

IN THE HIGH COURT OF KIRIBATI)
CIVIL JURISDICTION)
HELD AT BETIO.)
REPUBLIC OF KIRIBATI)

HIGH COURT CIVIL CASE 170 OF 2011

BETWEEN: AG IRO MINISTRY OF PUBLIC WORKS AND UTILITIES PLAINTIFF
AND: WAYMARS TRADING COMPANY LTD DEFENDANT

FOR PLAINTIFF: TAAIRA TIMEON

FOR DEFENDANT: BANUERA BERINA

Date of Hearing: 16 April 2013

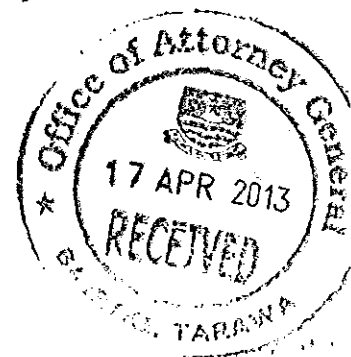
ORDER

This is an application by the plaintiff to amend their statement of claim. This is a case where defence has been filed. The plaintiff is seeking the Court's discretion to grant leave to amend their statement of claim pursuant to *Order 30 Rule 6 of the High Court Civil Procedure Rules, 1964*. This rule reads as follows:

" In all cases not provided for by the preceding Rules of this Order, application for leave to amend may be made by either party to the Court at the trial of the action, and such amendment may be allowed upon such terms as to cost or otherwise as may be just."

Counsel for the defendant opposed the application on the ground that they had expended time and money in going through the documents of the original claim in preparation for their defence. Defence had been filed which means that they would have to work on their defence again if leave were to be granted. They further submitted that they would only agree to the amendment if cost is awarded.

Counsel for the plaintiff (applicant) opposed cost on the ground that the Government is not liable to pay cost pursuant to section 8(2) of the *Government Liability Act, No. 9 of 2010*. It reads that 'the Government is not liable for punitive damages or attorney fees.'



Counsel for the defendant agreed that under the new Act, Government is immune from paying cost but that they have a choice to agree to it if they wish for their amendment to be allowed.

Upon considering arguments from both sides, it is this Court's view that in fairness of justice and in pursuant to Order 30 Rule 6 of the High Court Civil Procedure Rules, leave to amend the statement of claim is granted provided the plaintiff (applicant) agrees to pay cost in the amount of \$150 (a standard rate usually given in cases as such).

Order accordingly.

Dated 16 April 2013.



TETIRO M SEMILOTA

COMMISSIONER OF THE HIGH COURT