JUDICIARY DISPUTES REPORTS OF FAILURE TO CONSULT WITH LAW ASSOCIATION ON COURT E-SERVICES

The Judiciary wishes to express its concern over articles appearing in the print media which present a skewed picture of the deliberations that have been ongoing between the Judiciary and the LATT for over the past thirty months (30) on the Judiciary’s plans to introduce an electronic suite of services.

As a key stakeholder in the administration of justice in Trinidad and Tobago, the Judiciary has continuously kept the Law Association of Trinidad and Tobago (LATT) engaged and apprised of its proposed suite of E-services. Stakeholder engagement meetings with LATT commenced as early as May 2018 and continued in the months of March and July 2019.

MEETINGS WITH LATT

At a meeting on E-Probate in 2018, the Judiciary did a power point presentation for attorneys showing the E-services planned including CourtMail and CourtPay as a process for taking ALL court payments.

On January 22, 2019 the Court Executive Administrator (CEA) emailed the then Secretary of the Law Association inviting LATT to a meeting to discuss the roll out of CourtMail which included the system for the registration of attorneys. The invitation indicated, inter alia, as follows:

“The Judiciary is ready to discuss with you the roll out of CourtMail, a process by which the Judiciary sends orders, notices and other court documents to attorneys electronically and by which in the second phase, attorneys will be able to file documents online and pay online...
A critical part of this system is the registration of attorneys. To this end, we would like to work with the Law Association to ensure that we design a system which ensures that our needs and yours are met. Are you able to meet with us on January 28th at 3 pm? Your ICT advisors should be included in the meeting.”

On January 28, 2019 in a meeting with the Association’s Jason Nathu, Theresa Hadad, et al, discussions included ICCS codes, CourtMail and CourtPay. A presentation was also again made to the LATT representatives on the overarching objectives of the planned roll out of e-services. In that meeting we also discussed the issue of LATT Identification Cards and whether the Law Association will undertake to provide these for registration and for the new way of paying fees (including practicing fees) with CourtPay. The Law Association indicated that they would see what could be done to assist in verifying Attorneys. It was decided that the State would be required to verify State Attorneys.

The LATT representatives also wanted to know if they could file electronically after 4 p.m. They were told that it would be possible, but that the Rules Committee would indicate when it would be dated and timed and whether it would be in accordance with the principle in the case of Re N (an infant).

By letter dated March 8, 2019 from Theresa Hadad, the LATT concluded that

“...based on the result of the systematic review they were not in position to participate in the Attorney verification process” and stated that

“LATT is aware that the implementation of the Court Mail system is imminent and we wish to thank you for the opportunity to consult with your team in the role out of the system. We appreciate the collaborative approach taken and advise that we are prepared to assist to the best of our ability...In the interim our IT Officer is in the process of obtaining improved electronic systems to improve identification to export data...”

On July 9 2019, the Judiciary again met with the Law Association representatives and was advised that the latter was still procuring a database designer. The Judiciary pointed out that such a database was simple and that instead of awaiting their procurement
process, the Judiciary would proceed to re-design and update the roll of attorneys so that photographs of attorneys are included in order to prevent any impersonation of lawyers. In light of the fact that the LATT could not undertake verification and database design, the Judiciary undertook to do it.

The Judiciary also indicated that as the Registrar was legally the keeper of the roll of Attorneys and has an obligation to keep the roll updated, it was imperative that the registration process proceed and that it would be undertaken at the time of the payment of fees for which payment would be done using CourtPay. The Judiciary undertook to prepare ID cards for Attorneys as it was of import to the Judiciary and State institutions.

On September 6, 2019, the Judiciary publicly launched its suite of E-services and the LATT representatives were invited. At the launch, the full suite of e-services was presented to stakeholders. These services included CourtMail, E-Filing, CourtPay, E-Payment of Lawyers Practising fees and E-Probate. The suite of services was also presented by the Honourable the Chief Justice, via a video presentation, to the legal fraternity and the national community at the opening of the 2019-2020 Law Term on September 16, 2019.

On 11th November 2019, the Judiciary held another meeting with representatives of LATT. At this meeting, the LATT was informed that the Judiciary was ready to launch its E-registration of Attorneys, payment of practising fees electronically, issuance of Practising Certificates via CourtMail, additional E-Probate Services, the Judiciary reloadable card and E-Filing. It was also indicated that since the Judiciary was in the process of admitting new Attorneys on 15th November 2019, it was its intention to commence the E-registration process with a view to having the new lawyers pay their fees and contributions electronically.

Following the presentation, Ms. Hadad raised certain concerns and undertook to provide same to us in writing by Wednesday 13th November 2019, after the LATT Council’s meeting. Nevertheless, the Judiciary’s team sought to answer all her concerns on the day in question and by telephone call and subsequent email on the 12th November 2019,
Ms. Hadad and her team were invited to a follow up meeting to be held with the Court Executive Administrator to answer any outstanding questions regarding WiPay. Ms Hadad declined, citing a busy schedule. This meeting therefore did not materialise. It is noted that prior to 15th November, 2019, no correspondence was received from LATT regarding the issues raised by Ms. Hadad at the meeting of November 11, 2019. The Judiciary also did not receive an acknowledgement or acceptance to the invitation to meet to assist further in allaying any outstanding concerns. It was therefore determined that we had done our due diligence, that there had been proper consultation with LATT and sufficient notice was given to allow for meaningful discussions.

October signals the start of the period during which attorneys pay practising fees. New Attorneys are admitted in November each year. In the circumstances, it would have been unreasonable to expect that the Judiciary would hold on the roll out of these new services and wait for a protracted and undefined period when attempts were made to ensure LATT was kept apprised at all times and given multiple opportunities and open invitation to have fruitful discussions on the way forward. That delay would have resulted in a 12 month delay of electronic services.

The Registrar of the Supreme Court only received Ms. Hadad’s concerns in writing after the sitting of the 15th November 2019 for the admission of new members to the Bar, where The Honourable the Chief Justice directed that practising fees are to be paid in the manner as prescribed by the Registrar.

The above establishes that there was consultation taking place with the LATT since 2018

RESPONSES TO LATT’s CONCERNS

Following are the responses to six (6) concerns raised in Ms. Hadad’s letter received after the November 15, 2019 Sitting, the responses to which were provided at the meeting of November 11, 2019

1. **Whether there would be commingling of the fees and contributions having regard to the system** –

As highlighted during the presentation, it was confirmed that the fees and contributions are identified separately, collected and transferred separately
through two ACH transactions thereby ensuring that there is no commingling.

2. **The formatting and layout of the payment interface** –
   It was clarified that the issue raised was not the payment interface but that Ms. Hadad requested that the wording be adjusted to state “Practising Fees/Compensation Fund”. She also requested that the receipt clearly outline which payments were made for subscription fees and which payments were made to the Compensation Fund. These issues have been addressed.

3. **The management and usage of data input into the system as per your intent and the safeguards which would be implemented to secure said data** –
   It was confirmed that the information obtained from Attorneys during the registration process will be stored on the Judiciary’s servers (as is done at present), it is not for sale and it is not and will not be publicly available except as is required by law. Further, as the Keeper of the Roll of Attorneys, the Registrar intends to use the information gathered to update the Roll of Attorneys at Law.

4. **The transaction fees and persons obliged to pay same** –
   A full breakdown of the transaction fees payable was provided to the LATT representatives and it was also indicated that the transaction fees were to be borne by the paying party. At the meeting of November 11, 2019, Ms. Hadad indicated that she had no issue with transaction fees being paid, but preferred that they were paid to VISA or Mastercard and not to WiPay.

5. **The manner in which receipts would be copied/posted electronically to the Law Association so as to mirror the current physical system of receipts** –
The LATT representatives were informed that there were two options available for receiving information on payments made. The first option was for the Judiciary to generate a report and forward the relevant information to the LATT; that is, the name, bar number, fees and contributions paid, receipt number, date of payment and law term. This report would contain all information required by the LATT and would reflect the information provided at present. Alternatively, we are prepared to give the LATT limited access the Judiciary’s portal to facilitate retrieving the reporting information at the LATT’s convenience as well as getting real time updates when payments are made.

6. The nature of CourtPay and the relationship between the Judiciary and the several entities trading using the name Wi Pay –

a. CourtPay is the Judiciary’s online system to facilitate payments into and out of Court. It was indicated clearly that the Judiciary owns the CourtPay software.

b. The Judiciary is not familiar the claim made by Ms Hadad that there are ‘numerous entities trading using the name WiPay’

c. The Judiciary contracted with WiPay (Trinidad and Tobago) Limited and Republic Bank after a full tendering process. The contracts with WiPay are to develop the CourtPay software and to provide an end to end software solution which they are obliged to maintain as part of our contract.

THE LAW AND PAYMENT OF FEES

Pursuant to sections 12 and 56 of the Legal Profession Act, the Registrar of the Supreme Court, is obligated to receive all annual subscription fees and contributions to the Compensation Fund. The Act however, does not set out the mode by which payments are to be collected; this process has always been within the Registrar’s purview. While the Registrar has always maintained a collaborative approach with LATT, there is no requirement for the consent of LATT with respect to the manner in which fees and
contributions are collected. When collected they are to be handed over to the Law Association which must make provision to receive same.

Throughout the years, the resources available to the Judiciary have always dictated the manner of collection of funds and this instant matter is no different. The Judiciary is an independent arm of the State and will continue to manage its resources in the best interest of all its stakeholders, which includes the members of the LATT.

Additionally, Ms. Hadad’s representation that the Judiciary’s platform of E-services is unfair and unlawful is baseless, as all the latter’s actions comply with the laws of Trinidad and Tobago and involve consultation with all relevant stakeholders. Her call to members to disregard the directions of the Honourable Chief Justice and to urge them to continue to make payments at the Registry and Sub-Registries is irresponsible and seeks to undermine the administration of justice.

The Judiciary continues to accept payments through its electronic service and thanks those lawyers who have begun to utilise and give feedback on the new service.

The Judiciary remains committed to continued appropriate stakeholder engagement in these matters.

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