

IN THE CARDIFF COUNTY COURT

BETWEEN:

MAURICE JOHN KIRK

Claimant

and

CHIEF CONSTABLE OF SOUTH WALES CONSTABULARY

Defendant

**REQUEST FOR FURTHER INFORMATION OF THE AMENDED PARTICULARS
OF CLAIM PURSUANT TO THE COURT ORDER OF HIS HONOUR JUDGE
KEYSER QC DATED 12 JUNE 2007**

Under Paragraph 2

Of – the whole paragraph

Request

1. Particularise all matters relied upon in support of the allegation that the Claimant's prosecution was "malicious".
2. Particularise all matters relied upon in support of the allegation that the Defendant or officers of the Defendant were guilty of "misfeasance in a public office".
3. Name, describe or otherwise identify each and every officer said to have been guilty of malice in respect of the Claimant's prosecution.
4. Name, describe or otherwise identify each and every officer said to have been guilty of misfeasance in public office.
5. Identify each and every event or action said to have been part of the "course of conduct".
6. Particularise all matters relied upon in support of the allegation of bad faith.

7. Name, describe or otherwise identify each and every officer said to have been guilty of bad faith.
8. Identify precisely the public power said to have been improperly exercised.
9. Identify precisely the improper or ulterior motive.

Under Paragraph 4

Of “In 1997 The Claimant purchased a replica vintage air craft called a DH2 (De Haviland 2) and attached to the fuselage was a decommissioned Lewis machine gun, one of five such Guns designated for various replica period aircraft by Mr. Viv Bellamy. The Claimant bought the aircraft to restore it as it was in pieces”.

Request

10. State precisely what is meant by the allegation that “such guns designated for various replica period aircraft by Mr Viv Bellamy”. What is it that is said to have been designated?
11. State precisely what is meant by the word “designated”.
12. When in 1997 did the Claimant purchase the replica vintage aircraft?

Of “The machine gun was an integral part of the fuselage and therefore exempt under the 1968 Firearms Act”.

Request

13. State precisely what is meant by the allegation that the machine gun was an “integral part of the fuselage”.
14. Having regard to the averment that when the Claimant purchased the aircraft it was “in pieces”, state precisely how it is contended that the machine gun was an “integral part of the fuselage”.

Of “In 2006 the DH2 was moved to RAF Lyneham, Wiltshire, for repair and display with the ‘gun’ mounted. In 2007 the DH2 and ‘gun’ was handed out, by the Royal Air Force, to a civilian for further repair in Hampshire. All relevant authorities, (Civil Aviation, RAF and police) were aware the said ‘gun’ was decommissioned.”

Request

15. When the aircraft was moved to RAF Lyneham, was it still in pieces? If so, state precisely the condition of the aircraft at that time.
16. State precisely what is meant by the allegation that the gun was “mounted” at the time it was transferred to RAF Lyneham.
17. State precisely what is meant by the allegation that in 2007 the aircraft and gun was “handed out” to a civilian for further repair.
18. Identify the civilian to whom the aircraft was given in 2007.
19. Identify all matters which will be relied upon at trial in support of the allegation that the “Civil Aviation” was aware that the gun was decommissioned.
20. Particularise all matters which will be relied upon at trial that the RAF were aware that the said gun was decommissioned.
21. Particularise all matters which are to be relied upon at trial in support of the allegation that the Police were aware that the said gun was decommissioned.
22. Name, describe or otherwise identify each and every police officer and police force who was said to have been aware that the gun was decommissioned.
23. State precisely when and in what way the gun is said to have decommissioned.

Of “In May 2008 The Claimant sold the aircraft with ‘gun’ to another aviator, Ronald Cooper. The gun was black in colour. Mr Cooper had the ‘gun’ ammunition magazine painted silver.”

Request

24. By means of a photograph or diagram, indicate precisely those parts of the gun said to have been painted black and those parts of the gun said to have been painted silver.
25. State precisely when Mr Cooper is said to have painted the ammunition magazine silver.
26. Had the Claimant, at any time, seen the gun with the ammunition magazine painted silver? If so, state precisely when, where and in what circumstances the Claimant had seen the gun with the ammunition magazine painted silver.

Of “At a trial at Cardiff Crown Court based upon charges brought by The Defendant under section 5(1)(a) of The Firearms Act 1968 which culminated in The Claimant’s acquittal in February 2010 the said Mr. Cooper gave evidence that when he had purchased the ‘gun’ from The Claimant the barrel was blocked whereas the gun, as returned to him after the trial in question, was unblocked”.

Request

27. Does the Claimant contend that in the circumstances of this case, the word “blocked” means the same as the word “decommissioned”?
28. In any event, state precisely what is meant by the term “blocked”.
29. State precisely how it is contended that the barrel of this gun had been blocked.
30. State when the gun was returned to Mr Cooper.
31. State precisely in what way the gun had become “unblocked”.

Of “In the days prior to his arrest The Claimant had telephoned Messrs. Dolmans Solicitors who acted for The Defendant in the civil claims as hereinbefore set out in paragraph 3 concerning the exchange of witness statements. The Claimant then posted historic pictures on a web-site depicting himself holding the said ‘gun’ with such captions intended as humorous such as “Dressed for Cardiff Court and a Level Playing Field” and “Glorious Twelvth Crooked Lawyer Shoot” and “The Final Solution”.

Request

32. State precisely when the “historic pictures” had been taken.
33. For the avoidance of confusion, please produce a copy of the pictures which were placed upon the Claimant’s website.
34. State whether the gun shown in the pictures on the website is the same gun which had been attached to the Claimant’s DH2 aircraft.
35. State how, when and in what circumstances the gun shown in the pictures on the Claimant’s website had become detached from the Claimant’s DH2 aircraft, so as to allow the Claimant to be shown in the pictures holding the gun.

36. State for how long the gun shown in the pictures of the Claimant's website remained detached from the Claimant's DH2 aircraft.

37. State precisely when, how and in what circumstances the gun shown on the Claimant's website was re-attached to the Claimant's DH2 aircraft.

Under Paragraph 5

Of "The Claimant was remanded into custody on the application of The Defendant. The police report to The Crown Prosecution Service revealed a Police 'animus' against The Claimant stating as it did..."

Request

38. State precisely what is meant by the allegation that the Claimant's remand in custody was on the "application of the Defendant".

39. Name, describe or otherwise identify the officer(s) who are said to have made or supported the application.

40. In so far as the document is in the possession of the Claimant, please produce a copy of the said "police report to the Crown Prosecution Service".

41. Name, describe or otherwise identify each and every officer said to have held an "animus" against the Claimant.

Of "On 1st June 2009 The Defendant had caused The Claimant to be subjected to a Multi Agency Public Protection Arrangement (MAPPA) enquiry following a meeting, at South Wales Police Headquarters, Bridgend, by the Independent Advisory Group (IAG). On the 8th Day of June 2009, at a Barry Police Station MAPPA meeting, The Defendant's agents informed the agencies present, including staff from the Caswell Clinic Psychiatric Detention Facility that The Claimant was a Level 3 Category 3 and very dangerous".

Request

42. Are these allegations concerning MAPPA part of the factual background concerning this matter or is it alleged that they give rise to a separate claim of action?

43. In so far as it is alleged that the allegations concerning MAPPA give rise to a separate claim of action, particularise the nature of the claim said to arise from these

matters and particularise all matters relied upon in support of the suggestion that this gives rise to a claim.

44. State precisely what is meant by the allegation that the Defendant “caused” the Claimant to be subject to a MAPPA enquiry.

45. Name, describe or otherwise identify the officer(s) said to have “caused” the Claimant to be subject to a MAPPA enquiry.

46. Name, describe or otherwise identify the Defendant’s agents / officers who are said to have attended the meeting on 8th June 2009.

Of “A psychiatric nurse called Elizabeth Paul whose notes The Claimant can produce noted The Claimant was likely to be shot if he approached The Defendant. He was to be arrested and taken into custody for being in possession of a prohibited weapon namely a machine gun. As a consequence The Claimant suffered eight months in custody until his acquittal on all charges at Cardiff Crown Court on 9th day of February 2010.”

Request

47. Please produce a copy of the notes prepared by Elizabeth Paul.

48. Is it contended that the Claimant’s arrest and detention was a consequence of the meeting of 8th June 2009? If yes, state precisely how the same was a consequence of this meeting.

49. In so far as it is contended that the Claimant’s arrest and detention was a consequence of this meeting, state whether or not it is contended that it was the sole cause of the Claimant’s arrest or whether there were any other reasons for his arrest.

50. In so far as it is alleged that there were other reasons for his arrest, over and above the meeting of 8th June 2009 then state now precisely the other reasons which caused the Claimant’s arrest and detention.

Under Paragraph 6

Of “(a) The Defendant and her arresting officers did not honestly believe The Claimant had a machine gun with which to harm members of the public or, in the context of his passion for aircraft as an aviator, that there was ever anything unlawful about his ownership of the DH2 and ‘gun’.”

Request

51. Name, describe or otherwise identify with reference to collar numbers if possible, the officers who are said not to have had an honest belief.

52. Particularise all matters relied upon in support of the allegation that the relevant officers did not have an honest belief.

Of “The police presented highly exaggerated accounts which encouraged The Crown Prosecution Service, in good faith, to consider both the evidential sufficiency test... and the public interest criterion in a way adverse to The Claimant.”

Request

53. Identify and set out the accounts said to have been given to the CPS.

54. State precisely in what way the said accounts were highly exaggerated.

55. Name, describe or otherwise identify the officer(s) with reference to collar numbers if possible, said to have produced these highly exaggerated accounts.

56. State precisely in what way the CPS’ consideration of the evidential sufficiency test and the public interest criterion were made in a way which was adverse to the Claimant.

Of “(b) For the reasons as set out aforesaid, there were no reasonable grounds to suspect such offences had been committed at the time the arrest was made.”

Request

57. For the avoidance of doubt, state now each and every reason relied upon in support of the contention that there were no reasonable grounds to suspect that the named offences had been committed.

Of “(c) The decision to arrest The Claimant was flawed by an improper motive, namely frustration / irritation on the part of The Defendant with regard to the extant civil claims brought by The Claimant. At each bail application (of which

there were at least 6) The Defendant propounded the falsehood that if granted bail The Claimant would flee the jurisdiction in one of his own aircraft”.

Request

58. Particularise all matters relied upon in support of the allegation, that the decision to arrest the Claimant was flawed by an improper motive.

59. Name, describe or otherwise identify each officer with reference to collar numbers if possible, whose action or inaction is said to have given rise to this improper motive.

60. Identify each and every bail application where it is contended that the Defendant propounded the said falsehood.

61. Name, describe or otherwise identify each and every officer with reference to collar numbers if possible, who is said to have propounded this falsehood and how the same was propounded.

Under Paragraph 8

Of “The prosecution was based on multiple falsehoods which the police must have known from their involvement in the events were untrue, including the following:”

Request

62. Particularise now each and every falsehood upon which the said prosecution was based.

63. Name, describe or otherwise identify each and every police officer with reference to collar numbers if possible, who is said to have created or played a part in the creation of the said falsehoods.

64. Particularise all matters relied upon in support of the contention that the named or identified officer(s) knew that the falsehoods were untrue.

65. State precisely the “events” the existence of which are alleged to have revealed to the officers that the falsehoods were untrue.

Of “(a) Ronald Cooper swore on oath that the ‘gun’ he had purchased from The Claimant had its barrel blocked whereas the exhibited gun presented by the police at trial had its barrel unblocked in readiness for its being fired.”

Request

66. Is it contended that Ronald Cooper gave oral evidence at trial? If so set out what Ronald Cooper said. If not then state what is meant by the phrase, "swore on oath".
67. Is it admitted that the gun presented at trial was capable of being fired?
68. Is it admitted that the gun produced at trial was the gun which the Claimant had originally owned?

Of "(b) That The Claimant never owned a firearms certificate or permit for rifles he owned. The fact that The Claimant had held such certification is a matter of police record."

Request

69. Identify the rifles referred to in this paragraph.
70. State when the Claimant acquired the rifles acquired referred to in this paragraph.
71. State whether the rifles referred to in this paragraph were present with the Claimant at the time of his arrest.
72. Produce now a copy of the relevant certificate or permit.

Of "(c) When challenged as the tape of the alleged conversation the tape was presented as corrupted so as to conceal the gender of 'Foxy'."

Request

73. State precisely in what way the tape was presented as "corrupted".
74. Is it contended that an officer or officers had interfered with the tape? If so, state precisely in what manner the tape had been interfered with.

Under Paragraph 9

Of "Accordingly, the prosecution was brought maliciously and without reasonable and probable cause."

Request

75. Particularise all matters relied upon in support of the allegation of maliciousness.

76. Name, describe or otherwise identify each and every police officer with reference to collar numbers if possible, said to have acted maliciously.

77. Particularise all matters relied upon in support of the allegation that the prosecution was brought without reasonable or probable cause.

78. Name, describe or otherwise identify each and every officer with reference to collar numbers if possible, said to have lacked reasonable and probable cause.

Under Paragraph 11

Of “Further, by reason of the matters set out aforesaid, The Claimant claims Aggravated and / or Exemplary damages. In particular...”

Request

79. Apart from those matters that are thereafter particularised, please state precisely all matters relied upon in support of the claim for aggravated and exemplary damages.

Of “(c) Hurtful and untrue allegations about The Claimant’s mental well-being were subsequently made in a concerted attempt by officers to put forward a false narrative of The Claimant’s intentions.”

Request

80. Identify precisely the hurtful and untrue allegations said to have been made.

81. Name, describe or otherwise identify each and every police officer said to have made the said allegations.

82. State precisely how, when and in what manner these hurtful and untruthful allegations were made.

83. Identify precisely, the “false narrative” said to have been put forward.

Of “(e) In all the circumstances the officers’ actions were arbitrary, oppressive and unconstitutional.”

Request

84. Name, describe and / or otherwise identify each and every officer with reference to collar numbers if possible, said to have acted in an arbitrary, oppressive and unconstitutional manner.

85. State precisely in what way those officers' actions were arbitrary and / or oppressive and / or unconstitutional.

Mr Lloyd Williams QC
30 Park Place
Cardiff

Dated this 23 day of June 2017

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Defendant

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KEYSER QC DATED 12 JUNE 2007

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