



# THE J.D. JURIST DICIT

Editor: [Barrie Attzs](#)

## J.D. NEWS

### New Personnel

Tonya Rowley joined our Litigation and Dispute Resolution Practice Group on 4<sup>th</sup> January, 2016.

Tonya is a National Scholar and holds an LLM with merit in Corporate and Commercial Law from the London School of Economics and Political Science (LSE). She was admitted to practice in 2009 and has worked at the Attorney General's Department, the Ministry of Public Administration and the Judiciary of Trinidad and Tobago.

**We are pleased to welcome  
Tonya to our team!**

## INDUSTRIAL RELATIONS IN TIMES OF RECESSION – IS YOUR BUSINESS READY?

According to the Trinidad Express on 1<sup>st</sup> March 2016, the Caribbean Development Bank ("CDB") has advised that "*Trinidad and Tobago's economic recession will last at least to the end of 2016*". In reading other reports in the local press and from forecasters "in the know", the CDB's estimate seems quite conservative. While the country may be out of recession by the end of the year, what effect will the recession have on the country's labour force, and more importantly on your business during the recession?

On 27<sup>th</sup> February 2016, the Newsday reported that the Minister of Labour, Small and Micro Enterprise Development, the Honourable Jennifer Baptiste-Primus confirmed to Parliament that some 1,500 workers had been retrenched since September last year. What is not stated however is that these figures reflect only reported retrenchments (i.e. retrenchments of 5 persons or more, which must by law be reported to the Ministry of Labour). Among those companies in which reported retrenchments have occurred, are businesses that probably would not have considered that they would be facing such problems this time last year. The approach of many businesses seems to be reactionary and their response to industrial relations issues often runs contrary to industrial relations best practices.

In these difficult economic times, every dollar counts and inefficient policies and procedures, a lack of understanding of employment legislation and industrial relations practices may end up costing your business tens (if not hundreds) of thousands of dollars in damages and legal costs. It makes good commercial sense to be proactive and seek proper legal advice before rather than after the fact.

The legal consequences of poor industrial relations practices are too many to explain in this short commentary. Is your business *au courant* with the Retrenchment and Severance Benefits Act and its obligations thereunder? What are your workers entitled to (and more importantly, what are they not entitled to) if they are to be retrenched? How does the business choose which workers to retrench? What is the procedure for retrenchment? Is the inability to keep an employee on the payroll a good reason to retrench him or her or can you impose a pay freeze or a decrease in pay?



At our firm we provide our clients with advice and representation on all aspects of industrial relations law, including retrenchment, drafting of contracts of employment, employment policies and dismissals. These are issues that affect all businesses, whether big or small, newly established or long standing. In our experience, poorly handled industrial relations grievances can cost an employer dearly. Shouldn't your business be thinking about industrial relations in this time of recession?

*N.B. This is not intended to be legal advice.*



Bryan McCutcheon, LL.B., LEC  
Member of the Law Association of Trinidad & Tobago

## Contact Us

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## ABOUT THE AUTHOR

Bryan McCutcheon, Barrister-at-Law, is an associate in J.D. Sellier's litigation and dispute resolution department. He frequently represents clients in contentious civil and commercial litigation matters at the Industrial Court, High Court and Court of Appeal of Trinidad and Tobago.

Bryan has acquired considerable knowledge and experience in various areas of law including: contractual disputes; tort; property disputes; employment disputes; insolvency and and maritime law.

Bryan obtained a LL.B. with First Class Honours and was called to the Bar of England and Wales in 2011 by the Honourable Society of the Inner Temple.

## LITIGATION AND DISPUTE RESOLUTION

The firm's litigation and dispute resolution practice group manages a substantial civil litigation portfolio which includes public law, admiralty, banking, mortgagee and foreclosure actions, wrongful dismissal, workmen's compensation and medical negligence. Its non-commercial litigation portfolio comprises contentious probate matters, personal injuries claims, defamation and a family practice that includes divorce and custody proceedings, property settlement and maintenance applications.

The firm's litigation attorneys-at-law have also undergone extensive training in arbitration and mediation to further develop their skills to enable them to resolve their clients' differences and disputes without recourse to the Court.

The practice group is headed by Marcelle Ferdinand, an attorney-at-law with more than 30 years experience in litigation. She is ably supported by a team of highly qualified and dedicated associates and a complement of well-trained, committed support staff who work assiduously to ensure the efficient delivery of services to the firm's clients in a timely manner.