DISTRICT COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: 3653 / 23

Plaintiff:
Simon Hickey

First Defendant:
The State of Queensland

Second Defendant:
Nicholas Perriman

Third Defendant
Justin Zuanetti

PLAINTIFFS RESPONSES TO THE OUTLINED DEFENCES

1. The defendant correctly points out that the QPS should not have been named as a defendant in the original pleadings. The plaintiff has made amendments to the originating documents. An application to amend, along with an amended claim has been lodged. The 'State of Queensland' should appear everywhere on the Claim and Statement of Claim where previously was named (QPS) Queensland Police Service

    a. The defendant here is suggesting that no claim can be made against serving police officers where their conduct was done *in 'good faith' during their duties.*

        i. It is precisely the 'good faith' part that the plaintiff wishes to challenge. Previous case law in Queensland and Australia has established that if the dishonesty is proven the 'good faith' defence must fail:

            Mason v State of Queensland [2023] QDC 60 - This recent 2023 QLD District Court case upheld that police officers can be liable for unlawful actions despite "good faith" provisions, if dishonesty in carrying out duties is shown.

            R v Stewart [2019] QSC 285 - QLD Supreme Court found police officers exceeded lawful use of force, rejecting a "good faith" defence due to factual circumstances showing excessive force.

OTHER AUSTRALIAN CASES INCLUDE

Darkinjung Local Aboriginal Land Council v Minister Administering the Crown Lands Act [2014] NSWLEC 1040 - NSW court found minister did not act in "good faith" when making a land rights decision where improper purpose and ulterior motives were shown. Shows good faith negated by proven dishonest motives.

Taylor v Owners Strata Plan No 11564 [2014] HCA 9 - High Court upheld that employees could be liable for unauthorized acts outside scope of duties despite statutory immunity provisions. Good faith defence failed.

The Plaintiff believes that his evidence shows a complete lack of good faith

If the court is satisfied that the plaintiff has proven dishonesty on the part of the defendants, then the State of Queensland can be vicariously liable for all or part of the consequences. This reasoning has been upheld as recently as 2023 in decisions such as Mason vs State of QLD (2023)

b. The responses I have given at 1(a) and (i) deal with all the defendant's responses outlined 1 (b) – 1(g)

2. The plaintiff accepts the defendants' responses in 2(a) through (g) *as events only*. We accept that the search warrant was issued, the home was searched, Hickey was arrested, charged, and convicted. The plaintiff accepts that <u>all those events occurred</u>. But that is all.

   The following points must be made in relation to the case as a whole:

   a. The plaintiff can show this court **strong, new, and exculpatory evidence** that was not available when the original decision was made.

   b. In law, if exculpatory evidence comes to light *after the conviction*, then that is possibly the strongest reason imaginable to examine the original process to establish whether a miscarriage of justice has occurred.

   c. When it can be shown that this exculpatory evidence was **concealed from the convicted man by the investigating officers, until after he was convicted** - then this is a serious matter that should be thoroughly investigated. If only to prove the plaintiff wrong and restore the good name of police involved.

      If the police to do not wish to examine this series of events, then that alone is reason to suspect mischief.

d. It was only due to intervention from The Australian Taxation Office that Hickey did obtain the video evidence at all. They ordered to police to return Hickey's gear so he could pay the quarterly BAS. This was the only occasion that any of Hickeys seized equipment was returned less than 2 years later and in working order.

e. The crown says that **new and exculpatory evidence** is not enough to warrant a review of events surrounding this conviction. But that is only one reason to review the events from 2018.

f. If we look at the evidence (or lack of it) and accept everything police say as fact, there is still clearly not enough to convict Hickey of setting mantraps, and arguably not enough to convict him for stalking. And that's if we accept everything. The case put forward by the plaintiff is enough to raise serious questions about both.

    i. The plaintiff does not accept that the photo of the alleged injury is genuine. However, *even if we did* – the 'injury' to Zuanetti's finger does not constitute 'grievous bodily harm'

    No way no how, not even close.

    This is a key element of the charge 'setting mantraps' There is no disfigurement, no loss of limb and no risk of death. The term grievous bodily harm requires one of those things, and Zuanetti's injury does not have any of them.

    Police decision to call an ambulance was a stunt. It was a waste of taxpayers' money, and incredibly selfish, considering seriously injured people might have been left waiting - while Zuanetti joked with the ambulance officers at the front of my house, all captured on high-definition CCTV.

    ii. Further to that, the signs on the fence clearly demonstrate there was no intention to cause harm. The charge of setting mantraps was thrown in to stack charges against Hickey.

    All the other charges (except for stalking) relate to medicine prescribed to Hickey, glass pipes and items which are finable offences only. Certainly not enough to warrant arrest, and imprisonment.

g. Finally, before we move on, the (crown) defendant has quoted the Evidence act of 1977 to prove that the plaintiff is guilty of these offences, regardless of what we know now. Section 77 of the evidence act states:

> (3) In any civil proceeding in which by virtue of this section a person is proved to have been convicted by a court of an offence the person shall, **unless the contrary is proved**, be taken to have committed the acts and to have possessed the state of mind (if any) which at law constitute that offence.

The key aspect here is **Hickey can prove the contrary**.

The evidence before this court, without any new material from me, clearly demonstrates that Hickey is not guilty of setting mantraps. It also further clouds the issue of guilt for 'stalking' offences.

The crown is trying to shut the door, and not give us a chance *to prove the contrary*, when the Evidence act clearly allows for that possibility.

We maintain that ultimately, those false statements played a large part in the conviction. The Crown is now trying to persuade this court that a conviction, with or without a guilty plea means that these events can never be examined again, for any reason. **This logic is patently absurd.**

What's really amusing about this 'defence' is that if a working man were to try that one… Let's imagine I got a million-dollar loan from Westpac, based on a written application where I told them my collateral was the Storey Bridge Hotel. A month later they find me living in a cardboard box next door and I'm charged with fraud.

Would any judge accept my defence of *'you already gave me the loan, so you can't question the methods I used to obtain it?'*

h. Is LMAO a proper legal term? That is what police will do should that defence prevail

i. As if that wasn't enough to demonstrate my point, the recent publication:

> **IDENTIFYING A "MISCARRIAGE OF JUSTICE":** Factors Influencing a Successful Appeal Against a Guilty Plea Conviction in Australia from (2023)
> Researchers from Griffith University found:
> https://doi.org/10.1177/08874034231162776
>
> - The whole study comprised of 568 (Australian) cases where an appeal against conviction was launched, after a guilty plea. These cases were taken from every state and territory.
> - Of those - 34% of appellants were successful in their conviction being overturned, acquitted quashed.
> - The state with the highest success rate was Queensland.

This comprehensive, peer reviewed study from less than one year ago, shows that **nearly 1/3 of all appeals against conviction *after a plea of guilty* are successful!**

This publicly available information all but eliminates the notion that Hickey cannot have these events re-examined if he has reasonable grounds.

Clear video evidence showing police repeatedly lied is reasonable grounds.

If the crown had confidence the actions of its officers, they would welcome any investigation. There's a reason they are working so hard to stop this claim from progressing any further.

3. The defendant maintains that Justin Zuanetti (defendant 3) did sustain a 'deep gash' and / or serious injury to his left finger, and the BWC captured the injury.

    a. The plaintiff requests disclosure of the BWC footage of all officers, showing this 'injury' and all video footage / material pertaining to the execution of search warrant.

    b. The defendant states that he is not required to address further particulars, but has not *explained why he is not required to refute or accept particulars* (b) through (f)

    It is these particulars which constitute the main grievance of the plaintiff relating to 'false statements' and as such it is bizarre that the defence contends that he does not have to address these allegations

        i. The only inference here is that the defendant has no legitimate defence to refute particulars 2 (b) through (f) in my statement of claim.

    c. Further to that, the crown maintains that Zuanetti's injury was to a finger on his left hand. The image they supplied at the time is clearly someone's right hand. One only needs to look at the creases between the joints of the fingers, and which way they slope. Anyone can verify that, hold up your left hand and compare it to the photo. Then hold up your right. The photo is the second one.

4. The defendant maintains that 'Zuanetti was in fact injured', no false statements were made and we don't have to say any more'.

    a. The crown has simply stated that Zuanetti was injured, but not addressed specifically whether the statement of a 'deep gash requiring stitches' was true, nor the part about being 'transported to hospital'.

        i. These were the exact specific statements which Perriman and Zuanetti swore to at the time, (as recorded in the bail affidavit they signed) exhibit 1

        Statement 1:

        'Zuanetti touched the fence and felt a sharp stabbing pain, he then observed his hand and saw a deep gash, and blood coming from the wound'

Statement 2:

> 'Queensland ambulance service attended and Zuanetti was subsequently transported to hospital where he had stitches applied to the wound'

The defences position that 'Zuanetti was injured so there was no false statement' does not meet the required standard.

Were these statements true in their entirety or not?

The second one clearly was not. It is written with the intention of making the reader believe that Zuanetti went to hospital in that ambulance.

If he did not then the statement is patently false.

Neither of these statements have been addressed by the Crown anywhere in their defences. The crown obviously shares the same legal position as Queensland Police.

'We don't have to follow the law because we are the law'

b. The crowns reliance on the plaintiff's original guilty plea to give them 'blanket immunity' from subsequent examination of these events is unconscionable. The Plaintiff has asserted that he plead guilty only under duress, as well as extremely poor legal advice. That legal advice was **based on the assumption that when police give sworn documents to a court, then that version of events is truthful**.

   i. If evidence comes to light later those police fabricated their version of events, a previous guilty plea does not prevent any retrospective investigation of the incident.

   ii. It is this evidence, which came to light after the initial proceedings, which the plaintiff is asking the court to consider now.

   iii. It would be a miscarriage of justice not to at least inspect and consider the plaintiffs evidence, considering the seriousness of the allegations

5. The plaintiff has agreed to change the named party to the 'State of Queensland' instead of 'QPS'. The plaintiff still maintains that 'the State' still failed to adequately train, control or supervise its officers. Had it done so, then incidents like this may not have happened.

   a. However, we can ignore this particular for the time being. If the Court finds that one or more police officers did behave dishonestly, and/or maliciously then we can come back and tick this particular off as proven.

6. The Defence has offered no specific defences to this accusation that Perriman charged Hickey with an offence he knew or should have known Hickey was not guilty of, only referring to his previous claims of truthful statements

    a. Defendants only repeat their claim of truthfulness

    b. Deny the statement that a charge of setting mantraps can only be made out if the damage caused, or intended to be caused was 'life threatening'. This is patently untrue. The defence seeks to rely on the plaintiffs wording rather than the real and proper definition for <u>mantraps</u> and <u>grievous bodily harm</u>.

        i. Pls refer to the (QLD criminal code page 233) for the definition of 'setting mantraps' in that the trap must be *calculated to destroy human life or to inflict grievous bodily harm.* Further to that:

        ii. The definition of 'grievous bodily harm is set out on (page 39 of the Criminal Code as

            (a) the loss of a distinct part or an organ of the body; or
            (b) serious disfigurement; or
            (c) any bodily injury of such a nature that, if left untreated, would endanger or be likely to endanger life, or cause or be likely to cause permanent injury to health; whether treatment is or could have been available.

            The defence here are attempting to pass off shorthand by the plaintiff the precise definition of GBH. The legal definition of grievous bodily harm does not only mean *life threatening* (although that is a part).

            If we refer to the defendants own supplied photo of an injured finger, then that <u>cut finger clearly does not meet the definitions of grievous bodily harm.</u>

            Therefore, the plaintiff **could not have been guilty of this offence at law** and the defendants should never have charged him with this offence

            Further to that. The plaintiff still maintains there was no injury that this photo was not Zuanetti's hand. If that really was Zuanettis finger we would have seen blood immediately in the video footage. It would have needed dressing by the Ambo's and they put nothing on his hand.

    c. The defence has again stated they do not need to refute claims made by the plaintiff. The logical inference is that they have no response to statements 6c through 6e.

d. The defendant says that Hickey is guilty of the 'Mantraps' offence for some reason but there's another deficiency nobody will mention. **The word 'trap'**

It is the plaintiff's position that obvious, well recognised English language definitions apply to all words written into legislation. (*unless noted and specific legal definitions given. Even then the legal definition must, by necessity, align closely with the everyday understood definition of any word*)

If we could not rely on an English words *well established meaning as a guide to its legal definition*, then all legislation would be rendered unusable. A murder could never be proven if the definition of 'dead' was up for debate. A trap cannot be considered a 'trap' if it is well signed up warning people of the danger. Those signs are part of the plaintiff's evidence and clearly visible on the CCTV footage that day.

7. The defence again simply says that there were no false statements, yet we still have no explanation, or defences to those exact statements.

   The defence refuses to acknowledge or defend/clarify/prove written, sworn statements made by the second and third defendants, and itemised by the plaintiff at 2a, 2b, 2c, 2iv, and 2e. If there were logical, reasonable, and truthful defences to the plaintiffs' claims, we would have seen them by now.

   a. The defence goes further to allege that the Plaintiffs claims are vague, and embarrassing. Does the defence really intend to make a case around the idea that Perriman and Zuanetti did not breach any code of conduct because <u>there is no part of the (police) code of conduct or ethical guidelines which require police officers to behave with honesty, integrity, and impartiality?</u>

   b. If that's the crowns position, I want to hear him say it out loud for the public to hear, and fully understand.

   c. The Plaintiff will supply the court with at least two examples of written rules, guidelines, and ethical standards that all police are required to adhere to.

8. Again, we revisit the simple denials of the particulars. The plaintiff sees no need for repetition. If the court finds that either or both officers acted dishonestly, then the 'malicious' aspect of this claim is proven

9. The defendants again repeat their claim that the statements were true, yet **none of the alleged false statements were addressed at particulars 2a, 2b, 2c, 2iv and 2e** when they had the chance

   a. The defence instead tries to claim that the it was the criminal conduct of the plaintiff which brought this series of events. The simple response to that is – if the case against the plaintiff was so strong at the time, then why the need to add (these) statements which are dubious at best?

A more pertinent and compelling question might be:
Why has Hickey been repeatedly refused any access to the statements made in Richlands magistrates court by police prosecutors (at the bail hearing) on 22 Jan 2018? What are they hiding?

b. The whole debacle of refusing the convicted man (me) access to his own court records, climaxed in 2019 with Hickey being jailed for 'bringing the judiciary into disrepute' The plaintiff still maintains that if the QLD courts have nothing to hide – release those records from 2018 - and let the public see just what goes on in these courts.

To add yet another layer of hilarity to the crowns position: It is this conviction, obtained in a court hearing *from which no recordings will be released*, based on false statements from Perriman, Zuanetti, and police prosecutions, that we are not allowed to question now. *Despite all this new evidence being available.*

Convictions obtained in secret court hearings where the accused man is not allowed to hear the accusations against him are <u>null and void by default</u>. Give us the unedited audio recordings, and we will see how long your convictions last

If everything was handled in a proper legal manner, I would have been given the recordings, and this issue would have been appealed and dealt with at the time. I would never have gone to jail and I may still have a family.

If the court would have me verify any of these claims:

> The plaintiff will submit the long email chain where he battled with Auscript for over a year – unsuccessfully – to obtain his own court records. Apparently in Richlands Court, there are no prosecutors. Nothing is said at all, but somehow, I still lost. I never got the money I paid for the transcript refunded either.
>
> As if that wasn't enough, there's my freedom of information applications, their refusals, and my appeals against those refusals.
>
> Not to mention my correspondence with the Chief Magistrate and legal services commission.
>
> I can and will bring it all to court just to demonstrate the lack of integrity shown by all of those people (I dealt with at the time) who are involved in the Queensland Legal System
>
> Do you really want to open this can of worms? You owe me three years of my life back.
>
> Will that be cash or cheque?

If anybody wishes to challenge these claims I make so boldly then the answer is simple. <u>Hand over those records</u>. Failure to do so makes your claims of 'due process' laughable and reinforces my version.

As a footnote: had this issue been brought into the open, appropriate people reprimanded by those with the authority to do so, minor restitution paid, and no vendetta issued against me, everyone could have moved on with their lives. I would still have a life. Now, we are dealing with a monumental accusation that – if proven – brings a large part of QLD legal system into disrepute. That's why I had to be jailed in 2019. Not because what I was saying was false, but because it was true. Here's a novel approach nobody has tried : investigate my claims, if what I am saying is true, then lets deal with it and move on. Dodging responsibility just cost everyone time and money.

10. The plaintiff does not wish to repeat his claims, only that if the dishonesty allegations are found proven by the court, then the monetary losses which logically follow - can be clearly demonstrated by contemporary business records.

11. The Defence states that the plaintiff's statement is 'vague' and 'embarrassing' and that it is unknown to which 'document the plaintiff is referring to'

    While the plaintiff has not named specifically to the document number or title, it is obvious to which document he is referring. All the (allegedly false) statements we are discussing and debating appear on one document. **The same document we have referred to numerous times originally.** The document named in point 2 of the plaintiff's statement of claim, a sworn affidavit, opposing Hickey's bail, submitted to the court, and signed in numerous places by Nicholas Perriman the second defendant**.** This statement was based on a statement made to him by Justin Zuanetti.

    It can be no other document. If the document is not named again here, it does not imply any vagueness or stupidity in its author. If anything – **the crown should know by now exactly which document we are referring to**. Joe Biden seems to have a better grasp on reality.

12. The Plaintiff was stating - clearly, for the record – that the guilty plea was made under duress. That statement is a necessary part of the plaintiff's case

    a. The defendants again rely on this guilty plea as blanket immunity from any further investigation of the incident. That has been discussed in depth and nothing needs to be added.

    b. The Plaintiff contends that if these events were properly investigated then Hickey has no case to answer for any of these charges. That he should never have been charged, let alone refused bail.

    d. APPEAL: Any assertation that 'because the plaintiff never appealed those convictions, therefore they must be sound' is wrong, and unfair to the plaintiff.

       The time period allowed for an appeal passed before Hickey was able to obtain the records for the original hearing. (Records being a necessary part of any appeal) The dramas involved with obtaining records have already been outlined. Further to that:

e. As a direct result of these events in 2018, Hickey has spent nearly 3 of the last five years in prison. Much of that time in solitary confinement or 'Maximum Security' despite being a non-violent offender.

   i. The plaintiff maintains *and can demonstrate* that most of the subsequent events for which Hickey was jailed - were directly related to this series of events, and would never have occurred, if it were not for the initial miscarriage of justice we are arguing about here.

   ii. The evidence supporting that statement:

   iii. Queensland police used the pretext of Hickey allegedly *breaching this restraining order* – as grounds to invade his home a further five times in three years, and seize all his business equipment every time. If the crown disputes that we will obtain the search warrants themselves as proof.

   iv. Never once (after 2018) has Hickey got any cellphone, computer, or electrical item back in working order. Every single device, on every single occasion has come back ruined. This is no accident.

   v. It is an observable fact that the subsequent levels of police attention were specifically designed to prevent Hickey mounting an appeal. To seize the evidence required to support an appeal, and keep it from him. To rob him of the time, money, and willpower to try and clear his name.

   vi. I can understand scepticism from an outsider who has not seen it all unfold, but many neutral people around me have been staggered by the effort Queensland police put into finding something, anything they could use against me. This has to come to an end. That's why I am asking the court to examine my case now.

   Once my claims have been verified - it is obscene for the crown to contend that "Hickey never made an appeal, so our case is proven". Hickey did not make an appeal (yet) because

   - He couldn't get the original records of the first hearing
   - And one may not lodge an appeal without all the documents
   - Still can't get the complete records. Despite paying the money
   - Police kept Hickey's evidence in their storeroom, out of his reach
   - Despite an order from Richlands court to return it
   - And when it was returned, all electronic storage was ruined.
   - He spent 3 of the last 5 years in prison
   - Much of that time in solitary confinement or Maximum Security
   - Quite a strange classification for a non-violent offender
   - Even then had limited access to legal resources in prison settings.

- When released, he had a responsibility to get back to work, locate his family and move on with his life. An appeal is not first priority.

The crown says that no appeal means their version must be true. What planet are these people on?

The plaintiff would like to put on record that a large part of why he received so much attention from Queensland Police during that time was to prevent a successful appeal. To retain the evidence Hickey needed. To rob him of the time, money and willpower to continue.

However – the plaintiff apologizes to this court for going into far more detail than is required. I stand by those statements. They are all true, and must be put on the public record so that this sort of ongoing, concentrated, and organised attack on an otherwise law-abiding person never happens again.

Having said that:
One must take responsibility for his own destiny. I do not intend to argue that every piece of bad luck from 2018 forward is Zuanettis' fault. I only intend to prove the facts outlined in this case and seek rightful restitution for the damage caused.

The matters described above are only there to explain (legitimate) questions the crown has posed such as '*why was there no appeal*?' I have done that so I shall move on.

13. The plaintiff maintains that **if the dishonesty is proven** then 'good faith' goes out the window, and many other claims – including particulars 12 and 13 are automatically proven.

14. The claim of 'good faith' by the defence is shaky at best. Disproven entirely if the court is satisfied that false statements were made, or that police had the intention to mislead the court.

15. The plaintiff has rectified the sequential numbering issue, and hopefully all documents now line up for easy clarification from this point forward.

SECOND SET OF PARTICULARS: AGAINST DEFENDANT JUSTIN ZUANETTI

16. The plaintiff maintains that false statements were made, and the resulting conviction does not give police diplomatic immunity.

17. The Defence again relies *only on the conviction* to give them diplomatic immunity from any review of events. As explained earlier, section 77 of the evidence act allows for a person involved in a civil action 'to prove contrary' and we believe that Hickey has done so.

18. **<u>This response to plaintiff's allegation is perhaps the most important in the whole document. The defence have repeated the claim that</u>**:

    a. Zuanetti attended 'a hospital' but failed to name the hospital.

    b. The defence have not told the court they have any evidence of such hospital visit, and;

        i. if they intend to adduce some evidence of this hospital visit, they should state what that evidence is, and make it available to the plaintiff under discovery

    c. The defence have failed to explain how Zuanetti got to this hospital, as the video footage clearly shows him waving goodbye to the ambulance and using the allegedly injured hand to hold his cellphone and conduct a call.

        i. The statement in the signed and sworn bail affidavit says "an ambulance subsequently attended and Zuanetti was transported to hospital, where he had stitches applied to the wound"

        ii. The wording here directly implies that Zuanetti was transported to hospital <u>in this ambulance</u>. *The written statement is designed to convey that meaning*.

        iii. Had they written 'Zuanetti's hand was not giving him discomfort, and he was still able to hold a cellphone, so he elected to attend the hospital later' then it would not be a false statement. The reader understands exactly what happened.

        iv. The fact they now say 'transported to hospital' does not mean 'in that ambulance' is only a play on words. If a rug salesman went crazy and advertised everything at 50% off - then cut all his rugs in half – is that not still a form of deception?

        v. Was there – or was there not – an intent to deceive the court?

    d. In the (high definition) video Zuanetti appears to be in no discomfort whatsoever. (He is smiling to the ambulance driver) Anyone who has had stiches knows that given the choice – nobody gets stitches unless absolutely necessary. Stitches are not fun.

        <u>We do not get stitches unless the bleeding cannot be stopped otherwise.</u>

        When Zuanetti waves goodbye (to the ambulance) the wound is not bleeding at all. In fact, there is no evidence of any blood except in Zuanettis claim. Does Zuanetti expect us to believe he went to hospital **after the wound stopped bleeding, after the pain had gone, after his shift, and after it could be legitimately claimed as a work-related injury?**

e. If I finished my regular work day and then went to the hospital after my shift had finished, the hospital would have serious doubts about the injury being work-related. Australian law is clear on this regardless of employment.

   Any injury sustained at work, must be treated, and identified at the time.

   We do not, and cannot finish our shift as normal, then attend hospital in our civilian clothes, and try to claim the injury as work-related.

Despite specific requests in the plaintiffs' claim, the following questions remain:

i. Which hospital?

ii. How did he get there?

iii. What's the name of the doctor?

iv. Was Zuanetti in uniform or civilian clothes?

v. Who took him, what was that person's name? I intend to cross examine this person. With lots of people in the gallery.

vi. When were the stitches removed? And where?

vii. Where is the medical certificate?

viii. Why would you call an ambulance for a wound when there is no blood?

The plaintiff maintains that if the wound was genuine, and there was a hospital visit, then Zuanetti would have no trouble providing answers. There would be records, an incident report, a Workcover claim, time off work, and the follow up visits to remove the stitches.

If the defendants do not have these things then Zuanetti never went to hospital. It's that simple.

The defendant is not under an obligation to prove their version, that much is true. But, any of these things would be decisive in clearing up the issue of whether or not there was a hospital visit. I had to obtain an official ambulance report before Zuanetti would admit he wasn't taken off by that ambulance. It will be available to the court. After they redacted 98% of anything that would be useful to me.

19. The plaintiff's response is that if the dishonesty is proven then the 'malicious' nature of the act must logically follow

20. The defendant again relies on the defence that any conduct done in 'good faith' while engaged as a police officer, cannot result in any liability. My Response given earlier.

21. The defendant again relies on the defence that any conduct done in 'good faith' while engaged as a police officer, cannot result in any liability. My Response given earlier

22. The defendants correctly identify that any allegation against Siobean Dash is not something they need to comment on. However, it is the plaintiff's position that if citizen A makes a police report about citizen B – then it is the police's over-riding responsibility to check if there is any substance to those claims - before they act.

    a. The defence again repeats their claims of 'the defendant was convicted so anything we did before that point in time cannot be investigated'

    b. The defendant asserts that the plaintiff *accepted the police prosecutors agreed statement of facts during that guilty plea*. Incorrect. The plaintiffs lawyer agreed. The plaintiff was not made aware of what was to be read to the court, and has maintained that guilty plea was obtained under duress, and primarily due to:

        i. Bad legal advice which was in turn based on the assumption that police written statement of facts, as sworn by the officers named here – would be truthful.

        ii. If the accused person agreed to something the police said at the time, and later it found out the police were lying – how can we hold the person who *merely agreed with them* accountable?

23. The plaintiff accepts that the warrant issued to Ferny Grove police may have been valid under law, but we maintain it was signed due to false statements made by officers applying for that warrant – that they failed to do even cursory checks to see if Dash's statements were true. Police did not check the allegedly threatening text messages, or emails (and these are the easiest things to show now or then) and these form the bulk of Dash's claim.

    Will police bring a copy of these emails and texts to court? More importantly. Why did nobody at the time think to say 'can I see those emails?' Or 'That's not really a threat'

    Was Dash given the VIP treatment because she spent nearly twenty years with QPS at Ferny grove police station?

    Previous case law establishes that Police must have "reasonable grounds" to apply for a search warrant. This is an established common law principle that requires some objective basis to justify infringement of rights via a warrant.

Mareva Compania Naviera SA v International Bulkcarriers SA (The Mareva) [1980] 1 All ER 213 - Established that police have a duty of "good faith" in representing facts when applying for a warrant, including making reasonable investigations to verify claims.

Ocean Marine Mutual Insurance Association (Europe) OV v Jetopay Pty Ltd [2000] FCA 1913 - Found police failed duty by not conducting reasonable independent inquiries before applying for warrant.

Further to that, ten men, scaling a fence to force entry with a door smasher, where the worst thing the man is accused of is 'harassing phone calls and text messages' is not proportionate. Even if Dash's claims were true.

There is precedent that police must conduct reasonable verification and inquiries, not just accept claims at face value, when applying for a warrant.

George v Rockett (1990) 170 CLR 104 - HCA ruled search warrants must not be disproportionate to the alleged offense in infringing rights. Scope and intensity of warrant must match suspected wrongdoing. This proportionality principle prevents overreach based merely on accusations without substantive verification.

And as it stands, Ferny grove police had a free look at all Hickeys office equipment, computers, printers, phones, and house to locate such evidence, and **still cannot show any evidence apart from Dash's claim.**

24. The defence states that they have had no time to check the validity or accuracy of the claims made in **paragraph 4** of the plaintiff's statement of claim which was:

> 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

a. The plaintiff would like to make clear to this court that Queensland police had a team of officers who spent five years following me around, watching my every move, both online and in the real world. I have more than six thousand pages (6,000) pages of material they gathered during this time. Police are fully aware that I released complete unaltered videos of this incident to clear my name. They know where these videos are and used them against me (somehow) in court. A link to one is here

b. https://www.youtube.com/watch?v=aU1LtKpYCQc

c. **For them to now turn around and say 'we aren't aware or have not had time to verify this claim' is a <u>calculated falsehood</u>. Someone's telling porkies.** The video is available for anyone to see.

d. This also a crucial factor of these proceedings. The police have arrested and jailed a man for the actions they took. Any reasonable person *not hyped up on adrenaline and looking for a confrontation* would ring the doorbell or check the intercom before trying to scale a steel fence. A fence that had clear warning signs!

e. The video clearly shows that the first police officer tried the gate handle once only and then the others scaled the fence. There is a weatherproof doorbell on the brick pillar 20 cm to his left and a remote intercom station maybe 70cm to his right. The police tried neither of these before scaling the fence. My front door was open within seconds of them knocking.

f. They then held the homeowner liable for injuries which resulted from actions that no reasonable person would take under the circumstances, and say 'we haven't had time to look into that'

25. The plaintiff has changed the person named in this claim from QPS to 'The State of Queensland and that should satisfy the clerical error identified

26. The plaintiff accepts that these are allegations the named parties have no control over, however they are important to take into context, given the incidents we are examining here

27. The plaintiff accepts that these are allegations the named parties have no control over, however they are important to take into context, given the incidents we are examining here

28. The defendants do not accept my version of events. The plaintiff now relies on the recording itself to verify what exactly was said and done

29. The defendants do not need to reply to those points of my claim. I merely inserted them to head off any attempts to recite some obscure passage of legislation during proceedings, to which I was not familiar, and attempt to pass that off as grounds to stop the claim moving forward

30. The plaintiff does not need to respond to the defence's statements. The final section labelled 'elements of the tort of misfeasance' is only a repetition of the claims made in the body of the plaintiff's material, and how that applies to this tort.

    It was not my intention to waste the courts time merely to identify and show that every element of this tort has been satisfied, in numerous ways by the allegations raised here.

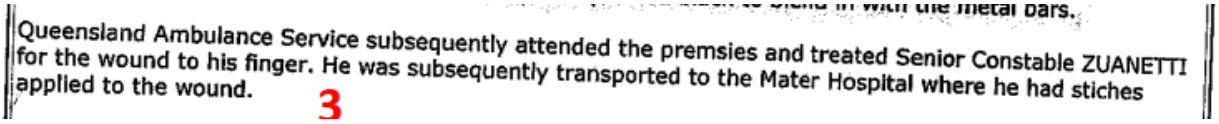
    a. The plaintiff agrees that this whole section is a matter for the court to decide

KEY ASPECTS OF THE PLAINTIFFS CASE

1. Did both officers' statements on the original bail affidavit given to Richlands magistrates court, the one which effectively jailed Hickey before he had been tried for this offence, did that document meet reasonable standards of accuracy and truthfulness?

   We submit that it did not, and cannot. We submit that it was this moment in the series of events which changed the course of all that followed. Had they told the truth, the outcome would have been far different.

   There are many examples of dishonesty, but the most decisive is this: (Exhibit 1 original QP9 paragraph 10)


Queensland Ambulance Service subsequently attended the premsies and treated Senior Constable ZUANETTI for the wound to his finger. He was subsequently transported to the Mater Hospital where he had stiches applied to the wound.

   The statement above was intended to deceive the court. And it did. The paragraph above means that Zuanetti was injured, called an ambulance, and was transported to hospital *in that ambulance.*

   Nothing less.

   If that is not what happened, and the crown has admitted that is not what happened, then anyone reading that statement is entitled to feel he was misled.

   That statement was intentionally misleading. And it did succeed in misleading everyone, including me. And the Magistrate. But he is the only one that counts.

There are enough secondary examples of dishonesty which need not repeating.

The plaintiff submits that the only real issue here is – did Perriman and Zuanetti tell the truth throughout this incident? Did they deceive the court? Everything else depends on that question.

Thank you for giving me the chance to present my case. I had been prevented from doing so numerous times up until now. What I have here is the sum total of six years of evidence. It is the best I can do. If that is not enough to convince any reasonable person that a miscarriage of justice has occurred, I will have to accept that decision and find another hobby.

Simon Hickey