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REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Claim No. CV2019- 03989

In the Matter of an Application for Leave to make a Claim for Judicial Review pursuant to Part 56.3 of the Civil Proceedings Rules, 1998 (as Amended) and pursuant to Section 6 of the Judicial Review Act, Chap. 7:08

AND

In the Matter of The Constitution and the Judicial Review Act, Chap. 7:08

AND

In the Matter of the decision of the Honourable Prime Minister of Trinidad and Tobago contained in his letter dated 22nd July, 2019, not to represent to Her Excellency The President that the question of removing The Honourable Chief Justice from office ought to be investigated

BETWEEN

LAW ASSOCIATION OF TRINIDAD AND TOBAGO

Applicant/Intended Claimant

AND

DR. KEITH ROWLEY

THE PRIME MINISTER OF THE REPUBLIC OF TRINIDAD AND TOBAGO

Intended Defendant



AFFIDAVIT OF DOUGLAS LEONARD MENDES
Filed on behalf of the Intended Claimant

I, DOUGLAS LEONARD MENDES, of No. 108 Duke Street, Port of Spain, Attorney-at-Law, make oath and say as follows: -

1. I am an Attorney at Law and a member of the Inner Bar of Trinidad and Tobago.
2. I am the President of the Law Association of Trinidad and Tobago ("the Law Association") having been elected to that post unopposed in March 2019. The President of the Law Association is elected for a period of one year. I am currently serving my third consecutive term.
3. I am duly authorised to make this affidavit on behalf of the Law Association. The facts and matters herein deposed to are true and correct and within my personal knowledge save where stated to be based on information and belief in which case I verily believe same to be both true and correct. As the President of the Law Association I have access to the records thereof comprising emails issued by and received by the Law Association, letters issued by and received by the Law Association and documents produced by the Law Association and issued to the Law Association including but not limited to reports, memoranda, notices and minutes. Where relevant I have referred to the records of the Law Association and exhibited such records hereto.
4. The Law Association is a body corporate established in 1986 by section 3 (1) of the Legal Profession Act ("the LPA"). By section 3 of the LPA, the affairs of the Law Association are managed and its functions performed by a Council. The Council is a representative body which is elected from the members of the Law Association in accordance with the First Schedule, Part A of the LPA.
5. The purposes of the Association are statutorily defined in section 5 of the LPA. They include the following:
 - (a) to maintain and improve the standards of conduct and proficiency of the legal profession in Trinidad and Tobago;*
 - (b) to represent and protect the interests of the legal profession in Trinidad and Tobago;*

(c) to protect and assist the public in Trinidad and Tobago in all matters relating to the law;

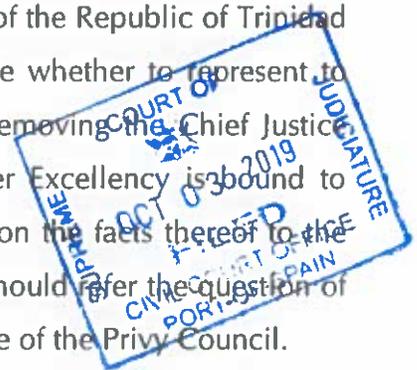
(d) to promote good relations within the profession, between the profession and persons concerned in the administration of justice in Trinidad and Tobago and between the profession and the public generally;

(e) to promote good relations between the profession and professional bodies of the legal profession in other countries and to participate in the activities of any international association of lawyers and to become a member thereof;

(f) to promote, maintain and support the administration of justice and the rule of law;

(g) to do such other things as are incidental or conducive to the achievement of the purposes set out at (a) to (f).”

6. The Intended Defendant, the Honourable Dr. Keith Rowley, is the Prime Minister of Trinidad and Tobago. By section 137 of the Constitution of the Republic of Trinidad and Tobago, the Prime Minister is empowered to decide whether to represent to Her Excellency the President whether the question of removing the Chief Justice from office ought to be investigated, in which case Her Excellency is bound to appoint a tribunal to enquire into the matter and report on the facts thereof to the President and recommend to the President whether she should refer the question of removal of that Judge from office to the Judicial Committee of the Privy Council.
7. The Honourable Mr. Justice Ivor Archie is the Chief Justice of Trinidad and Tobago.
8. Beginning from in or around 12th November 2017, certain allegations were published in the Express Newspapers of and concerning the Chief Justice. The first of these articles concerning the conduct of the Chief Justice appeared in the Sunday Express on the 12th November 2017 in which it was reported that the Chief Justice had tried to influence Supreme Court Judges to change their personal State provided



security in favour of a private company for which his close friend and convicted felon, Mr. Dillian Johnson, worked.

9. By a press release dated the 15th November 2017 and reported in the press the following day, the Law Association:
 - a. described the allegation carried in an article in the Sunday Express newspaper that the Chief Justice sought to influence Supreme Court Judges to change their personal State provided security as being, in the view of the Law Association, as yet unsubstantiated;
 - b. noted its concern in respect of the report that the Chief Justice had communicated with a friend who was connected with a private security firm indicating that he had spoken with the judges about their security; and
 - c. stated that it considered that it would be the prudent course for the Chief Justice to address publicly the allegations surrounding the discussions the Chief Justice allegedly had with the person identified in the article.

A true copy of this press release is now produced and shown to me and is hereto annexed and marked "DLM1".

10. On the 19th November 2017 it was reported in the media that:
 - a. Mr. Dillian Johnson, the Chief Justice's close friend was among twelve people recommended for Housing Development Corporation (HDC) units by the Chief Justice.
 - b. All twelve of those persons were successful in obtaining housing after the Chief Justice personally called and communicated via social media with a senior HDC official to fast track the applications.
 - c. One piece of correspondence between the Chief Justice and the senior HDC manager dated the 5th August 2015 revealed that the Chief Justice requested that homes be given to ten individuals. Following the request, the

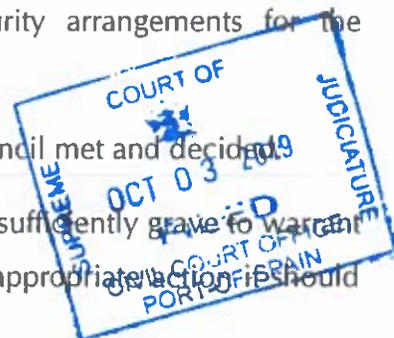
individuals' applications were prioritised and they were allocated homes bypassing hundreds of applications which had been in the system for years.

- d. The Chief Justice contacted the senior manager on at least two occasions by phone asking for status updates on his personal requests.
- e. While his name appeared on HDC documents as recommending two people, the other ten names were documented as "recommended" by the then Housing Minister.
- f. That the Chief Justice had declined to answer questions posed to him by the press on the 2nd, 5th and 9th November, 2017, in relation to allegations in respect of Mr. Dillian Johnson and the security arrangements for the Judiciary.

11. On the 29th November, 2017, the Law Association's Council met and decided
- a. that the allegations against the Chief Justice were sufficiently grave to warrant further consideration by the Council as to what appropriate action should be taken; and
 - b. that a committee be established to ascertain/substantiate the facts upon which the allegations made against the Chief Justice were alleged to be based and to report back to Council for further consideration ("the Committee").

The Committee comprised me, as Chairperson; Mr. Rajiv Persad, the Vice President of the Association; Mr. Elton Prescott S.C. and Ms. Lynette Seebaran-Suite, both senior ordinary members of Council; and Ms. Theresa Hadad, the Law Association's Treasurer.

12. By email dated the 2nd December, 2017, the Council informed its members of the decision taken by Council. A true copy of this email is now produced and shown to me and is hereto annexed and marked "DLM2".



13. On the 30th November, 2017, I along with Mr. Prescott SC, met with the Chief Justice and informed him, inter alia:
 - a. That the Law Association had taken note of allegations made against him in the Express Newspapers, namely: 1) that he had discussed the matter of personal security for judges with a named person (not a judge); and (2) that he had recommended/referred two or more individuals to the HDC for accelerated housing grants.
 - b. That the allegations made against him were serious and were considered by the Law Association to be serious.
 - c. That this was a view shared by many members of the Law Association and other members of civil society.
 - d. That there had been calls for his resignation having regard to his failure to respond to the allegations.
 - e. That his failure to respond had most likely led members of society to conclude that there is some truth to the allegations.
 - f. That the gravity of the allegations and his failure to respond had brought the office of Chief Justice into disrepute and by extension the entire judiciary; and
 - g. That the Council of the Law Association had resolved to investigate the allegations to determine whether they are true or not.

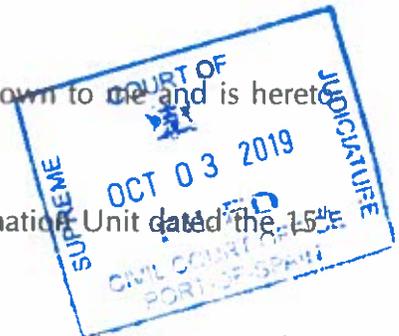
The Court Executive Administrator also attended that meeting.

14. At the conclusion of the meeting, the Chief Justice said that he would think about the representations that were made to him.
15. By the 14th December, 2017, the Chief Justice had not yet responded to the allegations made against him in the press. By press release dated the 14th December, 2017, the Law Association, inter alia:

- a. Stated that it was troubled by the failure of the Chief Justice to respond to damaging allegations despite calls from various quarters including the Law Association both public and privately that he do so with alacrity;
- b. Stated its view that the Chief Justice's continued failure to challenge the allegations had the potential to irreparably bring the office of Chief Justice into disrepute and by extension tarnish the entire Judiciary. The Law Association described the Chief Justice's continued silence as nothing short of reckless;
- c. Noted that the Law Association had already publicly stated that it had resolved to ascertain/substantiate the facts upon which the allegations against the Chief Justice were alleged to be based with a view to determining what, if any, further action might be appropriate.

A true copy of this press release is now produced and shown to me and is hereto annexed and marked "DLM3".

16. By a press release issued by the Court Protocol and Information Unit dated the 15th December, 2017, the Chief Justice:
 - a. stated it was *"false and indeed irresponsible to suggest that at any judges' meeting the Chief Justice or any other judge discussed the retention of any private security firm for the purpose of providing the said personal security"*;
 - b. stated that in 2015 he forwarded the names of some *"needy and deserving persons"* to the HDC for such consideration as might be appropriate;
 - c. stated that he had never recommended Mr. Dillian Johnson for HDC housing and that it was patently untrue and appeared to be purposeful mischief-making to suggest otherwise;
 - d. noted in relation to public discussions about an attack on Dillian Johnson that the Chief Justice expected the relevant authorities to conduct a necessary and thorough investigation into this incident; and



e. stated that "*this is all that the Chief Justice is at liberty to say at this time*".

A true copy of this press release is now produced and shown to me and is hereto annexed and marked "DLM4".

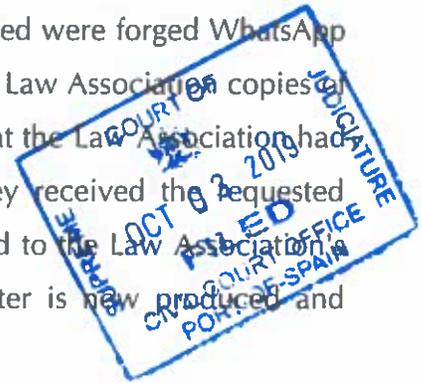
17. On 3rd January, 2018 the press reported that former Chief Justice and President of the Caribbean Court of Justice, Michael de la Bastide, as stating that, inter alia, that the Chief Justice's action in recommending persons for HDC housing was an error of judgement and that he, Mr. Justice de la Bastide, had never done so when he was Chief Justice..
18. By letter dated the 20th January, 2018, the Law Association wrote to the Chief Justice, inter alia:
 - a. explaining that the Law Association had established the Committee because of the Chief Justice's failure for quite some time, and then only briefly, to answer the allegations made against him;
 - b. advising that the Law Association intended to submit a report containing the Committee's work to two Queen's Counsel for their respective advice and then to convene a General Meeting of its membership for a decision to be made on the way forward and further intended to present the Committee's report and Queen's Counsel's advice to the said meeting and debate same;
 - c. informing the Chief Justice that the purpose of the letter was to apprise him of the matters which the Committee considered to be of sufficient weight and sufficiently established at that stage, and to give him an opportunity to provide any information or give any response he might choose to give;
 - d. setting out five matters (with specific questions identified in relation to each matter) to which it asked the Chief Justice to provide a response by the 26th January, 2018; and
 - e. further advising the Chief Justice that it appreciated that it had no power to compel him to respond and that it had no disciplinary or other power in relation to him but as with any other citizen, the Law Association had the

power to refer a complaint to the Prime Minister for him to treat with as he deems fit and that the power to do so fell with the Respondent's statutory mandate.

A true copy of this letter is now produced and shown to me and is hereto annexed and marked "DLM5".

19. By letter dated the 30th January, 2018, the Chief Justice's Attorneys-at-Law, wrote to the Law Association stating that the Law Association had no duty to protect the Chief Justice and no duty to hold him accountable, whether the allegations made against him were substantiated or not. A true copy of this letter is now produced and shown to me and is hereto annexed and marked "DLM6".

20. By letter dated the 31st January, 2018, the Chief Justice's Attorneys-at-Law wrote to the Law Association asserting that, in light of what it alleged were forged WhatsApp messages and forged photographs, they required from the Law Association copies of any documents, photographs and WhatsApp messages that the Law Association had in its possession and stated that it was only when they received the requested information that a substantive response could be provided to the Law Association, letter dated 20th January, 2017. A true copy of this letter is now produced and shown to me and is hereto annexed and marked "DLM7".



21. I had sight of the letter dated the 30th January, 2018 (Exhibit DLM6) on the 31st January, 2018. Before I received the letter dated the 31st January, 2018 (Exhibit DLM7), I emailed Mr. John Jeremie SC on the 31st January, 2018, acknowledging receipt of his firm's letter dated the 30th January, 2018 (Exhibit DLM6) and telling him that the Committee would "*proceed to finalise its report which will be submitted to Dr Francis Alexis QC and Mr Eamon Courtenay QC for their advice*". A true copy of this email is now produced and shown to me and is hereto annexed and marked "DLM8".

22. By letter dated the 6th February, 2018, the Law Association wrote to the Chief Justice's Attorneys-at-Law in reply to their letter dated 31st January, 2017 (Exhibit DLM7) enclosing copies of the WhatsApp messages, photographs, emails and

photographs and a composite statement of pages of two statements allegedly given to the police by Mr. Dillian Johnson. A true copy of this letter is now produced and shown to me and is hereto annexed and marked "DLM9".

23. By letter dated the 15th February, 2018, the Law Association asked the Chief Justice's Attorneys-at-Law to respond to the Law Association's letter dated the 20th January, 2018 as soon as they were able to do so, with the assurance that it would be taken into account, but asked that it be borne in mind that it was the Law Association's intention to present the Committee's report along with any advice received at a Special General Meeting of the Law Association which was proposed to be called in mid-March. A true copy of this letter is now produced and shown to me and is hereto annexed and marked "DLM10".
24. On the 20th February, 2018, I emailed Mr. Jeremie in the following terms: "*Further to my letter dated 15th February 2018, we will shortly be sending a brief to the two Queen's Counsel who are advising us. If you wish to have them consider the Honourable Chief Justice's response, I suggest that you provide that response by Thursday the 22nd February 2018*". A true copy of this email is now produced and shown to me and is hereto annexed and marked "DLM11".
25. By a Pre-Action Protocol Letter dated the 21st February, 2018, the Chief Justice's Attorneys-at-Law wrote to the Law Association informing of his intention to apply for judicial review of the Law Association's decision to investigate the allegations made against him and asking the Law Association to take no steps to further its purported enquiry and/or investigation until the Court had pronounced upon its legal and constitutional propriety. A true copy of this letter is now produced and shown to me and is hereto annexed and marked "DLM12".
26. By letter dated the 23rd February, 2018, in response to the pre-action protocol letter, the Law Association's Attorneys-at-Law rejected the suggestion that its examination of the Chief Justice's conduct was without authority or otherwise improper. A true copy of this letter is now produced and shown to me and is hereto annexed and marked "DLM13".

27. Based upon the material then before it, on 23rd February, 2018 the Committee finalised its Report on the allegations made against the Chief Justice.
28. By letters dated the 23rd February, 2018, the Law Association wrote to Dr. Francis Alexis QC, of the Grenadian Bar, and Mr. Eamon Courtenay SC, of the Belizean Bar, providing them with the Committee's Report and asking that they answer the following questions:
- (i) On the assumption that the allegations made against the Chief Justice are true, do they constitute inability to perform the functions of his office or misbehaviour under section 137 of the Constitution;
 - (ii) Having regard to the evidence which is currently available as set out in the said reports, would it be proper for the Prime Minister to represent to the President that the question of removing the Chief Justice ought to be investigated; and
 - (iii) Having regard to the evidence which is currently available, would it be proper for the Law Association to call upon the Prime Minister to consider making such a representation.

True copies of these letters are now produced and shown to me and are hereto annexed in a bundle and marked "DLM14".

29. By a Notice dated the 26th February, 2018, the Law Association advised its membership of a Special General Meeting to take place on the 15th March, 2018 to consider the report of the Committee appointed to ascertain/substantiate the allegations and the advice of Dr. Francis Alexis QC and Mr. Eamon Courtenay SC and to direct the Council as to the course of action to be taken, if any.
30. On the 27th February, 2018, the Chief Justice filed his Application for Leave for Judicial Review which came on for hearing that afternoon before the Honourable Madame Justice Nadia Kangaloo who, with the parties' consent, gave directions for evidence and for the application for leave and that the matter to be heard at a "rolled up" hearing, on the 2nd March, 2018.



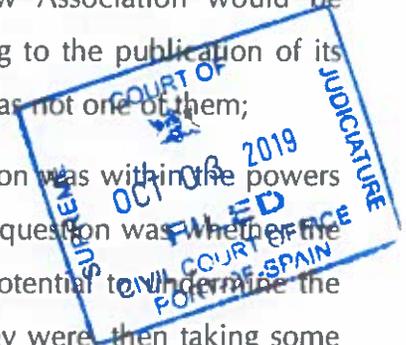
31. As a consequence, the Law Association cancelled the Special General Meeting and asked Dr. Alexis and Mr. Courtenay to suspend preparation of the opinions requested.
32. On the 2nd March, 2018 the matter was heard and the Learned Judge delivered her judgment on the 6th March, 2018.
33. The Judge found that the Law Association had acted outwith its authority under the Legal Profession Act in commencing and continuing its enquiry and/or investigation into the allegations against the Chief Justice and granted a declaration and quashing order accordingly. The Judge rejected the claim that the Law Association "*was guilty of apparent bias*" and made no finding in respect of the Chief Justice's claim of unfairness and bad faith.
34. By Notices of Appeal filed on the 7th and 8th March, 2018, the Parties appealed and crossed-appealed respectively and filed written submissions thereafter. The appeal came on for hearing on the 10th April, 2018.
35. By its three judgments dated 22nd May, 2018, the Court of Appeal (Mendonca CJ (Ag.), Jamadar J.A and Bereaux J.A) allowed the Law Association's appeal, dismissed the cross-appeal and found that:
 - a. Section 137 of the Constitution did not proscribe the Law Association from enquiring into or investigating the conduct of the Chief Justice;
 - b. that Section 5 of the Legal Profession Act permitted the Law Association's enquiry or investigation;
 - c. that the test of apparent bias was inapplicable to a case of this nature and that, if it did apply, no case of apparent bias was made out;
 - d. that the allegation of bad faith on the part of the Law Association was not made out; and
 - e. the Chief Justice had not been treated unfairly by the Law Association.

True copies of the judgments of the Court of Appeal are now produced and shown to me and are hereto annexed in a bundle and marked "DLM15".

36. The Chief Justice appealed to the Judicial Committee of the Privy Council. The appeal was heard on the 23rd July, 2018. On the 16th August, 2018, the Board dismissed the appeal holding that:

i) Section 137 of the Constitution was not effective to prevent the Law Association from conducting the investigation. The Law Association was in the same position as any other body or individual which might wish to inquire into such allegations and reach such conclusions as it could upon the evidence available to it. Indeed, as a body of lawyers who had so far proceeded with considerable caution, the Law Association might be thought better able to conduct such an investigation and present its conclusions in a responsible manner than many others. The Law Association would be conscious of any possible legal constraints relating to the publication of its report. However, section 137 of the Constitution was not one of them;

ii) As regards whether conducting such an investigation was within the powers of the Law Association under the LPA, the crucial question was whether the allegations were sufficiently serious to have the potential to undermine the administration of justice and the rule of law. If they were, then taking some action to promote, support and maintain the administration of justice and the rule of law clearly fell within s 5(f) of the Act. There was then power under s 5(g) of the Act to do such things as were conducive to achieving that purpose. The Law Association, like any other citizen, had power to make a complaint about a judge or the Chief Justice, which was reinforced by rule 36(4) in the Code of Ethics, and the duty to act responsibly when making such complaints was reinforced by the other provisions of rule 36. The Law Association had no power to hold the Chief Justice accountable. However, it did have power to make a formal complaint where that was justified and the duty to defend the judiciary against unjustified criticism. Some inquiry to



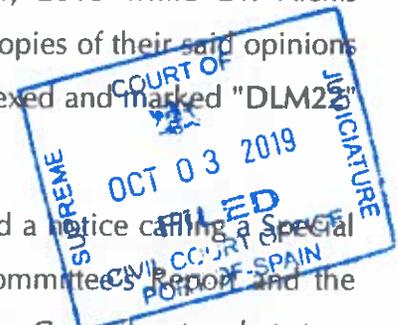
establish whether or not there was a prima facie case for making a complaint was the obvious way to reconcile those two powers and was not, therefore, ultra vires;

- iii) The investigation by the Law Association could not be equated with a judicial or quasi-judicial determination of legal rights and liabilities to which the conventional rules of natural justice applied. Nor was it necessary to consider the more difficult question of the extent to which public bodies were required to be impartial in carrying out their statutory functions. That was because there were concurrent findings in the courts below that the matters relied upon by the Chief Justice were not such as to give rise to an appearance of bias on the part of the Law Association. The question was whether a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Law Association was biased. The local courts in Trinidad and Tobago were far better placed to consider what the fair-minded and informed observer in Trinidad and Tobago would have made of the matters complained of. It was not for the Board to disagree.

A true copy of the judgment of the Privy Council is now produced and shown to me and is hereto annexed and marked "DLM16".

37. Accordingly, the Law Association decided that the Committee should resume its investigation.
38. By letter dated the 22nd August, 2018, the Law Association invited the Chief Justice to respond to the Law Association's letter dated the 20th January, 2018 (Exhibit DLM5). A true copy of this letter is now produced and shown to me and is hereto annexed and marked "DLM17".
39. By email dated the 24th August, 2018, the Chief Justice's Attorneys-at-Law asked to be provided with all materials referred to in the Committee's report. A true copy of this letter is now produced and shown to me and is hereto annexed and marked "DLM18".

40. By letter dated the 5th September, 2018, the Law Association provided the information requested. A true copy of the said letter is now produced and shown to me and is hereto annexed and marked "DLM19".
41. By letter dated the 14th September, 2018, the Chief Justice's Attorneys-at-Law provided some responses to the letter dated the 20th January, 2018 but did not respond to many of the matters raised in that letter. A true copy of this letter is now produced and shown to me and is hereto annexed and marked "DLM20".
42. On the 3rd October, 2018, the Committee prepared an addendum to its report dated 23rd February, 2018.
43. By email dated the 3rd October, 2018, the Law Association provided Dr. Alexis and Mr. Courtenay with a copy of the Addendum and asked them to provide their opinions soonest. A true copy of this email and the Addendum is now produced and shown to me and is hereto annexed and marked "DLM21".
44. Mr. Courtenay provided his opinion on 19th October, 2018 while Dr. Alexis provided his opinion on the 7th November, 2018. True copies of their said opinions are now produced and shown to me and are hereto annexed and marked "DLM22" and "DLM23", respectively.
45. On the 26th November, 2018, the Law Association issued a notice calling a Special General Meeting of the Association to consider the Committee's Report and the opinions of Dr. Alexis and Mr. Courtenay and to direct the Council as to what steps if any should be taken. A true copy of the Notice is now produced and shown to me and is hereto annexed and marked "DLM24". The meeting was carded to be held on 11th December, 2018.
46. The Law Association made provision for its members to visit the offices of the Law Association to view the Report before the meeting. The Law Association also provided the Chief Justice's Attorneys-at-Law with a copy of the Report.



47. The Law Association also prepared an Executive Summary of the Report for the convenience of its members. A true copy of the Executive Summary is now produced and shown to me and is hereto annexed and marked "DLM25".
48. In the Report, the Committee had made it clear that it was satisfied that certain particularly sensational allegations made against the Chief Justice in the media had not been substantiated. In relation to those allegations, I received submissions from the Chief Justice's Attorneys-at-Law that those allegations should be redacted from the Report and I agreed to do so.
49. By letter dated the 5th December, 2018, the Chief Justice's Attorneys-at-law criticised the Report and the advice provided to the Law Association, and concluded that there was no basis upon which the Law Association could properly make a complaint to the Prime Minister and invited the Law Association to issue a public statement to this effect. A true copy of this letter is now produced and shown to me and is hereto annexed and marked "DLM26".
50. By letter dated the 9th December, 2018, the Law Association undertook to place the letter dated the 5th December, 2018 before its membership for their consideration but indicated that it was otherwise unable to accede to the Chief Justice's request. A true copy of this letter (which was duly disclosed to its membership) is hereto annexed and marked "DLM27".
51. On the 11th December, 2018, the Special General Meeting was held and it was resolved that the Committee's Report be referred to Honourable Prime Minister for his consideration under section 137 of the Constitution.
52. By letter dated the 13th December, 2018, the Law Association informed the Prime Minister of the said resolution and provided him with a copy of the Committee's Report dated 23rd February, 2018 (as redacted), the Addendum dated the 3rd October, 2018, the Procedural Timeline, the Addendum to the Procedural Timeline and the Opinions of Dr. Alexis and Mr. Courtenay, the Executive Summary of the Report which had been provided to the membership of the Law Association, the letter dated the 5th December, 2018 from the Chief Justice and the Law Association's

response dated the 9th December, 2018, and the judgments of the Court of Appeal and the Privy Council. The Law Association informed the Prime Minister that it had made no finding of misbehaviour against the Chief Justice but only that there was sufficient evidence to support a referral to him under section 137 of the Constitution for him to determine whether a representation to the President is warranted. A true copy of this letter together with the Report and the Addendum and the Procedural Timeline and Addendum thereto and attachments to same are hereto annexed in a bundle and marked "DLM28". The other documents provided to the Prime Minister under cover of the letter dated the 13th December, 2018 are already exhibited hereto.

53. The Law Association did not receive any acknowledgement of its letter dated the 13th December, 2018 or any formal indication that its reference was under consideration.
54. On the 18th July, 2019, at a press conference, in answer to a question put to him by a reporter, the Prime Minister announced that based on advice that he had received, he had decided not to make a representation to Her Excellency the President. I have since obtained a copy of a video recording of the Prime Minister's press conference on 18th July, 2019 and have had the relevant parts of same transcribed. A true copy of the said video recording and the transcript of the press conference are now produced and shown to me and are hereto annexed and marked "DLM29" and "DLM29A" respectively. According to the video and transcript, the Prime Minister said, *inter alia*, the following:

"From where I sit, it was never, I would never part of that, all kind of attempts were made to draw me into it. As a matter of fact, I think there is some matter in the court right now, and that is one of the reasons why I have been reluctant to say much about it publicly, because there is a matter in the court that sprung up overnight somewhere, about some conspiracy between me and the Chief Justice, and that is an attempt to overthrow a judgment that exists in the court. Are you all aware of that? The UNC took the PNM to court in the election petition matter and a judgment has been given in favour of the PNM members. Out of the blue, arising from this left

field of the law association and its various incarnations and activities, overnight while I am dealing was this matter of them sending me their correspondence and their volume of documents, a matter sprung up back in our court here seeking...

Prime Minister Rowley asks Minister Stuart Young: "It's at pre action protocol stage, but have they filed suit?" I don't know the details, but what I do know is that extreme caution is required, because what is happening is that some sort of a trap is being laid to draw me into this matter of the actions of the Chief Justice, so as to make a case against the case that they have lost. To have a judgment overturned, we dealing with some dangerous people here you know, and I now have to be very careful and take the advice that I get, and I have been doing that scrupulously. Thank you very much ladies and gentlemen."

55. By letter dated the 19th July, 2019, the Law Association asked the Prime Minister to provide a copy of the advice on which he said he acted. A true copy of the said letter is now produced and shown to me and is hereto annexed and marked "DLM30".
56. On the 22nd July, 2019, the Prime Minister provided me with an unsigned copy of a letter dated 22nd July, 2019 under his hand advising the Law Association of his decision not to make the representation, and of his reasons for coming to that decision. He also provided me with a copy of an opinion from Mr. Howard Stevens QC dated the 25th April, 2019 by which he said he was guided. A true copy of the said letter and the said opinion are now produced and shown to me and are hereto annexed and marked "DLM31" and "DLM32", respectively.
57. On the 23rd July, 2019, the Council of the Law Association met and considered the Prime Minister's decision letter and Mr. Stevens' opinion and over the course of the following days agreed to respond in terms of the letter dated the 28th July, 2019, which was delivered to the Prime Minister by email on that day. A true copy of this letter is hereto annexed and marked "DLM33". In its letter, the Law Association drew to the Prime Minister's attention certain methodological and analytical flaws in Mr. Stevens' advice which the Association feared may have led the Prime Minister

into error, informed him that the Law Association disagreed with his decision and informed him further that the Council had decided to seek Counsel's advice on whether there were sufficient grounds to support an application for judicial review of his decision.

58. The Law Association's said letter was published in full in the Trinidad Express on the 30th July, 2019 and was reported on in the Trinidad Guardian and the Newsday. True copies of the said reports are now produced and shown to me and are hereto annexed in a bundle marked "DLM34".
59. On the said 29th July, 2019, I saw reports in the newspapers of a speech which the Prime Minister is alleged to have given on the 28th July, 2019. True copies of the said newspaper reports are now produced and shown to me and are hereto annexed in a bundle and marked "DLM35".
60. I have since obtained a copy of a video recording of the Prime Minister's speech from the 28th July, 2019 and have had the same transcribed. I attach hereto marked "DLM36" and "DLM37" respectively, a true copy of the video recording and the transcript. In the video, after the Prime Minister disclosed that he had received the advice of Queen's Counsel on the complaint against the Chief Justice and that he had acted on that advice in making the decision not to act on the report of the Law Association, he can be heard saying the following:

"The new society that we are trying to build is one that will have a Law Association that would know that it ought not to be at the behest, at the call, at the coming and going of a corrupt political party. The society we are trying to build is not one where the legal fraternity is one where a handful of people with serious political agenda could call a meeting in the law association, this one bring twenty of his party members, that one bring ten and out of four thousand lawyers of thereabout, a hundred and fifty vote to remove the Chief Justice. Led by two of them who are on criminal charges in front of the court. And the same Law Association has



suddenly awaked from its slumber to cast aspersions on me and all those who gave advice in this matter...

I'll tell you something else. I just mentioned to you the level of nastiness and danger that the UNC poses to this country and to me personally. They pose the same threat to you as a people. Last election, we, the PNM, took part in an election. It rained very heavily on that day and towards the end of the day the EBC did what most people would do around the world and would have done, and something strange, they extended the polling time by an hour. When that happened on that day, the UNC thanked the EBC for doing it because they thought that it would have benefited them. All of us was exposed to it.

At the end of the day, we won five seats, some by 3,000 votes, the UNC decide that these are marginal seats and the seats must be declared vacant because the EBC did something wrong and the results of the election must be overturned. Ladies and gentlemen, you will have to stretch your imagination a long way from that to what I just told you about the Chief Justice to see a continuous highway between the EBC and that.

But, you see, the UNC sees the local courts in Trinidad and Tobago as their political playground and they believe that once they get the matter to the court they have an upper political hand. I could tell you, the first thing they did was to go to court and accuse the Elections and Boundaries Commission of acting improperly. They lost that case. The five PNM members who had to defend themselves, the argument made about the seats being overturned was lost. But, halfway through the case, when the PNM said it should be thrown out of office without even being heard because it was a nonsense, the court said, no, it should be heard.

Oh yes? PNM lost. UNC had costs to collect. They said their costs is \$15 million. When the case came to the end when finally the Appeal Court ruled in the PNM's favour and cost is now owed by the UNC, how much you figure that costs were? Up to this day, we're still talking about assessing the costs, but the bottom line is, the UNC has that cost to pay because they lost the substantive matter and, of course, they still think that they could overturn the election results.

So you know what they've done? They filed a petition to the Appeal Court, listen to this very carefully, you know. At the same time they're trying to entrap me and embroil me in some foolishness at the Law Association, they filed a petition to the High Court saying in the High Court that the election petitions which the PNM won in the court must be overturned because the Chief Justice acted with bias in coming to the decision that gave victory to the PNM on that matter against the UNC.

Would you believe that? In attempting to overturn a court decision, this Law Association elements and the UNC fabricate this bias story and file a matter. The matter is in the court going on in the court right now, and while the matter is going on in the court, they want me, as Prime Minister, to strengthen their argument in the court by opening impeachment process against the Chief Justice and that will be their argument to the court to overturn the petition that the Chief Justice was, in fact, biased. Would you believe that? Would you believe that?

And that is what this is all about, you know, because if you look, if you look at who drove the impeachment proceedings at the Law Association, they had about 150 persons on that who voted on that day. Anand Ramlogan went with about 20, Saddam Hosein went with about another 20, Israel Khan went with about 20 and



a few stragglers. Those are the ones who voted, you know. While you on bail for attempting to pervert the course of justice, you are a knight in shining armour standing up in defence of the Judiciary in Trinidad and Tobago. While they're being charged with all manner of evil, you are the ones that the children would look up to for defending the Judiciary and the Prime Minister, having not agreed, the Prime Minister and the government, the PNM, must be pilloried. We I will ignore them totally.

And the only thing that they are doing in your eyes is to encourage indiscipline in the Judiciary and in the public service. That's what they're doing and hoping that that will work for them politically because it is a destabilization of our society. They want nothing good for the people of Trinidad and Tobago."

61. I am familiar with the proceedings before the Court of Appeal to which the Prime Minister refers since I was lead counsel on behalf of the members of the Prime Minister's political party whose elections were challenged in election petitions brought by members of the opposition United National Congress. Those petitions were dismissed by the High Court and their appeals were likewise dismissed by the Court of Appeal. The Chief Justice presided in those appeals. Sometime after the Law Association wrote to the Prime Minister on the 13th December, 2018, the opposition candidates applied to the Court of Appeal to set aside the Court of Appeal's judgment on the ground of apparent bias on the part of the Chief Justice arising from the allegation that he had lobbied senior HDC officials and the Prime Minister on behalf of applicants for housing. I am aware that a letter was sent to the Chief Justice dated the 6th February, 2019 asking him to answer certain allegations. An unsigned copy of this letter was circulating on social media and came to the Council's attention. A true copy of this unsigned letter is now produced and shown to me and is hereto annexed and marked "DLM38".
62. The exhibit "DML38" contained references to the Executive Summary of the Committee's Report. The Executive Summary was made available to members of

the Law Association via its website only for the purpose of the Special General Meeting on the 11th December, 2018, pursuant to the terms of a confidentiality agreement which strictly prohibited disclosure of the document without the consent of the Law Association, and which each member of the Association was required to subscribe to before viewing the summary. As I was personally involved in the decision to disseminate the summary, I can say that the Law Association did not give its consent to anyone for disclosure of the Executive Summary in connection with the application to the Court of Appeal to set aside the judgment of the Court of Appeal in the election petition matters.

63. Subsequently, by letter dated the 4th April, 2019, the Attorney-at-Law for the Appellants in the petition appeals asked the Law Association to provide a copy of the Committee's Report. A true copy of that letter is now produced and shown to me and is hereto annexed and marked "DLM39".

64. By letter dated the 8th April, 2019 the Law Association declined the invitation to provide a copy of the Report for the reasons stated therein. A true copy of this letter is now produced and shown to me and is hereto annexed and marked "DLM40".

65. Subsequently, when the application was made to the Court of Appeal to set aside its previous decision, I indicated that I would not make myself available to represent my former clients since it appeared that the Report of the Committee which I chaired, would be used to support the application.

66. While I cannot account for the motivations of any member of the Law Association who voted in favour of asking the Prime Minister to consider exercising his power under section 137 of the Constitution, the fact is that the Law Association has played no part in the application made by the Opposition Members to set aside the Court of Appeal's judgment.

67. By email dated the 30th July, 2019, the Law Association sought the advice of Mr. Christopher Hamel-Smith SC, Mr. Rishi Dass and Mr. Jason Mootoo on whether the Law Association had viable grounds for commencing judicial review proceedings against the Prime Minister. A true copy of this email is now produced and shown to



me and is hereto annexed and marked "DLM41". Mr. Mootoo expressed his unavailability to participate in the preparation of the advice due to personal commitments during the August vacation.

68. Subsequently, by email dated the 12th August, 2019 Mr. Rowan Pennington-Benton was retained to assist in providing that advice. A true copy of this email is now produced and shown to me and is hereto annexed and marked "DLM42".
69. On the 9th September, 2019, I received an opinion from Messrs. Hamel-Smith, Dass and Pennington-Benton advising that there were viable grounds to support an application for judicial review.
70. On that day, I emailed members of the Inner Bar and invited them to attend a meeting on the 12th September 2019 to consider the opinion with a view to achieving some consensus on the way forward. A true copy of this email is now produced and shown to me and is hereto annexed and marked "DLM43".
71. On the 12th September, 2019, members of the Inner Bar attended a meeting at the Law Association's office and considered the opinion. A majority of those present were of the view that there were strong grounds for judicial review of the Prime Minister's decision.
72. By Notice dated the 12th September, 2019 and emailed to the general membership, and subsequently published in the newspapers, the membership of the Law Association was notified of the calling of a Special General Meeting to consider whether the Law Association should commence judicial review proceedings against the Prime Minister's decision. A true copy of the said notice is now produced and shown to me and is hereto annexed and marked "DLM44". The meeting was to be convened on 27th September, 2019.
73. On the 25th September, 2019, I received a finalised opinion from Mr. Hamel-Smith addressing the points raised at the meeting on 12th September, 2019.
74. On the 27th September, 2019, the Special General Meeting was held and the finalised opinion of Messrs. Hamel-Smith, Dass and Pennington was discussed, with

Mr. Hamel-Smith in attendance to answer questions. After debate, it was resolved by a majority of the members that the Association should commence judicial review proceedings to challenge the decision of the Prime Minister.

75. The Intended Claimant is therefore asking that the Court should grant leave to the Law Association to apply for judicial review of the said decision of the Prime Minister on the grounds stated in the Application for Leave.

SWORN to at No.
Street, Port of Spain on the
day of October, 2019



Before me,

Juliet Burke
Commissioner of Affidavits

Commissioner of Affidavits

