— GARDIFF— A DAVID LEATHLEY INCE 1980

COAL LEX

The Court Manager

Cardiff Civil Justice Centre

2, Park Street

Cardiff

CF 10 1BT

CC Mr. Adrian Oliver

Solicitor

Messrs. Dolmans Solicitors

1, Kingsway

Cardiff

South Glamorgan

CF 10 3DS

Thursday 30th June 2016

Dear Sirs,

Re Mr. Maurice JKirk v The Chief Constable of South Wales Case Number 1CF03361-'The Machine Gun' Claim

I enclose N244, Particulars of Claim as settled by Counsel and first witness statement of The Claimant for your kind attention.

The application will be filed at court today.

Yours faithfully,

and Jonathan heathten David j Leathley

Application notice

For help in completing this form please read the notes for guidance form N244Notes.

In the Cardiff County Court						
Claim no.	1CF03361					
Fee Account no.						
Warrant no. (if applicable)						
Claimant's name (including ref.)	MAURICE JOHN KIRK					
Defendant's name (including ref.)	THE CHIEF CONSTABLE OF SOUTH WALES POLICE					
Date	30TH JUNE 2016					

				Defendant's r (including ref.)		THE CHIEF SOUTH WA	CONSTABLE OF ALES POLICE		
				Date		30TH JUNE	2016		
1.	What is your na	me or, if you are a legal repre	esentative, th	ne name of yo	our firm	1?			
١.		AVID LEATHLEY OF COAL LEX CHAMBERS CARDIFF BAY							
2.	Are you a	Claimant	Defenda	nt	ative				
		Other (please specify)							
	If you are a leg	al representative whom do y	ou represent	:?	THE	CLAIMANT,	MR. KIRK		
3.	What order are LEAVE TO A ENCLOSED DISCERNIBL	ID SUBSTITUTE THE RTICULATE A							
4.	Have you attached a draft of the order you are applying for?					S	√ No		
5.	. How do you want to have this application dealt with?				at a hearing without a hearing at a telephone hearing				
6.	How long do y	you think the hearing will las	rt?			Hours	Minutes		
	Is this time estimate agreed by all parties?				Ye	?S	No		
7.	. Give details of any fixed trial date or period								
8	. What level of Judge does your hearing need?			HHJ	J Seys-Llewellyn, QC				
9	. Who should be served with this application?			Mes	ssrs. Dolmans, Solicitors				
9	9a. Please give the service address, (other than details of t claimant or defendant) of any party named in question		he n 9.	Messrs. Dolmans 1, Kingsway Cardiff South Glamorgan CF 10 3DS					

Vhat information will you be relying on, in support o	
✓ the attached witness statem	
the statement of case	
\Box the evidence set out in the ${\mathfrak k}$	box below
f necessary, please continue on a separate sheet.	
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Statement of Truth	ted in this section (and any continuation sheets) are true.
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MAURICE JOHN KIRK

Claimant

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THE CHIEF CONSTABLE OF SOUTH WALES POLICE

Defendant

PARTICULARS OF CLAIM

Introduction

- The Defendant is and was at all material times the Chief Officer of Police for The South Wales police area. Save where it is otherwise indicated, the police officers referred to hereinafter were officers of The South Wales police and were at all material times acting under her direction and control in the performance or purported performance of their functions.
- 2. This claim relates to the false imprisonment of The Claimant on the 22nd day of June 2009, his subsequent malicious prosecution and acts of misfeasance in a public office by The Defendant and her officers in that the course of conduct they pursued involved bad faith in the sense of the exercise of a public power for an improper or ulterior motive.
- 3. At all material times The Claimant was a former Member of The Royal College of Veterinary Surgeons living at 51-53 Tynewydd Road, Barry, Vale of Glamorgan CF 62 8AZ. He was a litigant in person and had conduct of a number of civil claims against the South Wales Police and Gwent Constabulary. He had strong local ties and was a well known aviator having the financial resources to own and race aeroplanes. Both the local community and the police knew The Claimant by the moniker 'The

Flying Vet'. The Claimant held a special licence to conduct aerial displays and traded as 'Kirk Aviation' in the business of buying and selling aircraft and aircraft parts.

The Material Events

The Claimant's Arrest

4. In 1997 The Claimant purchased a replica vintage aircraft called a DH 2 (De Haviland 2) and attached to the fuselage was a decommissioned Lewis machine gun, one of five such Guns designated for various replica period aircraft by Mr. Viv Bellamy. The Claimant bought the aircraft to restore it as it was in pieces. The Claimant's interest in the said DH 2 and gun arose from the fact that his late grandfather was a friend of Lewis, the designer of the gun in question. The ownership of the aircraft and gun was local knowledge.

The machine gun was an integral part of the fuselage and therefore exempt under the 1968 Firearms Act. This act was later amended by parliament (Firearms (Amendment) Act 1988 so that if the gun in question remained as it was when it had first been decommissioned it was exempt from the new regulations. A person in law may, without holding a certificate, have in his possession a firearm or ammunition on board a ship, or a signalling apparatus or ammunition therefore on board an aircraft or at an aerodrome, as part of the equipment of the ship, aircraft or aerodrome. (Section 13 Firearms Act 1968 as amended by s 23 (3) of the 1988 Act). The Claimant had possession of the aircraft and gun purely out of historical interest to be exhibited as part of a collection. In 2000 the said DH 2 with the same Lewis antique was flown by The Claimant at the Farnborough Air show by invitation of Captain Brian Trubshaw of 002 Concorde fame. In 2006 the DH2 was moved to RAF Lyneham, Wiltshire, for repair and display with the 'gun' mounted. In 2007 the DH2 and 'gun' was handed out, by the Royal Air Force, to a civilian for further repair in Hampshire. All relevant authorities (Civil Aviation, RAF and police) were aware the

said 'gun' was decommissioned. In May 2008 The Claimant sold the aircraft with 'gun' to another aviator, Ronald Cooper. The gun was black in colour. Mr. Cooper had the 'gun' ammunition magazine painted silver. At a trial at Cardiff Crown Court based on charges brought by The Defendant under section 5 (1) (a) of The Firearms Act 1968 which culminated in The Claimant's acquittal in February 2010 the said Mr. Cooper gave evidence that when he had purchased the 'gun' from The Claimant the barrel was blocked whereas the gun, as returned to him after the trial in question, was unblocked.

In the days prior to his arrest The Claimant had telephoned Messrs. Dolmans Solicitors who acted for The Defendant in the civil claims as hereinbefore set out in Paragraph 3 concerning the exchange of witness statements. The Claimant then posted historic pictures on a web-site depicting himself holding the said 'gun' with such captions intended as humorous such as 'Dressed for Cardiff Court and a Level Playing Field' and 'Glorious Twelvth Crooked Lawyer Shoot' and 'The Final Solution'.

The Claimant was arrested on the 22nd day of June 2009 by police officers outside his home acting under the authority vested in The Defendant for Firearms offences arising from his previous ownership of the De Haviland aircraft and decommissioned Lewis gun.

The Claimant's false imprisonment and remand in custody

5) The Claimant was remanded into custody on the application of The Defendant.

The police report to The Crown Prosecution Service revealed a police 'animus' against

The Claimant stating as it did 'he is what could be deemed antiestablishment and does not appear to recognise any authority within
the UK including Police, Crown Prosecution Service and Court systems.

He is currently in civil litigation against South Wales Police...'

On the 1st June 2009 The Defendant had caused The Claimant to be subjected to a

Multi Agency Public Protection Arrangement (MAPPA) enquiry following a meeting, at South Wales Police Headquarters, Bridgend, by the Independent Advisory Group (IAG). On the 8th day of June 2009, at a Barry police station MAPPA

Meeting, The Defendant's agents informed the agencies present, including staff from the Caswell Clinic Psychiatric Detention Facility, that The Claimant was a

Level 3 Category 3 and very dangerous. A psychiatric nurse called Elizabeth Paul whose notes The Claimant can produce noted The Claimant was likely to be shot if he approached The Defendant. He was to be arrested and taken into custody for being in possession of a prohibited weapon namely a machine gun.

As a consequence The Claimant suffered eight months in custody until his acquittal on all charges at Cardiff Crown Court on the 9th day of February 2010. No defence evidence was called. The jury regarded the case as hopeless and not one that any reasonable jury would wish to convict upon.

False Imprisonment

- 6) The arrest of The Claimant under The Firearms Act and for Possession of Criminal Property (£2000 from the sale of the 'gun') constituted a false imprisonment, in that:
 - (a) The Defendant and her arresting officers did not honestly believe The Claimant had a machine gun with which to harm members of the public or, in the context of his passion for aircraft as an aviator, that there was ever anything unlawful about his ownership of the DH 2 and 'gun'. The police presented highly exaggerated accounts which encouraged The Crown Prosecution Service, in good faith, to consider both the evidential sufficiency test (the Firearms legislation creates offences which are, in the main, strict liability) and the public interest criterion in a way adverse to The Claimant.
 - (b) For the reasons as set out aforesaid, there were no reasonable grounds to suspect such offences had been committed at the time the arrest was made and/or

(c) The decision to arrest The Claimant was flawed by an improper motive, namely frustration/irritation on the part of The Defendant with regard to the extant civil claims brought by The Claimant. At each bail application (of which there were at least 6) The Defendant propounded the falsehood that if granted bail The Claimant would flee the jurisdiction in one of his own aircraft.

Malicious Prosecution

- 7) The Claimant was maliciously prosecuted in respect of three charges (two under The Firearms Act 1968 of the possession and transfer of a prohibited weapon) and one under The Proceeds of Crime Act 2002.
- 8) The prosecution was based on multiple falsehoods which the police must have known from their involvement in the events were untrue, including the following:
- (a) The machine gun presented at trial had not been altered since the Claimant's purported illegal ownership of it. In fact Ronald Cooper gave evidence that he had painted it silver but it was presented at trial as black in keeping with the colour depicted on the Claimant's web-site. Ronald Cooper swore on oath that the 'gun' he had purchased from The Claimant had had its barrel blocked whereas the exhibited gun presented by the police at trial had its barrel unblocked in readiness for its being fired.
- (b) That the Claimant had never owned a firearms certificate or permit for rifles he owned. The fact that The Claimant had held such certification is a matter of police record.
- (c) That an undercover officer code-name 'Foxy' had had a telephone conversation with The Claimant in the context of 'Foxy' purporting to be a prospective purchaser of the 'gun'. 'Foxy' claimed The Claimant had boasted 'This one worked'. In fact the prosecution summary had informed prosecuting counsel 'Foxy' was a female

officer. At trial a male undercover officer purported to be 'Foxy'. When challenged as the tape of the alleged conversation the tape was presented as corrupted so as to conceal the gender of 'Foxy'.

9) Accordingly, the prosecution was brought maliciously and without reasonable and probable cause.

Loss and Damage

10) As a result of the matters complained of The Claimant suffered eight months loss of liberty, injury, anxiety, distress and inconvenience

PARTICULARS OF BASIC DAMAGES

- (a) The Claimant was unlawfully arrested and then unlawfully detained for a period of over eight months.
- (b) He was charged with three offences, as detailed above, on the basis of false and malicious evidence. The Claimant had to undergo detention in prison and psychiatric units At one such establishment a psychiatric nurse, Elizabeth Paul, told The Claimant that he would very likely have been shot because of the MAPPA 3 Categorisation. The Claimant was subjected to not only that stress but the stress of the charges hanging over his head together with his eventual public trial.
- (c) The Claimant was wrongly deprived of his liberty for eight months

PARTICULARS OF SPECIAL DAMAGES

- 11) Further, by reason of the matters set out aforesaid, The Claimant claims Aggravated and/or Exemplary damages. In particular he relies upon:
- (a) The features set out above in so far as they are not fully compensated for by an

award of basic damages;

- (b) The public nature of his humiliation.
- (c) Hurtful and untrue allegations about The Claimant's mental well-being were subsequently made in a concerted attempt by officers to put forward a false narrative of The Claimant's intentions
- (d) No apology has been forthcoming to The Claimant
- (e) In all the circumstances the officers' actions were arbitrary, oppressive and unconstitutional.
- 12) Further The Claimant claims interest pursuant to section 69 of the County Courts Act 1984, on such amount, as he shall recover on his claims herein, at such a rate and for such a period as the Court shall allow.

AND THE CLAIMANT CLAIMS:

- (1) Damages, including aggravated and/or exemplary damages;
- (2) Interest pursuant to section 69 of the County Courts Act 1984, as aforesaid.

DAVID JONATHAN LEATHLEY

I believe the contents of This, my Claim are True

SIGNED

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DATED 20 JULE 20

MAURICE JOHN KIRK

Claimant

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<u>*</u>						
THE CHIEF CONSTABLE OF SOUTH WALES POLICE	Respondent					
FIRST WITNESS STATEMENT OF THE CLAIMANT MAURICE JOHN KIRK						

- 1. I make this witness statement with regard to Case Number 1CF03361.
- 2. On the 9th February 2010 I was acquitted at Cardiff Crown Court on three counts on an indictment namely the possession of a prohibited weapon namely a Lewis machine gun, contrary to section 5 (1)(a) of the Firearms Act 1968 (Count 1); selling or transferring a prohibited weapon, contrary to the same section of the Firearms Act 1968 (Count 2) and Possessing Criminal Property, namely £2000.op from the sale of the said Lewis machine gun, contrary to section 329 (1) (c) of the Proceeds of Crime Act 2002 (Count 3).
- 3. At the time of my arrest for the said offences I had a series of civil claims against South Wales Police' and Gwent Constabulary. It is my considered opinion that the machine gun prosecution was a retaliatory act born of police necessity to frustrate my civil prosecution of the police by effectively 'putting me out of circulation' and rendering me incapable of continuing to be a litigant in person. I was remanded in custody for the three matters aforesaid pursuant to a police request and by that route ended up being further remanded in custody by the Crown Court and falsely detained under the Mental Health legislation. I very nearly ending up in Ashworth as a certifiably 'dangerous inmate'.
- 4. I base the above conclusion on a series of extraordinary events concerning the machine gun case which have convinced me there was mala fides towards me by the police. The first is a document called an MG 5, an initial report by South Wales Police to The Crown Prosecution Service. Please note the following quote from that document: In order to put this matter in context it is important to realise that Maurice Kirk has numerous previous convictions and has a history of conflict and disputes with South Wales Police and other police forces across the UK over several years. He is what could be deemed as anti establishment and does not appear to recognise any authority within the UK including Police, Crown Prosecution Service and Court systems. He is currently in civil litigation against South Wales Police where (sic) is making over 70 separate claims against the Chief Constable Ms

Wilding which is due to be heard in January 2010. I do not consider myself anti-establishment. I qualified as a vet and was accredited as suitable to work for the police themselves. I would say I support Law and Order and over the years have learned to respect if not like many judges upon whom the responsibility of hearing my various applications has fallen. In case BS614159 I presented over thirty occasions to the Cardiff County Court wherein I was prosecuted by the police only to be acquitted. I did not ask to be prosecuted. On one occasion I was arrested outside my own veterinary surgery under the 'general arrest provisions' because the police officer adopted the fiction that I had no known name or address for service of a summons despite my being an accredited police vet and onlookers saying 'that's our vet, that is.' One judge who earned my respect was His Honour Judge Ray S Jack, Queen's Counsel, who offered this insight at Bristol on the 28th January, 2000: If there was a course of harassment by the police this would be sufficiently clear from the many incidents already pleaded and it is a pretty remarkable tale if there is any truth in it .I am voicing a little disquiet. Just look at the number of incidents. One asks 'what is going on?' My respect for the police has not diminished and I believe in the courts achieving justice. If I did not have faith in the courts I would not relentlessly ask them to hear my pleas. All I am about is trying to correct miscarriages of justice using the proper legal channels.

- 5. Let me explain where and when I obtained the machine gun. The machine gun was attached to the fuselage of a replica vintage aircraft called a DH 2 (circa World War 1). It was a replica of the aircraft that earned its pilot the first aviation Victoria Cross. I bought the aircraft from an aviation museum in Cattistock, Dorset because the museum was in the process of going into liquidation. That was 1997. I produce the Civil Aviation Application for Registration of Aircraft or Change of Ownership form and GINFO Registration History (Exhibit MK/1). I bought the aircraft to restore it as it was in pieces. My late grandfather, Herbert William Kirk, was a friend of Lewis, the designer of the gun in question. I myself am an experienced aviator and have flown in a number of significant air races. I did in fact manage to fly the DH 2 at the Farnborough Air Show in 2000 by invitation of the Air Show Committee on the express instructions of Captain Brian Trobshaw who stipulated nobody else was to fly it. I believe the police were well aware I owned the DH 2, together with gun and recognised that I was a legitimate collector. I was formally charged with the offences enumerated in paragraph 2 on Tuesday 23rd June 2009. I note that my ownership suddenly called for prosecution after a hiatus of nearly 10 years only when the police considered me an expensive nuisance to them.
 - 6. The police suggested to the jury via prosecuting counsel that I had this gun and had uttered threats against the general public. A video was shown during my trial depicting myself addressing the general aviation fraternity following my having to sell the gun and the DH 2 aeroplane. The video was dated August 2008. The circumstances in which the video was made were that I had had to sell this replica aircraft and gun to pay for my civil action against the very same force requiring over 100 witnesses. In the video the gun is propped against the back of a car. The police stated that they had been browsing the internet and had come across my web-site which I like to regard as satirical/funny in its indictment of the police, a bit like my

own **Private Eye.** I am noted for my sense of humour and frequently appear wearing funny hats or, on one occasion, dressed like a German officer of The Third Reich. My language is admittedly extravagant. The wearing of a German uniform was never taken literally. Nobody has suggested I am a Nazi. On the 2nd April 2009 I posted a photograph of myself on my website which showed me holding the Lewis machine gun. This was under one of my arms and a three-legged Jack Russell dog under the other arm. Underneath the picture were captions which were entirely 'tongue in cheek' and intended as jokes '**Dressed for Cardiff Court and a level playing field'**; 'Glorious Twelvth Crooked Lawyer Shoot' and 'The Final Solution'.

- 7. In the days prior to my arrest I had phoned Dolmans Solicitors who acted for the police in the impending civil litigation concerning the exchange of witness statements. I believe this provoked my arrest. I was arrested outside my home in St. Donats. As I have said earlier I believe there was a need to take me out of circulation. The police took me, a Vale of Glamorgan veterinary surgeon and ardent Royalist, to a special terrorist holding near Port Talbot enquiring all the time, 'Where's the gun?'
- 8. A year earlier (May 2008) I had sold the gun to another aviator, together with the aircraft. The buyer was called 'Jerry' Cooper. He told me the C.A.A. had advised him to separate both the 'plane and the gun and take the gun to a licensed gun dealer for security. I infer the C.A.A. were acting on police advice. This replica gun was not unique. It was one of five. Mr. Vivian Bellamy purchased five of these machine guns and had them decommissioned under the relevant section of the 1968 Firearms Act to display on replica World War 1 aircraft for film/cinema use. I am a great film fan. I had the pleasure of being a personal friend to the late screen actor, Oliver Reed. Clowning around was something he and I did. My gesticulating with the gun was a metaphor for my sense of injustice in the same way Lyndsey Anderson's film 'If' ends with schoolboys on the roof of Cheltenham College shooting the masters. It isn't to be regarded as a literal event.
- 9. At my trial at Cardiff Crown Court it was actually suggested that I had altered the gun so as to render it capable of firing two successive rounds in order for it to qualify as a machine gun/prohibited weapon. The gun was always as I had purchased it. I had not altered it at all. My gun was black in colour from top to bottom. It subsequently ended up as silver in colour. 'Jerry' Cooper has confirmed that once he purchased the gun he had painted the magazine silver. I have a photo of the drum magazine painted silver. But at my trial the gun was all black again persuading me the police had had it repainted so as to match the video evidence. After the trial Mr. Cooper complained the gun was returned to him a different shade of silver. This perhaps provides the best insight into how the police had tampered with evidence to make things look bad for me.
- 10. After the trial it was extraordinary that this prohibited weapon was safe to be returned to Mr. Cooper. I was an historical collector no different to him and yet the police had had me thrown into prison. Nine of the jury, within minutes of my

acquittal, told me that their first question, amongst themselves, was why 'Jerry' Cooper was not in the dock along with me, the defendant?

11. At the trial a Browning 30 calibre was permanently on display three feet in front of the jury. It had nothing to do with the case. It had been seized from the same museum as I had purchased the Lewis gun, some years beforehand. I believe the Browning was introduced merely to create prejudice in the minds of the jury. It was just a prop. One extraordinary revelation has come to me via my son, Caspar, who was present during my trial. At the end of each working day a police officer would carry the Browning over his shoulder, in full public view, and walk with it to Cardiff Central police station across the road to the court building on his own.

w JK

- 12. An undercover male officer gave evidence from behind a screen, code-named 'Foxy'. He said he had telephoned me purporting to be a collector of guns expressing interest in purchasing the Lewis gun. It was claimed I had said, 'This one worked'. The case was opened to the jury on the basis that 'Foxy' was female. 'Foxy's' female gender is actually recorded in Mr. Richard Twomlow's Prosecution Opening (Exhibit MK/2). I believe 'Foxy' was female but was substituted for a male 'standin' at trial because she wasn't available to testify on the day. That meant 'Foxy' the male fabricated his recollection of a conversation I had had with a female. A request was made by the jury for a copy of the tape recording of the 'Foxy' conversation in order to satisfy their minds, once and for all, as to 'Foxy's' gender. The tape was played to the jury but it had 'mysteriously' become corrupted so that you could not tell the gender of the police officer talking on it. The gun had never 'worked'. I never gave evidence admitting what 'Foxy' attributed to me. As I had already sold the gun I had no incentive to 'arouse' Foxy's appetite.
 - 13. The Lewis gun, according to a police expert called Rydeard, had not been deactivated even though there was no bolt assembly or cartridge feed mechanism enabling it to be fired in full automatic mode. The gun could be used as a single shot cartridge gun. But the gentleman who bought the Lewis gun from me, Mr. Cooper, gave evidence at my trial during which he said he was shown the gun. I recollect Mr. Cooper said he had taken the gun to a gunsmith called Scott. The gun had been on such a circuitous journey that Mr. Cooper gave evidence that when he had the gun from me the barrel was blocked whereas the gun, as returned to him, was unblocked. I infer that the discrepancy created by the Cooper scenario illustrates the gun had been tampered with before being presented to the jury.
 - 14. At my trial it was falsely stated that I had never owned a firearms certificate or permit for my rifles. That was a very misleading and damning assertion which would have carried weight in the eyes of the jury. It is also a fact that would have been within the knowledge of the police: that I had had certification for a collection of guns since the age of sixteen.
 - 15. Before my remand in custody for the machine gun accusations there was a 1st June 2009 meeting by the Independent Advisory Group (IAG) who referred me for MAPPA registration. On the 8th June 2009 the MAPPA meeting had me registered

MAPPA 3 Category 3, two weeks before I was arrested. This lead to my encounter with Doctor Tegwyn Williams. I was in custody for just under eight months. During this sojourn I was sectioned under The Mental Health Act. Dr. Williams opined to The Recorder of Cardiff that I had physiological brain damage that interfered with my ability to understand the consequences of my actions and their effect on others. These assertions were not correct and subsequently negated by other psychiatric examination once I was in the prison system. I was told by a psychiatric nurse, Elizabeth Paul, that both she and Dr. Williams had been urgently summoned to Barry Police Station on the 8th June to the MAPPA consultation or meeting. Her contemporaneous note at the meeting confirmed that the view was taken that should I approach the Chief Constable to exchange witness statements I was 'likely to be shot'. I was quite unaware of MAPPA registration until I heard a rumour in prison.

I believe the contents of this statement are true

Signed

Dated

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THIS IS

MY EXHIBIT

MW / I

Signed