

(Civil Jurisdiction)

**BETWEEN: SANTO KAVA COMPANY LIMITED**

Claimant

**AND: KEVIN ANDERSON & OTHERS**

Defendants

Mr Justice Oliver A. Saksak

No Appearance by the Claimant  
Mr Stephen Joel for the Defendant

### **ORDER**

1. This matter is returnable today by Order of 21<sup>st</sup> November 2008.
2. The Claimant was directed to file and serve an Amended Claim and sworn statements within 28 days. The Claimant has not complied although Mrs Vire was acting for them at the time until 18<sup>th</sup> February 2009 when she filed a Notice to Cease Acting.
3. There is no reason why the Claimant should not be in attendance today when they were present on 21<sup>st</sup> November 2008.
4. Mr Joel seeks the possibility of a strike out of the Claimant's case.
5. Under Rule 9.10(3)(b) the Court has discretion to strike out a proceeding where the Claimant does not appear, and where the Claimant has not taken any steps in the proceeding for 3 months.

6. Further, under Rule 6.8(2) the Court has discretion to strike out the Claimant's claims if he or his lawyer has failed to comply with an order made at a conference.
7. It is clear the Claimant has not complied with orders of 21<sup>st</sup> November 2008.
8. It is also clear the Claimant has a result of his failure or non-compliance, taken no steps in this proceeding for 3 months to advance his case.
9. Therefore, the Court exercises its discretion under the above provisions to strike out the Claimant's proceeding in its entirety.
10. It is further ordered that all previous orders made pursuant to and in the course of this proceeding are hereby vacated.
11. The Claimant has put the Defendant to costs. It is ordered that the Defendant be entitled to those costs of and incidental to this proceeding to be agreed, or be determined by the Court.

DATED at Luganville this 2<sup>nd</sup> day of March 2009.

BY THE COURT



OLIVER A. SAKSAK

Judge

