

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**CIVIL JURISDICTION**

**Civil Action No. HBC 347 of 2019**

**IN THE MATTER** of an Application pursuant  
to the provisions of the Probate, Succession  
and Administration (Amendment) Act 2018

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**BETWEEN** : LIKU LITEA of Villa 110 Belo Circle, Pacific Harbor, Deuba, Domestic Duties.

**PLAINTIFF**

**AND** : LINDA PAMELA OUAKNINE of 13928 Chandler Boulevard, Sherman Oaks,  
California 91401, USA Care of Vijay Maharaj Lawyers, Marks Street, Suva.

**DEFENDANT**

**BEFORE:** Hon. Justice Vishwa Datt Sharma

**COUNSEL:** Ms. Ulamila F. - for the Plaintiff  
Mr. Maharaj V. with Lachman K. - for the Defendant

**DATE OF JUDGMENT:** 11<sup>th</sup> August, 2025.

**JUDGMENT**

[Substantive Writ Action and Statement of Claim]

## **Introduction**

1. The Plaintiff filed a Writ Action and a Statement of Claim on 04<sup>th</sup> October 2019 and sought for the following Orders:
  - 1) A declaration that the purported Will of Alain Albert Ouaknine executed on the 12<sup>th</sup> March 2001 at Glendale California, United States of America is void and of no legal effect in Fiji.
  - 2) A declaration that the deceased Alain Albert Ouaknine upon his death on the 4<sup>th</sup> of February 2019 died intestate whilst domiciled in Fiji.
  - 3) A declaration that the Letters of Administration No. 63979 in favour of the Plaintiff is valid.
  - 4) An Order that the Plaintiff progress to administer the estate of Alain Albert Ouaknine forthwith.
  - 5) Costs against the Defendant and any other costs that the cost deems just.
2. The substantive matter was fixed for Hearing on Monday 11<sup>th</sup> August 2025.
3. Counsel representing the Plaintiff was ready to proceed with the hearing, however, the Plaintiff [Liku Litea] was not present in Court to testify in the proceedings.
4. The Plaintiff's Counsel informed Court that her client [Plaintiff] was on her way to Court when she was involved in an accident.
5. On two (2) occasions, the matter was stood down for the Counsel to find out the status of the Plaintiff and her whereabouts. She could not be reached by mobile call since the Plaintiff's mobile was diverting.
6. The Counsel for the Defendant was ready to proceed, however, he told Court in his submission that if Adjournment is granted then he would seek a sum of \$1,000 as costs to which the Plaintiff's Counsel disagreed.
7. The Defendant was resident in California America and Counsel for the Defendant made an alternative arrangement for Skype hearing which was already set up and ready to proceed on behalf of the Defendant.

### **Determination**

8. The Counsel for the Plaintiff offered no evidence since her only contention was that the Plaintiff was involved in an accident and therefore was in difficulty in proceeding with the case and still sought for an 'adjournment'.
9. No witnesses and/ or any evidence was offered by the Plaintiff when this Court directed the Plaintiff's Counsel to proceed with her substantive case.
10. The Defence then sought for the Plaintiff's substantive action be dismissed on failure to proceed and offer any evidence.
11. The Court took into account that this matter was commenced in 2019 and remained impending for a period of 6-7 years. On two (2) occasions the substantive matter was scheduled for Hearing and yet the Plaintiff on these occasions could not proceed. The Plaintiff offered no evidence with regards to her clients substantive claim against the Defendant and allow the Court to determine the same accordingly.
12. The Plaintiff's Counsel sought for a short 3 weeks adjournment till 20<sup>th</sup> August 2025 to make an effort to settle the matter.
13. However, this Court also took into account, that being a 2019 impending matter in the system, an estate matter which needed to be administered and disposed in terms of the deceased's Will, and invoking Section 15(3) of the 2013 Constitution of the Republic of Fiji which provides that the matters filed into Court need to be determined within a reasonable timeframe rather than delaying, this Court had no alternative but proceeded to dismiss the Plaintiff's substantive matter in its entirety.
14. Further, there was a Counterclaim of the Defendant on the Court file which also needed to be heard and determined.
15. The Defendant through Skype gave evidence and the Plaintiff was given the opportunity to cross examine the Defendant, which she did and ascertained certain evidence on behalf of her client [Defendant].
16. The written Judgment was reserved for determination and delivery at a later date on the Counter-claim.


### **Orders**

- (i) The Plaintiff's substantive writ and statement of claim is dismissed in its entirety.
- (ii) Judgment reserved on the Defendant's Counter-claim to be delivered at a later stage.

(iii) There will be no Order as to costs on the Substantive Action at the discretion of this Court.

Dated at Suva this 11<sup>th</sup> day of August , 2025.



  
VISHWA DATT SHARMA  
PUISNE JUDGE

CC: VIJAY MAHARAJ LAWYERS, SUVA  
LAW SOLUTIONS, SUVA