

IN THE HIGH COURT OF SOLOMON ISLANDS

Civil Jurisdiction

Civil Case No. 486 of 2023

BETWEEN: SOLOMON MAUI AND WILLIAM TINO - First Claimants

AND: ASIA PACIFIC INVESTMENT DEVELOPMENT LIMITED - Second Claimant

AND: ATTORNEY GENERAL - First Defendant
(Representing the Minister for Mines, Energy
and Rural Electrification)

AND: ATTORNEY GENERAL - Second Defendant
(Representing the Minerals Board)

AND: ATTORNEY GENERAL - Third Defendant
(Representing the Director of Mines)

AND: ATTORNEY GENERAL - Fourth Defendant

AND: NICKEL ENTERPRISES SI LIMITED - Fifth Defendant

Date of Hearing: 16 February 2026**Date of Ruling: 25 February 2026**

Mr. G Suri for the First and Second Claimants

No appearance for any of the Defendants

RULING

1. The First and Second Claimants discontinued this case on 19 August 2024. Following the discontinuation of the proceeding, the matter was set down for assessment of costs. In the course of preparing for the hearing of the assessment, certain preliminary issues arose concerning the admissibility of evidence

contained in the sworn statement of Mr. Clyde Mordeno, which had been filed in support of the application. The Court was required to determine those evidentiary objections, and as a result, the scheduled hearing date for the assessment of costs was vacated. Subsequent to the Court's ruling on the admissibility issue, and while the matter was ready to be relisted for hearing, Counsel Ms. Willy formally withdrew her legal representation for the Fifth Defendant on 25 November 2025. Leave of the Court was granted for that withdrawal with the following relevant orders:

"2. Counsel Ms. Willy is directed to formally notify the Fifth Defendant, by way of a written letter, of her office's withdrawal of legal representation. The Fifth Defendant is further advised to either appear in person or secure alternative legal representation to attend on the next scheduled occasion.

3. The Fifth Defendant, or its duly appointed legal representative, shall appear before this Court on 16 February 2026 at 9:30 a.m. for the mention of the matter. In the event of non-appearance by the Fifth Defendant or its representative at that time, the application for assessment of costs will be struck out.

4. The matter is accordingly listed for mention on 16 February 2026 at 9:30 a.m.

5. Costs in the cause."

2. On 16 February 2026, the matter was duly called before the Court. Despite the clear directions previously issued, there was no appearance by the Fifth Defendant, whether in person or through newly appointed counsel. The Court had earlier granted leave for Counsel Ms. Willy to withdraw, and had directed that the Fifth Defendant be notified of that withdrawal and advised to secure alternative representation or to attend personally in Court. The Fifth Defendant was also expressly ordered to appear on the scheduled date and warned of the consequences of non-compliance. In the circumstances, the failure of the Fifth Defendant to attend amounted to a disregard of the Court's directions and a failure to prosecute its application for assessment of costs.
3. Rule 23.4 of the *Solomon Islands Courts (Civil Procedure) Rules 2007* ("the Rules) provides the Court with the authority to strike out an application where a party fails to appear or otherwise neglects to pursue its case. The purpose of this rule is to ensure the efficient administration of justice and to prevent undue delay caused by parties who do not diligently prosecute the case. Applying Rule 23.4 of the Rules to the facts before the Court, the Court is satisfied that the absence of the Fifth Defendant demonstrated a lack of diligence and amounted to a failure to advance its application. The Court cannot permit this proceeding to remain indefinitely pending when a party has been afforded ample opportunity to comply

with its obligations but has failed to do so. Accordingly, the Fifth Defendant's application for assessment of costs is struck out.

4. During the course of hearing the matter, Counsel Suri invited the Court to express an opinion on the legality of the appearance of Counsel Mr. Jonathan Ivanisevich in this proceeding during 2023 and 2024. In particular, Counsel Suri submitted that Mr. Ivanisevich's conduct contravened the *Legal Practitioners (Admission) Rules 1996*, specifically rules 15 and 16(1)(b), as well as rule 4(a) of the *Legal Practitioners (Professional Conduct) Rules 1995*. It was alleged that Mr. Ivanisevich performed professional legal services in Solomon Islands during the years 2023 and 2024 without lawful entitlement, given that his formal admission to appear in this matter was only granted on 3 February 2025. As a result, costs of striking out the assessment of costs should be awarded against the Fifth Defendant on an indemnity basis.
5. The Court acknowledges that the submissions advanced by Counsel Suri raise serious questions concerning compliance with the statutory framework governing the admission and conduct of legal practitioners from overseas jurisdictions to perform legal work in this jurisdiction. The rules cited are designed to safeguard the integrity of the profession and to ensure that only duly admitted overseas practitioners may lawfully provide legal services within the jurisdiction of the Solomon Islands. If the allegations are correct, they would suggest that Mr. Ivanisevich acted outside the scope of lawful authority prior to his admission, thereby potentially breaching both the admission requirements and the professional conduct standards prescribed by law.
6. The Court is mindful that such allegations, if substantiated, strike at the very foundation of the regulatory framework governing the practice of law in Solomon Islands. The admission rules and professional conduct rules are not mere formalities; they are essential safeguards to protect the public, to uphold the dignity of the Court, and to preserve the integrity of the legal profession. Any practitioner who undertakes professional legal services without proper admission undermines these safeguards and risks eroding confidence in the administration of justice in this jurisdiction.
7. While the Court does not sit as a disciplinary tribunal and cannot, in this proceeding, make definitive findings on breaches of professional conduct, it cannot ignore the seriousness of the issues raised. The allegations warrant careful consideration and may properly be referred to the appropriate regulatory authority for investigation and determination. At the same time, the Court retains discretion in relation to costs, and the submissions made by Counsel Suri invite the Court to consider whether the conduct

alleged, together with the failure of the Fifth Defendant to prosecute its application, justifies the imposition of costs on an indemnity basis.

8. The Court considers it of fundamental importance that any overseas lawyer, such as Mr. Ivanisevich, or any lawyer for that matter, must be admitted in Solomon Islands before undertaking any professional legal work or charging fees for such services in a proceeding before the Courts. It is for this reason that it is both unlawful and unethical for a lawyer who has not been admitted in Solomon Islands to embark upon professional legal services in this jurisdiction. Such conduct, in the Court's view, disregards the mandatory requirements of the *Legal Practitioners (Admission) Rules 1996* and the *Legal Practitioners (Professional Conduct) Rules 1995*, and it exposes litigants and the Court to the risk of representation by a person not properly bound by the duties and responsibilities imposed upon admitted practitioners. In short, overseas practitioners must first obtain lawful admission before performing or charging for legal services in Solomon Islands. Any departure from this requirement is impermissible, unethical, and unlawful, and the Court will not operate on the basis of tolerating such irregularity.
9. In light of the facts before the Court, the application for assessment of costs having been struck out, the question arises whether costs should be awarded on a standard or on an indemnity basis. The general principle is that costs follow the event, and they are ordinarily awarded on a standard basis unless the Court orders otherwise. See: rule 24.10 of the *Solomon Islands Courts (Civil Procedure) Rules 2007*. Indemnity costs, amongst other grounds, are punitive in nature and are reserved for cases where a party's conduct has been shown to be improper, unreasonable, or in abuse of the Court's process. They are not lightly ordered, as they go beyond compensating the successful party and instead mark the Court's disapproval of the losing party's conduct.
10. In the present matter, the Fifth Defendant failed to appear and prosecute its application despite clear directions and warnings from the Court. This failure alone justifies the striking out of the application and supports an award of costs against the Fifth Defendant. However, Counsel Suri has also raised serious allegations concerning the legality of Mr. Ivanisevich's prior appearances in 2023 and 2024, suggesting that he acted unlawfully and unethically by performing professional legal services without proper admission in Solomon Islands. If substantiated, such conduct would indeed be improper and contrary to the statutory framework governing legal practice in this jurisdiction. Nevertheless, the Court must approach this issue with caution. While the allegations are serious, they have not been the subject of a formal disciplinary inquiry, and this Court is not the proper forum to make any definitive findings on breaches of professional conduct rules to ground a basis asserting that the concerned counsel's conduct

amounts to an abuse of the Court's process. The Court's role here is confined to determining costs in relation to the struck-out application.

11. On the facts, the failure of the Fifth Defendant to appear is sufficient to justify an adverse costs order, but it does not, in itself, rise to the exceptional threshold required for indemnity costs. This Court would be best assisted if submissions on the alleged improper conduct were received from both parties before it could properly consider whether indemnity costs are warranted. In the absence of such submissions and without a formal inquiry, the Court is not persuaded that the circumstances justify departing from the ordinary rule. Consequently, costs shall be awarded against the Fifth Defendant on a standard basis, reflecting the failure to prosecute its application.

Orders of the Court

1. The application for assessment of costs filed by the Fifth Defendant is struck out pursuant to rule 23.4 of the *Solomon Islands Courts (Civil Procedure) Rules 2007*, on account of the Fifth Defendant's failure to appear and prosecute its application.
2. Costs of the struck-out application are awarded against the Fifth Defendant on a standard basis.

