

as by radio and internet to several media houses, including the Nationwide Radio, Radio Jamaica News, Jamaica News Network, Irie FM, CVM Television, Loop News, Jamaica Star and Television Jamaica Limited, regarding and in reference to the Claimant.

6. At all material times:
 - a. the said Twitter and Facebook pages of the JCF,
 - b. the websites hosted on the World Wide Web for the Jamaica Observer at *www.jamaicaobserver.com*, the Jamaica Gleaner at *www.jamaica-gleaner.com*, Jamaica Star at *www.jamaica-star.com* and Loop News, and
 - c. the Instagram pages for the Jamaica Observer, the Jamaica Gleaner and Loop News,on which the press release was published, were open to and accessed by millions of users of the World Wide Web, who chose to log into the said platforms, mentioned and referred to in paragraph 5 above.
7. Further or in the alternative, as the JCF well knows, once the publication was made on the World Wide Web, it could and would be accessed by a substantial and unquantifiable number of subscribers to other internet provider systems in and outside of Jamaica and around the world. The JCF well knew and intended for the publication to be republished and/or such republication was the natural and probable consequence of the JCF's publication of the press release on the World Wide Web.
8. At all material times, the defamatory words set out in the press release were transmitted and/or caused to be transmitted and published by the JCF simultaneously on Nationwide Radio, Radio Jamaica and Irie FM. At all material times, the said radio stations enjoyed wide listenership in Jamaica and several Caribbean islands and are accessible on the World Wide Web. It can therefore be inferred that a large and unquantifiable number of users heard and read the broadcast and/or publication.
9. At all material times, the defamatory words set out in the press release were broadcasted and/or caused to be broadcasted by the JCF on Jamaica's national television stations, including CVM Television, Jamaica News Network and Television Jamaica Limited.
10. In their natural and ordinary meaning, the said defamatory words meant or were understood to mean and conveyed to the public and ordinary, intelligent and unbiased persons, with the ordinary person's general knowledge and experience of worldly affairs, that:
 - a. the Claimant was involved in criminal activity;
 - b. the Claimant was in fact a user or distributor of the illegal drug of cocaine;

- c. the Claimant was found in possession of cocaine contrary to the Drug Abuse (Prevention and Control) Act of Barbados;
 - d. that a Green Notice was generated by Interpol in relation to the Claimant by reason of a previous arrest of the Claimant for the offence of Possession of Cocaine in the jurisdiction of Barbados.
 - e. the JCF had confirmed the alleged fact of Mr. Sutherland's arrest for possession of cocaine and an existing conviction for marijuana.
 - f. That the Claimant was considered a threat to public safety.
 - g. That the Claimant has a conviction for Marijuana.
11. Further or alternatively, the said words in the press release quoted herein at paragraph 3, were understood to bear the meanings pleaded in paragraph 9 above by way of innuendo, having regard to all the facts and particulars outlined above.
12. The JCF maliciously published the defamatory words quoted in paragraph 3 herein in that:

PARTICULARS OF MALICE

- i. The JCF at all material times had a duty to "*Serve, Protect and Reassure*" the public, that being their promise to the public, which is stated by way of a motto on all platforms of the JCF.
- ii. The JCF at all material times had a duty to provide true and reliable information to the public regarding its citizens.
- iii. The JCF at all material times had a duty to provide true and reliable information to the public regarding the antecedents of its citizens.
- iv. The JCF at all material times had a duty to provide true and reliable information to other nations for use at their ports of entry and exit.
- v. In defence of the Government of Jamaica, the JCF deliberately published the press release to justify the Claimant's inability to enter foreign states, unhindered.

Marijuana

- vi. The Claimant's conviction for possession of marijuana was expunged by the Chairman of the Criminal Records (Rehabilitation of Offenders) Board of Barbados on April 21, 2016.

- vii. **Section 17 of the Criminal Records (Rehabilitation of Offenders) Act** of Barbados stipulates that *“A rehabilitated person shall, in relation to any expunged conviction, for all purposes in law, be deemed to be a person who has never been charged with, prosecuted for, convicted of or sentenced for, the offence to which that conviction relates.”* [Emphasis Added]
- viii. **Section 22 of the Criminal Records (Rehabilitation of Offenders) Act** of Barbados makes it an offence, punishable by imprisonment, to disclose that a person whose conviction has been expunged, has committed, been charged with or convicted for an offence which was the subject of an expunged conviction.
- ix. Despite sections **17 and 22** of the **Criminal Records (Rehabilitation of Offenders) Act** of Barbados, the JCF nonetheless included the Claimant’s expunged conviction in the press release.
- x. The JCF maliciously published the said defamatory words, in that they failed to carry out any or any proper investigations in pursuance of the due administration of justice, or otherwise, before publishing the press release.

Cocaine

- xi. The Claimant was never arrested, charged, convicted nor sentenced for the offence of possession of cocaine in Barbados.
 - xii. The JCF maliciously published the said defamatory words, in that they failed to carry out any or any proper investigations in pursuance of the due administration of justice, or otherwise, before publishing the press release.
13. The said defamatory words were calculated and/or intended to and/or tended to injure and/or degrade and/or malign the Claimant, exposing him to hatred, contempt and ridicule and therefore tended to lower him in the estimation of right thinking members of society and within his profession.
14. The said words were therefore defamatory of the Claimant and have caused him damage.
15. On or about the 7th July 2022, the Claimant’s Attorneys-at-law, Knight, Junor and Samuels, wrote to the Defendant by way of letter, which was delivered to the Defendant at 10:40a.m. on the 7th July 2022 by way of email to the address published in the said press release, being ‘*ccnops@jcf.gov.jm*’, demanding, inter alia, an apology and a retraction of the classification of the Claimant as *“arrested in Barbados in 2011 for possession of cocaine, by midday today July the 7th 2022”*.

16. That the Defendant has failed to retract, apologize or acknowledge receipt of the said letter of the 7th July 2022, written on behalf of the Claimant, within the time requested in the said letter.
17. The Claimant contends and maintains that he has never been arrested for possession of cocaine in Barbados, nor does he have a conviction for marijuana in Barbados, contrary to the assertions made by the JCF as outlined above.

AND THE CLAIMANT CLAIMS

1. Damages;
2. Damages for Defamation;
3. Interest at such rate and for such period as this Honourable Court deems just pursuant to the Law Reform (Miscellaneous Provisions) Act or at such rate for such a period as the Court sees fit;
4. Costs;
5. Attorneys' costs; and
6. Any such further relief as this Honourable Court may deem fit.

AND TAKE NOTICE THAT PURSUANT to Rule 8.9(3) of the Supreme Court of Jamaica Civil Procedure Rules 2002, and Section 31(E) of the Evidence Act the Claimant hereby identifies and attached the following documents of this Particulars of Claim and notifies the Defendant that they will be relying on the said documents at the trial of this matter and intends to tender into evidence the said documents as Hearsay Statements:

- i. JCF Press Release entitled "JCF Statement on Stop Order Allegations" published on July 6, 2022 by the Corporate Communications Unit of the Jamaica Constabulary Force.
- ii. Royal Barbados Police Force Certificate of Character dated March 17, 2020;
- iii. Letter dated April 26, 2016 from the Chairman of the Criminal Records (Rehabilitation of Offenders) Board of Barbados on April 21, 2016.
- iv. Letter from Knight, Junor & Samuels dated 7th July 2022 addressed to the Jamaica Constabulary Force.

I, **BERT SAMUELS**, ATTORNEY-AT-LAW certify that:

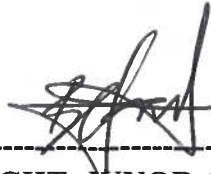
- b. The Claimant states that he believes that the facts stated in this Particulars of Claim are true; and this certificate is given on the Claimant's instructions;
- c. The Claimant cannot give the certificate because he is outside of the jurisdiction.

DATED THE 7TH DAY OF JULY, 2022



BERT SAMUELS

SETTLED BY:



KNIGHT, JUNOR & SAMUELS