

TO: The Eastern Caribbean Supreme Court

**FROM: A Group of Citizens and Organizations Concerned
about Justice and the Rule of Law in Dominica**

C/O Citizens Forum for Good Governance, P. O. Box 2052 Roseau, email: dominica-democracy@gmail.com , Telephone: Athie Martin - 767 276 1878, Clayton Shillingford – 767 276 2453, Lennox Linton – 767 275 4567
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October 15th, 2012

The Chief Registrar
Eastern Caribbean Supreme Court
P. O. Box 1093
Waterfront
Castries
St Lucia

**Re: Complaint regarding Sabotaging/Undermining the Rule of Law in
Dominica**

Dear Madame Chief Registrar:

We write as a group of concerned citizens and civil society organizations of the Commonwealth of Dominica to complain without prejudice about a matter in the administration of justice here that is severely undermining the rule of law- in fact, effectively sabotaging it - and therefore, requires an urgent corrective intervention *suo motu* from the Eastern Caribbean Supreme Court (ECSC) to prevent further injury to the integrity of the legal community at large and criminal justice system in this jurisdiction.

We have to draw your attention, to the 2010 private initiative by attorney-at-law Mr. Glenworth Emanuel (a former Chief Magistrate) to move the court for the prosecution of 42 criminal charges against Attorney Mr. Stephen Isidore (with Chambers at Hodges Lane, Roseau), his former junior partner in the law firm of "Emanuel Isidore and Associates." This pertains to charges for alleged criminal misconduct including, fraud, theft, falsification of accounts, criminal breach of trust, misrepresentation and obtaining money by deception to the tune of over 7 million EC dollars.

In bringing the outrage that this matter has become to the attention of the ECSC, we are mindful of the advice of the Acting Chief Justice Madame Janice Pereira that ***“the Eastern Caribbean Supreme Court is the Court of the people, and as such we are accountable to you”***. We also note her recent comments at the start of the law year on the need for professional integrity among lawyers in the public interest of upholding the rule of law:

“It is said that the legal profession is a noble and learned profession. Accordingly the public expects lawyers to be professionals of high integrity and competence... Apart from his duties to his clients the lawyer owes important duties both to the court and to the profession. These duties are imposed for the proper administration of justice and are enforceable by appropriate legal and disciplinary sanctions. They include the duty not to mislead the court the duty to avoid unnecessary expense and waste of the court’s time...”

This complaint seeks necessary and appropriate action from the Court to determine and apply the ***“legal and disciplinary sanctions”*** for the very troubling irregularities, breaches and criminal antecedents that have emerged in this matter, as outlined in the following chronology of events:

- Nov 19th, 2010 Attorneys for Mr. Glenworth Emanuel served on Stephen Isidore, 42 charges for serious criminal acts allegedly committed by him, filed in the Magistrate’s Court District E at Roseau, Dominica adjudicated over by Chief Magistrate Evalina Baptiste (Criminal Complaint Numbers 2842 of 2010 to 2883 of 2010), which had, *inter alia*, caused wrongful losses of over 7 million EC dollars to him, while Attorney Isidore allegedly gained wrongfully by that sum, pursuant to the Magistrate’s Code of Procedure Act, Chap 4:20 and the Theft Act, 10:33 of the Laws of the Commonwealth of Dominica.
- Nov 24th, 2010 The Magistrate’s Court issued summonses which were served on Attorney Isidore to secure his attendance at Court on December 6th, 2010, when the committal proceedings were scheduled to commence.
- Nov 30th, 2010 The Chief Magistrate issued a warrant for the arrest of Stephen Isidore to secure his attendance at the Magistrate’s Court on December 6th, 2010.
- Dec 2nd, 2010 The Police Commissioner received the warrant for the arrest of Stephen Isidore which he was required to execute forthwith in accordance with the law. *However, the warrant was not executed.!*

Dec 6th, 2010

The 42 criminal charges registered in the complaints as above with the Court, were to be read out to Mr. Isidore at the commencement of committal proceedings, as per the procedure. The matter being of grave public concern had drawn significant interest from citizens, who were closely watching its outcome. In the morning, when police officers were instructed to cordon off the location of the Court, and to use their weapons, if necessary, in order to prevent citizens from witnessing what was transpiring therein, Mr. Isidore did not appear as directed at the appointed time! He, however, showed up hours later when his legal team presented an order from the High Court 1) mandating a stay of the execution of the arrest warrant until further or other order of the Court; and 2) prohibiting the Chief Magistrate or any other Magistrate from hearing the complaints against Stephen Isidore pending the hearing and determination of the application for leave to apply for judicial review of the Chief Magistrate's decision to issue a warrant for Mr. Isidore's arrest (DOMHCV 379 of 2010).

It is now 696 days since the criminal complaints were lodged against Attorney Isidore; 685 days since the Warrant for his arrest was issued; and 679 days since Attorney Isidore was able to secure a Stay against further proceedings in the matter. Predictably, there has also been no Judicial Review hearing to determine whether the Chief Magistrate acted in accordance with the rule of law in issuing the warrant for Mr. Isidore's arrest, although this exercise ought to have been done within a time-bound frame, and expeditiously! Otherwise, you will certainly agree that the wisdom and veracity of the adage "justice delayed is justice denied" will continue to prevail, particularly in Dominica. You will surely appreciate that such delay-tactics are not only tools wielded to escape the consequences for the offences allegedly committed by the accused, but they seriously undermine and sabotage the sanctity of the judicial structure. These abhorrent and questionable (mal) practices also go against the very grain of the concept of justice, equity, good conscience and fair play - the four sturdy pillars of our legal system.

Justice must not only be done, but Justice must also be seen to be done!

There appears to be no doubt that the strategy deployed was to (mis)use this frivolous and vexatious application for "judicial review" in order to bring the matter in the criminal court to a halt. Having successfully brought the proceedings to a standstill, naturally enough, the lawyers representing Mr. Isidore including a Senior Counsel, are no longer interested in the outcome, confident that the said proceedings have been fobbed off effectively – indefinitely!

What is truly appalling, and which we hope will certainly hold the attention of the ECSC, is that no one seems to care about the dangerous implications for the integrity of our criminal justice system, or the irreparable harm done to the public at large.

In the meantime, Attorney Isidore, against whom there are charges of serious criminal offences, continues, nonchalantly, to practice in the noble legal profession, unperturbed and worse still, unrepentant. The Legal Profession Act, which contains provisions for protecting the integrity of the profession in such circumstances, remains unimplemented in Dominica despite promises and assurances galore given to the contrary from the Governing Party over the past decade. Indeed, the unimplemented Act has, in effect, become a parody of the judicial outlook which now, unfortunately, seems to exist.

In the early hours of Christmas Morning, December 25th, 2010, nearly TWO YEARS ago, senior Attorney Mr. Emanuel, (who had lodged the above criminal complaint against Stephen Isidore his former partner and protégé), and his wife Greta Emanuel, escaped an attempt on their lives, when their home was fire bombed. On May 27th, 2011, OVER SIXTEEN MONTHS ago, the police recorded a confession from a person who admitted he was paid by a close friend and business associate of Attorney Mr. Isidore, to set the fire. Regrettably, to date, the police have steadfastly refused to charge the confessor, and the person accused of paying for the crime, clandestinely left Dominica on April 20th, 2011, 543 days ago, aided and abetted, perhaps, by the enforcers of the law themselves, and has not returned since.

In another matter, reported in the media, which appears to be a classic example of the ridicule and mockery that the rule of law is being subjected to and which has a bearing on the matter herein, the accused lawyer, against whom serious criminal charges have been leveled as set out elsewhere herein, is, presently representing a police officer who has been suspended, following charges of wounding with intent arising out of a shooting incident on a primary school compound in July 2010.

What is truly distressing, is that both criminally charged persons i.e. the lawyer and his client, are now allegedly involved in a scheme to deceive the Court, in which the victim has reportedly been pressurized to depose, more than one year later, that he shot himself! This, even though separate police reports confirm that the police officer concerned admitted to the shooting, for which he has claimed justification.

While, admittedly, everyone, regardless of being charged with committing the most heinous offence, is entitled to be represented in the Courts, officers of the Courts cannot Indulge in such coercive methods, spew falsehoods and engage in dubious activities, in tacit connivance with the felons, directly or otherwise. Such vile conduct brings disrepute to the entire Bar, and tarnishes the image of the legal fraternity, including that of the judiciary.

The ECSC, it is most humbly submitted, in light of the facts and circumstances as above, ought to take umbrage at the mechanical manner in which the Court has granted interim/stay orders without due regard to the harm such orders cause to the other side and to the public interest. With utmost respect, we plead that it is unacceptable for the Courts to take the position, that it is okay to make such arbitrary orders, and if the other side is aggrieved, it can take steps to vacate them! The ECSC must insist that Courts in this jurisdiction, (as an obligation, that cannot be jettisoned), need to satisfy themselves that such orders are granted wholly and solely on the merits of the case at bar and that stays are only allowed with clear steps and firm timelines for the completion of the pending matter that justified the stay failing which the stay will lapse in the interest of justice.

It must be appreciated that Mr. Isidore, (Chambers at Hodges Lane, Roseau), is taking advantage of his alleged wrongs, on account of some lapses/loop-holes - deliberate, connived or otherwise - within the legal machinery, so as to continue to allow these extremely serious charges, which have stained the reputation of the legal fraternity and profession, to continue to hang in limbo indefinitely.

To the ends of justice, especially given the critical importance of the rule of law to our economic and social development, we, hereby, request that the ECSC acts expeditiously, even if *suo motu*, to direct an investigation into this sordid episode. This public interest undertaking will correct glaring injustices and vindicate the honour and prestige of the entire Bar of this jurisdiction, which has been sullied by the criminal complaints against Mr. Isidore pending before the Magistrates Court District E at Roseau, Dominica and the manner in which those complaints are being handled.

It is, in our respectful view, quite simply scandalous, that notwithstanding the gravity of the alleged criminal misconduct for which he is charged, Mr. Isidore can still be engaged in legal practice in Dominica, or anywhere for that matter, and the absence of adequate statutory provisions for disciplinary action should not be used as an excuse. Accordingly, in the interim period of this investigation, which ought to be launched without delay, this Honourable Court may be pleased to make such orders as are necessary vis-a-vis restraint/suspension of Mr. Isidore's license to practice law, so as to prevent him from continuing to make a mockery of the legal system.

We, most fervently, urge that our complaint be registered with your good office and taken up *suo motu* as a Writ, for issuing suitable directions to the authorities concerned, in the facts and circumstances as presented above.

Sincerely,



ATHERTON MARTIN

Citizen's Forum for Good Governance



LENNOX LINTON

Citizen's Forum for Good Governance



CLAYTON SHILLINGFORD

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Coalition in Defense of Democracy



THOMSON FONTAINE

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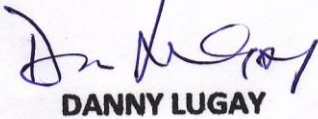
EZEKIEL BAZIL

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EDISON JAMES

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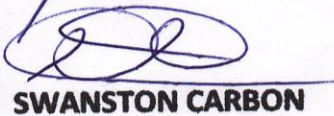
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HELENA DARROUX

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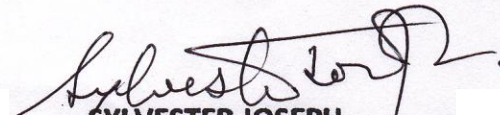
Glen Polydore
GLEN POLYDORE

Emma Abraham
EMMA ABRAHAM

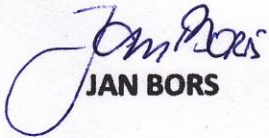
Ora Mathew
ORA MATHEW

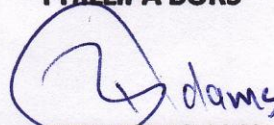
Earl Bruno
EARL BRUNO



LOFTUS DURAND

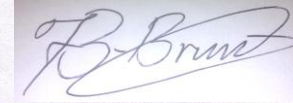

SYLVESTER JOSEPH


PHILLIPA BORS

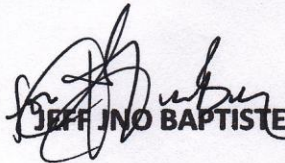

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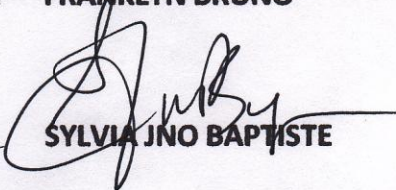

KEENAN ADAMS

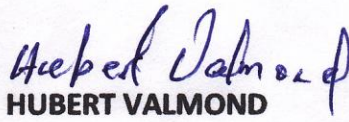

LORNA FRANCIS LAURENT


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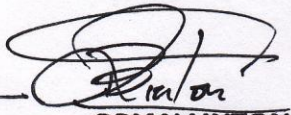

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- 48 Veril Orlé
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- 63 ~~Romain Roberts~~
Romain Roberts Mahaut
- 64 ~~Joanna Adams~~
Joanna Adams Scotts Head
- 65 ~~Juliette Dorville~~
Juliette Dorville St. Joseph
- 66 ~~John of Jno Baptiste~~
John of Jno Baptiste Les Comtes, Massacre
- 67 ~~Joseph Fontaine~~
JOSEPH FONTAINE quarter with Massacre
- 68 ~~Joseph Fontaine~~
JOSEPH FONTAINE MORNE PROSPER
- 69 ~~Wilmoth LeBlanc~~
WILMOTH LeBlanc Canefield
- 70 ~~Matthew Cyprien~~
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74	Augustus Charles Heute	Layou
75	Heather Fiene Louis Louis	Goodwill
76	Warrington Fiene Louis for Louis	Goodwill
77	Khona Lee De	Mahant
78	Josephine Dewshi AD	Mahant
79	ELAINE AFRICA Elaine Africa	Portsmouth
80	Mervin Henderson Mervin Henderson	Pointe Michel
81	RAYMOND CLARKE Rehute	Fond COLE
82	PHILBERT ALLEYNE PHILBERT	BATH ESTATE POTTSVILLE.
83	DORIAN SIMON Simon	SAN SAUVEUR
84	BERNARD SANDERSON B. Sanderson	SAN SAUVEUR

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P Deschamps

Campfield

87 Tressy SANDY
Tressy Sandy

Mome Prosper

88 Felix Wilcox
~~Felix~~

Moms Daniel

89 John Foye
John

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90 ARCHIE SAMUEL
Archie

Castle Comfort

91 John Wainman
John Wainman

Bath Island

92 Margaret Stokely
Margaret Stokely

Bath Island

93 Denise Defoe
~~Denise~~ for Denise Defoe

River Estate

94 MARIA VIDAL

SALISBURY

95 JEREMY VITAL
Jeremy

Pointe michel

96 ELLINGWORTH JOHN
John

ROSEAU

97 Petrina Charles
Charles

Pointe Michael

98 Shirley Loyer
Loyer

Springfield

NAME

ADDRESS

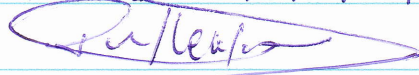
99 NORRIS CHARLES

ROSEAU VALLEY



100 JOSEPH WENTWORTH KENTISH

CASTLE COMFORT



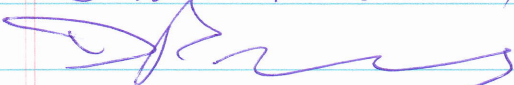
101 KENT CLEMENT JOHNSON

MORNE DANIEL



102 DAVE BRUNEY

CANEFIELD



103 MICHAEL ASTAPHAN.

CANEFIELD

CC: The Registrar of the High Court of Dominica

Mr. Stephen Isidore

Ms. Evalina Baptiste

Mrs. Bernie Stephenson-Brooks

Mr. Glenworth O. N. Emanuel

The Judicial and Legal Services Commission

The Privy Council

The President of the Dominica Bar Association

The President of the OECS Bar Association

OECS Heads of Government

OECS Opposition Leaders

OECS Attorneys General

Regional Media

