

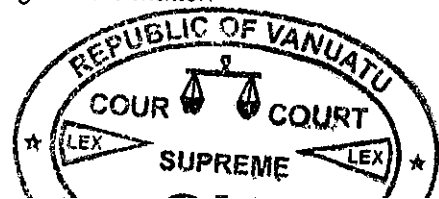
BETWEEN: George Tulang
Claimant

AND: John Toara
Defendant

Date: 31 March 2020
Before: Justice G.A. Andrée Wiltens
In Attendance: Mr F. Loughman for the Claimant
Ms L. Bakokoto for the Defendant (absent)

JUDGMENT

1. The original Claim was filed on 5 June 2018. After it was served, complaint was made regarding the lack of specificity, meaning that the Defendant was unable to file a Defence to the Claim. An Amended Claim followed, but it was met by the same objection.
2. Directions were given by Justice Felix on 17 October 2018, requiring the filing of a Further Amended Claim by 24 October 2018 and a Defence thereto by 5 November 2018. A further conference was then scheduled for 28 November 2018.
3. The Further Amended Claim was filed on 20 November 2018. There has been no response to it – even now. That is of course in breach of the Court's direction. It is also in breach of the Civil Procedure Rules which allow 28 days in which to file a defence to any Claim.
4. It is unclear whether the conference took place on 20 November 2018, but a further Minute from Justice Felix indicates a further conference was scheduled for 14 February 2019. Again it is unclear whether the conference took place.
5. However, Mr Yahwa wrote to the Court on 5 November 2019 complaining about no further steps being taken by the Court after 14 February 2019; and asking for a new date to be set to progress the matter.



6. This file was referred to me in the week of 24 February 2020. I sent out a minute to both counsel to appear at a Conference at 8am on 30 March 2020 before me to advance the case.
7. Unfortunately, Ms Bakokoto did not appear. Mr Yahwa then indicated that as there was no defence, he would seek judgment by default. He has now filed an application today.
8. The Claim relates to a traffic accident, alleged to have been caused by Mr Toara, who was inebriated and driving an unroadworthy vehicle. Mr Toara did not give way as obligated and hence caused the collision – a police report indicates the fault lay with Mr Toara. Mr Tulang's vehicle has been off the road since 27 August 2016. The costs to repair are estimated to be VT 954,056; and he has had to continue to pay off the loan he used to purchase the vehicle.
9. Pursuant to Rule 9.2(2) of the Civil Procedure Rules judgment is entered by default in favour of Mr Tulang in the sum of VT 1,829,000 – the amount he claimed. He further sought, and he is hereby granted, interest on that amount at 5% p.a. from the date of filing his Claim, namely 5 June 2018.
10. Mr Tulang is entitled to his costs for this Claim. These I fix at VT 75,000.
11. Pursuant to Rule 14.5(1) of the Civil Procedure Rules I now schedule a Conference at 8.30am on 21 April 2020, to ensure the judgment has been executed or for the judgment debtor to explain how it is intended to pay the judgment debt. For that purpose, this judgment must be personally served on the Defendant.

Dated at Port Vila this 31st day of March 2020
BY THE COURT

G.A. Andree Wiltens
Justice G.A. Andree Wiltens

