



Shearn Delamore & Co.

**Employment and  
Administrative Law update**

ACCEPTANCE OF EVIDENCE  
OBTAINED THROUGH SOCIAL  
MEDIA PLATFORM

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## Introduction

In the recent Industrial Court Award of **Azffanizam bin Abd v Prince Court Medical Centre Sdn Bhd** [Award No.11 of 2021] dated 4 January 2021, the Industrial Court accepted evidence taken from social media in dismissing a claim of forced resignation.

## Material Facts

In this case, the Company, which manages a private healthcare facility, identified the Claimant on one of the posts on a social media platform which showed that the Claimant engaged in a business which was similar to that of the Company. The Company adopted the view that this amounted to a serious conflict of interest.

In order to determine the veracity of the matter, the Company commenced investigations to the alleged misconduct. In so doing, the Company conducted two interview sessions with the Claimant. During the interviews, the Claimant unreservedly admitted being involved in an external business, which was similar to that of the Company. In order to avoid disciplinary action, the Claimant resigned voluntarily. In his resignation, he further thanked the Company for the years of employment. However, subsequent to his “*resignation*”, the Claimant filed a claim of unfair dismissal, claiming that he was forced to resign.

## Industrial Court Decision

The Industrial Court, upon perusing the evidence adduced before it, ruled that the Company’s version of events (i.e. that the Claimant resigned voluntarily) was more believable than the Claimant’s. The Industrial Court had also taken into account of the Claimant’s post-resignation

conduct and found the Claimant’s absence of grievance against the Company fortified the stance that he had tendered his resignation voluntarily.

Aside from that, the Industrial Court further considered the complaint of conflict of interest and ruled that the evidence of the Company was “*so compelling*” that had disciplinary action against the Claimant commenced, the Company would have been justified in dismissing the Claimant. The evidence adduced by the Company included posts from the social media platform, Facebook, which showed the Claimant’s involvement in the external business.

## Conclusion

This case illustrates the Industrial Court’s acceptance of evidence obtained through social media platforms. Aside from ruling that the Claimant had voluntarily resigned, the Industrial Court further accepted the evidence from the Company and ruled that even if the Company had dismissed the Claimant, it would have been justified in doing so based on the available evidence.

Whilst posts or images on social media platforms may be published in a private capacity, once the evidence are available in a public platform – such as Facebook – employees should be aware that such posts may eventually work against their interests.

The Company in the present matter was represented by Mr. [Vijayan Venugopal](#) (Partner) and Mr. [Benedict Ngoh Ti Yang](#) (Associate) of our firm’s [Employment and Administrative Law Practice Group](#). You may access the full decision [here](#).

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