



On 5 November 2013, the Court hears the Amended claim. The Amended claim is supported by the following sworn statements of Witnol Bule, Annette Lalo, Sam Konkaio, Kause Luke, Annie Jack, Neyava Johney Bani, Jack Roger, Elida Kamet, Anna Jack and Nomb Ron.

The claimants are and were at all material times residents of Lenakel Town on the Island of Tanna.

The First defendant operates and owns at all material times, the Vessel "MV Moiaka" (hereinafter called "the vessel").

On 14 November 2012, the claimants' representative and the first defendant entered into a verbal agreement. ("the agreement") in order to transport the claimants from Tanna to Port Vila to Luganville and vice versa via the same route on board the Vessel "MV MOIKA". (see paragraphs 3,4,5,6,7,8, and 9 of statement of Witnol Bule and also statement of Annette Lalo.)

It was an express term of the agreement that the claimants would pay VT600,000 to the first defendant, being for the total boat fare from Tanna to Port Vila to Luganville and back to Port Vila and to Tanna.

On 19 November 2012, the claimants paid VT600,000 into the first defendants bank account – 0090440001 at the National Bank of Vanuatu. (Lenakel Branch). The **Particulars** - (NBV credit advice slip) is the evidence of payment (statement of Annette Lalo – Paragraph 12 – "AL1").

Before and at the time of payment, the claimants's representatives made known to the first defendant agents that they would be making the said return journey to and from Luganville in order to attend the Church of Christ National Youth Convention from 8 to 15 December 2012 and should travel out from Luganville on 16 December 2012.

On 21 November 2012, the ship sailed out from Lenakel to Port Vila, carrying the claimants.

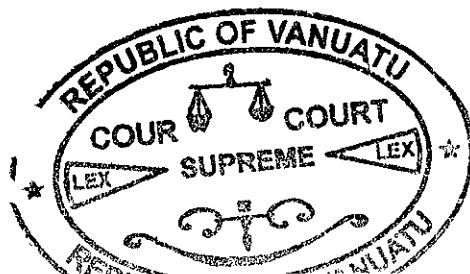
On 25 November 2012, the ship sailed out from Port Vila, carrying the claimants.

On 26 November 2012, the Vessel arrived at Luganville.

On 26 November 2012, the first defendant requested the second claimant to pay VT61,000 in addition to the VT600,000 and inquired from the second claimant if that amount is sufficient to pay for one way only.

As a result, the second claimant had to pay VT61,000 into the first defendant's Bank account no. 009044004 at the National Bank of Vanuatu's branch at Lenakel. **Particulars** – NBV Advice credit slip is the evidence of payment (statements of Witnol Bule and Annette Lalo).

On or about 15 December 2012, the claimants' representatives relied on the agreement and requested the first defendant's agents to transport them out from Luganville to Port Vila and to Tanna.



On 21 December 2012, the claimants' agents and the defendant's agents executed another written agreement to ensure that the first defendant and his agents transport the claimants out from Luganville to Tanna.

The first defendant, his agents and the Master of the Vessel failed, neglected and refused to transport the claimants out from Luganville to Port Vila and to Tanna on 16 December 2012 notwithstanding repeated requests by the claimants and despite having signed the agreement of 21 December 2012. (see statements in support of the Amended Claim).

In breach of their duty under the agreement as carriers for reward, the first defendant, his agents and the Master of the Vessel failed to transport the claimants out from Luganville to Port Vila and to Tanna.

By reason of the matters aforesaid, the claimants were compelled to spend almost two (2) months in Luganville where they incurred cost for food and other related expenses in the sum of VT150,000 (see statements in support of claim).

By reason of the matters aforesaid, between 11 and 23 January 2013, the claimants were compelled to pay VT720,640 to Air Vanuatu, being for the cost of their flight out from Luganville to Port Vila to Tanna. **Particulars-** Air Vanuatu Receipts –Evidence based on statements of Witnol Bule and Annette Lalo and others.

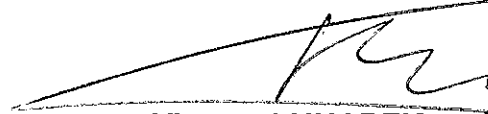
The Court is satisfied of the claim based on the material evidence relied upon by the claimants. The Court gives judgment in favour of the claimants. The Court makes the following orders:

### **ORDERS**

1. Damages for breach of contracts in the sum VT300,000 against the First Defendant.
2. First Defendant to pay VT720,640 to the claimants for the costs of the claimants' Air Vanuatu tickets out from Luganville to Port Vila to Tanna Island.
3. First defendant to pay VT150,000 for the cost of food and other related expenses
4. Costs of Vatu 150,000 for the Claimants against the First Defendant.
5. The claimants are awarded a judgment sum of Vatu 1,420,640 against the First Defendant (inclusive of costs).

**DATED at Port-Vila this 5<sup>th</sup> day of November 2013**

**BY THE COURT**



**Vincent LUNABEK  
Chief Justice**

