

# ALEXANDER, JEREMIE & COMPANY

ATTORNEYS-AT-LAW • PATENT AND TRADEMARK AGENTS • NOTARIES PUBLIC

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**RC/cr**

21 February, 2018

**Mr. Douglas Mendes S.C.  
President  
Law Association of Trinidad and Tobago  
2nd Floor, #95-97 Frederick Street,  
Port of Spain**

Dear Mr. Mendes SC.

**Re: The Honourable Chief Justice Mr. Ivor Archie**

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*Introduction*

We refer to the matter at caption in which we act as Instructing Attorneys-at-law for the Honourable Chief Justice Mr. Ivor Archie. Mr Jeremie SC acts as Counsel for our client and leads Mr. Ian Benjamin, Mr. Kerwyn Garcia and Mr. Keith Scotland in this matter.

**Please be advised that this letter is issued in accordance with the established pre-action Protocols and pursuant to the Consolidated Civil Proceedings Rules 2016 and that you should obtain legal advice in relation to it. We expect a reply to our claim on or before 23 February, 2018. If you fail to respond within the time period given, our client shall issue proceedings against you without further notice.**

The period for the response has been truncated pursuant to Part 2.2 of the said Protocols. The time period for a response to this letter has been shortened due to the urgent nature of

the claims proposed to be made and the date upon which the proposed Claimant instructed us to act.

Our client and his advisors have not embarked upon this course lightly and we have sought to give as much notice of our intention to issue proceedings as is practicable in all of the circumstances.

You will no doubt recall that we have exchanged correspondence over the period 20 January 2018 to 15 February 2018. We responded to your letters dated 20 January and 6 February 2018 by three letters dated 30th and 31st January 2018 and 14th February 2018 respectively. You followed your letter dated 6 February 2018, which belatedly sought to provide information within your possession, with a reaffirmation of your position in your letter dated 15 February 2018.

In this pre-action letter we focus on the issues in respect of which we propose to seek relief from the Courts.

### *Background*

#### *The details of the matter being challenged*

By letter dated 20th January 2018 you confirmed press reports that the Law Association had established a Committee to inquire into and to substantiate or to establish the facts or the basis of certain sustained and aggressively repeated media allegations against our client, the Chief Justice ("the LATT Investigation"). In fact, your letter dated 20 January 2018 was referred to in the Sunday Express dated 21st January 2018 even before the Chief Justice had received a copy.

#### *The issues for determination*

##### *The issues*

The main issue that we will ask the Court to determine is whether the Law Association is empowered under the Legal Profession Act in general or section 5 of the Act in particular to conduct, ascertain or establish the basis of allegations made against the Chief Justice. Our

view is that the Constitution provides for this type of enquiry under section 137 and that the Law Association has purported to undertake a shadow 137 enquiry of its own. In our view, there is no basis in law for this approach.

Another issue for the Court's determination is whether the LATT investigation is or will be tainted by the appearance of bias having regard to the Law Association's previous Motion of "No Confidence" against the Chief Justice. It is our opinion that the fair-minded and informed observer, having considered all the facts, would conclude that there was a real possibility that the Law Association's insistence on conducting an investigation is motivated by the Law Association's pre-conceived disposition against our client as such is reflected in the said motion of 'No Confidence'.

Further, various press reports emanating from the media organ at the forefront of the campaign against the Chief Justice suggest that the Law Association has received a preliminary report from its regional legal advisors, Dr. Francis Alexis Q.C. and Mr. Eamon Courtenay Q.C. Those media reports suggest that your Executive has examined said preliminary report. However, your letter dated 20 January 2018 does not refer to or confirm receipt of any such preliminary report nor does it of course disclose same to our client.

Having carefully considered these matters and your responses we have come to the conclusion and have so advised our client that your proposed course of action is unconstitutional and unfair.

It is unconstitutional and unfair for the Law Association to conduct an investigation since it has no authority to do so. Any such enquiry is outwith the procedural safeguards established under section 137 of the Constitution and the body of case law on that provision.

The Law Association itself appreciates the limits of its powers in relation to investigating the Chief Justice (or any Judge) because it says in its letter dated 20 January 2018 that "*The Council of the Law Association fully appreciates that it has no power to compel you to respond and that it has no disciplinary or other power in relation to you*".

The Rule of Law, the Constitution and the Legal Profession Act require the Law Association to endorse and support the application of due process and impartiality and to uphold the

independence of the Judiciary, at every juncture. Our concern is that the LATT investigation has undermined, and in future will further undermine the confidence in, public opinion and support for the Administration of Justice.

*Your response*

We propose to issue proceedings on or before 26 February 2018. We respectfully ask that you take no steps to further your enquiry or investigation until the Court has pronounced upon the legal and constitutional propriety of your proposed actions.

We look forward to your positive confirmation of our request by 4 pm on Friday 23 February 2018.

Yours faithfully,

**ALEXANDER, JEREMIE AND COMPANY**



**RAISA D. CAESAR**

c.c. John S Jeremie S.C., Mr. Kerwyn Garcia, Mr. Ian Benjamin and Mr. Keith Scotland