heard at a hearing; that the judge lied and falsified a record, and then stated a falsehood in his ruling; that the judge lied in his explanation why he had not considered 52 cases, and 7 clear arguments.[17]

The above paragraph is emblematic of how the judges avoided the central issue in the human rights proceeding. As stated in detail above, the allegation was that Justice Kawaley stated that he denied me the 2-day hearing he has scheduled and had done so because I made the request for a remote hearing "*Shortly before the hearing*". The 13 emails referred to, copies of which were provided, showed that this was not the case. Then the second major allegation was that the judge stated that my submissions were of a general nature. Again, this was not so. There were 52 cases cited, and numerous arguments were advanced in 4 major areas, with detailed arguments outlined in 41 single-spaced pages.

85. In another part of the judgment, Justice Stevens goes on to say:

> 64 This court observes that Kawaley, J. in his ruling specifically made no determination on the matter of immunity to which those authorities related—granting liberty to apply to further argue the matter.

[17] *AG v Simamba* (2021) (2) CILR 607 (Grand Ct, Stevens J).

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

86. Again, this is nothing short of asinine. The judge did decide the matter. He said that since there were two other cases that had decided that the Health Services Authority had immunity, he had to decide the same. The following is what Kawaley J said:

> 56 The defendant's alternative ground for summary judgment or striking out relies on s.12 of the Health Services Authority Law (2010 Revision) ("the Law"). Section 12 ("Immunity") provides as follows:
>
> > "Neither the Authority, nor any director nor any Committee member shall be liable in damages for anything done or omitted in the discharge of their respective functions or duties unless it is shown that the act or omission was negligent or in bad faith."
>
> 57 In my judgment a straightforward reading of that provision suggests that it confers immunity from suit on the defendant from all claims in damages save for those alleging bad faith. The original enactment of this provision in its 2010 Revision form appears to have been primarily through s.2 of the 2004, which received the Governor's Assent on January 13th, 2005. However, the words "nor any Committee member," which are not material for present purposes, were inserted [by] s.6 of the Health Services Amendment Law 2009.[2] Because the result of a literal interpretation is surprising, the construction of s.12 is not as straightforward as it at first blush appears.
>
> 58 It is ultimately unsurprising, nonetheless, that the only known decisions to address this statutory immunity clause have concluded that the section means what it clearly states. The first dealt with the matter somewhat summarily; but the second undertook a fulsome analysis of the legislative provision.[18]

87. He then went on to refer to the two cases, which are *McCoy v. Health Servs. Auth.*[19] And *Thompson v. Health Servs. Auth.*[20] Yes, he did say he will adjourn the matter of immunity with liberty to apply but this was done merely to prevent me from appealing it. Besides, what chance did I have to win an argument where he had already emphatically declared that a "*straight-forward*" reading of section 12 made it clear that the HSA had immunity. It was contradictory. I could not seriously expect that he would resile from that in a latter hearing.

88. Regarding the criminal matter, the Judge Stevens said:

> 65 In relation to the respondent's further submission that the judge's actions amounted to obstructing, preventing, perverting or defeating the course of justice—a criminal offence—this court finds such allegation completely without foundation, and deliberately inflammatory.

[18](2019) (2) CILR 213 (Grand Ct, Kawaley J).
[19] G2/2013, September 6th, 2013, unreported.
[20] (2016) (1) CILR 93 (Grand Ct, Williams J).

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

On the contrary, the actions of Justice Kawaley amounted to criminal offences. The offences that were committed include Breach of Trust (s 118 of the Penal Code and s 13 of the Anti-Corruption Act), Neglect of Duty (s 119 of the Penal Code) or Perverting the Course of Justice (s 107 of the Penal Code). The detailed provisions are reproduced below.

89. The Anti-Corruption Act provides as follows:

> **Breach of trust by public officer or by a member of the Legislative Assembly**
>
> **13.** A public officer or a member of the Legislative Assembly who, in connection with the duties of his office, *commits fraud or a breach of trust* is liable on conviction on indictment to imprisonment for a term of five years, whether or not the fraud or breach of trust would be an offence if it were committed in relation to a private person. (Emphasis added)

90. The Penal Code has a similar offence:

> **Frauds and breaches of trust by public officers**
>
> **118.** A person who being employed in the public service, in the discharge of his duties, *commits any fraud or breach of trust* affecting the public, whether such fraud or breach of trust would have been criminal or not if committed against a private person, commits an offence. (Empasis added)

91. There are two further sections of the Penal Code that were violated by both judges:

> **Neglect of official duty**
>
> **119.** A person who being employed in the public service wilfully *neglects to perform any duty* which he is lawfully bound to perform, provided that the discharge of such duty is not attended with greater danger than a man of ordinary firmness and activity may be expected to encounter, commits an offence. (My emphasis)
>
> **Disobedience of official duty**
>
> **121.** A person who *wilfully disobeys any law* by doing any act which such law forbids, or by omitting to do any act which such law requires to be done, and which concerns the public or any part of the public, commits an offence and, unless the law provides some other penalty, is liable to imprisonment for two years. (Emphasis added)

92. There can be no doubt that what both judges Kawaley and Stevens violated all these sections as well as their oaths. Judges deliberately ignored the clear words of section 29(1)(b) which states that a judge is not protected if he acts "*maliciously and without reasonable cause*" and read it as meaning that malice and lack of reasonable cause do not matter. This is clear from paras 97 and 98 of the *Simamba* Cases, both GC 93/2020 and GC 162/2020 (consolidated), where Justice Stevens deliberately

underquoted the section to avoid ready detection of his mendacity. He clearly violated all the elements indicated by the Supreme Court of Canada.

93. Also, this violated section 107(1)(d) of the Penal Code where it is an offence to do anything in order to "*obstruct, prevent, pervert or defeat the course of justice."*

94. These offences are increasingly being charged in Cayman to ensure that the administration of justice is not impeded. Evita Dixon, a paralegal in the DPP's office was charged with Breach of Trust: https://caymannewsservice.com/2020/04/woman-odpp-charged-mystery-acc-probe/ but she was acquitted. Since they decided to charge someone, they should also have charged the Crown Counsel. Apparently, Crown Counsel – and Judges – are exempt. Also, Kimberley Roberts was similarly charged for the same:

https://caymannewsservice.com/2021/12/woman-jailed-over-drivers-licensing-fraud/
She was convicted and sentence to 9 months and 2 weeks' imprisonment. Also, Sarah Connor, a police accountant, was convicted of Breach of Trust:
https://caymannewsservice.com/2017/10/police-accountant-admits-breach-of-trust/
Geoffry Ebanks was recently charged with the same:

https://caymannewsservice.com/2022/10/housing-trust-chair-charged-with-corruption/

At the time of writing, Roger Deward Bush was charged with Obstruction of Justice and Breach of Trust.

95. Returning to the court, Judge Stevens stated in paras 67 that my medical negligence case was "*wholly unmeritorious, without foundation and unarguable*." Again, this flies in the face of the evidence. The record shows that expert evidence had been provided by Dr Skett and Dr Sharp, two UK forensic pharmacologists who were both licensed expert witnesses. Dr. Skett in particular has 43 years' experience and has prepared expert reports for a variety of legal firms in the UK. The experts stated that the particular medication, Terazosin, was capable of producing the side effects pleaded. They also admitted that they were not urologists and had no authority to formally opine on the duty to warn of side effects. Significantly, however, they went on to state:

> However, from professional experience, it is usual in the UK for a Patient Information Leaflet to be included in a prescription for the benefit and consideration of the patient. This leaflet will typically include a list of potential side effects.[21]

96. I also provided support from the Cayman and UK guidelines. The former are published as *Code of Ethics and Standards of Professional Practice* issued by the Cayman Medical and Dental Council states:

> 17. Practitioners must respect the right of patients to be fully involved in decisions about their care. Wherever possible, practitioners must be satisfied, before providing treatment

[21] Joint Report Prepared for IB Medical Consultants, 98 Gibbins Road, London, E15 2HU in the Case of:
Bilika H. SIMAMBA -v- Health Services Authority (HAS) Cayman Islands By Dr. Stephanie SHARP & Dr. Paul SKETT
The Glasgow Expert Witness Service Limited.
THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

> or investigating a patient's condition, that the patient has understood what is proposed and why, any significant risks or side effects associated with it, and has given consent. [22]

I also referred to the UK guidelines published as *Consent: Patients and Doctors Making Decisions Together*,[23] as well as, among many other cases, the case of *Chester v Afshar* [2004] UKHL 41 Pt 2 as to the duty to warn patients about risk or medications being prescribed.

97. Despite all the above evidence, which was provided in the proceedings before Justice Kawaley, all showing that there was a triable issue, Justice Kawaley insisted that I had to provide a report from a urologist to say that there was need to warn of side effects or the matter would be struck out. It was struck out without going to directions, exchange of expert evidence by the experts, let alone a trial.

98. Also, when evidence required to be produced is not produced, the procedure is that there must be a hearing on summons for a party to explain why the evidence has not been produced. In furtherance of that practice, I and the defendant had started to communicate with the judge on available dates. But in the middle of that, Justice Kawaley decided not to give a date for the hearing of the summons, and unilaterally extended the time. I argued that I needed more time as I had difficulty getting experts to prepare a report for me as most expert firms preferred to deal with law firms rather than self-represented litigants, which I was, and the fact that I was suing the largest health provider in Cayman.

99. As it happened, after the matter was struck out, I was able to get a very experienced urologist, Dr. Sanjib Mohanty, who confirmed what the two UK experts had said and whose opinion was also in agreement with what both the UK and Cayman practice guidelines recommended. In this report, Dr. Mohanty, after detailing how in his own practice he routinely warns patients about side effects in such matters, said emphatically:

> "In my opinion it is absolutely necessary for a urologist, when initiating therapy with Terazosin, to warn the patient of the possible side effect of Hypotension on the initiation of Terazosin therapy and also that either priapism or erectile dysfunction-these are of vital importance to a sexually active individual.
>
> Unfortunately, I can find no evidence in the medical records of the GPs and urologist in ever involving the patient Mr. Simamba in the planning of his care nor can I find evidence nor that the patient was warned of possible side effects.
>
> Hence I find that both Dr. Williams-Rodriguez and the Urologist Dr Backman failed in their duty of care to the patient. (page 4)

100. This additional report, like the first report, were also part of the Record of Appeal, document 18. Whereas it is admitted that this was late, none of the judgments in the

---

[22] *Code of Ethics and Standards of Professional Practice* (Grand Cayman: Cayman Medical and Dental Council, 2007) para 17.

[23] *Consent: Patients and Doctors Making Decisions Together* (London: General Medical Council, 2008).

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

matter indicate that there was a significant first report by two experts and that what was in issue was the additional report, which was, in any case, ultimately obtained. If Justice Kawaley or Justice Stevens would have made the same rulings as they did, that, in a sense, is fine. What is unprofessional is to suppress this evidence, all to make their judgments look like their rulings were inevitable.

101. The Judicial and Legal Services Commission (Justices Goldring and Saunders), with intent to defame, also made decisions that are not based on fact. On the same lines as Justice Stevens, they said, in their ruling on my complaint against the CICA judges, dated 3 August 2023 (para 5) "*Ultimately, the case was struck out as a result … of his failure to file a medical report*." This is grossly misleading. There was a significant medical report by two UK experts who supported *every material aspect of my pleading.* There was just a small matter of weight regarding warning of side effects. Normally, in such a matter you would proceed to trail since it is a matter of weight. But even this was cleared up by reference to the Cayman and UK guidelines referred to above and case law. You cannot strike out a matter even before directions when it has this level of expert testimony supported by professional practice guidelines and case law.

102. During the time that the judgment was pending under Justice Mangatal (2 years and 10 months, before being taken over by Justice Kawaley) Mangatal J had been convicted of drunk driving,[24] and later left the court "*to seek other opportunities*".[25] The was arrested having wet herself. The suits all related to the one matter that was not properly handled in the negligence matter. The fact that I was a tenacious litigator (I hope), using different parts of the statutes and case law to continue to challenge the matter, did not make me vexatious.

Refusal to enter a valid application for a default judgment

103. In the early stages of my suit against the Governor and Justice Kawaley, the civil registry staff refused to accept two forms presented on my behalf for a default judgment in the suit against Justice Kawaley. The Clerk of Court consulted the Chief Justice, which is unusual. As a result, my forms were rejected on the "*basis*" that the registry did not accept hard copy forms during the Covid pandemic. I complained to the Ombudsman. Again, under duress from the Ombudsman, the Clerk of Court wrote me a long-winded admission that it was wrong to reject the hard-copy forms. The matter was referred to the alcohol-loving Chief Justice Ramsay-Hale before she was Chief Justice, but she dismissed the application. But the harm had been done.

---

[24] "Judge admits drunk and careless driving" https://caymannewsservice.com/2018/03/judge-admits-drunk-and-careless-driving/#:~:text=(CNS)%3A%20Grand%20Court%20Judge,of%20DUI%20and%20careless%20driving. (accessed 7 January 2024).

[25] "Judge Quits Grand Court bench" https://caymannewsservice.com/2019/10/judge-quits-grand-court-bench/ (accessed 7 January 2024).

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

Ruling of Martin JJA on immunity, human rights and emails

104. Justice John Martin, as a single judge of appeal, heard the application for leave to appeal and delivered a ruling dated 22 December 2021. Regarding the effect of section 29 of the Grand Court Act, he said, at para 10(2)(a):

> . . . The word "or" separating subsections (a) and (b) clearly indicates that the subsections are intended to deal with different situations; and when these matters and the structure of the section are taken into account it is clear beyond argument that subsection (a) relates to matters done with jurisdiction and subsection (b) to matters done without jurisdiction. (Emphasis added)

105. In para 10(4)(h), Justice Martin, after referring to the emails said as follows:

> . . . In the circumstances, the statements made in paragraph 75 are true: the topic of the Appellant's appearance at the substantive hearing was not addressed on the summons for directions, and the Appellant's earliest request of sufficient formality, stating a reason (that he was not feeling well), was not made until 3 May 2019, which was indeed shortly before the hearing fixed for 6 May 2019 – or "very shortly", as Beatson JA put it in a phrase which the Appellant wrongly suggests was inaccurate. Again, the matters complained of come nowhere near to establishing that the statements made in paragraph 5 of Kawaley J's judgment were deliberate untruths. The judge declined to accept the allegation that Kawaley J had lied (paragraph 101 of the judgment under appeal), and he was right to do so.(Emphasis added)

In the same judgment, Justice Martin referred to my arguments in the case, which included the meaning of section 29 of the Grand Court Act quoted above as "*nonsense"* six times.

Court of Appeal judgment on immunity, human rights and incriminating emails

106. The Court of Appeal endorsed the rulings of Stevens J and Martin JJA despite their obvious flaws. Significantly, although at that time the Record of Appeal was 2, 500 pages long, neither the Court of Appeal or any of the judges mentioned in this Statement of Claim quoted from the incriminating emails against Justice Kawaley, which showed clearly that he was lying and therefore, his other aspects of the ruling had no credibility.

Privy Council refusal to grant leave to appeal

107. One the things that exemplifies corruption in the judiciary is how the judges, including Privy Council judges, handled the interpretation of section 29 of the Grand Court Act. Before I filed the complaint against Justice Kawaley, I sued him, the Governor and

Attorney General. The judge claimed immunity. I argued that he did not have absolute immunity. My argument was based on a provision of the Grand Court Act, which provides as quoted above.

108. You do not need an advanced knowledge of the English language to accept that para (a) confers absolute immunity while (b) confers qualified immunity. Although I did not need to, I went into a lot of detail pointing out analogies from parliamentary privilege and made comparisons with other court cases and other statutes. But all the following judges held that the section confers absolute immunity and that a judge cannot be sued even if they act maliciously:

Justice Stevens (Grand Court);
Justice Martin (Court of Appeal);
Justice Rix (Court of Appeal);
Justice Moses (Court of Appeal);
Justice Birt (Court of Appeal)
Lord Brigg (Privy Council, who had enjoyed an all-expenses paid holiday compliments of Governor Roper and former Chief Justice Smellie, six months prior)
Lord Stephens (Privy Council); and
Lord Richards (Privy Council).

109. These judges simply ignored the clear letter of the law. Justice Stephens even said that he could **not** apply section 29 and would instead apply the **Moore** case from the UK, in which Lord Denning said that a judge cannot be sued even if they act maliciously. This was simply malicious since UK case law does not trump Cayman statute law.

110. I wrote Justice Rix a letter on 27 July 2023. The following is quote from that letter (Emphasis in the original):

> You, Bernard Rix, are corrupt. You are one of the judges who decided my case *Simamba v Governor, Attorney General et al* in 2022, which is now before the European Court of Human Rights. One of my arguments before the Cayman Court of Appeal was that my matter took 42 months to decide which was not a "reasonable time" under the Constitution.
>
> You were part of the panel which heard the case of *Oliveira v Attorney General* [2016] UKPC 24 in the Privy Council; you actually wrote the judgment in *Oliveira*. In that judgment, with the agreement of the other 4 justices, you, Bernard Rix, said:
>
> > "48. … a declaration should be made declaring that Mr Oliveira's application for registration should have been concluded within 12 months from being made. … Mr Oliveira's claim should be remitted to the trial court in Antigua for it to assess the damages."

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

> So, in the *Oliveira case*, you said that 12 months was too long, and damages should be paid. I even cited that case in my case. And yet you still said that the 42 months it took to decide one application was **not** too long. You denied me even a hearing to determine if this delay was reasonable. This was because you were dishonourably protecting another corrupt judge, Ian Kawaley, and the convicted drunk driver Lady Justice Ingrid Mangatal.
>
> Indeed, your whole Court of Appeal is corrupt. I also believe that the Privy Council were also bribed. Only 6 months before deciding my case, the judges of the Privy Council and their spouses enjoyed hospitality of the Cayman Islands Government to the tune of CI$ 181, 150.46 (compliments of the people I was suing – the Governor and the judiciary). You are all corrupt …

Justice Bernard Rix did not respond.

111. In total, the following are the judges before whom my matter (beginning from the negligence claim) went amounts to 12 and they are as follows:

Mangatal J
Kawaley J
MacMillan J
Beatson JJA
St John Stevens J
Martin JJA
Birt JJA
Rix JJA
Moses JJA
Briggs MPC
Stevens MPC
Richards MPC

112. An additional 3 judges were allocated my negligence matter but never sat, making it a total of 15 judges in all:

Williams J (recused on my insistence)
Panton J (recused as he had decided a matter relating to HSA immunity)
Dobbs J (who was of African extraction, like me, removed but not reason given)

Corrupt nature of visit of Privy Council to the Cayman Islands-Undue influence on Lord Briggs

113. In relation to gifts and hospitality, the Judicial Committee of the Privy Council Guide to Judicial Conduct (2019) states:

> 5.14 Caution should be exercised when considering whether to accept any gift or hospitality. Members of the Board will be wary of accepting any gift or hospitality which might appear to relate in some way to their judicial office and might be construed as an attempt to attract judicial goodwill or favour.

The Cayman government spent KYD 181, 000 for the visit, which works out to about KYD 36, 000 for each judge and their spouse. I obtained this information through a freedom of information request.

114. This was a violation of the Code. Imagine that the UK Supreme Court were to be invited to the City of Birmingham in England at the expense of the city. Imagine then that a resident was to sue the city, and the matter went all the way to the UK Supreme Court. Surely, the court would be compromised. The same applies to Cayman. The Privy Council was invited by Chief Justice Smellie and Governor Roper, the very people whose conduct I was questioning in a case that was making its way to that court. When my matter got to the Privy Council, that body had been compromised. It was, therefore, no surprise that they said, six months after their free holiday, that my case, despite its strength, with 22 grounds of appeal, had not a single arguable point of law.

Failure to draw up rules for complaints against judges

115. Section 106 (10) of the Constitution of the Cayman Islands 2009 requires the Judicial and Legal Service Commission to adopt a complaint procedure to regulate complaints against judges. That section provides that:

> (10) The Judicial and Legal Services Commission shall—
> (a) draw up a code of conduct for the judiciary and a *procedure for dealing with complaints*". (Emphasis added)

In 2012, the Commission adopted a Code of Conduct for the Cayman Islands Judiciary (March 2012) to which was appended procedures for filing complaints against judges.[26]

116. According to the 2015 Report of the Commission, there were nine complaints filed against judicial officers for the period 2012 to 2015. The report does not say who made them, against whom they were made, or what the result was. In the UK, for cases that proceed to consideration by the complaints authority, these names are made public.

[26] Though the power extends to legal officers whose titles appear in section 106 (such as the Attorney General and the DPP) the rules seem to envisage only complaints against judicial officers.

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

117. Up to 2016, complaints against all judges (both Grand Court and Court of Appeal judges) were handled by the Judicial and Legal Services Commission. However, in 2016, the Constitution was amended. Since then, complaints against Grand Court judges are to be determined by the Chief Justice and complaints against judges of the Court of Appeal are to be decided by the President of the Court of Appeal. Quite apart from the fact that the Chief Justice or President (whose own conduct may be implicated in a complaint against a judge) cannot be expected to be entirely neutral, this means that, if a complaint is against the Chief Justice or the President, the Constitution does not state to whom one may complain.

118. Now, one can complaint to the Governor, but the Governor does not have a mechanism by which he or she can conduct an inquiry that is different from the ultimate inquiry that may call for removal. So, if the complaint is one what may call for disciplinary action but not removal, there is no provision in the Constitution for that.

119. Apart from the structure being problematic, the Commission deliberately neglected its duty and even acted maliciously. The pre-2016 complaints rules were drawn up at a time when the Chief Justice and the President had jurisdiction to hear complaints. When the Constitution was amended in 2016, the Commission needed to draw up new rules to cater to the new structure, where complaints now had to go to the Chief Justice and to the President respectively. The Commission never drew up these complaints rules.

120. In 2021, I needed to file a complaint against Justice Ian Kawaley. I informed the Commission that the rules needed to be drawn up so that I could file a complaint. They dithered. I wrote to then Governor Martyn Roper about this dereliction of duty. He did nothing about it, informing me that since the Commission was now aware of this need, he would leave it to them to draw up the rules.

121. The Commission acknowledged in an email to me that they knew they had to draw up the rules. This was in 2021. By 2023, they had not drawn up the rules. When I again inquired about when the new rules would be drawn up, the response from the Commission was that "*it was by no means clear that these rules were necessary*". Dissatisfied, I filed a complaint with the Ombudsman.

122. Finally, under pressure from the Ombudsman, as outlined above, the Commission adopted the procedure and published it on 30 October 2023 on their website. However, the Ombudsman issued a decision on 8 November 2023 (a letter to me and made public) finding the Judicial Commission guilty of maladministration for failing, for a period of 7 years, to prepare the new rules: https://ombudsman.ky/case-summaries/outcome/306. This was widely reported in the local media at the links indicated above in Cayman News Service and Cayman Marl Road.

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

123. With this finally in place, I filed a formal complaint against Justice Kawaley. This I did on 2 December 2023 by filing the necessary form with the Commission and an accompanying letter to the Chief Justice with copious attachments. I sent a reminder later in December. The result of that decision is dealt with below.

Complaint filed against Kawaley J

124. In her decision letter dated 15 February 2024, Chief Justice Ramsay-Hale, having made reference to the recommendations of the Judicial Commission and the committee, said, "*Accordingly, I write to advise that your complaint against Justice Kawaley is summarily dismissed and no further action will be taken. Please find attached hereto a copy of the Recommendation to the JLSC of the Complaints Committee for your records."* The recommendations of the Committee and the Commission and the letter do not refer to the incriminating emails and yet continue to say that my claims was frivolous.

Deletion of judicial record in my ongoing matter

125. While the court continued to say that my case against Justice Kawaley was frivolous, the judiciary deleted a record relating to my case *after an FOI request had been made*. The Ombudsman chastised them and published a formal decision in that regard:

https://www.ombudsman.ky/news There is a link to the full decision there.

https://www.caymancompass.com/2023/06/30/judicial-administration-chastised-for-deleting-court-records/

She also ordered that they work with the National Archives Office to write a policy on retention and deletion of records.

Failure of Commissioner of Police to Prosecute

125. I filed a criminal complaint against both Justice Kawaley and Justice St John Stevens on 15 August 2021 addressed to then-Commissioner Derek Byrne. By letter dated 29 November 2021 under the hand of Detective Sergeant Peter Dean 366 of the Serious Crime Review Team, after I had been interviewed with regard to my desire to file charges against the two judges. The letter stated that, "*the decision has been made that there will be no further police action in regard to your allegations against either Justice Ian Kawaley or Justice Phillip St John Stevens*." It went on to say that "*the matter was found not to reach the required threshold for the police to commit resources and*

commence a police investigation." The letter closed off by saying that, "*A record of your complaint has been entered onto the Police record management system (RMS) under the reference 2021-030425 and closed off.*"

Failure of institutions supporting democracy

126. I filed a complaint dated 15 March 2021 stating that Justice Kawaley and Justice St John Stevens had denied me my human rights, in particular, the right to a fair trial. The Chairman, Dale Crowley, responded by letter dated 5 May 2021 that "*no evidence of a breach or infringement of your human rights*".

127. I also filed a complaint dated 23 March 2021 supplemented by further letters of June 2021 and 16 August 2021 against the same two judges to the Anti-Corruption Commission stating that they had acted corruptly contrary to section 13 of the Anti-Corruption Act in denying me a right to a fair trial (Justice Kawaley) and acted in breach of trust contrary to that section (both judges). By letter to be dated 22 September 2021, the Chairperson Sophia Harris informed me that *"the Commission has unanimously concluded that the report/complaint does not give rise to a reasonable suspicion on the part of the Commission that a criminal offence or an attempt to commit an offence or a conspiracy to commit an offence under the Anti-Corruption Law ("ACL") has been committed*."

Acting Justice McCarthy's role in conspiracy

128. The way you start a judicial review is by way of an ex parte application. I made the application. In such an application, you do not disclose on the Cause List the name of the other party as it may defeat the purpose of the application. The matter was assigned to Acting Justice McCarthy. In the judicial review, I challenged the decision of the Commission not to discipline Justice Kawaley. On the Cause List for that week, there were a total of 5 ex parte applications. Mine was the only one where the respondent (the Chief Justice) was identified. In all the other ex parte applications, the respondent was not named. The Attorney General then contacted the court to say that, having seen the Cause List, he was asking for an opportunity to make written submissions.

129. For a start, contrary to all authorities from the Cayman Court of Appeal and the Trinidad and Tobago Court of Appeal, Justice McCarthy allowed the Attorney General to make written submissions. This was over my objection. The court even refused to decide the request as a preliminary issue. The judge then agreed with the submissions of the Attorney General and refused to grant leave. The Court of Appeal cases clearly state that the bar for leave is low. In my case, there were two decisions of the Ombudsman relating to my case. In one she found the Commission guilty of maladministration and in the other

she found the judiciary to also be guilty of maladministration for deleting a record relating to my case, and this was after an FOI request had been made. I also had the 13 emails which showed that Justice Kawaley had lied. Despite all this, and other evidence, the court held that my case was frivolous, and leave could not be granted.

130. In paras 50 and 51 of his judgment, McCarthy J tried to explain away why my otherwise ex parte matter was made inter partes. In para 51 he states:

> *As I understand it*, inadvertently, the matter was listed among the several inter partes court matters, and as a result, the respondents were named and became aware of it. It was because of this that they sought permission to make written submissions.

There are several major problems with this.

131. **First,** he said "*As I understand* it". From whom did he understand it? The explanation about inadvertence was not an explanation that was given either orally or in writing in the proceedings. So, clearly, he was talking to the Chief Justice privately, whilst she was a party to the proceedings, and gathering evidence to help her case. This breaches every rule of fair play and in particular the Cayman Code of Conduct for Judges (9 March 2012) which states:

> "[30] A judge must hear a case on the evidence and in accordance with the principles of natural justice. He or she must not allow one party to make representations to him or her in the absence of, or to the exclusion of, the other; save where the circumstances require that, in the interests of justice, an application is made without notice." (Emphasis added)

132. **Second**, this was not inadvertent. It was a conspiracy between Justice Cecil McCarthy, Chief Justice Margaret Ramsay-Hale, Attorney General Samuel Bulgin and others. It falls well outside the realm of acceptable inadvertence that in a week where there was a total of 5 ex parte matters, the matter involving the Chief Justice was the only one where the mistake was made.

133. **Third**, even accepting the virtually impossible that it was inadvertent, the way the judge behaved considering the "leak" betrayed the whole conspiracy and the dishonesty involved. He welcomed it and made a decision to allow the Attorney General to make submissions without asking them as to why, even in light of the leak, he should depart from the usual procedure. Then, as he indicated in para 56, he used this leak as a distinguishing factor between this case and the case of **Smith v Commissioner of Police** where the Cayman Court of Appeal refused to allow counsel for the Commissioner to advance arguments in court at the ex parte stage. Justice McCarthy made these decisions over my objection. Even case law from the Cayman Court of Appeal and the Trinidad and Tobago Court of Appeal did not sway him. Since I contested this, he should have allowed arguments on it. He did not.

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

134. **Fourth,** this shows that the judge was acting in bad faith, and he should have recused himself even before issuing his judgment. The proceedings are irretrievably tainted. His impartiality, in addition to what I have stated elsewhere, for example, in my formal complaint against him, which is before the Chief Justice, have been irretrievably undermined.

135. As pointed out in my letter to the court on 27 July 2024, the Grand Court did not list my application as ex parte. It should have been listed as ex parte, without naming the parties. The GRAND COURT CAUSE LIST, WEEK COMMENCING, 22ND JULY 2024 shows that there were 4 other matters listed as ex parte. As per proper practice, the names of the parties were not shown. Those matters appear in the list below (some without cause numbers, Conyers appearing twice) as follows:

G 75/24	*Ex Parte Summons*	ST/
	Ex Parte Summons	Conyers/
	Ex Parte Summons	Conyers/
	Ex Parte Originating Summons	Harneys/

136. I have no doubt that this decision would have been made by the Chief Justice and the Proposed Respondents. Whether or not it was made by the Chief Justice, the Grand Court is estopped from seeking to make the hearing private. Applications for Leave are made ex parte. The decision by the Grand Court to make my case public at ex parte stage estopps it from now seeking to make it private. They should not have been allowed to make it public for their own purposes (to alert the Attorney General) and then seek to make it private in order to escape public scrutiny. See also my letter of 25 July of 2024 to the Chief Justice.

Role of Governors Roper and Owen in the conspiracy

137. I wrote to Governor Roper on 17 July 2021 bringing to his attention the fact that since the 2016 Amendment to the Constitution under which the power to hear complaints regarding judges was transferred from the Judicial and Legal Service Commission to the Chief Justice and the President of the Court respectively, complaints rules governing, in furtherance of the conspiracy to defame herein pleaded, the complaints rules had not been updated. I pointed out to him that it was the function of the Commission to make/amend the rules. I also pointed out that, under the new regime, there was no provision for rules governing complaints against the Chief Justice and the President of the Court of Appeal, who now themselves were to hear complaints.

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

138. In his response of 10 August 2021, Governor Roper, in breach of his duties as Governor, in particular, his duty to safeguard good governance, failed to instruct the Commission to draw up the new rules. He avoided the issue by saying:

> Ultimately, it is a matter for the JLSC as to what amendment (if any) are required to the published complaints procedure to reflect that re-allocation of responsibilities following the 2016 amendments to the Constitution. I see you have already written to the Commission and are awaiting a response.

139. As a direct result of Governor Roper's deliberate and malicious failure to ensure that the Commission adopted the rules, the Commission failed to do so and, even after I filed a complaint with the Ombudsman, they failed to do so. The Commission hurriedly adopted a mish-mash of rules at about the same time that the Ombudsman, in a formal published decision, found them guilty of maladministration.

140. Governor Jane Owen has also used negative inertia to participate in the conspiracy. She has failed to perform her constitutional and statutory duties leading to the professional and personal harm herein specified. I have written to her the following letters, among others, which she has not acted upon:

- 25 March 2024 (informing her that the Attorney General was trying to use costs as a weapon)
- 6 April 2024 (complaining to her against Chief Justice Ramsay-Hale about interference in the judicial review matter before Acting Justice McCarthy)
- 28 December 2024 (complaint against Chief Justice Ramsay-Hale again on interference in the judicial review matter)
- 21 December 2024 (complaint against Attorney General regarding misconduct in relation to his changing his legal position contrary to the Public Service Values and Public Code of Conduct, respectively sections 4 and 5 of the Public Service Management Act)
- 22 December 2024 (further representations regarding misconduct of the Attorney General regarding his changing of the legal position regarding my case)
- 30 December 2024 (suggesting approaches to the investigation into the disappearance of a record and how this could be a criminal investigation since offences could have been committed under the Penal Code, section 118 (breach of trust), section 119 (criminal negligence); and section 121 (willful disobedience to law); and under the Anti-Corruption Act section 13 (breach of trust)

141. I also wrote the following letters to British Ministers:

- 29 June 2024 to Rt Hon Lord Cameron PC, Secretary of State for Foreign, Commonwealth and Development Affairs.
- 9 December 2024 to Hon Stephen J Doughty, Minister for Overseas Territories ufs Governor Jane Owen.

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

142. Chief Justice Ramsay-Hale, having become aware that a recording relating to my case and which was relevant to the proof of it had been deleted after I had made an FOI request, and that the secrecy of ex parte applications was breached in my case before Justice McCarthy, refused or neglected to conduct an investigation. That refusal is part of her participating in the conspiracy to ensure that my actions are not vindicated. I reported these failures to Governor Jane Owen asking her to exercise her disciplinary functions by compelling such an investigation. In furtherance of the conspiracy herein pleaded, she has continued to refuse or neglected to exercise such disciplinary jurisdiction.

All the acts committed or omitted to be done by all the persons set out in this Statement of Claim were committed or omitted to be done by the said parties maliciously in breach of their respective statutory duties herein mentioned with intent to defame and participate in a conspiracy to defame me, all of which was done or omitted to be done in abuse of office without my consent, as well as breach of statutory duties.

PARTICULARS OF LOSS AND DAMAGE

The Plaintiff was born on 13th May, 1955 and will be 70 years old on 13 May 2025.
The Plaintiff's professional achievements set out above will suffer as a result of the defamation perpetrated against him.
Full particulars of the professional and other damage are not set out in full and cannot be served with this claim as they are difficult to assess and may be conducted at the end of the hearing.

The Plaintiff's claim includes a claim for interest pursuant to the law for such periods and at such rates as is set out in Practice Directions for the time being existing for that purpose.

PLAINTIFF'S CLAIMS AND ORDERS SOUGHT

The Plaintiff claims:

(1) General damages and aggravated damages;
(2) Punitive damages;
(3) Interest at such rates as the Court thinks fit; and
(4) Costs.

And further seeks:

(5) an order of mandamus compelling the Governor, in accordance with her statutory duty, to conduct or cause to be conducted a disciplinary inquiry against Chief Justice Margaret Ramsay-Hale, which inquiry shall inquire into why the Chief Justice:

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

(a) did not order an inquiry into the deletion of the record about which the Ombudsman found the judicial administration guilty of maladministration;
(b) did not order an inquiry into how my ex parte application for leave was leaked to the public and to the Attorney General.

(6) an order of mandamus compelling the Governor, in accordance with her statutory duty, to conduct a disciplinary inquiry against Attorney General Samuel Bulgin as to why he changed his legal position (that a full hearing needed to be held in the Grand Court about the conduct of Justice Kawaley) without giving an explanation therefor.

(7) an order of mandamus compelling the Governor to order an inquiry as to why it took seven years for the Judicial and Legal Service Commission (where the President of the Court of Appeal and the Chief Justice are members) to draw up the rules government complaints against the judiciary, whose duty was imposed in 2009 by section 106 of the Constitution of the Cayman Islands Order.

(8) an order to the Court Office and all relevant persons to delete and withdraw from the Cayman Islands Law Reports and all publications, electronic or otherwise, reports and records of:

(a) the case of *Simamba v Cayman Islands Health Services Authority GC 32/2014* (the medical negligence case) as well as the application for leave to appeal and ruling thereon;
(b) the case of *Simamba v Attorney General and Governor* CICA 36 of 2019 the Constitutional Motion heard by Justice Beatson;
(c) the case of *Simamba v Kawaley and Myers CICA 21 of 2021; GC 161 of 2020*;
(d) the case of *Simamba v Attorney General and Governor CICA 20/2021; GC 93/2020*
(e) all proceedings directly or indirectly related to the negligence claim and human rights claim;
(f) such other orders as the court thinks fit.

If, within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed of $ XX.XX (to which should be added interest and costs) further proceedings will be stayed. The money must be paid to the Plaintiff or his Attorney.]

BH Simamba

_____

BILIKA HARRY SIMAMBA
In Person
31 May, 2025

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2025

BETWEEN: BILIKA HARRY SIMAMBA

PLAINTIFF

AND

GOVERNOR OF THE CAYMAN ISLANDS

1st DEFENDANT

ATTORNEY GENERAL OF THE CAYMAN ISLANDS

2nd 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 Judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside

---

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

---

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

Yes No

Service of the Writ of Summons is acknowledged accordingly

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

(Signed)_____
Attorney for the Defendant

NOTE ON ADDRESS FOR SERVICE

Attorney: Where the Department 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/she must give his/her post office box number and the physical address of his/her residence or, if he/she does not reside in the Cayman Islands, he/she must give an address in Grand Cayman where communications for him/her should be sent. In the case of a Limited Company "residence" means its registered or principal office.

Indorsement by Plaintiff's Attorney (or by Plaintiff if suing in person) of his/her name, address and reference, if any, in the box below.

Bilika Harry Simamba
Plaintiff in Person
30 Fairlawn Road # 8
George Town
Grand Cayman, KY1-1110
Cayman Islands

Tel: 345 928 2644 (Cell, WhatsApp Only)

Email: bhsimamba@gmail.com

Endorsement by Defendant's Attorney (or by Defendant if responding in person) of his/her name, address and reference, if any, in the box below.

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE OF WRIT OF SUMMONS

1. The accompanying form of ***Acknowledgement 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 495 GT, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement of Service that he intends to contest the Proceedings ***must also serve a Defence*** on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

   If a Statement of Claim is indorsed on the Writ (i.e. the words “Statement of Claim” appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledgement of service of the Writ, unless in the meantime a summons for Judgment is served on the Defendant.

   If a Statement of Claim is not indorsed on the Writ, the Defence need not be served until after a Statement of Claim has been served on the Defendant.

   If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter Judgment against him without further notice.

3. A ***Stay of Execution*** against the Defendant’s goods may be applied for where the Defendant is unable to pay for 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 apply for a Stay, Execution will be stayed for 14 days after his Acknowledgement, but he must, within that time, ***issue a Summons*** for a Stay of Execution, 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 of Guidance

Please complete overleaf

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement 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/her.

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 in 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 a Defendant is sued as an individual **TRADING N 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 authorized to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on his 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.

THIS WRIT was issued by Bilika Harry Simamba whose address for service is 30 Fairlawn Road #8, P. O. Box 1393, George Town, Grand Cayman, KY1-1110, Cayman Islands. Phone: 345-928-2644 (Cell WhatsApp only), E-mail: bhsimamba@gmail.com