

DISTRICT COURT OF QUEENSLAND

REGISTRY: *Brisbane*
NUMBER: *3603/23*

Plaintiff:
Simon Hickey

First Defendant
Nicholas Perriman

Second Defendant
Justin Zuanetti

Third Defendant:
Queensland Police Service

MISFEASANCE IN PUBLIC OFFICE

CLAIM

The plaintiff claims:

Relief for loss of income due to
False statements made in January 2018 by police officers
Nicholas Perriman and Justin Zuanetti, and other officers,
which resulted in :

Arrest, imprisonment, business interruption, loss of customers
Loss of future work from aggrieved customers
Time spent recovering lost business information
Costs involved in defending original matter
Emotional distress and damage due to false imprisonment
Costs of lodging claim

\$ 413,950

INTEREST

\$ 96,552

TOTAL

\$ 510,502

The plaintiff makes this claim in reliance on the facts alleged in the attached Statement of Claim.

ISSUED WITH THE AUTHORITY OF THE DISTRICT COURT OF QUEENSLAND

And filed in the Brisbane Registry on

11 DEC 2023





Registrar:

District Court of Queensland CLAIM
Filed on Behalf of Simon Hickey
PO Box 1059 Slacks Creek QLD 4127
Smerff@fastmail.com

To the defendant[s]: TAKE NOTICE that you are being sued by the plaintiff in the Court. If you intend to dispute this claim or wish to raise any counter claim against the plaintiff, you must within 28 days of the service upon you of this claim file a Notice of Intention to Defend in this Registry. If you do not comply with this requirement judgment may be given against you for the relief claimed and costs without further notice to you. The Notice should be in Form 6 to the Uniform Civil Procedure Rules. You must serve a sealed copy of it at the plaintiff's address for service shown in this claim as soon as possible.

Address of Registry:

PARTICULARS OF THE PLAINTIFF:

Name:	Simon Hickey
Plaintiff's residential or business address:	14 Centenary drive Slacks Creek QLD
Address for service:	PO Box 1059 Slacks Creek QLD 4127
Telephone:	0450 390 166
E-mail address (if any):	smerff@fastmail.com
plaintiff's address for service:	PO Box 1059 Slacks Creek QLD 4127

Signed:

A handwritten signature in blue ink, appearing to read "S. Hickey", with a large flourish at the end.

Description:

PLAINTIFF

Dated:

16 NOV 2023

This Claim is to be served on:

Nicholas Perriman
Justin Zuanetti
(Both Serving police officers)

of:

Roma street police HQ,
Roma street, Brisbane 4000

District Court of Queensland CLAIM
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DISTRICT COURT OF QUEENSLAND

REGISTRY:
NUMBER:

Plaintiff:
Simon Hickey

First Defendant:
Nicholas Perriman

Second Defendant:
Justin Zuanetti

Third Defendant:
Queensland Police Service

**STATEMENT OF CLAIM
MISFEASANCE IN PUBLIC OFFICE**

The claim in this proceeding is against Queensland Police officers Nicholas Perriman, and Justin Zuanetti who, at the time of the event, and all the relevant times were employed in an official capacity by the Queensland Police Service.

**JANUARY 2018, NICHOLAS PERRIMAN, QLD POLICE OFFICER
PARTICULARS:**

1. On the 19th of January 2018, in the state of Queensland, while performing his duties as a Queensland Police officer, Nicholas Perriman was involved in executing a search warrant on the home of Simon Hickey at 7 Spruce bark court Stretton
2. On the 19th of January 2018, in the state of Queensland, while performing his duties as a Queensland Police officer, the first defendant, Nicholas Perriman, did make false statements to Richlands Magistrates court, in the form of an affidavit.
 - a. Perriman's false statement 'Zuanetti sustained a deep gash to his hand, and saw blood coming from the wound'
 - i. The video shows there was no blood whatsoever.
 - b. The second false statement was that 'Zuanetti was transported to hospital in the ambulance, and had stitches applied to the wound'

STATEMENT OF CLAIM
Filed on behalf of the plaintiff

Simon Hickey
Po Box 1059 Slacks Creek QLD 4127
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- i. There was no wound on Zuanetti's hand or finger. The video clearly shows him hanging that hand on his equipment vest casually before the ambulance arrival.
 - ii. Zuanetti did not wash his hand anywhere on the premises prior to Ambulance arrival .
 - iii. The video of the moment the injury allegedly occurred shows Zuanetti looking down at his hand, but not even breaking stride to look closer, before proceeding into the house.
 - v. The plaintiff tried to locate a first aid kit at the time - someone told him that Zuanetti had injured his hand, and even then, could not see an injury to the officer.
 - vi. The video shows that Zuanetti was not transported to hospital, but waved goodbye to the ambulance, while using his allegedly injured and bleeding hand to hold his cellphone and conduct a call.
 - vii. Queensland Police subsequently lied to the district court on appeal, and stated that *Zuanetti was taken to hospital by a police colleague, after his shift, in a private vehicle.*
 - viii. Do we even need to draw attention to how ridiculous that statement is?
 - a. Imagine saying to a judge 'yes your honour I fell and hurt my neck in the supermarket, but I finished my shift, and then I went to hospital' Your claim would be torn up.
- c. At the conclusion to the raid, on the 19th of January 2018, Perriman and other police officers then seized the CCTV recording and kept it concealed from the court, and the defence until Hickey was convicted of the offence.
 - d. Police only returned the recordings to Hickey when ordered to do so by the ATO.
 - e. Later in 2018, When Hickey discovered that Perriman's statements were false, Perriman and Zuanetti then emailed a picture of somebody else's hand to the prosecutor, trying to pass it off as Zuanetti's injury. Except they sent a picture of a finger on the opposite hand.
 - f. The amateurish cover up only proves that these two knew that what they were doing was wrong
3. By making a statement he knew to be false, it can be shown that Perriman's intention was to first refuse bail, and then convict Simon Hickey of an offence Perriman knew or should have known Hickey was not guilty of.
 4. In addition to the individual actions of Nicholas Perriman and Justin Zuanetti, this claim extends to the Queensland Police Service (QPS) as their employer. The QPS is vicariously liable for the actions of its officers, Perriman and Zuanetti, committed in the course of their employment. The QPS failed in its duty to adequately supervise, train, and control its officers, leading to the violations of the plaintiff's rights.
 5. Perriman, by charging Hickey with the setting of mantraps, on account of this false statement, knew or should have known that this charge can only be made out if the injuries sustained, or which would have been sustained, were life threatening:

- a. The charge (Mantraps) requires that the injuries meet the definition of Grievous Bodily Harm (GBH) A cut finger did not meet the definition of life threatening, or GBH, and therefore Hickey was not guilty of this offence – even if Perriman’s false statement were true.
 - b. The charge – setting man traps – implies that a trap or danger has been concealed. In this case Hickey’s fence displayed clear warning signs at either end, which are visible on the CCTV. Yet Perriman’s charge sheet made no mention of this. The presence of warning signs almost precludes the conviction for setting any trap.
 - c. The presence of signs shows that the plaintiff had no intention to cause any injury, his intention was only to keep people from climbing the fence.
 - d. It is not a criminal offence to attach any object to any fence of your own in Queensland.
 - e. The state of QLD uses razor wire fences on numerous government structures and property.
6. Perriman, by making a statement he knew to be false, and charging Hickey with an offence he knew or should have known Hickey was not guilty of, broke the QPS code of conduct, its operational guidelines, and broke the law. He exceeded his lawful authority
 7. Perriman’s intentions, by making this false statement, cannot be anything other than to cause damage to the person he was making this statement against. The malicious intent is obvious
 8. The results of Perriman’s statement, can only be detrimental to the recipient. No positives can come from it. The monetary losses, and emotional damage which resulted were the intended result, not just an unfortunate by product.
 9. Those monetary losses can be accurately determined by Hickey’s business records before and after the incident
 9. The miscarriage Hickey’s wife suffered as a result of her husband’s arrest may not have been a foreseeable result, but it was a direct result nonetheless.
 10. Perriman’s signature appears in numerous places on the document, which was read to the court, and must have played a large part in the Magistrates decision to refuse bail.
 11. Hickey’s ill-advised decision to plead guilty to this offence was made under duress. The conviction should have been overturned by the Superior court in 2018, but wasn’t, because none of this evidence was allowed.

12. Perriman's conduct satisfies all the required elements of misfeasance in public office.
13. If a proper investigation of this incident were carried out, Perriman would be facing numerous charges and dismissed from the police force.

JANUARY 2018, JUSTIN ZUANETTI, QLD POLICE OFFICER PARTICULARS:

1. It can be shown that Nicholas Perriman, the first defendant, relied on Justin Zuanetti's false statement to write his own, the one ultimately used to imprison and convict Hickey
2. The first defendant cannot have made the false statements he did, without Justin Zuanetti first making the false claims of injury.
 - a. If Zuanetti wants to stand by the original statement, plaintiff will require the name of the hospital, who drove him and where the stitches were removed? Hospitals are obliged to keep records.
 - b. Zuanetti cannot provide those details because he never went. His actions break both QLD police code of conduct and the QLD public sector ethics act
3. Justin Zuanetti, at any time could have stopped Perriman, amended the statement to be truthful, but didn't.
4. Justin Zuanetti was not transported to hospital at all. There were no stitches because there was no injury.
5. By making these false statements, Zuanetti acted maliciously, with the intention of damaging Hickey's name and business, and the resulting losses were the only possible outcome.
6. Zuanetti's conduct satisfies all the required elements of misfeasance in public office.
7. If a proper investigation of this incident were carried out, Zuanetti would be facing numerous charges and dismissed from the police force.

JANUARY 2018, CONDUCT OF BOTH OFFICERS, AND OTHERS PRESENT PARTICULARS:

1. Late in January 2018, Siobean Dash did make numerous false statements to Ferny Grove police, who then launched this raid on Simon Hickey's home.
2. Had the police who took her statement done any investigation at all, almost everything this woman said can be shown to be untrue.

- a. She was not investigating Hickey for 'fraudulent workplace practises' this is an intentional fallacy to bolster her position. Hickey was never charged with fraud or any type of fraudulent behaviour
 - b. Dash did not receive 'numerous emails from Hickey which threatened and harassed her' why did the police not ask for an example of these emails? Perhaps police have those emails they can show the court now? They don't exist. There was one email, a reply to Dash's own, which contained no threats.
 - c. The blog post police refer to in paragraph two offers a *reward for information on the people who invaded Hickey's home and stole all his things*. The post was entirely legal as shown by the contemporary decision of Rockhampton magistrate Cameron Press in 2018 . **This decision was in the news PRIOR to the incident involving Hickey, so there is no reasonable explanation as to why QLD police were not aware of this important decision.**
 - i. *Rockhampton Magistrate has thrown out unlawful stalking charges against a self-described citizen journalist accused of harassing Labor MP Brittany Lauga. On one occasion he referred to her as the "minister for trailer trash", and asked her neighbours when she walked her dog. Petros Kholesirad, a local businessman and political blogger, was accused of making derogatory posts on social media and publishing Ms Lauga's phone number and a photo of her house online.*
 - ii. This case involves a man posting a MP's phone number and address online, along with derogatory remarks. This incident is far more objectively criminal than anything Hickey is accused of.
 - iii. Therefore: Hickey had no case to answer for unlawful stalking. Queensland Police, by acting on unsubstantiated allegations, without conducting even a rudimentary investigation broke procedure. They acted without investigation because Siobean Dash was a former officer.
 - iv. Furthermore, the Queensland Police Service, as the employer and governing body for the defendants, is responsible for the conduct of its officers under the principle of vicarious liability. The QPS's failure to prevent or address the misconduct of its officers, as detailed in this claim, directly contributes to the harm suffered by the plaintiff."
 - d. The poster police allegedly found was brought to their attention by the alleged victim herself. When it can be shown that she lied about everything else, then why would the poster be any different? Hickey made no admissions about the poster and no evidence was found to substantiate the allegation
3. There was no basis in law for a search warrant to be executed on Hickey's residence on 19th January 2018.
 4. The police when they first attended the house made no attempt to use the intercom or doorbell which was fixed to the gate and in good working order. There was no need for them to leap the fence. Any injury sustained due to their ill-conceived decision to leap a fence without first contacting the owner and requesting peaceful entry, rests on them alone. The homeowner cannot be held responsible
 5. The Queensland Police Service (QPS), by virtue of its employment of the defendants Perriman and Zuanetti and its responsibility for their actions, is additionally liable for

the misfeasance in public office. The QPS's oversight mechanisms and institutional culture have indirectly facilitated the actions of the officers, making the QPS complicit in the alleged misconduct

6. There was no need for ten officers to execute the search warrant on January 19 or 2018. QPS sent that many as an intimidation tactic because Hickey was an outspoken critic of the state government and a political dissident.
7. There have been numerous cases before and after where a person accused of murder or far more heinous crimes was arrested with just a small team of 2 – 4 men.
8. The police officers who conducted the recorded interview with Hickey, then lied to the court about what transpired during that interview. Police said that Hickey conceded that 'that nobody else could screenshot the website and take Dash's photo from there'. When the Hickey told them of some very basic ways (pressing print screen) that anybody could have screen-shotted the website, police talked over him to try and keep it off the recording, but one can still clearly hear the explanation. The recording will prove their intentional misleading of the court. Had their signatures been on this document it would be a criminal offence

It is the combined effects of this unlawful and unwarranted raid, then the unlawful equipment seizures, imprisonment, conviction and consequences to that conviction the plaintiff seeks damages for.

Even if the court accepts that the raid was lawful due to the valid warrant, making false statements to convict an innocent person is perhaps the most disgraceful act for a sworn police officer. In this case there is no doubt that Perriman and Zuanetti both made false statements on numerous occasions and those statements resulted in serious, foreseeable consequences to the accused.

CIVIL LIABILITY ACT 2003 EXCLUSIONS :

Section 36: Exclusions based on exercising a public function do not apply because making false statement to jail somebody is an act **so unreasonable that no public or other authority having the functions of the authority in question could properly consider the act or omission to be a reasonable exercise of its functions.**

Section 45: Exclusions for (the plaintiff to be engaged in) criminal behaviour do not apply because Hickey was **not engaged in criminal conduct at the time of the QPS Raid** in January of 2019. Hickey's conviction for stalking and setting mantraps in relation to that incident are immaterial because he was not engaged in that behaviour **at the time** of the event, and Hickey's behaviour **did not contribute to Perriman making false statements.**

In addition to that, Hickey can show enough evidence to prove that these convictions are untenable, unsupported, and a miscarriage of justice.

ELEMENTS OF THE TORT OF MISFEASANCE

1. The defendant(s) were both the holders of a public office, namely, police officers.
2. The defendants were both exercising a power held by virtue of that office, namely, serving a search warrant on the plaintiff at the relevant time
3. The defendants exercise of that power exceeded their lawful authority, and by making several false statements they both
 - a. Broke the law. Submitting an affidavit to a court, knowing it contains a false statement is a criminal offence. The document is signed in numerous places.
 - b. Broke QLD Police Integrity guidelines
 - c. Broke QLD Public Sector Ethics Act 1994 Page 3
 - i. **Integrity and impartiality:** In recognition that public office involves a public trust, *public officials should demonstrate integrity in their official conduct*, and personal conduct, and should at all times act impartially and in a manner that will bear the closest public scrutiny; this obligation is not fully discharged merely by acting within the law.
4. Making a false statement to incriminate a person, can have no other consequences than adverse ones. The conduct of both officers, can be nothing else except intentionally malicious in nature, satisfying the 'bad faith' element of this tort.
5. The consequences to making these false statements were easily foreseeable, and were the only logical result of their actions. The consequences Hickey suffered were the intentional result, not an unfortunate by product.
6. The conduct of both officers was not just recklessly indifferent to damage that may be suffered by the plaintiff, but their actions were designed and calculated to cause the plaintiff damage.
 - a. Who calls an ambulance for a cut that's not bleeding? This shows there was some degree of planning.
7. The damages done were both monetary due to being absent from his business, and physical, due to his loss of freedom.
 - a. The monetary damages can be easily demonstrated by business figures from the months either side of January 2018. Many business records have been lost due to repeated thefts of equipment by QLD police in attempt to destroy evidence, but enough remains to show reasonably accurate figures.
 - b. These events directly resulted in the decline of Hickey's business from a point of employing 12 people consistently, to now only Hickey and a casual.

8. The emotional damage suffered by the plaintiff as a result of the false allegations, false imprisonment and subsequent harassment for drawing attention to QLD police conduct are all foreseeable consequences to these events.
9. That emotional damage is long lasting, ongoing and occurred as a direct result of Queensland Police campaign of harassment against Simon Hickey. The damage includes, but is not limited to:
 - a. Breakdowns in all Hickey's personal relationships with close family, including father and brother
 - b. Breakdowns in personal relationships, long term friendships with people who are now too frightened to associate with Hickey due to being visited repeatedly by QLD police and asked questions about their involvement with the plaintiff
 - c. These events contributed significantly to Hickey's marriage breakdown although cannot be said to be the only contributing factor

This claim falls within the allowable six-year period from the date of cause of action event

THE DAMAGES ARE SET OUT BELOW.

Loss of customer appointments January 19 to 31 of 2018	\$ 75,000
Loss of future appointments and goodwill due to no show	\$ 37,500
Time spent recovering all the business information ran to at least 100 hours	\$ 8,000
Purchase of new computer and phone equipment after seizure	\$ 18,000
Legal costs of defending the original matter	\$ 15,000
Days off work in 2023 to repeatedly visit District Court to lodge forms	\$ 6,000
Administrative costs of lodging this claim, RTI applications and subpoenas	\$ 3,450
SUB TOTAL	\$ 163,950

Emotional distress from first period of imprisonment	\$ 150,000
Ongoing emotional distress, trauma, loss of personal relationships, and loss of productivity due to ongoing raids, surveillance and accusations for breaching an order that should never have been made	\$ 100,000

SUB TOTAL \$ 413,950

INTEREST CALCULATED FROM CIVIL LIABILITIES ACT 2003 AND RBA WEBSITE.

- Must not be more than interest at the appropriate rate.
- Must be related in an appropriate way to the period over which the loss was incurred.
- The appropriate rate is the rate for 10-year Treasury bonds published by the Reserve Bank of Australia under 'Capital Market Yields—Government Bonds—Daily—F2' as at the beginning of the quarter in which the award of interest is made.

SUB TOTAL	\$ 413,950
Interest	\$ 96,552

TOTAL \$ 510,502

Interest on the principal sum of \$413,950 is claimed in accordance with the Civil Liability Act 2003. Calculated from January 2018 until November 2023, the interest is computed on a simple interest basis at an annual rate of 4%, applied over the period of 5 years and 10 months. The total interest accrued is approximately \$96,552.54, which represents the time value of money over the duration of the claim.

Signed:



Description: Simon Hickey, self-represented

All correspondence to be directed to email address in first instance.

STATEMENT OF CLAIM
Filed on behalf of the plaintiff

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Smerff@fastmail.com
0450 390 166