

**IN THE EFATE ISLAND COURT  
OF THE REPUBLIC OF VANUATU**  
*(Civil Jurisdiction)*

**Debt Case No. 16/1986 IC/DEBT**

**BETWEEN: SAMUEL ALBERT**  
**Claimant**

**AND: PETER DAMNE**  
**Defendant**

**Coram:** *Hon. Justice Francis Aru (Presiding Justice)*  
*Hon. Justice Metoloa Silu Poilapa*  
*Hon. Justice Nicholas Kaluatman*

**Court Clerk:** *Alida Tchivi*

**Date of Hearing:** *29/07/2016, 22/08/2016 and 21/09/2016.*

**Date of Judgment:** *Wednesday 21<sup>st</sup> day of September, 2016 at 12:25 pm*

**Court Venue:** *Efaté Island Court – Court Room, Joint-Court Ontop, Port-Vila.*

**Attendees:** *Claimant appeared in Court while there is no appearance for the Defendant*

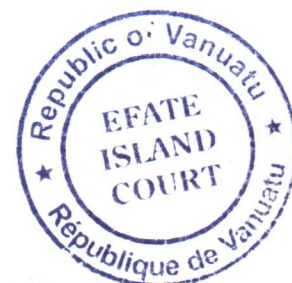
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## **DEFAULT JUDGMENT**

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An application has been filed by **Samuel Albert** who is the plaintiff before this court in pursuant to Rule 1(2) of the Island Court Procedure Rules of 2005.

This is a normal civil claim for breach of verbal contract between the Claimant and the Defendant namely **Peter Damne**. The Claimant alleged that on or around year 2008 the Defendant and himself, entered into a verbal agreement. That time, the Defendant was self-employed as a Debt Collector. The agreement was for the Defendant to recover back the Claimant's money that is owed by the debtor namely BP Company. The Defendant asked an advance payment of *Fifty Thousand Vatu* to start the job as per his Business Terms of Payment. Claimant claimed that he paid in full the Fifty Thousand Vatu to the Defendant by instalment. Since 2008 till today, the Defendant did not manage to recover back the claimant's money from the Debtor. As a result, Claimant asked for refund of the advance payment made. Claimant claimed that Defendant paid in various instalment payments totalling up to the amount of *Twelve Thousand Vatu*. Claimant says despite numerous requests to get the defendant to pay up, he has failed or refused to pay up and as a result, Claimant filed this matter before this Court and claims an amount of *Fifty Thousand Vatu*, cost of time consuming and bus fare included.



Both parties were summoned and served directly. This matter was supported in open court. Plaintiff appeared in Court at the time and date of hearing when called; however Defendant was not present and that no reason was given for his non-appearance. Court has noted on the Court Deposition that Defendant has also not filed his Defence.

Island Courts (Civil Procedure) Rules No. 028 of 2005 (2) – Non-Attendant of defendant reads: *If a defendant does not appear at the time for the hearing of the claim, the court shall, provided it is satisfied that the statement of claim has been served on the defendant and that there is no good reason for the defendant's non-attendance: (d) determine in the absence of the defendant the claim of the claimant.*

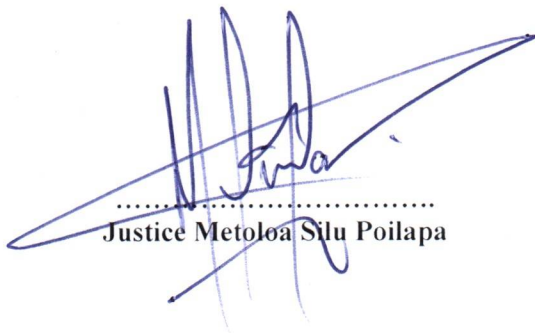
The Court is satisfied and therefore, the Court proceeds with the matter in the absence of the defendant.

**Having read, heard and considered** the application of claim made by the Claimant in this matter Samuel Albert on behalf of his unpaid sum;

**This Court is satisfied and hereby makes the following Orders:**

1. The Defendant 'Peter Damne' is ordered to pay 25'000 vatu every month commencing end of September 2016, and the final payment by end of October 2016 to complete the outstanding amount of 50'000 vatu ;
2. All payments must be made directly to the Efate Island Court Office;
3. Both parties need to respect and comply with these orders. Failure to the above, party may apply orally or in writing to the Supervising Magistrate for Enforcement of the order or judgment if it remains unsatisfied.
4. Parties have a right to appeal from that judgment to the Magistrate's Court within 30 days from the date of this judgement

Port- Vila, Monday 21<sup>st</sup> day of September, 2016.

  
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Justice Metoloa Silu Poilapa

BY THE COURT

  
.....  
Justice Francis Aru  
(Presiding Justice)

  
.....  
Justice Nicholas Kaluatman