

Dublin-Swan, Denyelle

From: Simmons, Jamahl S.
Sent: Monday, February 11, 2019 9:06 PM
To: Brangman, Michael A.; Caines, Wayne M.
Subject: Fwd: Pepper spray settlement.

Hi pls use this one

Sent from my iPhone

Begin forwarded message:

From: "Simmons, Kathy (Attorney General)" <klsimmons@gov.bm>
Date: 11 February 2019 at 6:56:56 PM GMT-4
To: "Simmons, Jamahl S." <jssimmons@gov.bm>, "Caines, Wayne M ." <wmcaines@gov.bm>
Subject: FW: Pepper spray settlement.

As a result of the December 2, 2016 protest, which took place in the vicinity of the House of Assembly and culminated in the pepper-spraying of members of the public who were in attendance, a number of Applicants sought to pursue legal action against the Police Complaints Authority.

In an effort to settle this matter the Ministry of National Security engaged in discussions with the Applicants and the parties have come to an amicable conclusion.

The settlement is a legally binding, confidential document which prohibits the parties from divulging the details or nature of the settlement. As such, the Ministry of National Security and by extension, the Government, is unable to comment any further on this matter.

Sent from my iPhone

On 11 Feb 2019, at 6:11 PM, Simmons, Kathy (Attorney General) <klsimmons@gov.bm> wrote:

Please revise.

From: Brangman, Michael A.
Sent: Monday, February 11, 2019 5:33 PM
To: Caines, Wayne M. <wmcaines@gov.bm>; Anderson, Collin J. <cjanderson@gov.bm>
Cc: Simmons, Jamahl S. <jssimmons@gov.bm>; Wilson, Aderonke B. <abwilson@gov.bm>; Dill-Francois, Shakira J. <sjdill@gov.bm>; Simmons, Kathy (Attorney General) <klsimmons@gov.bm>; O'Brien, Marva <mjobrien@gov.bm>
Subject: FW: Pepper spray settlement.

Good afternoon All,

Please see questions below from Gary Moreno.

Based on my limited understanding of this matter, I've started drafting a response as follows.

"As a result of the December 2, 2016, protest outside the House of Assembly, legal action was proceeding against multiple defendants.

Outside of these proceedings, the defendants and government held discussions.

At the conclusion of those discussions, it was mutually agreed by all parties, to settle out of the courts.

This settlement is a legally binding agreement which prohibits all parties, from divulging the details or nature of the settlement.

As such, the Ministry of National Security is unable to comment any further on this matter.

****ENDS****

Regards,

<image001.jpg> **Michael A. Brangman**
Communications Officer
Government of Bermuda | **Department of Communications**
Global House, Ground Floor | 43 Church Street | Hamilton, Bermuda
HM12

Extension: 2101
Direct Telephone: 441 297 7599 | E: mabrangman@gov.bm
Direct Department of Communications Line: 441 292 5998

From: Gary Moreno *EXEMPT S-23*
Sent: Monday, February 11, 2019 3:44 PM
To: Brangman, Michael A. <mabrangman@gov.bm>
Cc: *EXEMPT S-23*
Subject: Pepper spray settlement.

Hi Michael,

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Can the Ministry of National Security please reveal the nature of that settlement?

Was it a financial settlement?

Will the Ministry please state how many victims there were?

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Hoping to hear back from you soon

Respectfully,

Gary Moreno.

Dublin-Swan, Denyelle

From: Brangman, Michael A.
Sent: Monday, February 11, 2019 9:05 PM
To: Caines, Wayne M.; Simmons, Kathy (Attorney General); Simmons, Jamahl S.
Subject: Re: Pepper spray settlement.

Please review and approve the following response:

As a result of the December 2, 2016, protest outside the House of Assembly, a number of Applicants sought to pursue legal action against the Police Complaints Authority.

In an effort to settle this matter, the Ministry of National Security engaged in discussions with the applicants and reached an amicable conclusion that prevented the cost of a lengthy court hearing on the application for judicial review, and ends the prospect of future proceedings.

However due to the nature of this agreement the Ministry is unable to comment any further.

Regards,



Michael A. Brangman

Communications Officer

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Global House, Ground Floor | 43 Church Street | Hamilton, Bermuda HM12

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Direct Telephone: 441 297 7599 | E: mabrangman@gov.bm

Direct Department of Communications Line: 441 292 5998

From: Caines, Wayne M .
Sent: 11 February 2019 15:48:05
To: Simmons, Kathy (Attorney General); Simmons, Jamahl S.; Brangman, Michael A.
Subject: FW: Pepper spray settlement.

Please include

"The settlement of this matter saves the costs of a lengthy court hearing on the application for judicial review and ends the prospect of any further proceedings."

From: Simmons, Kathy (Attorney General)
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To: Simmons, Jamahl S. <jssimmons@gov.bm>; Caines, Wayne M . <wmcaines@gov.bm>
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Note second para – change “have” to “has”

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From: Caines, Wayne M .
Sent: Tuesday, February 12, 2019 7:38 AM
To: ~~Exempt~~ S-23
Subject: FW: Pepper spray settlement.

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Sent: Monday, February 11, 2019 6:47 PM
To: Simmons, Kathy (Attorney General); Simmons, Jamahl S.
Cc: Brangman, Michael A.; Premier David Burt
Subject: RE: Pepper spray settlement.

All,

Attribute the comments to me. And let her rock. Mike, reach out to Gary directly via a call ~~grant~~ S-23

WC

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Dublin-Swan, Denyelle

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Dublin-Swan, Denyelle

From: Premier David Burt
Sent: Monday, February 11, 2019 6:46 PM
To: Caines, Wayne M .; Simmons, Jamahl S.
Cc: Brangman, Michael A.; Simmons, Kathy (Attorney General)
Subject: RE: For release ASAP

CS,

Please note below for your info.

Premier

From: Caines, Wayne M .
Sent: Monday, 11 February 2019 6:41 PM
To: Simmons, Jamahl S. <jssimmons@gov.bm>
Cc: Brangman, Michael A. <mabrangman@gov.bm>; Simmons, Kathy (Attorney General) <ksimmons@gov.bm>; Premier David Burt <dburt@gov.bm>
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A-G

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Dublin-Swan, Denyelle

From: Simmons, Jamahl S.
Sent: Monday, February 11, 2019 6:39 PM
To: Caines, Wayne M .
Cc: Brangman, Michael A.; Simmons, Kathy (Attorney General)
Subject: Re: For release ASAP

Senior moment

As a result of the December 2, 2016, protest outside the House of Assembly and the pepper spraying of a number of individuals, an Application was to Commence Judicial Review Proceedings in in the Supreme Court of Bermuda.

The government engaged in talks with the Applicants in effort to reach an agreement to end the Judicial Review and all future Civil proceedings.

At the conclusion of those discussions, it was mutually agreed by all parties, to settle out of court.

This settlement is a legally binding agreement which prohibits all parties, from divulging the details or nature of the settlement.

As such, the Ministry of National Security and by extension, the government is unable to comment any further on this matter.

Sent from my iPhone

On 11 Feb 2019, at 6:38 PM, Caines, Wayne M . <wmcaines@gov.bm> wrote:

Nothing attached.

Also be sure that the AG signs off

-----Original Message-----

From: Simmons, Jamahl S.

Sent: Monday, February 11, 2019 6:38 PM

To: Brangman, Michael A. <mabrangman@gov.bm>

Cc: Caines, Wayne M . <wmcaines@gov.bm>; Simmons, Kathy (Attorney General)

<klsimmons@gov.bm>

Subject: For release ASAP

Mike please check for typos and grammar and release ASAP to Moreno.

Thanks

Sent from my iPhone

Dublin-Swan, Denyelle

From: Simmons, Kathy (Attorney General)
Sent: Monday, February 11, 2019 6:11 PM
To: Caines, Wayne M. ; Simmons, Jamahl S.
Subject: FW: Pepper spray settlement.

Work with this one.

From: Brangman, Michael A.
Sent: Monday, February 11, 2019 5:33 PM
To: Caines, Wayne M. <wmcaines@gov.bm>; Anderson, Collin J. <cjanderson@gov.bm>
Cc: Simmons, Jamahl S. <jssimmons@gov.bm>; Wilson, Aderonke B. <abwilson@gov.bm>; Dill-Francois, Shakira J. <sjdill@gov.bm>; Simmons, Kathy (Attorney General) <klsimmons@gov.bm>; O'Brien, Marva <mjobrien@gov.bm>
Subject: FW: Pepper spray settlement.

Good afternoon All,

Please see questions below from Gary Moreno.

Based on my limited understanding of this matter, I've started drafting a response as follows.

"As a result of the December 2, 2016, protest outside the House of Assembly, legal action was proceeding against multiple defendants.

Outside of these proceedings, the defendants and government held discussions.

At the conclusion of those discussions, it was mutually agreed by all parties, to settle out of the courts.

This settlement is a legally binding agreement which prohibits all parties, from divulging the details or nature of the settlement.

As such, the Ministry of National Security is unable to comment any further on this matter.

****ENDS****

Regards,



Michael A. Brangman

Communications Officer

Government of Bermuda | **Department of Communications**

Global House, Ground Floor | 43 Church Street | Hamilton, Bermuda HM12

Extension: 2101

Direct Telephone: 441 297 7599 | E: mabrangman@gov.bm

Direct Department of Communications Line: 441 292 5998

From: Gary Moreno *WRANGLER 8.23*
Sent: Monday, February 11, 2019 3:44 PM

To: Brangman, Michael A. <mabrangman@gov.bm>

Cc: ~~EXEMPT~~ S-23

Subject: Pepper spray settlement.

Hi Michael,

I understand the BPS and victims who were pepper sprayed during the December 2nd, 2016 protest have come to a settlement out of court.

Can the Ministry of National Security please reveal the nature of that settlement?

Was it a financial settlement?

Will the Ministry please state how many victims there were?

Can the Ministry please say whether each victim was compensated and to the tune of how much?

Hoping to hear back from you soon

Respectfully,

Gary Moreno.

Dublin-Swan, Denyelle

From: Caines, Wayne M .
Sent: Monday, February 11, 2019 5:46 PM
To: Simmons, Jamahl S.; Brangman, Michael A.
Cc: Anderson, Collin J.; Wilson, Aderonke B.; Dill-Francois, Shakira J.; Simmons, Kathy (Attorney General); O'Brien, Marva
Subject: RE: Pepper spray settlement.

Hi Minister,

We should not disclose any of the details of the settlement. The AG, the DSG and me are all officers of the Court. We would never make an agreement and breach the terms of the agreement.

WC

From: Simmons, Jamahl S.
Sent: Monday, February 11, 2019 5:44 PM
To: Brangman, Michael A. <mabrangman@gov.bm>
Cc: Caines, Wayne M . <wmcaines@gov.bm>; Anderson, Collin J. <cjanderson@gov.bm>; Wilson, Aderonke B. <abwilson@gov.bm>; Dill-Francois, Shakira J. <sjdill@gov.bm>; Simmons, Kathy (Attorney General) <klsimmons@gov.bm>; O'Brien, Marva <mjobrien@gov.bm>
Subject: Re: Pepper spray settlement.

Not a lawyer so please forgive me if this is a silly question - Are there any penalties for disclosing that can be included in the statement?

Sent from my iPhone

On 11 Feb 2019, at 5:32 PM, Brangman, Michael A. <mabrangman@gov.bm> wrote:

Good afternoon All,

Please see questions below from Gary Moreno.

Based on my limited understanding of this matter, I've started drafting a response as follows.

"As a result of the December 2, 2016, protest outside the House of Assembly, legal action was proceeding against multiple defendants.

Outside of these proceedings, the defendants and government held discussions.

At the conclusion of those discussions, it was mutually agreed by all parties, to settle out of the courts.

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As such, the Ministry of National Security is unable to comment any further on this matter.

****ENDS****

Regards,

<image001.jpg> **Michael A. Brangman**
Communications Officer
Government of Bermuda | **Department of Communications**
Global House, Ground Floor | 43 Church Street | Hamilton, Bermuda
HM12

Extension: 2101
Direct Telephone: 441 297 7599 | E: mabrangman@gov.bm
Direct Department of Communications Line: 441 292 5998

From: Gary Moreno *exempt S-23*
Sent: Monday, February 11, 2019 3:44 PM
To: Brangman, Michael A. <mabrangman@gov.bm>
Cc: *exempt S-23*
Subject: Pepper spray settlement.

Hi Michael,

I understand the BPS and victims who were pepper sprayed during the December 2nd, 2016 protest have come to a settlement out of court.

Can the Ministry of National Security please reveal the nature of that settlement?

Was it a financial settlement?

Will the Ministry please state how many victims there were?

Can the Ministry please say whether each victim was compensated and to the tune of how much?

Hoping to hear back from you soon

Respectfully,

Gary Moreno.

Dublin-Swan, Denyelle

From: Simmons, Kathy (Attorney General)
Sent: Wednesday, January 30, 2019 1:29 PM
To: Manders, Anthony; Caines, Wayne M.; Premier David Burt
Cc: Dill-Francois, Shakira J.; Anderson, Collin J.; Telemaque, Marc
Subject: RE: Police Complaints Authority matter

Noted.

Regards,

A-G



Senator the Honourable Kathy L. Simmons, JP
Attorney-General and Minister of Legal Affairs
Government of Bermuda | **Ministry of Legal Affairs**
Global House, 4th Floor | 43 Church Street | Hamilton, Bermuda HM12

Email: klsimmons@gov.bm
Attorney-General's Chambers Direct Line: (441) 292-2463
gov.bm

Save paper. Think before you print

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From: Manders, Anthony
Sent: Tuesday, January 29, 2019 8:43 AM
To: Caines, Wayne M. <wmcaines@gov.bm>; Premier David Burt <dburt@gov.bm>
Cc: Dill-Francois, Shakira J. <sjdill@gov.bm>; Simmons, Kathy (Attorney General) <klsimmons@gov.bm>; Anderson, Collin J. <cjanderson@gov.bm>; Telemaque, Marc <mtelemaque@gov.bm>
Subject: RE: Police Complaints Authority matter

Good morning Minister and AG and colleagues,

I advised Collin yesterday to use the Contingencies Fund in order to make the payment and the process.

As this is a legal settlement payment approved by Cabinet there are no issues with FI.

AM

From: Caines, Wayne M .

Sent: Tuesday, January 29, 2019 7:39 AM

To: Premier David Burt

Cc: Dill-Francois, Shakira J.; Simmons, Kathy (Attorney General); Anderson, Collin J.; Telemaque, Marc; Manders, Anthony

Subject: Re: Police Complaints Authority matter

PS,

The main effort today:

1) an email to Delroy confirming a date and when (a) the Police complaints authority (b) Trott and Duncan on behalf of the 27 can file notices of discontinuance (Delroy must have someone from his firm action in his absence)

2) confirm date and time when we can see sign letters from the 27 - confidentiality and full and final settlement. (Delroy must have someone action in his absence)

Can you also call ~~Wendell~~ ^{S23} and let him know where we are in the process.

3) PS you must write a briefing note outlining the process and what has transpired- so you can give the supporting documentation (from ASW) to the FS for his records to ensure we are following Financial Instructions

The Hon Wayne M. Caines JP MP

Minister of National Security

The Government of Bermuda (441) 7048900

On Jan 29, 2019, at 7:29 AM, Premier David Burt <dburt@gov.bm> wrote:

Thanks Minister,

Monies were to come from the contingencies fund.

Premier

E. David Burt, JP, MP

Premier

Government of Bermuda

105 Front Street | Hamilton HM 12 | Bermuda

Phone: 441 292-5501

From: wmcaines@gov.bm

Sent: 29 January 2019 7:27 am

To: sjdill@gov.bm

Cc: dburt@gov.bm; klsimmons@gov.bm; cjanderson@gov.bm; mtelemaque@gov.bm; amanders@gov.bm

Subject: Re: Police Complaints Authority matter

All,

We have finished all the legal elements of the 12/2 settlement:

- 1) sign notice of discontinuance (Delroy is off island)
- 2) we are waiting to confirm where funds will come from so we can remit payment. ?can we get the confirmation today ?
- 3) the 27 people must sign a no. Disclosure/ full and final payment document

Delroy is off island,

The Hon Wayne M. Caines JP MP
Minister of National Security
The Government of Bermuda (441) 7048900

On Jan 22, 2019, at 4:03 PM, Dill-Francois, Shakira J. <sjdill@gov.bm> wrote:

Good day Minister Caines,

The AG has contacted me to discuss this matter and has instructed me to advise that the best course of action would be as follows:

1. Settle with the 27 Applicants forthwith - if the case is settled with the 27 persons, we can request that a Discontinuance be filed with the court leaving only 1 name on the case ~~EXEMPT S 23~~: and
2. Proceed with the strike-out application for ~~EXEMPT~~ ^{S 23} or
3. Leave the case dormant with just his name remaining (as it is unlikely that he will have the ability to proceed especially if Delroy is no longer on the case).

I trust that this assists.

Regards,

<[image001.jpg](#)>

Shakira J. Dill-Francois B.A, LL.B, LL.M

Deputy Solicitor General

Government of Bermuda | Attorney-General's Chambers

Global House, 4th Floor | 43 Church Street | Hamilton, Bermuda HM12

Extension: 1643

Direct Telephone: 441 297 7643 | Cell: 441 595 6767 | Email: sjdill@gov.bm

Attorney-General's Chambers Direct Line: 441 292 2463

www.gov.bm

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From: Caines, Wayne M .

Sent: Tuesday, January 22, 2019 2:50 PM

To: ~~EXEMPT S. 23~~

Cc: Premier David Burt <dburt@gov.bm>; Simmons, Kathy (Attorney General)

<klsimmons@gov.bm>; ~~EXEMPT S. 23 + S. 25~~ >; ~~EXEMPT S. 23~~

~~EXEMPT S. 23~~ >; ~~EXEMPT S. 23~~ ;

< ~~EXEMPT S. 23~~ >; Anderson, Collin J. <cjanderson@gov.bm>;

Dill-Francois, Shakira J. <sjdill@gov.bm>

Subject: Re: Police Complaints Authority matter

Sir,

You are right, it has taken too long. You have been very patient and we appreciate it.

We are almost there.

This is significant for all of us. We will work really hard to have this sorted this week.

WC

The Hon Wayne M. Caines JP MP

Minister of National Security

The Government of Bermuda (441) 7048900

On Jan 22, 2019, at 7:24 PM, *EXEMPT S-23* /rote:

Good day Minister

With respect, No one wants the Government to rush through the process however this matter has taken far too long resolve

From: Caines, Wayne M . [<mailto:wmcaines@gov.bm>]

Sent: Tuesday, January 22, 2019 2:19 PM

To: *EXEMPT S-23*

Cc: Premier David Burt; Simmons, Kathy (Attorney General);

EXEMPT S-23 + S-35 ; Anderson,
Collin J.

Subject: Re: Police Complaints Authority matter

All,

I have spent the majority of the day on the phone with *EXEMPT S-23*
Ms Dill, PS Anderson , and *EXEMPT S-23* .

We are working out the finer points. This Matter remains a priority. We are hoping to have a resolution this week.

I know that everyone wants to have the Matter resolved. I do too.

I will not however rush through the process and leave the Government exposed.

Again, all the key players are engaged, and we are almost there.

WC

The Hon Wayne M. Caines JP MP

Minister of National Security

The Government of Bermuda (441) 7048900

On Jan 21, 2019, at 10:39 PM,
wrote:

~~exempt~~ S.23

Good Day Premier

I just arrive back in office today and was told by
~~exempt~~ S.23: this is still not settled.

I spoke with ~~9~~ S.23 / today he informed me that he
has provided ~~exempt~~ S.23 with everything
that he needs.

I would have thought that after your email below which states, "This saga has been going on for far too long. Ministers, I want a definitive resolution for this issue by the end of the week". The week has come and gone with no resolution.

Mr. Duncan leaves for the privy council on Thursday and he was hoping to have this matter concluded before he leaves.

Not sure what it is going to take to FINALLY RESOLVE this matter.

Premier, whatever you can do to assist would be much appreciated, thank you

From: Premier David Burt [<mailto:dburt@gov.bm>]
Sent: Tuesday, January 8, 2019 4:58 PM
To: Simmons, Kathy (Attorney General); Caines, Wayne M.
Cc: ~~exempt~~ S.23
Subject: RE: Police Complaints Authority matter
Importance: High

Good Afternoon All.

This saga has been going on for far too long. Ministers, I want a definitive resolution for this issue by the end of the week.

If we can deal with matters relating to economic substance, and rush to complete things for persons

who didn't support us, I cannot for the life of me understand why this is taking so long.

Let's get this done.

Regards,

Premier

From: *Exempt S. 23*
Sent: Tuesday, January 8, 2019 9:07 AM
To: Premier David Burt <dburt@gov.bm>;
Exempt S. 23
Cc: Simmons, Kathy (Attorney General) <klsimmons@gov.bm>;
Exempt S. 23
Subject: FW: Police Complaints Authority matter

Good Morning Premier,

Can you please look into this matter. Something seems amiss.

Exempt S. 23

From: *Exempt S. 35 + S. 23 - S. 26*
Sent: Monday, January 7, 2019 4:41 PM
To: *Exempt S. 35 + S. 26 + S. 23*
Subject: RE: Police Complaints Authority matter

Your email was down earlier.

From: Delroy Duncan
Sent: Monday, January 07, 2019 7:48 AM
To: ' ~~Delroy Duncan~~ S. 23 & 35
Furbert' ~~Delroy Duncan~~ S. 23 & 35
Subject: FW: Police Complaints Authority matter

~~Delroy Duncan~~ S. 23

As of today the 7th of January, the lawyers
Government says it has instructed for the Police
Complaints Authority still do not have instructions.

Kind regards

From: Jan Woloniecki
~~Delroy Duncan~~ S. 23
Sent: Monday, January 07, 2019 7:36 AM
To: Delroy Duncan ~~Delroy Duncan~~ S. 23
Subject: RE: Police Complaints Authority matter

Apologies but I am still waiting for instructions
from Bermuda. Will chase today and get back to
you.

<image001.jpg>

~~Delroy Duncan~~ S. 23

~~Delroy Duncan~~ S. 23

From: Delroy Duncan ~~Delroy Duncan~~ S. 23
Sent: 03 January 2019 10:29]

To: Jan Woloniecki

< exempt S.23 >

Subject: RE: Police Complaints Authority matter

Certainly.

From: Jan Woloniecki

exempt S.23

Sent: Thursday, January 03, 2019 10:28 AM

To: Delroy Duncan

Subject: Re: Police Complaints Authority matter

Delroy am in meetings in London - can we speak tomorrow?

JWW

From: Delroy Duncan exempt S.23

Date: Thu, 3 Jan 2019 14:12:28 +0000

To: Jan

Woloniecki exempt S.23

Subject: Police Complaints Authority matter

Happy New Year Jan,

Any idea when we will settle the litigation, discontinue the action so my clients can get paid? I know you have just been instructed however my clients are really frustrated with the pace at which the settlement is moving.

Kind regards

Dublin-Swan, Denyelle

From: Anderson, Collin J.
Sent: Tuesday, January 22, 2019 9:46 AM
To: O'Brien, Marva; Manders, Anthony
Cc: Binns, Derrick Dr.; Whitter, Cherie-lynn; Simmons, Kathy (Attorney General); Caines, Wayne M.; Telemaque, Marc
Subject: RE: Pepper spray incident
Importance: High

I would appreciate support from Government to fund this matter. I will not be in a position to execute any agreement with ASW without the funds to do so. Please note that this is currently an open-ended engagement.

I have copied in Mr. Manders to obtain the Minister of Finance's view on this matter.

Best regards,
Collin

Collin J. Anderson
Government of Bermuda | Ministry of National Security
Telephone: 441 294 2799 | Email: cjanderson@gov.bm

From: O'Brien, Marva
Sent: Tuesday, January 22, 2019 9:44 AM
To: Anderson, Collin J. <cjanderson@gov.bm>
Cc: Binns, Derrick Dr. <dsbinns@gov.bm>; Whitter, Cherie-lynn <clwhitter@gov.bm>; Simmons, Kathy (Attorney General) <klsimmons@gov.bm>; Caines, Wayne M. <wmcaines@gov.bm>; Telemaque, Marc <mtelemaque@gov.bm>
Subject: RE: Pepper spray incident

Hello PS Anderson,

The status of this matter has been communicated to the A-G and she has requested that you provide a definitive date for the completion of these outstanding administrative today. I have copied the Minister of National Security at the A-G's request.



Marva-Jean O'Brien
Permanent Secretary
Government of Bermuda | **Ministry of Legal Affairs** |
Global House | 43 Church St. | Hamilton HM 12, Bermuda
Telephone: 441 292-2463 | E: mjobrien@gov.bm

From: Anderson, Collin J.
Sent: Tuesday, January 22, 2019 9:31 AM
To: Telemaque, Marc; O'Brien, Marva
Cc: Binns, Derrick Dr.; Whitter, Cherie-lynn
Subject: RE: Pepper spray incident

1. We have reached out to ASW Law last week to have amendments made to the Letter of Engagement. I followed up with Barclay Simmons yesterday and today.
2. I also obtained clearance from the Chair of the Police Complaints Authority for National Security to engage ASW on the PCA's behalf.
3. Additionally, I have now been briefed on the matter and been provided with the Judicial Review document, which I am reviewing.
4. We are also trying to find the funds for the legal fees from within the Ministry, which is presenting a formidable challenge.

I will also ask my Minister to update the Premier when they are both back in office.

Collin J. Anderson
Government of Bermuda | Ministry of National Security
Telephone: 441 294 2799 | Email: cjanderson@gov.bm

From: Telemaque, Marc
Sent: Tuesday, January 22, 2019 9:28 AM
To: O'Brien, Marva <mjobrien@gov.bm>; Anderson, Collin J. <cjanderson@gov.bm>
Cc: Binns, Derrick Dr. <dsbinns@gov.bm>; Whitter, Cherie-lynn <clwhitter@gov.bm>
Subject: RE: Pepper spray incident

I cannot begin to tell you how annoyed I am at NOT receiving a substantive answer to this most basic query from either of you.

MT

From: O'Brien, Marva
Sent: Tuesday, January 22, 2019 9:26 AM
To: Telemaque, Marc <mtelemaque@gov.bm>; Anderson, Collin J. <cjanderson@gov.bm>
Subject: RE: Pepper spray incident

CS,

I understand that PS Anderson is currently in communication with ASW Law firm regarding legal representation. However, he is better suited to advise as to the current status of this matter.

mjo

From: Telemaque, Marc
Sent: Monday, January 21, 2019 3:20 PM
To: Anderson, Collin J.; O'Brien, Marva
Subject: Pepper spray incident
Importance: High

Colleagues, I am still awaiting an update or some clear indication of the status of this matter. Please advise asap.

MT

Dublin-Swan, Denyelle

From: Simmons, Kathy (Attorney General)
Sent: Monday, January 21, 2019 7:57 PM
To: Caines, Wayne M .
Subject: Fwd: Police Complaints Authority matter

Minister,

Apologies for disturbing you on your leave. Please see below and give me some timeframe for completion or an update that speaks to resolution of this matter.

Best,

A-G

Senator the Hon. Kathy Lynn Simmons, JP
ATTORNEY-GENERAL and MINISTER OF LEGAL AFFAIRS
Global House, 4th Floor
43 Church Street
Hamilton, HM 12
Bermuda
Telephone: 441.292.2463 E-mail: ksimmons@gov.bm

Begin forwarded message:

From: *EXEMPT S. 23*
Date: 8 January 2019 at 4:43:39 PM GMT-4
To: Premier David Burt <dburt@gov.bm>, "Simmons, Kathy (Attorney General)" <ksimmons@gov.bm>, "Caines, Wayne M ." <wmcaines@gov.bm>
Cc: *EXEMPT S. 23*
Subject: RE: Police Complaints Authority matter

Thank you Premier. I can tell you that I'm beginning to wonder if those people who supported that PLP at the last election even matter anymore. I'm pretty much fed up with this situation and the non-response to numerous e-mails. Lest we forget December 21, 2012.

EXEMPT S. 23

From: Premier David Burt [<mailto:dburt@gov.bm>]
Sent: Tuesday, January 8, 2019 4:58 PM
To: Simmons, Kathy (Attorney General); Caines, Wayne M .
Cc: *EXEMPT S. 23*
Subject: RE: Police Complaints Authority matter
Importance: High

Good Afternoon All.

This saga has been going on for far too long. Ministers, I want a definitive resolution for this issue by the end of the week.

If we can deal with matters relating to economic substance, and rush to complete things for persons who didn't support us, I cannot for the life of me understand why this is taking so long.

Let's get this done.

Regards,

Premier

From: *EXEMPT S. 23 + 35*

Sent: Tuesday, January 8, 2019 9:07 AM

To: Premier David Burt <dburt@gov.bm>, *EXEMPT S. 23*

Cc: Simmons, Kathy (Attorney General) <klsimmons@gov.bm>; *EXEMPT S. 23*

EXEMPT S. 23

Subject: FW: Police Complaints Authority matter

Good Morning Premier,

Can you please look into this matter. Something seems amiss.

EXEMPT S. 23

From: *EXEMPT S. 23 + 35*

Sent: Monday, January 7, 2019 4:41 PM

To: *EXEMPT S. 23 + 35*

Subject: RE: Police Complaints Authority matter

Your email was down earlier.

From: *EXEMPT S. 23 + 35*

Sent: Monday, January 07, 2019 7:48 AM

To: *EXEMPT S. 23 + 35*

Subject: FW: Police Complaints Authority matter

EXEMPT S. 23

As of today the 7th of January, the lawyers Government says it has instructed for the Police Complaints Authority still do not have instructions.

Kind regards

From: *EXEMPT S. 35*

Sent: Monday, January 07, 2019 7:36 AM

To: *EXEMPT S. 35*

Subject: RE: Police Complaints Authority matter

Apologies but I am still waiting for instructions from Bermuda. Will chase today and get back to you.

EXEMPT S. 35

exempt S. 35

From: exempt S. 35
Sent: 03 January 2019 10:29
To: exempt S. 35
Subject: RE: Police Complaints Authority matter

Certainly.

From: exempt S. 35
Sent: Thursday, January 03, 2019 10:28 AM
To: exempt S. 35
Subject: Re: Police Complaints Authority matter

Delroy am in meetings in London - can we speak tomorrow?
JWW

From: exempt S. 35
Date: Thu, 3 Jan 2019 14:12:28 +0000
To: exempt S. 35
Subject: Police Complaints Authority matter

Happy New Year

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Dublin-Swan, Denyelle

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Cc: ~~EXEMPT~~
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Good Day Premier

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I spoke with ~~EXEMPT~~ today he informed me that he has provided ~~EXEMPT~~ with everything that he needs.

I would have thought that after your email below which states, **"This saga has been going on for far too long. Ministers, I want a definitive resolution for this issue by the end of the week"**. The week has come and gone with no resolution.

~~EXEMPT~~ leaves for the privy council on Thursday and he was hoping to have this matter concluded before he leaves.

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From: Premier David Burt [mailto:dburt@gov.bm]
Sent: Tuesday, January 8, 2019 4:58 PM
To: Simmons, Kathv (Attorney General); Caines, Wayne M.
Cc: ~~EXEMPT~~
Subject: RE: Police Complaints Authority matter
Importance: High

Good Afternoon All,

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Let's get this done.

Regards,

Premier

From: ~~EXEMPT~~
Sent: Tuesday, January 8, 2019 9:07 AM

To: Premier David Burt <dburt@gov.bm>; *exempt*
Cc: Simmons, Kathy (Attorney General) <klsimmons@gov.bm>; *exempt*
Subject: FW: Police Complaints Authority matter

Good Morning Premier,

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exempt

From: *exempt*
Sent: Monday, January 7, 2019 4:41 PM
To: *exempt*
Subject: RE: Police Complaints Authority matter

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Sent: Monday, January 07, 2019 7:48 AM
To: *exempt*
Subject: FW: Police Complaints Authority matter

exempt

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Kind regards

From: *exempt*
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exempt

From: *exempt*
Sent: 03 January 2019 10:29
To: *exempt*
Subject: RE: Police Complaints Authority matter

Certainly.

From: *exempt*
Sent: Thursday, January 03, 2019 10:28 AM

To: ~~EXEMPT~~

Subject: Re: Police Complaints Authority matter

~~EXEMPT~~ am in meetings in London - can we speak tomorrow?

~~EXEMPT~~

From: ~~EXEMPT~~

Date: Thu, 3 Jan 2019 14:12:28 +0000

To: ~~EXEMPT~~

Subject: Police Complaints Authority matter

Happy New Year.

Any idea when we will settle the litigation, discontinue the action so my clients can get paid? I know you have just been instructed however my clients are really frustrated with the pace at which the settlement is moving.

Kind regards

Dublin-Swan, Denyelle

From: Dill-Francois, Shakira J.
Sent: Wednesday, January 16, 2019 3:25 PM
To: Anderson, Collin J.
Cc: Simmons, Kathy (Attorney General); O'Brien, Marva; Caines, Wayne M .
Subject: RE: Dec 2nd

Noted.

My understanding is that the engagement was to assist with litigation because the settlement negotiations fell through. However, I do not know if there has been any developments since my involvement regarding a settlement.

Also, I note that the engagement letter requires that you sign on behalf of the Police Complaints Authority; is the Chairman aware that you will be signing? It may be that you have already made him aware because he did advise on a previous occasion that he had no objection to the Ministry proceeding to assist with the case. However, I would suggest that he be kept abreast.

Regards,



Shakira J. Dill-Francois B.A, LL.B, LL.M

Deputy Solicitor General
Government of Bermuda | **Attorney-General's Chambers**
Global House, 4th Floor | 43 Church Street | Hamilton, Bermuda HM12

Extension: 1643

Direct Telephone: 441 297 7643 | Cell: 441 595 6767 | Email: sjdill@gov.bm

Attorney-General's Chambers Direct Line: 441 292 2463

www.gov.bm

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From: Anderson, Collin J.
Sent: Wednesday, January 16, 2019 12:10 PM
To: Dill-Francois, Shakira J. <sjdill@gov.bm>
Cc: Simmons, Kathy (Attorney General) <klsimmons@gov.bm>; O'Brien, Marva <mjobrien@gov.bm>; Caines, Wayne M . <wmcaines@gov.bm>
Subject: RE: Dec 2nd
Importance: High

Dear All:

I am in receipt of a letter of engagement from ~~EXOMST~~ as of yesterday.

We have reviewed it and have some suggested changes to clarify the terms. I have taken advice from Brian Myrie on the contractual aspects of this and from Tarita Cartwright on the budget matters. We have yet to identify budget with the

Ministry of National Security for this, but are hoping we can cut some operations to accommodate find funding. We are aware of the time sensitivity and high priority of this request.

I have on my task list today to call ~~exempt~~ to discuss some of the changed to the letter of engagement as I want to be clear on the scope of work. If the AG or others have any specific directions they can provide in terms of the scope of work, this would be greatly appreciated. **Specifically, is this engagement to cover the negotiation of the settlement with the protesters, litigation against complainants or both?**

Best regards,



Collin J. Anderson

Permanent Secretary
Government of Bermuda | **Ministry of National Security**
Church Street | Hamilton, Bermuda HM12

Telephone: 441 294 2799 | Mobile: 441 705 0439 |
Email: cjanderson@gov.bm | Website: www.gov.bm

From: Dill-Francois, Shakira J.

Sent: Wednesday, January 16, 2019 11:56 AM

To: Anderson, Collin J. <cjanderson@gov.bm>

Cc: Simmons, Kathy (Attorney General) <klsimmons@gov.bm>; O'Brien, Marva <mjobrien@gov.bm>; Caines, Wayne M . <wmcaines@gov.bm>

Subject: RE: Dec 2nd

Good day PS Anderson,

Further to the e-mail below, the AG has requested an update on this matter. Are you able to assist in this regard?

Regards,



Shakira J. Dill-Francois B.A, LL.B, LL.M

Deputy Solicitor General
Government of Bermuda | **Attorney-General's Chambers**
Global House, 4th Floor | 43 Church Street | Hamilton, Bermuda HM12

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From: ~~exempt~~

Sent: Tuesday, January 8, 2019 9:09 AM

To: Caines, Wayne M . <wmcaines@gov.bm>

Cc: Anderson, Collin J. <cjanderson@gov.bm>; Simmons, Kathy (Attorney General) <klsimmons@gov.bm>; Dill-Francois,

Shakira J. <sjdill@gov.bm>; O'Brien, Marva <mjobrien@gov.bm>

Subject: RE: Dec 2nd

Good morning Minister,

We are meeting with the Applicants' lawyer this week and I expect to have this closed before the end of this week.

Best,

Barclay

From: Caines, Wayne M. <wmcaines@gov.bm>

Sent: Tuesday, January 8, 2019 8:57 AM

To: Barclay Simmons <Barclay.Simmons@aswlaw.com>

Cc: Anderson, Collin J. <cjanderson@gov.bm>; Simmons, Kathy (Attorney General) <klsimmons@gov.bm>; Dill-Francois, Shakira J. <sjdill@gov.bm>; O'Brien, Marva <mjobrien@gov.bm>

Subject: Re: Dec 2nd

Hi Barclay ,

I need a status update please. We commence cabinet at 9:30 am

Sent from my iPad

On 17 Dec 2018, at 5:48 PM, Barclay Simmons <Barclay.Simmons@aswlaw.com> wrote:

Minister,

The responsibility is with us. We are clearing conflicts and two of our key potential counsel on this matter have been otherwise booked for the day. I will have a response in the morning.

Best,

Barclay

From: Caines, Wayne M. <wmcaines@gov.bm>

Sent: Monday, December 17, 2018 4:56 PM

To: Barclay Simmons <Barclay.Simmons@aswlaw.com>

Cc: Anderson, Collin J. <cjanderson@gov.bm>; Simmons, Kathy (Attorney General) <klsimmons@gov.bm>; Dill-Francois, Shakira J. <sjdill@gov.bm>; O'Brien, Marva <mjobrien@gov.bm>

Subject: RE: Dec 2nd

All,

This Matter is a priority.. Has there been any movement today ? The Premier has asked that this Matter be resolved before Christmas

WC

From: Caines, Wayne M. .

Sent: Friday, December 14, 2018 3:34 PM

To: 'Barclay.Simmons@aswlaw.com' <Barclay.Simmons@aswlaw.com>

Cc: Anderson, Collin J. <cjanderson@gov.bm>; Simmons, Kathy (Attorney General) <klsimmons@gov.bm>; Dill-Francois, Shakira J. <sjdill@gov.bm>

Subject: Dec 2nd

EXEMPT

Please be advised that we like to instruct your Chambers with reference to a Matter. I have included PS Anderson who will make sure you are properly instructed. Can you please reach out to him separately to discuss.

After you are properly instructed, you will receive a brief and next steps from the Deputy Solicitor General Mrs Dill Francios.

Time is of the essence, we to have this Matter advanced as Priority.

WC

The Honourable Wayne M. Caines JP, MP

Minister of National Security

Email: wmcaines@gov.bm

General Government Number (441) 2955151 ext 1276

Office Telephone: Direct Dial (441) 2949208

Cellular Phone: (441) *EXEMPT*

Email secured by Check Point

Dublin-Swan, Denyelle

From: exempt
Sent: Tuesday, January 15, 2019 12:37 PM
To: Caines, Wayne M .; Anderson, Collin J.
Cc: exempt
Subject: Protests at House of Assembly, Civil Jurisdiction 2018: No 25, exempt et al v The Police Complaints Authority
Attachments: SCASL19011513020.pdf

Good day Minister and Permanent Secretary,

We have reviewed the documents and correspondence on the behalf of the Police Complaints Authority and can confirm that the terms of the draft settlement will effectively bring the claims to an end. We are happy to assist in the event the outstanding claim bought by exempt is made live again.

Due to the urgency of the advice we have also attached our engagement letter for your signature and will send an invoice to you in due course.

With kind regards,

exempt

Email secured by Check Point

15 January 2019

Our ref: 1784-001

PRIVILEGED & CONFIDENTIAL

The Police Complaints Authority
c/o The Ministry of National Security
Global House, Ground Floor
43 Church Street
Hamilton HM 12
Bermuda

Attention: Permanent Secretary Colin Anderson

Dear PS Anderson,

**Re: Protests at House of Assembly
Civil Jurisdiction 2018: No 25
Winnae Wales et al v The Police Complaints Authority**

You have retained our firm to act on the behalf of The Police Complaints Authority in their defence of a claim in the above captioned Bermuda proceedings.

We are pleased to accept this retainer. The purpose of this letter is to summarise and confirm the terms of our retainer, including the nature and scope of our work and the arrangements regarding our fees. The Bermuda Government will be solely responsible for the payment of our fees.

Nature and Scope of Work

We anticipate that our representation will involve taking the following steps on your behalf:

1. Review of all relevant background documentation, including your client retainer, advice given, correspondence, judgments made etc.
2. Legal research and analysis of the claim.
3. Providing legal advice to you on the terms of settlement.

At this time, we have not been retained to represent The Police Complaints Authority generally or in connection with any other matter.

Project Team and Fees

It is anticipated that our work will be performed by a project team consisting of the following attorneys whose current time charges are noted below:

Name	Area of Responsibility	Hourly Rate
Jan W Woloniecki	Legal advice and advocacy	Bda\$650
Barclay Simmons	Legal Advice	Bda\$550
	General paralegal assistance	Bda\$150

These hourly rates may be modified from time to time to reflect changes in the experience and expertise of the persons concerned. We will notify you of changes in hourly rates but no changes are anticipated at this time.

Statements of account will be sent to you monthly until completion of the transaction or earlier termination of our retainer. Interim bills may be rendered from time to time.

Disbursements

You will be responsible for reimbursing us for disbursements made on your behalf. Such disbursements include expenses of long distance telephone calls, faxes, deliveries, travel expenses and photocopying, the fees of agents who conduct investigations, searches and registrations, and all other reasonable out-of-pocket expenses. If we are obliged to incur additional expense for staff overtime on evenings or weekends in order to meet deadlines fixed by you, the overtime charges will be charged to you as a disbursement.

We will not be obliged to advance on your behalf the cost of substantial disbursements. In such instances, we will instruct the person providing the service to bill you directly, or we will request payment in advance of the disbursement from you.

Payment of Accounts

Payment of each statement of account, whether for both fees and disbursements or for disbursements alone, is due when the statement of account is rendered. Interest accrues at the rate of 1.5% per month on the balance of any account that remains unpaid 30 days after the date of the statement of account.

Termination of Legal Services

At all times you have the right, with or without cause, to terminate our services upon written notice to that effect and all material belonging to you will be released to you upon payment in full of all outstanding accounts. We may retain copies.

Subject to the fulfilment of our obligations to maintain proper standards of professional conduct, we reserve the right to terminate our services at any time, with or without cause, upon written notice to that effect, and we shall withdraw in the following circumstances:

- (a) if you fail to cooperate with us in any reasonable request;
- (b) if it would be unethical or impractical for us to continue to act;
- (c) if you fail to pay our accounts when rendered.

Jurisdiction

This agreement shall be governed and construed in accordance with Bermuda law.

For our benefit, you agree that the Bermuda courts shall have jurisdiction to settle any dispute under this agreement, and you irrevocably submit to the jurisdiction of the Bermuda courts for such purpose. Our firm shall also be entitled to take proceedings in connection with this agreement in any other court of competent jurisdiction.

Agreement

If you wish to proceed on the basis described above, please sign the enclosed copy of this letter in the space provided and return it to us at your earliest convenience.

Yours faithfully,
ASW Law Limited

ASW Law Limited
Barclay Simmons

AGREED to this day of January 2019

Per: _____
Authorised signatory, on behalf of The Police Complaints Authority

Name:
Title By:

Dublin-Swan, Denyelle

From: Caines, Wayne M .
Sent: Tuesday, January 8, 2019 5:09 PM
To: ~~EXEMPT~~ ; Premier David Burt; Simmons, Kathy (Attorney General)
Cc: ~~EXEMPT~~
Subject: RE: Police Complaints Authority matter (Without Prejudice)

~~EXEMPT~~.

As per our recent conversation in the AG's Chambers, this matter is progressing. The Government has secured the services of ASWLAW, they will meet with Delroy Duncan in the next two days to advance our plan. I know this process is long winded and frustrating, we are equally anxious to have this matter concluded.

I appreciate your patience.

WC

From: ~~EXEMPT~~
Sent: Tuesday, January 8, 2019 4:44 PM
To: Premier David Burt <dburt@gov.bm>; Simmons, Kathy (Attorney General) <ksimmons@gov.bm>; Caines, Wayne M . <wmcaines@gov.bm>
Cc: ~~EXEMPT~~
Subject: RE: Police Complaints Authority matter

Thank you Premier. I can tell you that I'm beginning to wonder if those people who supported that PLP at the last election even matter anymore. I'm pretty much fed up with this situation and the non-response to numerous e-mails. Lest we forget December 21, 2012.

~~EXEMPT~~

From: Premier David Burt [mailto:dburt@gov.bm]
Sent: Tuesday, January 8, 2019 4:58 PM
To: Simmons, Kathy (Attorney General); Caines, Wayne M .
Cc: ~~EXEMPT~~
Subject: RE: Police Complaints Authority matter
Importance: High

Good Afternoon All.

This saga has been going on for far too long. Ministers, I want a definitive resolution for this issue by the end of the week.

If we can deal with matters relating to economic substance, and rush to complete things for persons who didn't support us, I cannot for the life of me understand why this is taking so long.

Let's get this done.

Regards,

Premier

From: ~~exempt~~
Sent: Tuesday, January 8, 2019 9:07 AM
To: Premier David Burt <dburt@gov.bm>; ~~exempt~~
Cc: Simmons, Kathy (Attorney General) <klsimmons@gov.bm>; ~~exempt~~
Subject: FW: Police Complaints Authority matter

Good Morning Premier,

Can you please look into this matter. Something seems amiss.

~~exempt~~

From: ~~exempt~~
Sent: Monday, January 7, 2019 4:41 PM
To: ~~exempt~~
Subject: RE: Police Complaints Authority matter

Your email was down earlier.

From: ~~exempt~~
Sent: Monday, January 07, 2019 7:48 AM
To: ~~exempt~~
Subject: FW: Police Complaints Authority matter

~~exempt~~

As of today the 7th of January, the lawyers Government says it has instructed for the Police Complaints Authority still do not have instructions.

Kind regards

From: ~~exempt~~
Sent: Monday, January 07, 2019 7:36 AM
To: ~~exempt~~
Subject: RE: Police Complaints Authority matter

Apologies but I am still waiting for instructions from Bermuda. Will chase today and get back to you.

~~exempt~~

From: ~~exempt~~
Sent: 03 January 2019 10:29

To: ~~EXEMPT~~

Subject: RE: Police Complaints Authority matter

Certainly.

From: ~~EXEMPT~~

Sent: Thursday, January 03, 2019 10:28 AM

To: ~~EXEMPT~~

Subject: Re: Police Complaints Authority matter

~~EXEMPT~~ am in meetings in London - can we speak tomorrow?

~~EXEMPT~~

From: ~~EXEMPT~~

Date: Thu, 3 Jan 2019 14:12:28 +0000

To: ~~EXEMPT~~

Subject: Police Complaints Authority matter

Happy New Year

Any idea when we will settle the litigation, discontinue the action so my clients can get paid? I know you have just been instructed however my clients are really frustrated with the pace at which the settlement is moving.

Kind regards

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Sent: 03 January 2019 10:29
To: ~~exempt~~ >
Subject: RE: Police Complaints Authority matter

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Sent: Thursday, January 03, 2019 10:28 AM
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Subject: Re: Police Complaints Authority matter

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~~exempt~~

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Date: Thu, 3 Jan 2019 14:12:28 +0000
To: ~~exempt~~
Subject: Police Complaints Authority matter

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Dublin-Swan, Denyelle

From: Premier David Burt
Sent: Tuesday, January 8, 2019 4:58 PM
To: Simmons, Kathy (Attorney General); Caines, Wayne M.
Cc: *Exempt*
Subject: RE: Police Complaints Authority matter

Importance: High

Good Afternoon All.

This saga has been going on for far too long. Ministers, I want a definitive resolution for this issue by the end of the week.

If we can deal with matters relating to economic substance, and rush to complete things for persons who didn't support us, I cannot for the life of me understand why this is taking so long.

Let's get this done.

Regards,

Premier

From: *Exempt*
Sent: Tuesday, January 8, 2019 9:07 AM
To: Premier David Burt <dburt@gov.bm>; *Exempt*
Cc: Simmons, Kathy (Attorney General) <klsimmons@gov.bm>; *Exempt*
Subject: FW: Police Complaints Authority matter

Good Morning Premier,

Can you please look into this matter. Something seems amiss.

Exempt

From: *Exempt*
Sent: Monday, January 7, 2019 4:41 PM
To: *Exempt*
Subject: RE: Police Complaints Authority matter

Your email was down earlier.

From: *Exempt*
Sent: Monday, January 07, 2019 7:48 AM
To: *Exempt*
Subject: FW: Police Complaints Authority matter

Exempt

Dublin-Swan, Denyelle

From: Simmons, Kathy (Attorney General)
Sent: Monday, October 8, 2018 1:05 PM
To: Premier David Burt
Cc: Caines, Wayne M .
Subject: Re: Wales et al v The Police Complaints Authority

Noted Premier. Minister Caines and I will discuss.

Regards,

A-G

Sent from my iPhone

On 8 Oct 2018, at 11:16 AM, Premier David Burt <dburt@gov.bm> wrote:

Good Morning Minister & AG.

Please note below.

<18.10.08 TD Letter to the Premier.pdf> ★ LETTER EXEMPT S. 26 & 35

Dublin-Swan, Denyelle

From: Premier David Burt
Sent: Tuesday, August 21, 2018 8:02 AM
To: Caines, Wayne M.; Simmons, Kathy (Attorney General)
Subject: Update on settlement

Good Morning AG & Minister,

I will ask for an update on this matter during Matters arising so that colleagues can be informed of progress

Premier

Honourable E. David Burt, JP, MP
Premier + Minister of Finance
Government of Bermuda
105 Front Street | Hamilton HM 12 | Bermuda
Phone: 441 292-5501

Dublin-Swan, Denyelle

From: Knight, Samantha
Sent: Friday, August 17, 2018 2:45 PM
To: Simmons, Kathy (Attorney General)
Cc: Smith, Allan Wayne; Caines, Wayne M.; DelValle, Kristina
Subject: RE: Meeting with ~~EXEMPT~~

Good day AG,

Minister Caines is back in office and would like to meet with you at 3:30pm in his office to discuss your strategy for the meeting at 4pm.

Please let me know if you are available.

Thank you and kind regards,

Samantha



Samantha M. Knight, MSc

Operations Consultant and
Attache' to the Minister of National Security
Government of Bermuda | **Ministry of National Security**
Global House | 43 Church Street | Hamilton, Bermuda HM 12

Direct Telephone: 441 294 9283 Email: sknight2@gov.bm
Ministry of National Security | Direct Line: 441 297 7819
www.gov.bm

From: Simmons, Kathy (Attorney General)
Sent: Friday, August 17, 2018 9:17 AM
To: Knight, Samantha <sknight2@gov.bm>
Cc: Smith, Allan Wayne <awbsmith@gov.bm>; Caines, Wayne M. <wmcaines@gov.bm>
Subject: Re: Meeting with ~~EXEMPT~~

Thank you for your prompt response.

Please have the Minister contact me when he is in office.

Regards,

A-G

Sent from my iPhone

On 17 Aug 2018, at 9:10 AM, Knight, Samantha <sknight2@gov.bm> wrote:

Good morning AG,

Yes, I just got off the phone with ~~Exonut~~ and ~~Exonut~~ will meet with you and the Minister at 4pm in the National Security HQ.

Please let me know if I can be of further assistance.

Kind regards,

Samantha

From: Simmons, Kathy (Attorney General)

Sent: Friday, August 17, 2018 9:04 AM

To: Knight, Samantha <sknight2@gov.bm>; Smith, Allan Wayne <awbsmith@gov.bm>

Subject: Re: Meeting with ~~Exonut~~

Good morning Samantha,

Please advise whether ~~Exonut~~ has confirmed the availability of ~~Exonut~~ to meet at 4pm today.

Regards,

A-G

Sent from my iPhone

On 16 Aug 2018, at 5:29 PM, Knight, Samantha <sknight2@gov.bm> wrote:

Good day ~~Exonut~~ t,

Unfortunately, Minister Caines is flying back to Bermuda tomorrow will not be on island until tomorrow afternoon. The earliest available time that he and AG Simmons can both meet with ~~Exonut~~ is 4pm tomorrow.

Please confirm that all parties are available to meet at this time. If not, the meeting will have to be rescheduled for next week.

I apologize for any inconvenience this may have caused.

Thank you and kind regards,

Samantha

<image001.jpg>

Samantha M. Knight, MSc

Operations Consultant and
Attache' to the Minister of National Security
Government of Bermuda | **Ministry of National Security**
Global House | 43 Church Street | Hamilton, Bermuda HM 12

Direct Telephone: 441 294 9283 Email: sknight2@gov.bm
Ministry of National Security | Direct Line: 441 297 7819
www.gov.bm

From: ~~exempt~~
Sent: Thursday, August 16, 2018 4:22 PM
To: Knight, Samantha <sknight2@gov.bm>; Hayward, Jean-Ann M. <jamhayward@gov.bm>
Cc: DelValle, Kristina <kdelvall@gov.bm>; Jeffers, Karen R. <krjeffers@gov.bm>
Subject: RE: Meeting with ~~exempt~~

Thank you Ms. Knight.

~~exempt~~ will be accompanied by Lawyer ~~exempt~~ and ~~exempt~~
~~exempt~~

From: Knight, Samantha [<mailto:sknight2@gov.bm>]
Sent: Thursday, August 16, 2018 4:08 PM
To: ~~exempt~~; Hayward, Jean-Ann M.
Cc: DelValle, Kristina; Jeffers, Karen R.
Subject: RE: Meeting with ~~exempt~~

Good day ~~exempt~~,

Minister Caines and AG Simmons are available to meet tomorrow at 11am at the Ministry of National Security Headquarters, 3rd Floor Global House.

I will wait for your response to confirm.

Thank you and kind regards,

Samantha

<image001.jpg> **Samantha M. Knight, MSc**
Operations Consultant and
Attache' to the Minister of National Security
Government of Bermuda | **Ministry of National Security**
Global House | 43 Church Street | Hamilton, Bermuda HM 12

Direct Telephone: 441 294 9283 Email: sknight2@gov.bm
Ministry of National Security | Direct Line: 441 297 7819
www.gov.bm

From: ~~exempt~~
Sent: Thursday, August 16, 2018 2:10 PM
To: Hayward, Jean-Ann M. <jamhayward@gov.bm>
Cc: Knight, Samantha <sknight2@gov.bm>; DelValle, Kristina <kdelvall@gov.bm>;

Jeffers, Karen R. <kjeffers@gov.bm>

Subject: RE: Meeting with ~~exempt~~

Thank you Ms. Hayward. I didn't contact you because I thought you were still out of office.

Hopefully the meeting can be scheduled for tomorrow morning as ~~exempt~~ has called a meeting with those persons who were pepper-sprayed for tomorrow afternoon.

~~exempt~~

From: Hayward, Jean-Ann M. [<mailto:jamhayward@gov.bm>]

Sent: Thursday, August 16, 2018 2:00 PM

To: ~~exempt~~

Cc: Knight, Samantha; DelValle, Kristina; Jeffers, Karen R.

Subject: Meeting with ~~exempt~~

Good Afternoon ~~exempt~~ ,

Owen spoke with the Premier regarding ~~exempt~~ request to meet with him to discuss the 'pepper spray incident'. The Premier has requested that ~~exempt~~ meet with the Hon. Wayne Caines, JP, MP and the Attorney General as they are the ones dealing with the matter.

I have included their assistants on this e-mail so that this can be scheduled with them.

Regards,

<image002.jpg> **Jean-Ann Hayward, MSW**
Special Aide to the Premier
Government of Bermuda | **The Cabinet Office**
105 Front Street | Hamilton HM 12 | Bermuda
Direct: 441 294-0470
Cell: 441 707-0360
Email: jamhayward@gov.bm

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Dublin-Swan, Denyelle

From: Knight, Samantha
Sent: Thursday, August 16, 2018 3:49 PM
To: Caines, Wayne M.
Subject: RE: Meeting with ~~exempt~~

Waiting to hear back from her assistant.

From: Caines, Wayne M.
Sent: Thursday, August 16, 2018 3:44 PM
To: Knight, Samantha <sknight2@gov.bm>
Subject: Re: Meeting with ~~exempt~~

Hi Sam,

Let me know when the AG is available.

The Hon Wayne M. Caines JP MP
Minister of National Security
The Government of Bermuda (441) 7048900

On Aug 16, 2018, at 1:55 PM, Knight, Samantha <sknight2@gov.bm> wrote:

Minister,

I can schedule this for 9:30, but I vaguely remember you saying you didn't want to meet with them anymore. I could be mistaken though.

Let me know how to proceed.

Sam

From: ~~exempt~~
Sent: Thursday, August 16, 2018 2:10 PM
To: Hayward, Jean-Ann M. <jamhayward@gov.bm>
Cc: Knight, Samantha <sknight2@gov.bm>; DelValle, Kristina <kdelvall@gov.bm>; Jeffers, Karen R. <krjeffers@gov.bm>
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Thank you Ms. Hayward. I didn't contact you because I thought you were still out of office.

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~~exempt~~

From: Hayward, Jean-Ann M. [<mailto:jamhayward@gov.bm>]
Sent: Thursday, August 16, 2018 2:00 PM
To: ~~exempt~~

Cc: Knight, Samantha; DelValle, Kristina; Jeffers, Karen R.

Subject: Meeting with *exempt*

Good Afternoon *exempt* ,

Owen spoke with the Premier regarding *exempt* request to meet with him to discuss the 'pepper spray incident'. The Premier has requested that *exempt* meet with the Hon. Wayne Caines, JP, MP and the Attorney General as they are the ones dealing with the matter.

I have included their assistants on this e-mail so that this can be scheduled with them.

Regards,

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Cell: 441 707-0360
Email: jamhayward@gov.bm

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Dublin-Swan, Denyelle

From: Dill-Francois, Shakira J.
Sent: Thursday, August 16, 2018 3:55 PM
To: Simmons, Kathy (Attorney General); Caines, Wayne M.
Cc: Smith, Allan Wayne; Douglas, Melvin
Subject: RE: Pepper-spray matter

Good day,

Further to my earlier e-mail, at the request of the Attorney-General I will proceed to outline the pros and cons of settling the pepper-spray case if not all person agree to the settlement.

As you are aware, the settlement agreements have been drafted and ~~exempt~~ is in the process of having his client's sign them. However 1 client, ~~exempt~~ is seeking to increase his payment and is currently "holding out" by not signing.

~~exempt~~ is requesting that the settlement proceed with the 27 persons who are willing to sign.

IF WE SIGN

If we proceed to sign the 27 agreements, the case would conclude against the 27, but it would still remain active in relation to 1 person. This would somewhat defeat the purpose of the agreement as the matter would not be concluded. Additionally, there is a risk that the existence of the agreements would be publicized, either by ~~exempt~~ or by the fact that the other 27 persons who were party to the proceedings are no longer participating allowing the inference to be drawn (although the inference can also be drawn that the 27 persons no longer thought that it was a viable case to proceed with).

~~exempt~~ has indicated that ~~exempt~~ will not have the support of the Union, will not have his support and will not have the funding to continue. This is a plus, but the PCA would still need to engage an independent counsel to proceed with the matter, thereby incurring costs, and the Judicial Review would proceed accordingly.

IF WE DO NOT SIGN

If we do not sign with the 27 persons willing to sign, then the matter would be forced to proceed to court; this would include all persons on the application, ~~exempt~~ as the attorney and the union as support. The offer of settlement should remain confidential and should not be disclosed to the court, as the agreements were made on a without prejudice basis.

The PCA would still need to engage independent counsel to proceed with the matter on its behalf and the Judicial Review application would proceed accordingly.

Based on the aforementioned, can you kindly advise how you wish to proceed.

Regards,



Shakira J. Dill-Francois B.A, LL.B, LL.M

Deputy Solicitor General
Government of Bermuda | **Attorney-General's Chambers**
Global House, 4th Floor | 43 Church Street | Hamilton, Bermuda HM12

Extension: 1643
Direct Telephone: 441 297 7643 | Cell: 441 595 6767 | Email: sjdill@gov.bm
Attorney-General's Chambers Direct Line: 441 292 2463
www.gov.bm

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From: Dill-Francois, Shakira J.
Sent: Thursday, August 16, 2018 10:51 AM
To: Simmons, Kathy (Attorney General); Caines, Wayne M .
Cc: Smith, Allan Wayne; Douglas, Melvin
Subject: RE: Pepper-spray matter

Good day Ministers,

Further to my e-mail below, please note that ~~Exempt~~ has asked whether the decision can be reconsidered. Apparently ~~Exempt~~ has taken advise from ~~Exempt~~ and is seeking more money. ~~Exempt~~ has indicated that ~~Exempt~~ will not have the support of the Union, will not have his support and will not have the funding to continue. In their view it would be unfortunate for the others to suffer for one person especially because they do not believe he will make much headway.

~~Exempt~~ is asking one more time for us to reconsider, failing which he will request that the matter be put back before the Court. If the decision remains, I will advise him accordingly.

Kindly advise how you wish to proceed.

Regards,



Shakira J. Dill-Francois B.A, LL.B, LL.M
Deputy Solicitor General
Government of Bermuda | **Attorney-General's Chambers**
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From: Simmons, Kathy (Attorney General)
Sent: Wednesday, August 15, 2018 5:48 PM
To: Caines, Wayne M .
Cc: Dill-Francois, Shakira J.; Smith, Allan Wayne; Douglas, Melvin
Subject: Re: Pepper-spray matter

Agreed.

A-G

Senator the Hon. Kathy Lynn Simmons, JP
ATTORNEY-GENERAL and MINISTER OF LEGAL AFFAIRS
Global House, 4th Floor
43 Church Street
Hamilton, HM 12
Bermuda
Telephone: 441.292.2463 E-mail: ksimmons@gov.bm

On 15 Aug 2018, at 5:42 PM, Caines, Wayne M . <wmcaines@gov.bm> wrote:

My DSG,

This settlement is in full and final settlement for all outstanding matters.

~~Exempt~~ stance will affect everyone.

Not one penny is to be given until everyone was signed.

The management of the process belongs to them.

We will not be dealing with people on an individual basis. They did not approach individually.

I suspect the others will ensure ~~exempt~~ gets into lockstep

WC

The Hon Wayne M. Caines JP MP
Minister of National Security
The Government of Bermuda (441) 7048900

On Aug 15, 2018, at 1:59 PM, Dill-Francois, Shakira J. <sidill@gov.bm> wrote:

Good day Minister & PS,

I just got off the phone with ~~Exempt~~. Basically there is the possibility that one of the Applicants (~~Exempt~~) could hold out in signing the agreement; the others have begun to sign but he is saying that he needs to still look at it.

My view is that if they do not all agree, then this could potentially affect the whole settlement as the action would still be before the court.

~~Exempt~~ is asking what our position is in this respect; would we still proceed with the payout for the 27 that agree, or would the agreement be off if 1 does not agree.

Apparently the union may call another meeting with regard to this issue and would like to know what the Ministry's position is.

Can you please advise? I am free to discuss further if need be.

Regards,

<image001.jpg>

Shakira J. Dill-Francois B.A, LL.B, LL.M

Deputy Solicitor General

Government of Bermuda | **Attorney-General's Chambers**

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Dublin-Swan, Denyelle

From: Smith, Allan Wayne
Sent: Wednesday, August 8, 2018 5:18 PM
To: Caines, Wayne M.; Dill-Francois, Shakira J.
Cc: Simmons, Kathy (Attorney General); Douglas, Melvin
Subject: RE: Civil Jurisdiction 2018 : No 25 - Wales et al v Police Complaints Authority

Noted with thanks.

From: Caines, Wayne M.
Sent: Wednesday, August 8, 2018 5:17 PM
To: Dill-Francois, Shakira J. <sjdill@gov.bm>
Cc: Smith, Allan Wayne <awbsmith@gov.bm>; Simmons, Kathy (Attorney General) <ksimmons@gov.bm>; Douglas, Melvin <mdouglas@gov.bm>
Subject: Re: Civil Jurisdiction 2018 : No 25 - Wales et al v Police Complaints Authority

Thank you

The Hon Wayne M. Caines JP MP
Minister of National Security
The Government of Bermuda (441) 7048900

On Aug 8, 2018, at 1:05 PM, Dill-Francois, Shakira J. <sjdill@gov.bm> wrote:

Good day Minister & A/PS,

Please see the e-mail below regarding the delisting of the pepper-spray matter which was due to be heard tomorrow; the matter has been relisted for next week Thursday.

I will be in contact with A/PS Smith later this afternoon or tomorrow morning to finalise the agreements.

Regards,

<image003.jpg> **Shakira J. Dill-Francois B.A, LL.B, LL.M**
Deputy Solicitor General
Government of Bermuda | **Attorney-General's Chambers**
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From: Wheatley, Alexandra N. **On Behalf Of** Supreme Court
Sent: Wednesday, August 8, 2018 12:48 PM
To: ~~EXEMPT~~
Cc: ~~EXEMPT~~ ; Dill-Francois, Shakira J.; Supreme Court
Subject: RE: Civil Jurisdiction 2018 : No 25 - Wales et al v Police Complaints Authority

Good day Counsel,

I refer to your e-mail below.

The matter has been relisted as requested.

Please note that moving forward the requisite forms must be filed for the relisting of a matter.

Best regards,

<image001.png> **Alexandra Wheatley**
ACTING REGISTRAR FOR THE COURTS OF BERMUDA
GOVERNMENT ADMINISTRATION BUILDING 2ND FLOOR
30 Parliament Street | Hamilton, Bermuda HM 12

anwheatley@gov.bm / www.gov.bm

Tel: 441 2921350

Save paper. Think before you print.

This correspondence is eligible for exemption from disclosure under the Public Access to Information Act 2010. As such, please notify our department's PATI Officer should any request be made under that Act for disclosure which would concern this document.

From: ~~EXEMPT~~
Sent: Wednesday, August 08, 2018 12:17 PM
To: Supreme Court
Cc: ~~EXEMPT~~ ; Dill-Francois, Shakira J.
Subject: FW: Civil Jurisdiction 2018 : No 25 - Wales et al v Police Complaints Authority

Good day

We write once again with respect to the above matter.

The parties are very close to concluding a settlement and require a further 7 days to bring same to conclusion. In the circumstances, we respectfully request that this matter once again be delisted for Thursday 9 August 2018 and relisted for the following Thursday, that is 16 August 2018, if indeed that date is available to the Court.

We apologise for any inconvenience caused and look forward to the new mention date.

Thank you for your ongoing assistance.

Yours sincerely

~~EXEMPT~~

<image002.jpg>

~~EXEMPT~~

From: Chico, Fatima [<mailto:fchico@gov.bm>] **On Behalf Of** Supreme Court
Sent: Thursday, June 28, 2018 10:02 AM
To: ~~EXEMPT~~ Supreme Court
Cc: ~~EXEMPT~~
Subject: RE: Civil Jurisdiction 2018 : No 25 - Wales et al v Police Complaints Authority

Good Day,

This email refers to the above matter which was scheduled for Thursday, June 28th at 9:30am has been **delisted**. I do want to note that we are unable to accommodate Thursday, July 19th. The earliest date is Thursday, August 9th. May you please confirm this a mutually agreed date.

Regards,
F. Chico

From: ~~EXEMPT~~
Sent: 27 June, 2018 4:26 PM
To: Supreme Court
Cc: ~~EXEMPT~~
Subject: RE: Civil Jurisdiction 2018 : No 25 - Wales et al v Police Complaints Authority
Importance: High

Good day

We refer to this matter once again, and write to request that the matter be delisted again for Thursday 28 June 2018 for a three week period, that is, until 19 July 2018.

We apologise for any inconvenience, and look forward to receipt of confirmation of the relisted hearing date.

We have not attached delist and relist forms, but if you require them, we shall provide same.

Thank you for your assistance.

Kind regards

exempt

From: Chico, Fatima [<mailto:fchico@gov.bm>] **On Behalf Of** Supreme Court

Sent: Thursday, June 07, 2018 4:21 PM

To: *exempt* ; Supreme Court <supremecourt@gov.bm>

Cc: *exempt*

exempt

Subject: RE: Civil Jurisdiction 2018 : No 25 - Wales et al v Police Complaints Authority

Good Day,

This email refers to the above matter which was scheduled for Thursday, June 7th at 9:30am has been **delisted** and **relisted** for **Thursday, June 28th at 9:30am**.

Please acknowledge receipt of this email.

Regards,

F. Chico

From: *exempt*

Sent: 06 June, 2018 4:40 PM

To: Supreme Court

Cc: *exempt*

Subject: Civil Jurisdiction 2018 : No 25 - Wales et al v Police Complaints Authority

Dear Madam Registrar

We write to respectfully request that the mention of this matter for tomorrow, 7 June 2017 at 9:30 am be delisted for a period of three weeks. In that regard, we attach a Delist Form.

We would be most grateful if the matter could be relisted for Thursday 28 June 2018 and enclose a Form 31 TC.

We look forward to hearing from you and thank you for your assistance in this matter.

Yours sincerely

<image002.jpg>

exempt

Exhibit

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Dublin-Swan, Denyelle

From: Dill-Francois, Shakira J.
Sent: Monday, August 6, 2018 5:29 PM
To: Caines, Wayne M.
Cc: Simmons, Kathy (Attorney General); Douglas, Melvin
Subject: Pepper-spray incident (Cabinet Conclusion)

Good day Minister,

We write further to the above captioned. The Cabinet Conclusion in relation to the Settlement Payment to Trott & Duncan refers to payments for "any existing or future claims against the Government".

As such, it may be beneficial for Cabinet to take note that the settlement will also be in relation to any existing or future claims against the Police Complaints Authority and any Police Officers involved in the incident.

You may wish to advise Cabinet of same.

Regards,



Shakira J. Dill-Francois B.A, LL.B, LL.M

Deputy Solicitor General
Government of Bermuda | **Attorney-General's Chambers**
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Dublin-Swan, Denyelle

From: Dill-Francois, Shakira J.
Sent: Monday, August 6, 2018 11:15 AM
To: Caines, Wayne M.
Cc: Simmons, Kathy (Attorney General); Douglas, Melvin; Premier David Burt
Subject: RE: Confidential Settlement and Release Agreement for pepper-spray incident

Good day Minister,

I am just following up on this matter. There is a concern about the pending court hearing on Thursday, as such can you kindly advise when you will be available to discuss this matter further.

Regards,



Shakira J. Dill-Francois B.A, LL.B, LL.M
Deputy Solicitor General
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From: Dill-Francois, Shakira J.
Sent: Wednesday, August 1, 2018 11:21 AM
To: Caines, Wayne M.
Cc: Simmons, Kathy (Attorney General); Douglas, Melvin; Premier David Burt
Subject: RE: Confidential Settlement and Release Agreement for pepper-spray incident
Importance: High

Good day Minister Caines,

We write further to the above captioned.

As you may be aware, a concern was raised by Chambers regarding the settlement arrangement for the pepper-spray incident. The issue was that the Originating Motion contained 23 Applicants, though the instructions received was that the settlement was in relation to 28 persons. Further, there was no information on file to show that the 5 additional persons had been adversely affected by the incident or that they were even making a claim against the Government.

Since that concern was raised, I liaised with ~~exemplar~~ and obtained the necessary information and documentation for these 5 persons. As a result, I have attached the final draft of the settlement agreement (the wording will change slightly for the 5 persons who are not part of the court action). The agreement as drafted

requires the signature of the PS of National Security, but I have not interacted with him in this regard; can I please confirm that this is still the intention?

As the agreement is between the Ministry of National Security and the Applicants, it is our view that the PS of National Security should sign, although we understand the funds to be coming from the contingencies fund which is managed by the FS.

The Applicants wish for the payments to be made on an urgent basis and as a result ~~Exempt~~ has contacted me seeking an estimated payment date. Additionally, ~~Exempt~~ contacted Chambers on Tuesday enquiring about settlement payments. Initially it was thought that ~~Exempt~~ was an additional claimant seeking payment, but it has since been confirmed that he is in fact one of the current Applicants.

Also, please note that ~~Exempt~~ has advised that this matter will be mentioned in the Supreme Court on Thursday 9th August. As such, can you kindly advise if the intention is to settle the matter before this date, as this is not a matter that Chambers had originally appeared in due to the fact that we do not appear on behalf of the Police Complaints Authority. ~~Exempt~~ had requested that I return ~~Exempt~~ call regarding the estimated date of payment and the court hearing date, but I thought it best to obtain instructions before doing so.

I look forward to your response and please note that I have copied the Premier to this e-mail on the instructions of the AG.

Regards,



Shakira J. Dill-Francois B.A, LL.B, LL.M

Deputy Solicitor General

Government of Bermuda | **Attorney-General's Chambers**

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Dublin-Swan, Denyelle

From: Dill-Francois, Shakira J.
Sent: Monday, July 30, 2018 2:01 PM
To: Caines, Wayne M.
Cc: Simmons, Kathy (Attorney General); Douglas, Melvin; Manders, Anthony
Subject: Re: Confidential Settlement and Release Agreement for pepper-spray incident

Good day Minister Caines

Please note that I spoke with ~~exempt~~ and he provided me with the additional information requested.

In this regard I have copied FS Manders as he will be required to approve the payment as the funds are due to be paid from the contingencies fund.

~~exempt~~ has requested that the funds be paid on an urgent basis however I note that the FS is out of office until after the holiday.

In any event I will complete the settlement documents and have them delivered to ~~exempt~~ office for signature.

Please do not hesitate to contact me should you have any further queries.

Regards,

Shakira J. Dill-Francois B.A, LL.B, LL.M
Deputy Solicitor General
Government of Bermuda | Attorney-General's Chambers
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Direct Telephone: 441 297 7643 | Cell: 441 595 6767 | Email: sjdill@gov.bm
Attorney-General's Chambers Direct Line: 441 292 2463
www.gov.bm

Sent from my BlackBerry 10 smartphone.

Dublin-Swan, Denyelle

From: Dill-Francois, Shakira J.
Sent: Friday, July 27, 2018 1:55 PM
To: Caines, Wayne M .
Cc: Simmons, Kathy (Attorney General); Douglas, Melvin
Subject: Re: Confidential Settlement and Release Agreement for pepper-spray incident

Good day Minister

Your email is noted.

In this regard I wish to reiterate my comments with respect to the additional 5 persons who do not appear as Applicants in the judicial review. As you have indicated that you do not have the Letter Before Action for these persons, I will make contact with ~~exhibit~~ to request something in writing with respect to them.

As we are seeking to settle the matter, there should be something on file to show that they are actually alleging that they were adversely affected by the incident in some way, before payment is made.

Once I receive this additional information I will revert so that the documents can be finalised.

Regards,

Shakira J. Dill-Francois B.A, LL.B, LL.M
Deputy Solicitor General
Government of Bermuda | Attorney-General's Chambers
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Attorney-General's Chambers Direct Line: 441 292 2463
www.gov.bm

Sent from my BlackBerry 10 smartphone.

From: Caines, Wayne M .
Sent: Thursday, July 26, 2018 6:25 AM
To: Dill-Francois, Shakira J.
Cc: Simmons, Kathy (Attorney General); Douglas, Melvin
Subject: Re: Confidential Settlement and Release Agreement for pepper-spray incident

Hi Madam Deputy Solicitor General,

After discussions with the AG and Premier it has been decided that we will remit payment for the above captioned matter forthwith. The Money will come from the contingencies fund.

The payment is in full and final settlement of all potential claims.

Can you let me know what other information is needed. Thanks

WC

The Hon Wayne M. Caines JP MP
Minister of National Security
The Government of Bermuda (441) 7048900

On Jul 25, 2018, at 10:14 AM, Dill-Francois, Shakira J. <sjdill@gov.bm> wrote:

Noted Minister,

I will suspend proceeding on the matter until I receive further instructions.

Regards,

<image001.jpg> **Shakira J. Dill-Francois B.A, LL.B, LL.M**
Deputy Solicitor General
Government of Bermuda | **Attorney-General's Chambers**
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From: Caines, Wayne M .
Sent: Wednesday, July 25, 2018 9:54 AM
To: Dill-Francois, Shakira J.
Cc: Simmons, Kathy (Attorney General); Douglas, Melvin
Subject: RE: Confidential Settlement and Release Agreement for pepper-spray incident

Madam Deputy Solicitor General,

Thank-you for your email and the content contained therein, I do not have the letter before action. I am not sure which Ministry will remit payment, I will discuss with the Premier. Also, we should not make any payment until after the Parliamentary Committee Review into the Pepper Spray incident has been concluded. The payment should be made in full and final settlement which includes all outstanding legal matters.

I would humbly ask that the AG have that conversation with the main protagonists (union) as a priority.

WC

From: Dill-Francois, Shakira J.
Sent: Thursday, July 12, 2018 2:37 PM
To: Caines, Wayne M . <wmcaines@gov.bm>
Cc: Simmons, Kathy (Attorney General) <klsimmons@gov.bm>; Douglas, Melvin <mdouglas@gov.bm>

Subject: Confidential Settlement and Release Agreement for pepper-spray incident
Importance: High

Good day Minister Caines,

We write to you as the instructing Minister in this matter. We have been asked to assist with the settlement of same and have been provided with a copy of the title page of the Originating Motion for the Judicial Review action brought against the Police Complaints Authority and a copy of Annex 1.

In this regard, we note that the Originating Motion contains 23 Applicants, however the instructions received is that the settlement is in relation to the 28 persons listed in the Annex. As such, can you kindly provide any documentation, such as a Letter Before Action, which will assist us with finalising the settlement agreement for the additional persons because at the moment, the Recitals in the attached agreement will not be applicable; something is required to show that these persons have actually made a claim against the Government.

Additionally, can we please confirm which Ministry will be paying the settlement amount; will it be the Ministry of National Security or the Ministry of Finance?

We thank you for your attention to this matter and look forward to your response.

Regards,

<image001.jpg> **Shakira J. Dill-Francois B.A, LL.B, LL.M**
Deputy Solicitor General
Government of Bermuda | **Attorney-General's Chambers**
Global House, 4th Floor | 43 Church Street | Hamilton, Bermuda HM12

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Dublin-Swan, Denyelle

From: Premier David Burt
Sent: Wednesday, July 25, 2018 1:22 PM
To: Caines, Wayne M .
Cc: Simmons, Kathy (Attorney General)
Subject: Re: Confidential Settlement and Release Agreement for pepper-spray incident

AG will be at Cabinet office for 2:30.

See you then.

Premier

From: wmcaines@gov.bm
Sent: 25 July 2018 1:11 p.m.
To: dburt@gov.bm
Cc: klsimmons@gov.bm
Subject: RE: Confidential Settlement and Release Agreement for pepper-spray incident

I will see when AG is free.

From: Premier David Burt
Sent: Wednesday, July 25, 2018 1:10 PM
To: Caines, Wayne M . <wmcaines@gov.bm>
Cc: Simmons, Kathy (Attorney General) <klsimmons@gov.bm>
Subject: Re: Confidential Settlement and Release Agreement for pepper-spray incident

In Senate now. Will. Be at cabinet at 1:30 pm

From: wmcaines@gov.bm

Sent: 25 July 2018 12:42 p.m.

To: dburt@gov.bm

Cc: klsimmons@gov.bm

Subject: RE: Confidential Settlement and Release Agreement for pepper-spray incident

Yes. Please let me know when you are available for a chat.

WC

From: Premier David Burt

Sent: Wednesday, July 25, 2018 11:01 AM

To: Caines, Wayne M . <wmcaines@gov.bm>

Cc: Simmons, Kathy (Attorney General) <klsimmons@gov.bm>

Subject: RE: Confidential Settlement and Release Agreement for pepper-spray incident

Minster Caines,

The cabinet directed that these matters (JSC & Settlement) were 2 separate matters, and thus authorised the settlement to proceed. Funding will come from Contingencies fund which I will authorise as Minister of Finance.

Please give me a call to discuss.

Premier

From: Caines, Wayne M .

Sent: Wednesday, July 25, 2018 10:06 AM

To: Premier David Burt <dburt@gov.bm>

Cc: Simmons, Kathy (Attorney General) <klsimmons@gov.bm>

Subject: Confidential Settlement and Release Agreement for pepper-spray incident

Importance: High

Premier

I trust all is well, we have agreed the amount of the payment and we have an confidential settlement and release document included. We however will not remit payment right away, it is my view that we should make the payment after the Parliamentary Committee Review into the Pepper Spray incident has been concluded.

The payment should be made in full and final settlement which includes all outstanding legal matters. We must now convey this message to the key protagonists. This will not go over well, but it is the only way that this can work.

...

Dublin-Swan, Denyelle

From: Premier David Burt
Sent: Wednesday, July 25, 2018 11:01 AM
To: Caines, Wayne M .
Cc: Simmons, Kathy (Attorney General)
Subject: RE: Confidential Settlement and Release Agreement for pepper-spray incident

Minster Caines,

The cabinet directed that these matters (JSC & Settlement) were 2 separate matters, and thus authorised the settlement to proceed. Funding will come from Contingencies fund which I will authorise as Minister of Finance.

Please give me a call to discuss.

Premier

From: Caines, Wayne M .
Sent: Wednesday, July 25, 2018 10:06 AM
To: Premier David Burt <dburt@gov.bm>
Cc: Simmons, Kathy (Attorney General) <klsimmons@gov.bm>
Subject: Confidential Settlement and Release Agreement for pepper-spray incident
Importance: High

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I trust all is well, we have agreed the amount of the payment and we have an confidential settlement and release document included. We however will not remit payment right away, it is my view that we should make the payment after the Parliamentary Committee Review into the Pepper Spray incident has been concluded.

The payment should be made in full and final settlement which includes all outstanding legal matters. We must now convey this message to the key protagonists. This will not go over well, but it is the only way that this can work.

We must also confirm which Ministry the afore-mentioned money will come from

WC

Dublin-Swan, Denyelle

From: Premier David Burt
Sent: Tuesday, July 24, 2018 5:07 PM
To: Caines, Wayne M .
Cc: Simmons, Kathy (Attorney General)
Subject: Re: Pepper Spray

Minister and AG,

Please get me a response for this by end of day so that I can get back to President

Premier

From: dburt@gov.bm
Sent: 24 July 2018 4:03 p.m.
To: wmcaines@gov.bm
Cc: klsimmons@gov.bm
Subject: RE: Pepper Spray

Colleagues,

What is the status of this? I have been asked again today by the president of the BIU.

Premier

From: Premier David Burt
Sent: Friday, July 20, 2018 5:20 PM
To: Caines, Wayne M . <wmcaines@gov.bm>
Cc: Simmons, Kathy (Attorney General) <klsimmons@gov.bm>
Subject: Pepper Spray

Minister Caines,

Please follow up with the AG regarding settlement.

Dublin-Swan, Denyelle

From: Simmons, Kathy (Attorney General)
Sent: Monday, June 25, 2018 6:33 PM
To: Caines, Wayne M .
Subject: Fwd: Confidential Settlement and Release Agreement for pepper-spray incident
Attachments: image001.jpg

FYI. Note the action points for your attention.

A-G

Sent from my iPhone

Begin forwarded message:

From: "Douglas, Melvin" <mdouglas@gov.bm>
Date: 25 June 2018 at 4:32:47 PM GMT-3
To: "Dill-Francois, Shakira J./14699" <sjdill@gov.bm>, "Simmons, Kathy (Attorney General)" <klsimmons@gov.bm>
Subject: RE: Confidential Settlement and Release Agreement for pepper-spray incident

Hi AG,

Further to email below, kindly note that if the settlement is intended to release any claim against the police and the police complaints tribunal we will need their instructions to do so. At the present the settlement is intended to be a release against the Government and its servants and or agents. Technically the police and the police complaints authority are not agents or servants of the Government. Hence there is a risk that a claim could still be brought against an individual police officer and/ or the police complaints authority.

Kind regards,
MD

From: Dill-Francois, Shakira J./14699
Sent: Monday, June 25, 2018 4:19 PM
To: Simmons, Kathy (Attorney General)
Cc: Douglas, Melvin
Subject: Confidential Settlement and Release Agreement for pepper-spray incident

Good day AG,

We write further to your request in relation to the above mentioned matter.

In this regard, whilst we note that this settlement payment was approved by Cabinet we would be remiss if we did not make mention of the following:

- a. If evidence of this settlement comes to light, there is the likelihood that other applicants will come forward claiming that they should be compensated for their involvement in the incident as well - we cannot be certain that this settlement will be the end of the matter; and

- b. We have not been provided with any medical or other evidence to suggest that the Applicants were actually injured in some way by the incident. For instance, there are only 23 applicants on the Judicial review application, but 28 persons are listed on Annex 1. As such, we cannot confirm that the persons listed are persons who actually suffered some form of injury from the incident and should be the recipient of a settlement offer.

Whilst we have the above concerns, please see the attached draft settlement agreement. This is a standard agreement that I have amended for the current matter (certain amendments are highlighted for consideration). The SG and I have agreed that 28 settlement agreements will have to be signed (ie ~~26~~ should not sign 1 agreement on behalf of all parties).

We look forward to your comments in relation to same.

Regards,



Shakira J. Dill-Francois B.A, LL.B, LL.M

Deputy Solicitor General

Government of Bermuda | **Attorney-General's Chambers**

Global House, 4th Floor | 43 Church Street | Hamilton, Bermuda HM12

Extension: 1643

Direct Telephone: 441 297 7643 | Cell: 441 595 6767 | Email: sjdill@gov.bm

Attorney-General's Chambers Direct Line: 441 292 2463

www.gov.bm

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Dublin-Swan, Denyelle

From: Simmons, Kathy (Attorney General)
Sent: Monday, June 25, 2018 6:32 PM
To: Caines, Wayne M .
Subject: Fwd: Confidential Settlement and Release Agreement for pepper-spray incident
Attachments: image001.jpg; ATT00001.htm; Confidential Settlement and Release Agreement for pepper-spray incident.docx; ATT00002.htm

Minister,

Please see the email below and the accompanying attachment for your review.

Regards,

A-G

Sent from my iPhone

Begin forwarded message:

From: "Dill-Francois, Shakira J./14699" <sjdill@gov.bm>
Date: 25 June 2018 at 4:19:09 PM GMT-3
To: "Simmons, Kathy (Attorney General)" <klsimmons@gov.bm>
Cc: "Douglas, Melvin" <mdouglas@gov.bm>
Subject: Confidential Settlement and Release Agreement for pepper-spray incident

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Whilst we have the above concerns, please see the attached draft settlement agreement. This is a standard agreement that I have amended for the current matter (certain amendments are highlighted for consideration). The SG and I have agreed that 28 settlement agreements will have to be signed (ie Delroy should not sign 1 agreement on behalf of all parties).

We look forward to your comments in relation to same.

Regards,

Dublin-Swan, Denyelle

From: Dill-Francois, Shakira J.
Sent: Thursday, July 12, 2018 2:37 PM
To: Caines, Wayne M.
Cc: Simmons, Kathy (Attorney General); Douglas, Melvin
Subject: Confidential Settlement and Release Agreement for pepper-spray incident
Attachments: Confidential Settlement and Release Agreement for pepper-spray incident.docx ← *Exempt? S. 35*
Importance: High

Good day Minister Caines,

We write to you as the instructing Minister in this matter. We have been asked to assist with the settlement of same and have been provided with a copy of the title page of the Originating Motion for the Judicial Review action brought against the Police Complaints Authority and a copy of Annex 1.

In this regard, we note that the Originating Motion contains 23 Applicants, however the instructions received is that the settlement is in relation to the 28 persons listed in the Annex. As such, can you kindly provide any documentation, such as a Letter Before Action, which will assist us with finalising the settlement agreement for the additional persons because at the moment, the Recitals in the attached agreement will not be applicable; something is required to show that these persons have actually made a claim against the Government.

Additionally, can we please confirm which Ministry will be paying the settlement amount; will it be the Ministry of National Security or the Ministry of Finance?

We thank you for your attention to this matter and look forward to your response.

Regards,



Shakira J. Dill-Francois B.A, LL.B, LL.M

Deputy Solicitor General
Government of Bermuda | **Attorney-General's Chambers**
Global House, 4th Floor | 43 Church Street | Hamilton, Bermuda HM12

Extension: 1643
Direct Telephone: 441 297 7643 | Cell: 441 595 6767 | Email: sjdill@gov.bm
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CONFIDENTIAL SETTLEMENT AND RELEASE AGREEMENT

This confidential Settlement and Release Agreement ('Agreement') is entered into this _____ day of June 2018, by and between **The Ministry of National Security on behalf of the Government of Bermuda** (hereinafter the "Government") and Exempt (hereinafter "the Applicant").

RECITALS

A.

WHEREAS an application for judicial review of the Police Complaints Authority's report on the December 2nd 2016, pepper-sprayed incident ("the incident") was made on behalf of the Applicants who alleged to have been adversely affected by the incident.

B.

AND WHEREAS it is the desire of the parties to compromise and settle all disputed issues and claims between them in any way related to the incident and to achieve a mutually acceptable resolution without incurring the further expense, inconvenience, uncertainty and delay of litigation.

AGREEMENT

Now, therefore, in consideration of the mutual covenants and promises contained in this Agreement, the Applicants and the Government agree as follows:

1. Acknowledgement. The parties acknowledge that they are entering into this Agreement based upon their own investigation and in reliance on the representations contained in this Agreement and reliance on the advice of their own representative or counsel.
2. Disclaimer. This Agreement does not constitute evidence of, or any admission of any liability, omission or wrongdoing of any kind and it shall not be offered or received into evidence or otherwise filed or lodged in any proceeding against any party except as may be necessary to prove and enforce its terms. It is expressly understood and agreed that neither this Agreement nor any consideration provided pursuant to this Agreement are to be construed as an admission of liability on the part of the Government regarding any and all claims arising from the incident.
3. Cash payment. The Government shall pay to Exempt the sum of **(forty eight thousand dollars)(\$48,000)** in full and final settlement of all claims that she has or may

have had against the Government, its servants, employees and or agents arising from the incident. ~~exempt~~ agrees to sign in the letter of receipt attached to this Agreement on receipt of the amount of \$48,000.

4. Enforcement. The parties expressly acknowledge and agree that any disparagement, comment or disclosure not expressly authorized by this Agreement concerning the Agreement, the parties or allegations, will have a serious adverse effect on the parties and that such a breach will constitute a material breach of the entire Agreement, and a waiver of the provisions of this Section 4 of the Agreement. It is agreed by the parties that a breach of this Section will result in a presumption of irreparable harm for the purpose of injunctive relief. The parties shall seek relief as may be available in the law of equity for breach of the Agreement as provided in Paragraph 13 – Confidentiality.
5. The Applicant, his agents, successors and assigns, hereby forever release and discharge the Government, in its official capacity and any and all of its agents, servants, employees, successors, heirs, executors, administrators and assigns and any agencies, departments, divisions and employees, servants and agents of the Government of Bermuda, from any and all claims, injuries, demands, causes of action of whatever kind, nature or description whether at law or in equity, upon contract or in tort, or under statutory or common law or otherwise which the Applicant may have had, now has, or hereafter may have, or claim to have, or assert against the Government as a result of any actions or omissions of the Government and any of its employees, agents or assigns, its heirs and successors or of the Claimant, her agents, successors and assigns which occurred or could have occurred on or prior to the date of this Agreement which relate in any manner to the issue of the incident which shall include, but not be limited to, claims for tort, human rights violations, negligence, misconduct or negligent infliction of emotional distress. This release specifically includes any claim that has or could have been brought under or in relation to any proceedings including proceedings against the Police Complaints Authority's or Police Officers, in relation to this incident.
6. Intent. It is the express intent of the Applicant that this Agreement releases and forever discharges the Government from all liability and also from all actions, proceedings, claims and demands whatsoever that he may have or may have had against the Government, and operates as a bar to any subsequent proceedings, whether known or unknown, existing now or in the future, pertaining to any claim arising from the incident. The Applicant expressly undertakes and assumes the risk that settlement and underlying execution of this Agreement was made on the basis of mistake or mistakes, mutual or unilateral, as to the nature, extent, effects or consequences of any known or unknown, suspected or unsuspected, present or future, underlying losses or damages.
7. Governing Law. This Agreement and all performances hereunder shall be governed by the Laws of Bermuda.

8. Integration. This Agreement constitutes the entire agreement of the parties and all prior representations and discussions are merged and incorporated herein. This Agreement may not be amended except in writing evidencing such an amendment executed by both parties.
9. Waiver. No waiver of any covenant or obligation of this Agreement shall be effective except in writing signed by the party against whom such waiver is asserted.
10. No Prior Assignment. The Applicant represents and warrants to the Government that he is the sole and lawful owner of all right, title and interest in and to every claim and other matter that he purports to release or compromise by this Agreement. In the event that the Government is subjected to a further claim by any person, firm, corporation or other entity, acting under any actual or purported lien, right or subrogation, or assignment, the Applicant will indemnify and hold the Government harmless from any such claim or demand.
11. Prohibition Against Assignment. The obligations of the parties to this Agreement shall not be assigned or delegated without the express consent of the parties.
12. Notice. Any notice required by this Agreement shall be made in writing to the Applicant and to the Respondent.
13. Confidentiality. The terms of this Agreement shall remain confidential by Applicant. If the Applicant at any time breaches his obligations to retain confidentiality under this Agreement, she shall be liable to pay damages, attorney's fees and related costs of enforcement.
14. Representation. All parties acknowledge and represent that in negotiating this Agreement and the Terms of this Agreement, they have been represented by and have conferred with legal counsel or their representative. The Applicant represents and warrants that she has carefully read this Agreement; she understands its contents and that she has executed it as her own free and voluntary act.
15. Authorization. The Applicant represents and warrants that he is legally competent to execute this Agreement and assumes full responsibility for and assumes the risk of all mistakes in fact or law regarding any damages, losses or injuries, whether disclosed or undisclosed, sustained as a result of any and all incidents giving rise to the matter.
16. Miscellaneous Provisions.
 - a. This Agreement constitutes the entire Agreement between the parties and no other statement or agreement, either written or oral, made by any of the parties

or agents of the parties that is not contained within this written Agreement shall be enforceable regarding the matters raised herein.

- b. The effective date of the Agreement shall be the ____ day of June, 2018.
- c. If any term of this Agreement is determined by any court to be unenforceable, the other terms of this Agreement shall nonetheless remain in force and effect, provided, however, that if the severance of any such provision materially alters the rights or obligations of the parties, the parties shall engage in good faith negotiations in order to adopt mutually agreeable amendments to this Agreement as may be necessary to restore the parties as closely as possible to the initially agreed upon relative rights and obligations.

EXEMPT

Signed: _____ Date: _____.

Witness: _____ Date: _____.

Permanent Secretary for the Ministry of National Security

Signed: _____ Date: _____.

Witness: _____ Date: _____.

Dublin-Swan, Denyelle

From: Simmons, Kathy (Attorney General)
Sent: Monday, June 25, 2018 6:33 PM
To: Caines, Wayne M.
Subject: Fwd: Confidential Settlement and Release Agreement for pepper-spray incident
Attachments: image001.jpg

FYI. Note the action points for your attention.

A-G

Sent from my iPhone

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From: "Douglas, Melvin" <mdouglas@gov.bm>
Date: 25 June 2018 at 4:32:47 PM GMT-3
To: "Dill-Francois, Shakira J./14699" <sjdill@gov.bm>, "Simmons, Kathy (Attorney General)" <klsimmons@gov.bm>
Subject: RE: Confidential Settlement and Release Agreement for pepper-spray incident

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Cc: Douglas, Melvin
Subject: Confidential Settlement and Release Agreement for pepper-spray incident

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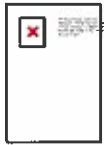
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Dublin-Swan, Denyelle

From: Simmons, Kathy (Attorney General)
Sent: Monday, June 25, 2018 6:32 PM
To: Caines, Wayne M .
Subject: Fwd: Confidential Settlement and Release Agreement for pepper-spray incident
Attachments: image001.jpg; ATT00001.htm; Confidential Settlement and Release Agreement for pepper-spray incident.docx; ATT00002.htm

Minister,

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A-G

Sent from my iPhone

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We look forward to your comments in relation to same.

Regards,

Dublin-Swan, Denyelle

From: *exempt*
Sent: Wednesday, June 6, 2018 10:24 PM
To: Caines, Wayne M .
Subject: Fwd: Civil Jurisdiction 2018 : No 25 - Wales et al v Police Complaints Authority
Attachments: image001.jpg; ATT00001.htm; 18.06.06 Delist Form and Form 31 TC.pdf; ATT00002.htm

Hi Wayne. Just to share with you that I spoke with *exempt* and we have agreed a three week adjournment. Hope all going well for you

All the best, Jeff

Begin forwarded message:

From: *exempt*
Date: June 6, 2018 at 4:39:37 PM ADT
To: Supreme Court <supremecourt@gov.bm>
Cc: *exempt*
exempt
Subject: Civil Jurisdiction 2018 : No 25 - Wales et al v Police Complaints Authority

Dear Madam Registrar

We write to respectfully request that the mention of this matter for tomorrow, 7 June 2017 at 9:30 am be delisted for a period of three weeks. In that regard, we attach a Delist Form.


We would be most grateful if the matter could be relisted for Thursday 28 June 2018 and enclose a Form 31 TC.


We look forward to hearing from you and thank you for your assistance in this matter.

Yours sincerely

exempt

Email secured by Check Point

SUPREME COURT OF BERBUDA <small>CIVIL COMMERCIAL JURISDICTION</small> DELIST FORM REQUEST TO DELIST HEARINGS										
CASE NAME: Wales et al -v- Police Complaints Auth. No. <u>25</u> of 20 <u>18</u>										
START DATE OF HEARING	<u>7</u> DAY OF <u>June</u> 20 <u>18</u>	<u>9.30</u> AM/PM								
PARTIES TO THE ACTION										
COUNSEL SUBMITTING THIS FORM:	NAME: <u>DeRoy Duncan</u>	SELECT AS APPLICABLE <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">PLAINTIFF</td> <td style="padding: 2px; text-align: center;"><u>APPLICANT</u></td> </tr> <tr> <td style="padding: 2px;">PETITIONER</td> <td style="padding: 2px;">APPELLANT</td> </tr> <tr> <td style="padding: 2px;">DEFENDANT</td> <td style="padding: 2px;">RESPONDENT</td> </tr> <tr> <td style="padding: 2px;">J.CREDITOR</td> <td style="padding: 2px;">J.DEBTOR</td> </tr> </table>	PLAINTIFF	<u>APPLICANT</u>	PETITIONER	APPELLANT	DEFENDANT	RESPONDENT	J.CREDITOR	J.DEBTOR
	PLAINTIFF	<u>APPLICANT</u>								
	PETITIONER	APPELLANT								
	DEFENDANT	RESPONDENT								
	J.CREDITOR	J.DEBTOR								
FIRM: <u>Trott & Duncan</u>										
OPPOSING PARTY/ PARTIES:	NAME(S): <u>Jeffrey Elkinson</u>	SELECT AS APPLICABLE <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">PLAINTIFF</td> <td style="padding: 2px;">PLAINTIFF</td> </tr> <tr> <td style="padding: 2px;">PETITIONER</td> <td style="padding: 2px;">PETITIONER</td> </tr> <tr> <td style="padding: 2px;">DEFENDANT</td> <td style="padding: 2px; text-align: center;"><u>DEFENDANT</u></td> </tr> <tr> <td style="padding: 2px;">J.CREDITOR</td> <td style="padding: 2px;">J.CREDITOR</td> </tr> </table>	PLAINTIFF	PLAINTIFF	PETITIONER	PETITIONER	DEFENDANT	<u>DEFENDANT</u>	J.CREDITOR	J.CREDITOR
	PLAINTIFF	PLAINTIFF								
	PETITIONER	PETITIONER								
	DEFENDANT	<u>DEFENDANT</u>								
	J.CREDITOR	J.CREDITOR								
FIRM(S): <u>CDP for Police Complaints Auth.</u>										
REQUEST TO DELIST MUTUALLY AGREED										
INTER PARTES HEARINGS WILL NOT BE DELISTED UNLESS ALL PARTIES ARE AGREED. WHERE ANY ONE PARTY HAS NOT CONFIRMED THEIR AGREEMENT FOR THE HEARING TO BE DELISTED, THE HEARING DATE WILL NOT BE VACATED.										
SELECT CORRECT RESPONSE BELOW:										
ALL PARTIES ARE AGREED FOR THIS INTER PARTES HEARING FIXTURE TO BE DELISTED:										
<u>YES</u>	NO	NOT APPLICABLE (EX PARTE HEARING)								
REQUESTS TO RELIST										
THE APPROPRIATE FORM (31D/ 31P/ 31TC) MUST BE FILED FOR THIS MATTER TO BE RELISTED.										
FOR INTERNAL COURT USE ONLY:										
THIS MATTER WAS DELISTED ON _____ DAY _____ OF _____ 20____ AND THE ASSIGNED JUDGE/REGISTRAR WAS NOTIFIED ON _____ DAY _____ OF _____ 20____										
NAME OF COURT ADMINISTRATOR : _____										
COPY OF THIS FORM TO BE PLACED ON COURT FILE										

SUPREME COURT OF BERAR <small>CIVIL COMMERCIAL JURISDICTION</small> FORM 31 IC REQUEST TO LIST IN WEEKLY THURSDAY CHAMBERS LIST		
CASE NAME: <u>Wales -v- Police Complaints Auth.</u> No. <u>25</u> of 20 <u>18</u>		
COUNSEL/FIRM REQUESTING LISTING: <u>D. Duncan - Trotter & Duncan</u>		
EMAIL ADDRESS FOR NOTICE OF DATE FIXED FOR HEARING: <u>d.duncan</u> @ <u>td</u> .com/bm		
OTHER COUNSEL/FIRM(S) ON RECORD: <u>Jeffrey Elkunson - CDP</u>		
THURSDAY CHAMBERS <small>PLEASE STATE IN WHICH OF THE CHAMBERS LISTED BELOW YOU WISH TO BE HEARD ON THE NEXT 4 WEEKS.</small> <i>Please do NOT list on the following Thursday(s):</i> <u> </u> OF <u> </u> 20 <u> </u> and <u> </u> OF <u> </u> 20 <u> </u>		
NATURE OF PROCEEDINGS		
CONSTITUTIONAL MOTION / ABUSE OF PROCESS	COMMERCIAL MATTER / TRUST DISPUTE	
JUDICIAL REVIEW / CROWN PROCEEDINGS	<div style="border: 1px solid blue; border-radius: 50%; padding: 5px; display: inline-block;"> INJUNCTIVE RELIEF </div>	
SUMMONS TO ADJOURN TRIAL FIXED	SUMMONS FOR TRIAL DIRECTIONS RSC 0.25	
SUMMONS TO SET ASIDE DEFAULT JUDGMENT RSC 0.19	SUMMONS FOR SUMMARY JUDGMENT RSC 0.14	
SUMMONS FOR STRIKE OUT RSC 0.18 R.19	SUMMONS TO AMEND PLEADINGS RSC 0.20	
SUMMONS FOR JOINDER /THIRD PTY NOTICE RSC 0.15-16	ASSESSMENT OF DAMAGES RSC 0.37	
INTERROGATORIES RSC 0.26	LETTERS OF REQUEST RSC 0.39	
MORTGAGE ACTION RSC 0.88 ORDER FOR SALE OF LAND RSC 0.31	JUDGMENT SUMMONS/ ENFORCEMENT PROCEEDINGS	
CONTENTIOUS PROBATE PROCEEDINGS	LEAVE TO APPEAL TO COA BEFORE TRIAL JUDGE	
OTHER APPLICATION: 		
DATE FIXED: 		
THURSDAY OF 20		

ESTIMATED LENGTH OF HEARING

<u>15-30 MINUTES</u>	30-60 MINUTES	1-2 HOURS
1/2 DAY	1 DAY	2 DAYS
2 1/2 DAYS	3 DAYS	3 1/2 DAYS
4 DAYS	4 1/2 DAYS	5 DAYS
6 DAYS	7 DAYS	8 DAYS
9 DAYS	10 DAYS	11 DAYS
12 DAYS	13 DAYS	14 DAYS +

DATES TO AVOID

MARK AN 'X' TO SHOW PARTIES' DATES TO AVOID:

DAY OF THE WEEK: _____ DAY	CURRENT MONTH: _____	1	2	3	4	5	6	7	8	9	10
		11	12	13	14	15	16	17	18	19	20
		21	22	23	24	25	26	27	28	29	30
DAY OF THE WEEK: _____ DAY	NEXT MONTH: _____	1	2	3	4	5	6	7	8	9	10
		11	12	13	14	15	16	17	18	19	20
		21	22	23	24	25	26	27	28	29	30
DAY OF THE WEEK: _____ DAY	FOLLOWING MONTH: _____	1	2	3	4	5	6	7	8	9	10
		11	12	13	14	15	16	17	18	19	20
		21	22	23	24	25	26	27	28	29	30

PROPOSED DATES FOR HEARING

SPECIFY ANY MUTUALLY PROPOSED DATES BELOW:

28 June 2018 @ 9:30 am

COURT INTERNAL USE ONLY

SINGLE DATE FIXED FOR HEARING	_____ DAY _____ OF _____ 20____	_____ : _____ AM/PM
FOR HEARINGS ESTIMATED TO LAST MORE THAN ONE DAY		
START DATE OF HEARING	_____ DAY _____ OF _____ 20____	_____ : _____ AM/PM
END DATE OF HEARING	_____ DAY _____ OF _____ 20____	_____ : _____ AM/PM
JUDGE / REGISTRAR ASSIGNED:	CHIEF JUSTICE	PUISNE JUDGE
		REGISTRAR

 (ON BEHALF OF)
 REGISTRAR OF THE SUPREME COURT

Dublin-Swan, Denyelle

From: Simmons, Kathy (Attorney General)
Sent: Monday, June 4, 2018 9:56 PM
To: Premier David Burt; Caines, Wayne M .
Cc: Telemaque, Marc
Subject: Fwd: Cabinet Memorandum and Annex 1 - Settlement Payment to Trott & Duncan
Attachments: image001.png; ATT00001.htm; Cab Memo - Settlement Payment to Trott & Duncan (4June2018).pdf; ATT00002.htm; Annex 1 - List of Persons (Legal Costs and Assistance) 4 Jun2018.pdf; ATT00003.htm

BEN
↓

Premier, Minister,

As requested, please see the attached paper for your review and comment.

Premier, with your indulgence we can discuss the paper tomorrow if there are no extensive amendments. Please note that a fulsome discussion should be had re: how this proposed course of action relates to the JSC which is considering this matter at present.

A-G

Sent from my iPhone

Begin forwarded message:

From: "DelValle, Kristina" <kdelvall@gov.bm>
Date: 4 June 2018 at 7:30:29 PM GMT-3
To: "Simmons, Kathy (Attorney General)" <klsimmons@gov.bm>
Subject: Cabinet Memorandum and Annex 1 - Settlement Payment to Trott & Duncan

Good Day AG:

As requested, please find enclosed the captioned documents for your attention.

Kind regards,

Dublin-Swan, Denyelle

From: Simmons, Kathy (Attorney General)
Sent: Monday, June 4, 2018 9:00 AM
To: ~~exempt~~
Cc: Premier David Burt; Caines, Wayne M.
Subject: Re: AG Kathy Simmons proposal for settlement.xlsx

Good morning ~~exempt~~.

You will recall that we discussed your email of May 29th via telephone on Friday. We confirmed the final figure of \$225,000 as agreed previously and you undertook to provide the amended list of persons to receive payment accordingly. I also suggested that you consider apportioning the agreed sum in a manner to include the persons omitted from your original list. You were further informed that the approval of Cabinet for the payment would be sought.

During our initial meeting pertaining to this matter (Government/ Union reps and Attorney present) it was acknowledged and agreed that your original proposed sum was not based on any legal matrix for the calculation of damages but could be characterized appropriately as an ex gratia payment. You therefore, agreed to propose a sum that represented said payment and, subsequently, proposed the sum of \$225,000 which was accepted by Minister Caines and I on May 1st. Cabinet will be advised of the agreed sum and your corresponding concerns.

Please feel free to contact me if further clarification is required.

Best regards,

A-G

Sent from my iPhone

On 4 Jun 2018, at 7:58 AM, ~~exempt~~ > wrote:

Good Day Minister

I am extremely disappointed that the Government could not agree on revising the agreed number of \$225,000, because the first offer that was put on the table was \$500,000. When I spoke with Minister Caines and Yourself on May 1, 2018 in an effort to reach an agreement after being asked by the two of you to give you a number and I said \$225,000 and you both said done. When I sent the email to you and the Premier on Tuesday May 29, 2018 it was out real concerned that we had overlooked those five (5) names that were in red and that was the only reason why I asked the Government to reconsider the agreed offer.

I am still hoping the Cabinet will reconsider the final offer and do the right thing

Attached is the list of the individuals who will receive the Ex-Gratia Payment

Email secured by Check Point

<AG Kathy Simmons proposal for settlement.xlsx>

Dublin-Swan, Denyelle

From: Simmons, Kathy (Attorney General)
Sent: Friday, June 1, 2018 1:28 PM
To: Caines, Wayne M .
Cc: Premier David Burt
Subject: Re: Book1.xlsx

Minister,

I am currently preparing the joint Cab Memo for review. Where is the money coming from?

A-G

Sent from my iPhone

On 1 Jun 2018, at 12:02 PM, Caines, Wayne M . <wmcaines@gov.bm> wrote:

I agree. \$225k and not a penny more.

WC

From: Premier David Burt
Sent: Friday, June 1, 2018 11:35 AM
To: Simmons, Kathy (Attorney General) <ksimmons@gov.bm>
Cc: Caines, Wayne M . <wmcaines@gov.bm>; Telemaque, Marc <mtelemaque@gov.bm>
Subject: RE: Book1.xlsx

I say we stay at \$225K.

Premier

From: Simmons, Kathy (Attorney General)
Sent: Friday, June 1, 2018 11:34 AM
To: Premier David Burt <dburt@gov.bm>
Cc: Caines, Wayne M . <wmcaines@gov.bm>; Telemaque, Marc <mtelemaque@gov.bm>
Subject: Re: Book1.xlsx

Are we agreeing to the revised figure of \$250,000?

Sent from my iPhone

On 1 Jun 2018, at 11:19 AM, Premier David Burt <dburt@gov.bm> wrote:

Please note revised spreadsheet.

From: Simmons, Kathy (Attorney General)
Sent: Friday, June 1, 2018 11:12 AM

To: Premier David Burt; Caines, Wayne M .
Subject: Re: Book1.xlsx

Premier, Minister,

Please see the email below.

As agreed on Tuesday, I intend to advise ~~Exempt~~ that the figure remains at \$225,000 as agreed and that we will be seeking Cabinet approval for payment on Tuesday as the settlement amount exceeds \$100,000.

Please confirm your agreement with this course of action.

A-G

Sent from my iPhone

On 29 May 2018, at 11:06 AM, ~~Exempt~~ wrote:

Good day Minister

My apologies for this late email

On May 1, 2018 there was an agreement reached between Minister Caines, Yourself and Myself on a figure for settlement. (\$225,000)

On the day in question I did hesitate to give a number

Please see attached a spread sheet on the proposed payment of the funds

Please note the names in red where not in the original calculations because they were overlooked, therefore I am asking the Government to consider changing the agreed number by ~~Exempt~~ which would make the settlement ~~Exempt~~

Please feel free to contact me. Cell ~~Exempt~~ of ~~Exempt~~ direct

Again my sincere apologies

Email secured by Check Point

<Book1.xlsx>

<Revised.xlsx>

Dublin-Swan, Denyelle

From: Simmons, Kathy (Attorney General)
Sent: Friday, June 1, 2018 9:26 AM
To: Caines, Wayne M .
Subject: Fwd: Pepper Spray Settlement

FYI

Sent from my iPhone

Begin forwarded message:

From: ~~exempt~~
Date: 1 June 2018 at 9:24:07 AM GMT-3
To: "Simmons, Kathy (Attorney General)" <klsimmons@gov.bm>
Cc: Premier David Burt <dburt@gov.bm>, ~~exempt~~
Subject: Re: Pepper Spray Settlement

Good Morning AG,

~~exempt~~ is concerned that he has not received a response to the e-mail that he sent to you on Tuesday, May 29, 2018 which was copied to the Premier. ~~exempt~~ wants you to know that ~~exempt~~ is due to re-appear in court on Thursday, June 7, 2018 on this matter and both were hoping that the matter would be settled by then.

Thank you for your attention to this matter.

~~exempt~~

The information transmitted, including any attachments, is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited, and all liability arising therefrom is disclaimed. If you received this in error, please contact the sender and delete the material from any computer.

Email secured by Check Point

Dublin-Swan, Denyelle

From: *exempt*
Sent: Tuesday, May 1, 2018 4:28 PM
To: *exempt* ; Caines, Wayne M .
Cc: *exempt*
Subject: FW: Civil Jurisdiction 2018 : No 25 Wales et al v PCA

Please see attached. *exempt* please diary

From: Chico, Fatima [mailto:fchico@gov.bm] **On Behalf Of** Supreme Court
Sent: Tuesday, May 01, 2018 3:47 PM
To: *exempt* ; Supreme Court <supremecourt@gov.bm>
Cc: Swan, Juliana <jvswan@gov.bm>; *exempt*
exempt
exempt
Subject: RE: Civil Jurisdiction 2018 : No 25 Wales et al v PCA

Good Day,

The above matter which was listed for Thursday, May 3rd at 10:00am has been **delisted** and **relisted** for **Thursday, June 7th at 9:30am**.

Please acknowledge receipt of this email.

Regards,
F. Chico

From: *exempt*
Sent: 30 April, 2018 3:20 PM
To: Supreme Court
Cc: Swan, Juliana; *exempt*
Subject: Civil Jurisdiction 2018 : No 25 Wales et al v PCA

Please see attached letter. Original to follow by hand.

Kind regards

exempt

exempt

exempt

6/20/2025

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Dublin-Swan, Denyelle

From: ~~exempt~~
Sent: Monday, April 23, 2018 4:38 PM
To: Caines, Wayne M .
Cc: Simmons, Kathy (Attorney General); ~~exempt~~
Subject: RE: 2018 No. 25 civ. Winnæ Wales et al. v The Police Complaints Authority

Thank you. Look forward to your suggestions of a suitable date.

Kind regards

From: Caines, Wayne M . [mailto:wmcaines@gov.bm]
Sent: Monday, April 23, 2018 4:37 PM
To: ~~exempt~~
Cc: Simmons, Kathy (Attorney General) <ksimmons@gov.bm>
Subject: RE: 2018 No. 25 civ. Winnæ Wales et al. v The Police Complaints Authority

Hi ~~exempt~~

We need to set up a meeting with you and the team ~~exempt~~, with reference to negotiations.

WC

From: ~~exempt~~
Sent: Monday, April 23, 2018 3:59 PM
To: Caines, Wayne M . <wmcaines@gov.bm>; ~~exempt~~
Cc: ~~exempt~~
Subject: RE: 2018 No. 25 civ. Winnæ Wales et al. v The Police Complaints Authority

Dear Minister,

Thank you for your email . Has there been any progress ? I am available this week and next week Monday 30th April 2018 should the need for discussions arise. Thereafter I am away. I would also like to discuss the utility of the next hearing on the 10th May 2018.

Kind regards

From: Caines, Wayne M . [mailto:wmcaines@gov.bm]
Sent: Wednesday, April 18, 2018 5:57 AM
To: ~~exempt~~
Cc: ~~exempt~~
Subject: Re: 2018 No. 25 civ. Winnæ Wales et al. v The Police Complaints Authority

Hi ~~exempt~~

Working on an alternative plan, I have to discuss the same with my colleagues and revert. Key colleagues all traveling (separately) and should be able to discuss our Matter at the weekend.

Stand by

WC

Sent from my iPad

On 18 Apr 2018, at 3:13 AM, *example* wrote:

Hi *example* Thanks for the email and papers have been served, thank you.
For my part, subject to any views of the Minister, I think that we should proceed to meet and see what can be achieved.

I don't think there is any requirement for the hearing at this stage.
Hopefully you and I can meet in the course of the week of the 30th April.

All the best, *example*

On Apr 18, 2018, at 4:31 AM, *example* wrote:

Dear All,

Please see below. We have now served the proceedings on the Police Complaints Authority. Further to our discussions outside the Chief Justice's courtroom after the hearing on the 2nd April 2018, we are instructed to pursue meaningful negotiations to settle this matter.

In light of the above, can you both indicate whether the below hearing is still required on the 10th May 2018 ?

Kind regards

From: O'Connor, Avita L. [<mailto:aloconnor@gov.bm>] **On Behalf Of** Supreme Court
Sent: Tuesday, April 17, 2018 2:25 PM
To: *example*
Cc: Supreme Court <supremecourt@gov.bm>
Subject: 2018 No. 25 civ. Winnie Wales et al. v The Police Complaints Authority

Good day *example*

Your letter dated 3 April 2018 refers.

This is to confirm that the above-captioned matter has been listed for mention on **Thursday, 10 May 2018 at 10:00am**.

Copies of the Order are ready for collection at the Government Administration Building, 2nd Floor.

Kind regards,

<image001.png> **Avita O'Connor**
ACTING ADMINISTRATIVE OFFICER (CIVIL/COMMERCIAL DIVISION)
SUPREME COURT OF BERMUDA
GOVERNMENT ADMINISTRATION BUILDING
30 Parliament Street | Hamilton HM 12, Bermuda

aloconnor@gov.bm / www.gov.bm/supreme-court

Tel: 441 2921350

Save paper. Think before you print.

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Dublin-Swan, Denyelle

From: Delroy Duncan
Sent: Monday, April 23, 2018 3:59 PM
To: Caines, Wayne M.; ~~exempt~~
Cc: ~~exempt~~
Subject: RE: 2018 No. 25 civ. Winnæ Wales et al. v The Police Complaints Authority

Dear Minister,

Thank you for your email . Has there been any progress ? I am available this week and next week Monday 30th April 2018 should the need for discussions arise. Thereafter I am away. I would also like to discuss the utility of the next hearing on the 10th May 2018.

Kind regards

From: Caines, Wayne M . [mailto:wmcaines@gov.bm]
Sent: Wednesday, April 18, 2018 5:57 AM
To: ~~exempt~~
Cc: ~~exempt~~
Subject: Re: 2018 No. 25 civ. Winnæ Wales et al. v The Police Complaints Authority

Hi ~~exempt~~

Working on an alternative plan, I have to discuss the same with my colleagues and revert. Key colleagues all traveling (separately) and should be able to discuss our Matter at the weekend.

Stand by

WC

Sent from my iPad

On 18 Apr 2018, at 3:13 AM, ~~exempt~~ > wrote:

Hi ~~exempt~~ . Thanks for the email and papers have been served, thank you.
For my part, subject to any views of the Minister, I think that we should proceed to meet and see what can be achieved.
I don't think there is any requirement for the hearing at this stage.
Hopefully you and I can meet in the course of the week of the 30th April.

All the best, ~~exempt~~

On Apr 18, 2018, at 4:31 AM, ~~exempt~~ > wrote:

Dear All,

Please see below. We have now served the proceedings on the Police Complaints Authority. Further to our discussions outside the Chief Justice's courtroom after the hearing on the 2nd April 2018, we are instructed to pursue meaningful negotiations to settle this matter.

In light of the above, can you both indicate whether the below hearing is still required on the 10th May 2018 ?

Kind regards

From: O'Connor, Avita L. [<mailto:aloconnor@gov.bm>] **On Behalf Of** Supreme Court
Sent: Tuesday, April 17, 2018 2:25 PM
To: ~~EXEMPT~~
Cc: Supreme Court <supremecourt@gov.bm>
Subject: 2018 No. 25 civ. Winnae Wales et al. v The Police Complaints Authority

Good day ~~EXEMPT~~ ,

Your letter dated 3 April 2018 refers.

This is to confirm that the above-captioned matter has been listed for mention on **Thursday, 10 May 2018 at 10:00am.**

Copies of the Order are ready for collection at the Government Administration Building, 2nd Floor.

Kind regards,

<image001.png> **Avita O'Connor**
ACTING ADMINISTRATIVE OFFICER (CIVIL/COMMERCIAL DIVISION)
SUPREME COURT OF BERMUDA
GOVERNMENT ADMINISTRATION BUILDING
30 Parliament Street | Hamilton HM 12, Bermuda

aloconnor@gov.bm / www.gov.bm/supreme-court

Tel: 441 2921350

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Dublin-Swan, Denyelle

From: Simmons, Kathy (Attorney General)
Sent: Wednesday, April 18, 2018 7:22 AM
To: Caines, Wayne M .
Subject: Re: 2018 No. 25 civ. Winnæ Wales et al. v The Police Complaints Authority

Noted Minister.

Sent from my iPhone

On 18 Apr 2018, at 5:56 AM, Caines, Wayne M . <wmcaines@gov.bm> wrote:

Hi ~~Denyelle~~,

Working on an alternative plan, I have to discuss the same with my colleagues and revert. Key colleagues all traveling (separately) and should be able to discuss our Matter at the weekend.

Stand by

WC

Sent from my iPad

On 18 Apr 2018, at 3:13 AM, ~~Denyelle~~ > wrote:

Hi ~~Denyelle~~. Thanks for the email and papers have been served, thank you.
For my part, subject to any views of the Minister, I think that we should proceed to meet and see what can be achieved.
I don't think there is any requirement for the hearing at this stage.
Hopefully you and I can meet in the course of the week of the 30th April.

All the best, ~~Denyelle~~

On Apr 18, 2018, at 4:31 AM, ~~Denyelle~~ wrote:

Dear All,

Please see below. We have now served the proceedings on the Police Complaints Authority. Further to our discussions outside the Chief Justice's courtroom after the hearing on the 2nd April 2018, we are instructed to pursue meaningful negotiations to settle this matter.

In light of the above, can you both indicate whether the below hearing is still required on the 10th May 2018 ?

Kind regards

From: O'Connor, Avita L. [<mailto:aloconnor@gov.bm>] On Behalf Of Supreme Court
Sent: Tuesday, April 17, 2018 2:25 PM

To: 
Cc: Supreme Court <supremecourt@gov.bm>
Subject: 2018 No. 25 civ. Winnae Wales et al. v The Police Complaints Authority

Good day 

Your letter dated 3 April 2018 refers.

This is to confirm that the above-captioned matter has been listed for mention on
Thursday, 10 May 2018 at 10:00am.

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2nd Floor.

Kind regards,

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ACTING ADMINISTRATIVE OFFICER (CIVIL/COMMERCIAL DIVISION)
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Dublin-Swan, Denyelle

From: Telemaque, Marc
Sent: Friday, March 30, 2018 9:32 AM
To: Caines, Wayne M.
Subject: Fwd: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA
Attachments: image001.jpg; image002.png; image003.png; image004.png; image005.jpg

His reply Minister.

Sent from my iPhone

Begin forwarded message:

From: ~~example~~
Date: March 29, 2018 at 5:04:55 PM ADT
To: "Telemaque, Marc" <mtelemaque@gov.bm>
Cc: "Rankin, John J." <jirankin@gov.bm>, "Dill-Francois, Shakira J./14699" <sidill@gov.bm>, ~~example~~, ~~example~~, ~~example~~
Subject: RE: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

Marc

You'll appreciate that there is great concern among the individuals who make up the Authority about this situation and it is disappointing that there is no clear positive answer in circumstances where the statute provides that the members be given the services they need from the Minister.

In relation to whether this is a preliminary hearing, it would appear from the papers that were served that there is some attempt by the Applicants to move this matter forward at this time but I would hope that the Court treat it as a preliminary hearing as in my view there has not been proper service of the relevant court papers on the Authority – we have not been provided the supporting affidavit for the ex parte application and we have not been served with the Chief Justice's Order giving leave to issue Judicial Review.

As a matter of courtesy to the court, I will turn up in my capacity as Chairman, not as an attorney for the Authority, to indicate these matters to the Court and to indicate that we have yet to be provided with the services of an attorney for the purpose of representation before the court. I will not be making any specific application and I will leave it to the court as to what order will be made on that day.

Frankly, it is a source of personal embarrassment for me on many levels that I find myself attending court on Monday and informing the court of this and I and the other members of the Authority do believe it is an unfair imposition on us all to have been placed in this position of not having legal representation to defend this attack on our report.

I am travelling on Tuesday morning, 3rd April, and away from the island for most of the month in time zones that are not conducive to direct communication.

On a personal note, have a great Easter!

Kind regards, *EXEMPT*

From: Telemaque, Marc [<mailto:mtelemaque@gov.bm>]

Sent: Thursday, March 29, 2018 4:03 PM

To: *EXEMPT*

Cc: Rankin, John J.; Dill-Francois, Shakira J./14699; *EXEMPT*

EXEMPT

Subject: RE: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

EXEMPT the Minister is travelling. The likelihood is that counsel in this matter would be engaged for lengthy periods and would ultimately incur significant costs. In the circumstances, the Minister is duty bound to seek the approval of Cabinet for the likely expenditure and to also deal with the necessary issues surrounding the procurement of services. What is the nature of Monday's hearing ? It seems a preliminary one...is that correct ?

Marc

From: *EXEMPT*

Sent: Wednesday, March 28, 2018 3:26 PM

To: Telemaque, Marc <mtelemaque@gov.bm>

Cc: Rankin, John J. <jrankin@gov.bm>; Dill-Francois, Shakira J./14699 <sidill@gov.bm>;

EXEMPT

EXEMPT

EXEMPT

Subject: RE: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

Marc – the Authority met yesterday and as you can imagine the members find themselves in a difficult situation where they are without legal representation in a matter where they have potential personal exposure and no appointed attorney. There is now just over one full working day left before the hearing on Monday.

We do need the Minister's support to have the appropriate legal services engaged in advance of the hearing. There is disquiet amongst the members of the Authority, including myself, arising from the fact that at this point on time there are no attorneys appointed. If we do not have financial support for the appointment of attorneys then the members will consider and have to act to protect their own positions.

I can certainly appreciate that the Minister has important matters that keep him fully occupied and that this issue may not have had his full attention as of yet but as persons who have agreed to serve Bermuda without reward, and honoured to so at the appointment of the Governor, we rely on the Ministry for the financial backing as and when we need services. We would have expected that there would be no hesitation in providing such a necessary service as legal representation where legal proceedings have been initiated against the Authority, particularly as this is provided for in the governing act (section 4 (5)).

You will note that I have taken the liberty of copying in all the present members. I have not copied in as of yet (as I would need to explain what has happened to date) *EXEMPT* who was a member of the Authority at the relevant time that our unanimous Report was prepared and published which Report gives rise to these legal proceedings.

I hope that you will be in a position to inform us of the Minister's response soon so that the members of the Authority may then be in a position to determine what steps need to be taken in the context of what the Minister decides.

Kind regards,

From: Telemaque, Marc [<mailto:mtelemaque@gov.bm>]
Sent: Monday, March 26, 2018 5:12 PM
To: ~~Rankin~~
Cc: Rankin, John J.; Dill, Shakira J.
Subject: RE: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

~~Rankin~~ the Minister is discussing this matter with colleagues tomorrow and will revert thereafter.

MT

From: ~~Rankin~~]
Sent: Monday, March 26, 2018 3:36 PM
To: Telemaque, Marc <mtelemaque@gov.bm>
Cc: Rankin, John J. <jjrankin@gov.bm>; Dill, Shakira J. <sjdill@gov.bm>
Subject: RE: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

Marc – PCA have a meeting tomorrow afternoon, Tuesday 27th March, and it would be most helpful if we could have the result of the Minister's considerations before then.

Looking forward to hearing further ,

Kind regards,

From: Telemaque, Marc [<mailto:mtelemaque@gov.bm>]
Sent: Thursday, March 22, 2018 2:55 PM
To: ~~Rankin~~
Cc: Rankin, John J.; Dill, Shakira J.
Subject: RE: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

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Regards,

Marc


From: ~~Rankin~~
Sent: Thursday, March 22, 2018 9:52 AM
To: Telemaque, Marc <mtelemaque@gov.bm>
Cc: Rankin, John J. <jjrankin@gov.bm>; Dill, Shakira J. <sjdill@gov.bm>
Subject: RE: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

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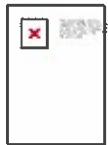
From: Dill, Shakira J. [<mailto:sjdill@gov.bm>]
Sent: Wednesday, March 21, 2018 5:34 PM
To: 
Cc: Telemaque, Marc
Subject: RE: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

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Shakira J. Dill-Francois B.A, LL.B, LL.M
Deputy Solicitor General
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Extension: 1643
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Cc: Telemaque, Marc
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Importance: High

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With kind regards, Jeffrey

Exempt
Exempt



From: Swan, Juliana [<mailto:jvswan@gov.bm>]

Sent: Tuesday, March 20, 2018 3:15 PM

To: *Exempt*

Cc: *Exempt*

Subject: FW: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA
Importance: High

Good Day

I have just received the attached documents from *exempt*

I will acknowledge electronic receipt and the correct location address.

Regards,
Juliana Swan



Juliana V. Swan- Administrative Assistant

GOVERNMENT OF BERMUDA | Ministry of National Security
Police Complaints Authority
Telephone: 441-279-2848
49 King Street | Hamilton, Bermuda HM12
P.O. Box HM 1364 | Hamilton, Bermuda HM FX
Direct Email: vswan@gov.bm

From: *exempt*
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Cc: Swan, Juliana;
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Dear *exempt*

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Kind regards



exempt
exempt
exempt

EXOWA

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Dublin-Swan, Denyelle

From: Telemaque, Marc
Sent: Thursday, March 29, 2018 12:06 PM
To: Caines, Wayne M.
Subject: FW: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

Minister, fyi

From: ~~exempt~~
Sent: Wednesday, March 28, 2018 3:26 PM
To: Telemaque, Marc <mtelemaque@gov.bm>
Cc: Rankin, John J. <jirankin@gov.bm>; Dill-Francois, Shakira J./14699 <sjdill@gov.bm>; ~~exempt~~
~~exempt~~
~~exempt~~
Subject: RE: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

Marc – the Authority met yesterday and as you can imagine the members find themselves in a difficult situation where they are without legal representation in a matter where they have potential personal exposure and no appointed attorney. There is now just over one full working day left before the hearing on Monday.

We do need the Minister's support to have the appropriate legal services engaged in advance of the hearing. There is disquiet amongst the members of the Authority, including myself, arising from the fact that at this point on time there are no attorneys appointed. If we do not have financial support for the appointment of attorneys then the members will consider and have to act to protect their own positions.

I can certainly appreciate that the Minister has important matters that keep him fully occupied and that this issue may not have had his full attention as of yet but as persons who have agreed to serve Bermuda without reward, and honoured to so at the appointment of the Governor, we rely on the Ministry for the financial backing as and when we need services. We would have expected that there would be no hesitation in providing such a necessary service as legal representation where legal proceedings have been initiated against the Authority, particularly as this is provided for in the governing act (section 4 (5)).

You will note that I have taken the liberty of copying in all the present members. I have not copied in as of yet (as I would need to explain what has happened to date) ~~exempt~~ who was a member of the Authority at the relevant time that our unanimous Report was prepared and published which Report gives rise to these legal proceedings.

I hope that you will be in a position to inform us of the Minister's response soon so that the members of the Authority may then be in a position to determine what steps need to be taken in the context of what the Minister decides.

Kind regards, Jeff

From: Telemaque, Marc [<mailto:mtelemaque@gov.bm>]
Sent: Monday, March 26, 2018 5:12 PM
To: ~~exempt~~
Cc: Rankin, John J.; Dill, Shakira J.
Subject: RE: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

Jeff, the Minister is discussing this matter with colleagues tomorrow and will revert thereafter.

MT

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exempt
exempt

From: Swan, Juliana [<mailto:jvswan@gov.bm>]
Sent: Tuesday, March 20, 2018 3:15 PM
To: *exempt*
Cc: *exempt*
Subject: FW: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA
Importance: High

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Regards,
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Juliana V. Swan- Administrative Assistant

GOVERNMENT OF BERMUDA | Ministry of National Security

Police Complaints Authority

Telephone: 441-279-2848

49 King Street | Hamilton, Bermuda HM12

P.O. Box HM 1364 | Hamilton, Bermuda HM FX

Direct Email: jvswan@gov.bm

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Sent: Tuesday, March 20, 2018 3:01 PM
To: *exonut*
Cc: Swan, Juliana; *exonut*
Subject: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

Dear Mr Elkinson

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Dublin-Swan, Denyelle

From: Telemaque, Marc
Sent: Wednesday, March 28, 2018 10:21 AM
To: Caines, Wayne M .
Cc: Smith, Toniiae
Subject: RE: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

This is workable Minister. A Paper was prepared to engage counsel for the BPS and I think it may have stalled at Finance. T, can you confirm ?

MT

From: Caines, Wayne M .
Sent: Tuesday, March 27, 2018 9:52 PM
To: Telemaque, Marc <mtelemaque@gov.bm>
Subject: Re: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

Hi Cabinet Secretary,

I believe the the PCA should have legal representation for the upcoming Judicial Review.

The AG has indicated that they will not represent the PCA.

We must action the plan to hire a lawyer for the BPS.

The lawyer will serve multiple purposes and will minimize the costs. The Lawyer that his hired by the BPS should conduct the JR.

Let me know your thoughts.

WC

The Hon Wayne M. Caines JP MP
Minister of National Security
The Government of Bermuda (441) 7048900

On Mar 26, 2018, at 5:11 PM, Telemaque, Marc <mtelemaque@gov.bm> wrote:

Minister fyi. I will respond indicating that you will raise this issue with Cabinet and will revert thereafter.

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Attorney-General's Chambers Direct Line: 441 292 2463
www.gov.bm

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From: ~~Example~~
Sent: Wednesday, March 21, 2018 2:45 PM
To: Dill, Shakira J.
Cc: Telemaque, Marc
Subject: FW: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA
Importance: High

Madam Attorney General

It is some months since your appointment and may I extend my warm personal congratulations to you on that.

I write to you in my capacity as Chairman of the Police Complaints Authority, a body established under the Police Complaints Authority Act 1998, the members of which are appointed by the Governor in consultation with the Minister of National Security. I write seeking representation of the Authority in connection with proceedings brought against the Authority concerning the issue of the Decision on 10th August 2017 on the complaints of 26 members of the public

against members of the police. The members of the Authority at the time of the issue of the Decision, which was sent at the time to each complainant by email or mail and which was also publically available, were me as chairman, Michelle Simmons, William Francis, Barrett Dill, Andrew Bermingham and Winston Esdaille.

Trott and Duncan wrote on 20th November 2017 setting out complaints on behalf of their clients in relation to the form of the Decision and the alleged failures to do certain things – pages 5, 6 and 7 of their letter attached refers.

Our response to them of 29th November 2017 sets out our disagreement with the basis of complaint and also refers to the statutory protection given to the Authority under section 26 of the 1998 Act.

We have as of yesterday, 20th March 2018, received by email a copy of a Notice of Originating Motion relating to Judicial Review setting the matter down for hearing on 2nd April 2018. We have received no other papers other than what is contained in the attached pdf as sent by Trott and Duncan.

We have raised the issue with the Governor as to legal representation for the Authority and he has asked us to write to you to seek your representation. I appreciate from discussion with the Deputy Solicitor General that independent bodies will not necessarily be represented by your Chambers. It may be that you consider it appropriate to appoint outside counsel on our behalf or perhaps direct us to obtain our own counsel, the latter course which would involve by necessity the Minister of National Security's office in relation to funding the litigation, which is why I am copying in Mr Telemaque, PS to the Minister.

In any event, I look forward to your response as soon as it is conveniently possible for you.

With kind regards, Jeffrey

~~EXEMPT~~

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"

From: Swan, Juliana [<mailto:jvswan@gov.bm>]

Sent: Tuesday, March 20, 2018 3:15 PM

To: ~~EXEMPT~~

Cc: ~~EXEMPT~~

Subject: FW: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

Importance: High

Good Day Jeff,

I have just received the attached documents from ~~EXEMPT~~

I will acknowledge electronic receipt and the correct location address.

Regards,
Juliana Swan



Juliana V. Swan- Administrative Assistant

GOVERNMENT OF BERMUDA | Ministry of National Security

Police Complaints Authority

Telephone: 441-279-2848

49 King Street | Hamilton, Bermuda HM12

P.O. Box HM 1364 | Hamilton, Bermuda HM FX

Direct Email: jvswan@gov.bm

From: *EXEMPT*]
Sent: Tuesday, March 20, 2018 3:01 PM
To: *EXEMPT*
Cc: Swan, Juliana; *EXEMPT*
Subject: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

Dear Mr Elkinson

Please see attached. Original will be hand delivered.

Kind regards
Janet

EXEMPT

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Dublin-Swan, Denyelle

From: Telemaque, Marc
Sent: Wednesday, March 21, 2018 5:33 PM
To: Caines, Wayne M.
Subject: FW: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

Minister, this exchange refers. It bears careful consideration where the Government is asked to fund legal costs for the PCA on this matter.

MT

From: Dill, Shakira J.
Sent: Wednesday, March 21, 2018 5:31 PM
To: Telemaque, Marc <mtelemaque@gov.bm>
Subject: RE: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

Good day CS,

Further to my earlier e-mail, the decision has been taken that we will not represent the Authority; as an independent body they will need to obtain their own counsel. I can communicate this to Jeffery but I suspect that he will revert seeking funds to engage counsel.

This is an issue that has plagued a number of Ministries as it is not normally the case that a litigation budget is set up for the boards etc. that are associated with the relevant Ministry; I know that Min of Health has experienced this issue.

However, a decision will need to be made regarding same as the 1st hearing is scheduled for 5th April.

Regards,



Shakira J. Dill-Francois B.A, LL.B, LL.M
Deputy Solicitor General
Government of Bermuda | **Attorney-General's Chambers**
Global House, 4th Floor | 43 Church Street | Hamilton, Bermuda HM12

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From: Telemaque, Marc
Sent: Wednesday, March 21, 2018 5:09 PM
To: Dill, Shakira J.
Subject: RE: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

Unlikely but I'll await the outcome of your discussions.

From: Dill, Shakira J.
Sent: Wednesday, March 21, 2018 4:46 PM
To: Telemaque, Marc <mtelemaque@gov.bm>
Subject: RE: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA

Good day CS,

I plan to discuss this matter further with the AG & SG, but based on the previous decisions that have been taken with respect to boards/authorities etc, it is unlikely that Chambers will provide representation to what is meant to be an independent body.

As such the Ministry of National Security would be required to provide funding for an attorney to defend the Authority. Is this something that the Ministry would be willing to do?

Regards,



Shakira J. Dill-Francois B.A, LL.B, LL.M
Deputy Solicitor General
Government of Bermuda | **Attorney-General's Chambers**
Global House, 4th Floor | 43 Church Street | Hamilton, Bermuda HM12

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From: Elkinson, Jeffrey *exempt*
Sent: Wednesday, March 21, 2018 2:45 PM
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Cc: Telemaque, Marc
Subject: FW: Civil Jurisdiction 2018 : No 25 - Wales et al v PCA
Importance: High

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Regards,
Juliana Swan



Juliana V. Swan- Administrative Assistant
GOVERNMENT OF BERMUDA | Ministry of National Security
Police Complaints Authority
Telephone: 441-279-2848
49 King Street | Hamilton, Bermuda HM12
P.O. Box HM 1364 | Hamilton, Bermuda HM FX
Direct Email: jvswan@gov.bm

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Kind regards

Exempt
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