



FIXED DATE CLAIM FORM

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

CLAIM NO.

BETWEEN **JULIAN J. ROBINSON** **CLAIMANT**
AND **THE ATTORNEY GENERAL**
 OF JAMAICA **DEFENDANT**

The Claimant, **Julian Robinson** of 89 Old Hope Road, Kingston 6 in the parish of St. Andrew claims against

The Defendant, **The Attorney General of Jamaica**, 1st Floor, North Tower, NCB Towers, 2 Oxford Road, Kingston 5 in the parish of St. Andrew, for the following relief:

1. Declarations that each provision of the National Identification and Registration Act 2017 (“the NIDS Act”) hereunder stated abrogates, abridges or infringes (hereafter “breaches”) the guaranteed constitutional right(s) set out in the provision of the Constitution specified in respect of each provision, or group of provisions, of the Act –
 - (a) sections 20 of, and the Third Schedule to, the Act breach –
 - (i) the right to liberty, acknowledged by section 13(3)(a) and guaranteed by section 13(2) of the Constitution;

- (ii) the right to security of the person, acknowledged by section 13(3)(a) and guaranteed by section 13(2) of the Constitution;
- (iii) the right to protection from search of the person and property, acknowledged by section 13(3)(j)(i) and guaranteed by section 13(2) of the Constitution;
- (iv) the right to respect for and protection of private and family life, acknowledged by section 13(3)(j)(ii) and guaranteed by section 13(2) of the Constitution; and
- (v) the right to protection of privacy of other property, acknowledged by section 13(3)(j)(iii) and guaranteed by section 13(2) of the Constitution.

(b) section 27(1) of the Act breaches –

- (i) the right to respect for and protection of private and family life, acknowledged by section 13(3)(j)(ii) and guaranteed by section 13(2) of the Constitution;
- (ii) the right to protection of privacy of other property, acknowledged by section 13(3)(j)(iii) and guaranteed by section 13(2) of the Constitution;

(c) sections 30 and 36 (4) of the Act breach the right to protection of property rights as provided in section 15, acknowledged by section 13(3)(q) and guaranteed by section 13(2) of the Constitution;

(d) section 39 of the Act breaches –

- (i) the right to respect for and protection of private and family life, acknowledged by section 13(3)(j)(ii) and guaranteed by section 13(2) of the Constitution;
- (ii) the right to protection of privacy of other property, acknowledged by section 13(3)(j)(iii) and guaranteed by section 13(2) of the Constitution;

(e) sections 23 and 41(1) of the Act breach, or alternatively, the implementation of those sections is likely to breach –

- (i) the right to equitable and humane treatment by any public authority in the exercise of any function, acknowledged by section 13(3)(h) and guaranteed by section 13(2) of the Constitution;
- (ii) the right to protection from degrading “other treatment”, acknowledged by sections 13(3)(o) and (6), and guaranteed by section 13(2), of the Constitution;
- (iii) the right to freedom from discrimination on the ground of place of origin, acknowledged by section 13(3)(i)(ii) and guaranteed by section 13(2) of the Constitution;

(f) sections 6(1)(e) and 43(1) breach–

- (i) the right to respect for and protection of private and family life, acknowledged by section 13(3)(j)(ii) and guaranteed by section 13(2) of the Constitution;

(ii) the right to protection of privacy of other property, acknowledged by section 13(3)(j)(iii) and guaranteed by section 13(2) of the Constitution;

(iii) the right to due process as provided in section 16, acknowledged by section 13(3)(r) and guaranteed by section 13(2) of the Constitution;

(g) Section 60 of, and the Sixth Schedule to, the Act (particularly with respect to the Passport Act and Regulations) breach –

(i) the right of every citizen of Jamaica to be granted a passport and not to be denied or deprived thereof except by due process of law;

(ii) the right to due process as provided in section 16, acknowledged by section 13(3)(r) and guaranteed by section 13(2) of the Constitution.

2. A Declaration that neither the manner nor the extent of the abrogation, abridgement or infringement of the aforementioned constitutional rights is demonstrably justified in a free and democratic society.

3. Alternatively, a Declaration that the aforesaid provisions of Chapter III of the Constitution are likely to be contravened in relation to the Claimant, other Jamaican citizens, and legal permanent residents, of Jamaica by the aforementioned provisions of the Act.

4. Consequently, an order that the aforesaid sections of the Act are void and of no effect and/or should be struck down.
5. Such further and other relief as this Honourable Court deems appropriate or which may be necessary to give effect to the Declarations sought.
6. Costs.

The Claimant is seeking the orders on the following grounds:

- (1) The Claimant is a citizen and resident of Jamaica, a member of the House of Representatives representing the constituency of St Andrew South East, and the General Secretary of the People's National Party, the political party that forms the opposition in the Jamaican parliament.
- (2) The Defendant, the Attorney General of Jamaica, is joined as the representative of the Crown pursuant to the Crown Proceedings Act.
- (3) On November 21, 2017 over my objections and the objections of the opposition members, the Parliament enacted the Act and on December 8, 2017 his Excellency the Governor General gave his assent to the Act.
- (4) Section 2 of the Constitution provides that if any other law is inconsistent with the Constitution, the Constitution shall prevail, and the other law shall, to the extent of the inconsistency be void.

- (5) Section 13(2)(b) of the Constitution provides that Parliament shall pass no law which abrogates, abridges or infringes any of the rights guaranteed by Chapter III of the Constitution.
- (6) Section 19 of the Constitution provides that any person alleging that any of the provisions of Chapter III of the Constitution has been, is being or is likely to be contravened in relation to him, may apply to the Supreme Court for redress.
- (7) The Act contains provisions which either contravene or are likely to contravene the constitutional rights guaranteed under Chapter III of the Constitution.
- (8) There is no other means of adequate redress for the above-mentioned contraventions of the Constitution.

I certify that all facts set out in this Fixed Date Claim Form are true to the best of my knowledge, information and belief.

Dated the day of May, 2018

JULIAN J. ROBINSON

SETTLED

B. St. MICHAEL HYLTON, Q.C.
in consultation with
MICHAEL VACCIANNA
DONNA SCOTT-MOTTLEY and
JENNIFER HOUSEN

**PAULWELL FRAZER BINNS
ATTORNEYS-AT-LAW FOR THE CLAIMANT**

PER _____
SOPHIA FRAZER-BINNS

The Claimant will rely on the Affidavit of Julian J. Robinson sworn on the _____ day of May, 2018 and which set out the particulars of the Claimant's claim.

NOTICE TO THE DEFENDANT:

THE FIRST HEARING of this claim will take place at The Supreme Court, Public Buildings, King Street, Kingston, on the _____ **day of**
_____ **2018 at** _____.

If you do not attend at that hearing, judgment may be entered against you in accordance with the claim.

A Particulars of Claim or an Affidavit giving full details of the Claimant's claim should be served on you with this Claim Form. If this has not been done and there is no order permitting the Claimant not to serve the Particulars of Claim or Affidavit you should contact the court immediately. You should complete the form of Acknowledgement of Service served on you with this Claim Form and deliver it to the registry (address below) so that they receive it within **FOURTEEN (14) days** of service of this Claim Form on you. The form of Acknowledgement of Service may be completed by you or an Attorney-at-Law, acting for you. See Rules 9.3(1) and 9.4(3).

You should consider obtaining legal advice with regard to this claim. See notes in form 2A served with this Claim Form.

This Claim Form has no validity if it is not served within twelve months of the date below unless it is accompanied by an order extending that time. See Rule 8.14(1).

[SEAL]

The Registry is at King Street, Kingston, telephone numbers (876) 922-8300 – 9, fax (876) 967-0669. The office is open between 9:00a.m. and 4:00p.m. Mondays to Thursdays and 9:00 a.m. to 3:00p.m. on Fridays except on Public Holidays.

DATED THE DAY OF MAY, 2018

FILED by **PAULWELL FRAZER BINNS**, of 25 Dominica Drive, Kingston 5 in the parish of Saint Andrew, Attorneys-at-Law for and on behalf of the Claimant (Attention: xxx, Attorney No. xxx), whose address for service is that of his Attorneys-at-Law. Telephone: xxx; Facsimile: xxx.