
MEDIA RELEASE

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**FREEDOM OF EXPRESSION VS CONTEMPT OF COURT –
MORE QUESTIONS THAN ANSWERS**

The Industrial Court’s (The Court) recent decision to discontinue its inquiry into allegations of contempt of court raised by the Joint Trade Union Movement (JTUM) against the Trinidad and Tobago Chamber of Industry and Commerce (TTCIC) has raised more questions than it has provided answers.

While the TTCIC is relieved that good sense has prevailed in this matter, a number of burning issues remain unresolved.

The business community has for a long time been expressing concern about The Court’s judgements, many of which they believe to have been arbitrary, unfair and irrational.

It was in response to these perceptions that the TTCIC held a breakfast meeting in November 2016 on “*The Impact of Industrial Court Judgements On Your Business*”. A sitting Industrial Court judge was the featured speaker and the panel discussion that followed included the said judge, a senior member of The Faculty of Law (UWI), an industrial relations consultant and an industrial relations attorney.

During the discussion period, various parties criticised The Court’s mode of operation, citing examples of outcomes that they felt to be wholly unfair. The prevailing opinion was that the industrial relations environment was constraining productivity because of employers’ inability to get fair judgements at The Court.

Following news reports on the discussion JTUM issued a paid advertisement which alleged contempt of The Court on the part of the TTCIC and participating speakers. The Court subsequently “commanded” the TTCIC, Messrs. Gabriel Faria, Frank Mouttet, and Derek Ali to appear before it in connection with an inquiry into a possible contempt of court and provide as evidence every conceivable form of recorded material related to the breakfast meeting.

In the months that followed, the Chamber and the three gentlemen incurred hundreds of thousands of dollars in legal fees preparing for a Court’s inquiry.

JTUM requested and were allowed to be a party to the inquiry. Two years and eight months later they have failed to provide a single statement or any evidence in support of their claim.

The Court’s August 7th order to discontinue the inquiry has, according to the Court, resulted from JTUM’s failure to respond. This outcome has left the TTCIC even more dissatisfied with The Court than it was before. Consider the following:

1. The Industrial Court summoned the TTCIC (and two private citizens) to an inquiry that stemmed from a statement by JTUM alleging contempt of court by individuals who

questioned The Court's rulings in a public forum. Should The Court have the right to be judge and jury in a matter related to its own impartiality?

2. Do we, as citizens of the Republic of Trinidad and Tobago, have a right to voice our opinions on the operations of the institutions of our country? The Court's decision to discontinue its inquiry has left this concern unresolved. Where, for example, is the line drawn between freedom of expression and contempt? Isn't free speech a basic tenet of a functioning democracy?
3. Having successfully applied to become a party to The Court's inquiry into the alleged contempt, JTUM failed to respond to no less than five requests from The Court for submissions (three written, two oral). Was this not contempt of court? Would The Court have treated the TTCIC and the three individuals similarly if they had failed to comply with the Court's requests?
4. The Court's inquiry has had both a financial and emotional strain on the affected parties. Shouldn't The Court make JTUM liable for the costs that resulted from a matter it requested publicly, became a party to, and was subsequently discontinued because of its own failure to participate?
5. The matter was discontinued two years and eight months after. According to The Court, this was due to the lack of feedback from JTUM. Would the course of action have been the same if a member of the business community failed to respond to The Court? Is this the action of an independent and fair authority? This behavior exemplifies precisely what is troubling to the business community.

It is important to note that at no time were the parties charged with 'Contempt of Court' or any other offence. This was a costly, time consuming and emotionally draining process that was leading towards an inquiry that never happened.

The TTCIC strenuously defends the right of every citizen to express his or her views freely. The Court's failure actions in this matter will continue to have a chilling effect on freedom of expression, as the line between free speech and contempt of court remains unclear.

TTCIC continues to support any actions that encourage an independent and fair authority in matters of industrial relations and again renew our call for the review and reform of the 46-year old Industrial Relations Act.

CHRONOLOGY OF EVENTS:

November 30th, 2016 – TTCIC hosts a breakfast meeting on, “*The Impact of Industrial Court Judgements On Your Business*”. Participants voiced opinions to the effect that The Court was biased in favour of trade unions and that this was contributing to productivity challenges in the private sector.

December 7th, 2016 – JTUM publishes a paid press announcement alleging that utterances at the event were, “a very serious contempt of court”.

December 15th, 2016 – TTCIC receives a subpoena, dated December 14, “commanding” it to appear before The Court on December 20th, to testify and provide evidence in the form of originals and copies of all reports, interviews, AV recordings, etc. of the November 30 breakfast meeting.

December 20th, 2016 – All parties summoned, appear before The Court and agree to comply with The Court’s request for the relevant material.

January 30th, 2017 – JTUM submits an application to The Court to join the matter as an interested party.

February 10th, 2017 - All parties summoned appeared again.

April 27th, 2017 – The Court confirms JTUM’s application to join the matter and asks JTUM to make submissions.

September 20th, 2017 - The Court writes to JTUM (again) requesting its submissions, having not received any material.

November 15th, 2017 - The Court writes to the JTUM again (second time, third request) requesting submissions having not received submissions.

On unspecified dates in 2018 and 2019 – verbal requests were again made to JTUM with respect to their submissions.

August 12^h, 2019 – TTCIC receives an order dated August 7 noting the discontinuation of the inquiry.

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For media enquiries, please contact:

Rachel Stampfli

Manager, Operations Unit

Phone: 637-6966 Ext. 1222

Email: rstampfli@chamber.org.tt

FROM THE MARKETING AND COMMUNICATIONS DEPARTMENT