

Juliet Holness files defamation lawsuit against Peter Phillips

The Observer



Juliet Holness (File photo)

KINGSTON, Jamaica — Lawyers for Juliet Holness, wife of the Leader of Opposition Andrew Holness, this morning filed a defamation suit against Dr Peter Phillips for statements allegedly made by him and

associates of the People’s National Party (PNP) between 13 -16 February, 2016.

According to a release from the Jamaica Labour Party (JLP), in addition to the defamation claim, Mrs Holness, through her attorney-at-law Chukwuemeka Cameron, is asking the Court to determine whether Dr Phillips breached the rights of Jamaican citizens to a free and fair election in launching a media campaign based on false statements with the intent to mislead voters.

“This lawsuit goes much further than merely seeking damages for defamation,” Mrs Holness said in the release.

“More importantly, it seeks to preserve and defend our cherished democratic process. It is imperative that we protect the dignity of free and fair elections for which our forefathers fought and sacrificed throughout our history.”

Concerns were raised as to whether Dr Phillips abused his office as Minister of Finance and Planning by knowingly making false statements in an attempt to influence the outcome of the 2016 general elections.

“Never again should the state apparatus be used in such a vulgar manner at the expense of the rights of Jamaicans,” Holness said.

Dr Phillips was given two weeks to file an acknowledgment of service.

Juliet Holness, Brother File Suit Against Phillips And Four Other PNP Sympathisers

The Gleaner

Barbara Gayle, Justice Coordinator



Juliet Holness and Andrew Holness exchange words at a JLP gathering.

The wife of the Leader of the Opposition Juliet Holness and her brother Stephen Landell have filed a lawsuit against the Minister of Finance and Planning Dr Peter Phillips and four others arising from what they described as false, malicious and defamatory statements made against Mrs Holness twice this month.

The other defendants:

1. Omar Newell, a PNP executive member; the general secretary of The Patriots, the PNP Region II Secretary and operator of a twitter account

2. Dorothy Buchanan, the operator of a Facebook account, a PNP sympathiser and the mother of PNP St Elizabeth South West, Hugh Buchanan
3. Kadia Francis, the operator of a Facebook account special assistant to Arnaldo Brown at the Ministry of Foreign Affairs and Trade
4. Kerron (Zabby) Woods Saunders, the operator of a Facebook account.a franchise protection officer at Jamaica Urban Transit Company, a PNP sympathiser.

Attorney-at-law Chukwuemeka Cameron who is representing the claimants explained that it was not just an ordinary libel suit that was filed but it is also a claim in which declarations are being sought from the court to protect the rights of citizens to free and fair elections.

Mrs Holness is seeking several declarations, one of which is that, by publishing the untrue statement Dr Phillips created conditions that are not conducive to the attainment of free and fair elections.

She is also seeking an injunction to bar the defendants from making any further alleged defamatory comments.



She contends in court documents that the public relations campaign which centred around the untrue and defamatory words was calculated to ensure that the PNP would win the seat that she is contesting and ultimately ensure that the PNP is returned to power.

The suit stemmed from comments allegedly made by Dr Phillips at presence conference held by the People's National Party on February 12 and at a mass rally in Manchester on February 14.

Mrs Holness, a real estate developer, is a Jamaica Labour Party candidate for St Andrew East Rural in the general election on Thursday.

The claimants outlined in court documents that the defamatory remarks by Dr Phillips were made in relation to his call for the Leader of the Opposition to disclose to the public, the source of the funds for the construction of his Beverly Hills mansion.

They said Dr Phillips knew that the media would be present at both meetings and therefore it was natural and foreseeable that the said words would be published in the electronic and published media.

They contend that Dr Phillips intended that the alleged defamatory words would be republished in the mass media as part of the campaign strategy to destroy Mrs Holness' integrity.

She further claims that Phillips made the alleged defamatory statement with the improper motive of ensuring her defeat at the polls on February 25.

Stephen Landall, a critical care nurse, living in New York, and Mrs' Holness' only brother, is suing because of comments allegedly made about him by persons who responded to the statements made by Phillips.

Comments made by some persons on social media allegedly described convicted Jamaican drug dealer Andrew Wayne Landells who is serving a sentence of 15 years in the USA as Mrs Holness' brother.

Mrs Holness said since the publications, she has assisted her parents to issue photographs of her brother as well as a press release to make it known that the convicted drug dealer was not related to them.

Mrs Holness claims that Dr Phillips as campaign manager published the alleged defamatory statements knowing that the voting public considers integrity to be an important issue in determining who they vote for.

She said he published the statements knowing that it was public knowledge that she was the wife of JLP Leader Andrew Holness, she was a real estate developer and that she was responsible for the construction of the house. She claims that Dr Phillips was aware of the false and defamatory publications on social media about her and her brother prior to the mass rally in Manchester on February 14 .

She contends that Dr Phillips was aware that ordinary persons and media practitioners would believe that when he asks or frame questions in a certain manner, he has information or evidence to support it.

Mrs Holness further claims that based on his position and as former Minister of National Security, the members of the public would place heavy weight on his utterances as he had at all material times the "strategic objective of investigating, preventing and managing enforcement of financial crimes such as money laundering."

The claimants say they will be seeking an injunction to bar Dr Phillips and the other defendants from continuing the alleged defamatory statements.

They also say they will be seeking damages for slander and libel.

They are seeking aggravated damages for the alleged defamatory words published, and exemplary damages to express the sense of outrage that the conduct of the defendants allegedly evoked.

'All Workers Must Be Given Time Off To Vote'

The Gleaner



Norman Grindley

An elector shows that he has voted in the 2011 general election.

The Ministry of Labour and Social Security has advised that all employees should be allowed time off to vote

tomorrow.

Legal Officer at the Ministry, Dian Thompson Clarke, said according to the Representation of the People (Leave and Symbols) Regulations of 1944, all employees should be given the stipulated time to cast their ballots.

"The Regulation provides that the employer should permit his employee to be absent from work for three hours, in addition to the normal meal hour. That will amount to approximately four hours for the day," she outlined.

These provisions, however, do not apply to workers who commence work on election day at or after 10:00 a.m. or conclude work before or at 2:00 p.m.

EMPLOYEES' DISCRETION

Thompson Clarke pointed out that the regulation does not address whether time off should be given, even if the worker chooses not to vote, and urged workers to use their discretion.

"It [the regulation] only speaks to the employer allowing each employee the time off to vote. It is up to the employee's discretion if he or she is not going to vote to be present for work," she said.

Thompson Clarke added that for the purpose of productivity, a worker may choose to make up for the lost hours by entering into an arrangement with his employer to work overtime and to be

paid accordingly, but that he or she should not be penalised for being absent from work for those [voting] hours.

"I do not think they should be asked to make up for the time, but if for productivity purposes they have to continue some production line or something, I think it is up to the employer to compensate that worker for those extra hours that would be spent beyond the regulated time of work," she said.

Legislating Integrity

The Gleaner



Ian Allen

Olive Nelson

- My column of Friday, February 19, 2016 incurred the wrath of a few people, including a close family member. "How could you ever write something like that in the week of an election?"

And an extraordinarily perceptive reader emailed me to say that the PNP was not trying to make an 'eediat' of me, so I had already done it all by myself. Yasmin further suggested that I should stick to accounting. Such is the nature of our tribalistic existence.

In accordance with world trends, and in response to a growing suspicion that some politicians here were using their influence and power to enrich themselves illicitly, the Parliament (Integrity of Members) Act was passed in Jamaica in 1973. Under the act, politicians are required to file with an Integrity Commission statutory declarations of their assets, liabilities and income in a prescribed format by December 31 each year, but no later than March 31 of the following year. The obligation continues for 12 months after the person ceases to be a parliamentarian.

The form provided is itself quite comprehensive, listing 13 items on which the declarant should report, ranging from the acquisition and disposal of immovable property such as house and land, through bank accounts, life insurance policies, stocks and shares, and motor vehicles owned or on lease for more than two months. The declarations should be made in respect of the parliamentarian, spouse and children. If truthfully and faithfully completed, the declarations could, in fact, be useful as an indication of changes in the financial status of politicians from year to year and from their entry into Gordon House to their exit therefrom. It would also provide a mechanism through which the honest parliamentarian could affirm his/her integrity. But how well have we been served by this act and how has the Integrity Commission assisted the process?

CLOSELY GUARDED SECRET

Your editorial of Saturday, February 22, 2016 notes correctly that, in this respect, the commissioners have questions to answer. I do recall, though, that some relevant issues were raised in 2011 by a joint select committee of Parliament in its consideration of the proposed Integrity Commission Act of 2014. The proposed law was intending to merge the Integrity Commission with two other anti-corruption agencies into a single entity with prosecutorial powers.

The contribution of committee member Senator Marlene Malahoo Forte, supporting the disclosure recommendations of the bill, is particularly noteworthy. "The standard of accountability for this group (parliamentarians) should be very high," she said, "There may have been many allegations, where a parliamentarian, perhaps a minister, who has access to resources, may choose to allocate resources along the line of a spouse or contracts or things like that and they are enriched and they, in turn, are able to enjoy a certain lifestyle." (The Gleaner, December 19, 2014).

That "certain lifestyle" is what triggered the debate on the Beverly Hills house. It would be difficult to avoid a conclusion that neither the Integrity Commission nor the associated Act is performing well if, after 40 years of their existence, the public has had to continue relying so heavily on 'lifestyle' as an indicator of integrity.

In his contribution to the committee debate, Integrity Commission Chairman Justice Paul Harrison gave some insights into some of the paralytic issues confronting the commission. A loophole in the act itself was assisting declarants to avoid making full disclosures and his consistent requests for the additional staff required to conduct forensic analyses and financial investigations were not being met.

There are other deficiencies. Except for the bank account balances, no corroboration is required for the 13 line items previously mentioned. All other information was on a say-so basis. And although a certified statement of affairs would significantly improve the quality of submissions, there was no mandatory requirement for it. Under Section 4.4 of the act, it would be only necessary IF THE DECLARANT SO DESIRES.

The content of the declarations and the timeliness of the filings remain a closely guarded secret. The failure of the courts to even impose a prison sentence for the few non-compliance charges brought before it (although the act provides for it), the retention of the maximum fine at \$10,000, the general weak-kneed approach to a compliance that does not allow for the detection of wrongdoing suggest that there is no serious intention on the part of anyone to change the pre-1973 status quo. For all practical purposes, compliance with this act is essentially a voluntary matter.

The Campaign Finance Act is headed in the same direction. The two major parties will be licensed to dip into the Consolidated Fund to finance their election campaigns and the only transparency we are likely to have in respect of private donations is from those who are already disclosing the information voluntarily.

In the early 1990s, many persons marshalled their cash investments into too-good-to-be-true interest rate investments, only to lose everything in the financial meltdown a few years later. Some 10 years on, the same thing happened with Olint and Cash Plus.

Electors would be well advised to apply this measure to the political offers currently before them and carefully evaluate whether they are not being set up for another scam.

On this election, day go out and vote for somebody or make a statement. A vote for an independent candidate or a spoilt vote is not a wasted vote.

- Olive Nelson is a chartered accountant. Email feedback to columns@gleanerjm.com.

April 8 for prelim in murder case



WESTERN BUREAU:

A St James man accused of killing his girlfriend and hiding her body under banana leaves in his yard will undergo preliminary examination in the Montego Bay Resident Magistrate's Court on April 8.

Neville Thompson, who is charged with the May 2, 2014 murder of Simone Grossett, was given the new court date and had his bail extended when he appeared in court on Friday.

The court was informed that the prosecution's case file was completed and ready for the preliminary enquiry as an outstanding document had been handed in.

Resident Magistrate Sandria Wong-Small subsequently set the matter to be heard on April 8. The allegations are that Thompson and Grossett were at the accused man's home in Cambridge when they got into a dispute. Sometime afterwards Thompson went to the police station and filed a missing person report for Grossett.

However, the police acted on information and went to Thompson's house where a search of the premises revealed Grossett's body, with stab wounds, hidden under banana leaves near a fowl coop. Thompson was arrested and charged.

- C.T.

J'can cop in Bermuda awarded millions for damages from exposure to mould

The Observer



Emmerson Donald (Photo: Royal Gazette)

HAMILTON, Bermuda (CMC) — A Jamaican police officer is in line to receive more than US\$4 million in damages after he suffered chronic health problems following exposure to toxic mould while working at two of

Bermuda's police stations, the Royal Gazette newspaper said on Tuesday.

Emmerson Donald, 44, was provisionally awarded \$2.5 million in lost earnings and \$1.5 million for future medical expenses as a result of his condition on top of the \$450,000 he has already been paid for “pain and suffering”.

The ruling by Chief Justice Ian Kawaley is believed to be the first case where substantial damages have been awarded in Bermuda for a mould injury case.

Donald, who came to Bermuda in 2000 to join the Bermuda Police Service after seven years' police experience in Jamaica, was exposed to the toxic mould at Hamilton and Somerset police stations.

Last month Donald and his lawyer Richard Horseman took their claim to the Supreme Court after the Ministry of Works and Engineering admitted liability.

In his ruling, the chief justice made clear that both parties could still make further submissions about the total damages if they were not agreed on.

“The total award for loss of earnings, subject to any adjustments as may be advised by or agreed between counsel is: \$97,713 (past earnings), \$1,133,594 (Bermuda Police Service future) and \$1,495,886 (less two years — second career),” he said.

“These amounts are based on figures calculated by the plaintiff’s expert applying a discount rate, which was essentially agreed.

“Subject to the parties hopefully agreeing the adjustment required to give effect to a 13-year rather than a 15-year second career, the total award for loss of earnings is in the region of \$2.5 million.”

The chief justice further ruled: “The total future medical expense award, assuming a life expectancy of 21 more years, is accordingly \$1,120,000 for (kidney) transplant and dialysis, \$346,978 for ongoing medical expenses and \$105,000 for risk of additional serious illnesses, that totals \$1,571,978.”

The Supreme Court heard he was an “outstanding” officer with an exemplary record until he first fell ill with chronic renal failure in 2003.

In a sworn statement, Donald said his “body and mind were broken down” and his “life was hijacked” by the illness.

Donald, who still undergoes dialysis three times a week, maintained he could have be promoted through the ranks all the way up to superintendent by 2022 had it not been for his medical condition.

In relation to his future promotional prospects, Chief Justice Kawaley said: “I find that the plaintiff would most likely have been promoted to the rank of sergeant with effect from January 1, 2010, as he himself claims.

“I accordingly find that the plaintiff’s career, but for the defendants’ negligence, would have likely followed scenario two and that he would have been further promoted to the rank of inspector with effect from January 1, 2015 and retired in that rank at age 55.

“This promotion date appears to me to be reasonable bearing in mind that the plaintiff’s most high-flying peers were promoted to the rank of inspector six years earlier, in 2009.”

The chief justice added: “It is common ground that the plaintiff will require at least one kidney transplant preceded and followed by ongoing dialysis treatment, is subject to increased health risks, notably cancer and cardiovascular disease, and has a reduced life expectancy.”

Police Commissioner Michael DeSilva earlier told the court that Donald would have stood a “better than average” chance of being promoted to sergeant after he became eligible to apply for the position in 2003.

He said it was difficult to say how Donald might have risen through the ranks had he not fallen ill in 2003 but he acknowledged that Donald was a first-rate officer with very good investigative skills.

The End