

# Abrahams wins libel case against Gleaner

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Anthony Abrahams...delighted

Emile George.

The case goes back to 1987 when Abrahams sued the Gleaner for libel. The Gleaner and the Star had reprinted an article by the Associated Press that implied that Abrahams, then a Member of Parliament and a former Minister of Tourism, had taken kickbacks from US advertising and public relations companies.

The Gleaner Company pleaded justification and qualified privilege as a defence, which means they were saying the allegations were true and that because Abrahams was a public official they were entitled to print it.

In the Supreme Court, Abrahams' attorney filed a motion asking for particulars of the Gleaner's defence. Such a motion is filed whenever the pleadings are so vague that an attorney has diffi-

culty responding to it. But the lower court ruled against this, saying that the Gleaner did not have to provide the particulars requested.

The motion before the Court of Appeal was to compel the Gleaner to give the particulars of their defence. The judgement on Monday went beyond this, and essentially said the Gleaner had no case. The Gleaner can decide to settle voluntarily or have damages assessed, or it can appeal to the Privy Council.

In response to Monday's ruling, Mr Abrahams' attorney, Winston Spaulding said the Court of Appeal had spoken strongly, clearly and in a reasoned manner. "The facts are clearly set out in the judgement. The court has commented on the balance which must exist in society, in carrying out admittedly important functions in

order to avoid harm that may result from unreasoning excess", Mr Spaulding told *The Jamaica Herald*.

"This entire episode emphasises the importance of the eternal principle of justice in its widest sense to the functioning of a well-ordered society".

Mr Spaulding said power and influence of any sector must be exercised reasonably. "Reasonableness is one of the greatest attributes in this world", he said.

The attorney commended Mr Abrahams for his patience throughout the case's duration. "Mr Abrahams has been very patient in the face of long-suffering. This patience and tenacity have caused the issues to be clearly defined in accordance with truth, and hence in his favour", Mr Spaulding noted.

"We can all pause to say it is important for us to be understanding and fair with each other and not to do unto others what we ourselves not wish to be done to us. Stripped of its legal complexities this may be the most important message in this issue", Mr Spaulding said.

Mr Abrahams who co-hosts the morning talk show "The Breakfast Club" on KLAS FM, expressed delight at the Supreme Court's decision. "Of course this decision can be appealed to the Privy Council in England, but at the end of the day I'm quite certain that there can only be one result", he told *The Herald*. Mr Abrahams expressed gratitude to Mr Spaulding for his work on the case.

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Former Tourism Minister Anthony Abrahams won an important decision from the Jamaica Court of Appeal on Monday, in his libel suit against The Gleaner Company.

In handing down the landmark decision, the Court ruled that the Gleaner Company could not rely on justification and qualified privilege as a defence in this case.

More significantly, the judges of the Court of Appeal also used their discretion to strike out the Gleaner's pleadings in the Supreme Court. They have also ordered that the case proceed on the basis that the Gleaner has no defence.

Using very strong language, the judges came down heavily against irresponsibility in the media. They said that the press must respect the rules which govern its operation.

The court said that the media can plead qualified privilege when publishing fair and accurate reports of public interest. But it said that if the media is to rely on such a defence, then any plaintiff who sues the press for libel, must be supplied with necessary particulars where necessary.

Abrahams had appealed a Supreme Court decision that in effect said the Gleaner was not bound to provide further and better particulars. Abrahams' lawyer, Winston Spaulding, had argued that such further and better particulars were vital for the plaintiff to prepare a case.

Monday's ruling is an indication that the three judges believe that the Gleaner could not provide further and better particulars because it had none. That was admitted by the Gleaner's lawyer,