

IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU  
(Civil Jurisdiction)

Civil  
Case No. 22/2604 SC/CIVL

**BETWEEN:** **Smith Wuwut Koro**  
Claimant

**AND:** **Police Service Commission Board**  
First Defendant

**AND:** **Republic of Vanuatu**  
Second Defendant

**AND:** **Yang Lanvau Yet**  
Third Defendant

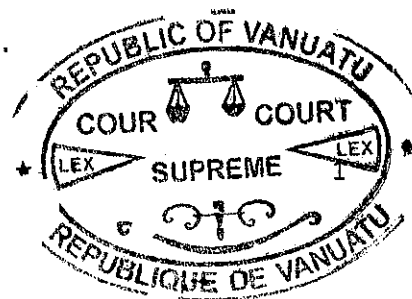
*Date:* 24 November 2022  
*Before:* Justice V.M. Trief  
*Counsel:* Claimant – Mr T.J. Botleng  
First and Second Defendants – Mr J. Wells

---

**DECISION AS TO STRIKE-OUT APPLICATION AND APPLICATION TO  
SET ASIDE THE STRIKE-OUT APPLICATION**

---

1. The Claim filed on 20 September 2022 seeks damages in relation to the Claimant Smith Wuwut Koro's termination of employment with the Vanuatu Police Force.
2. The Defendants Police Service Commission Board and the State's Application to Strike Out the Claim is made on the basis that the Claimant did not give notice pursuant to s. 6 of the *State Proceedings Act* No. 9 of 2007 (as amended) (the 'Act') which provides as follows:
  6. (1) *No proceeding against the State, other than an urgent proceeding or a Constitutional proceeding, may be instituted under section 3 unless the party intending to do so first gives written notice to the State Law Office of such intention.*
  - (2) *The notice under subsection (1) must:*



- (a) *include reasonable particulars of the factual circumstances upon which the proposed proceedings will be based; and*
- (b) *be given not less than 14 days and no more than 6 months prior to the institution of proceedings.*

3. In s. 1 of the Act, "State" is defined as follows:

1. *In this Act, unless the contrary intention appears:*

*State* includes for the purposes of this Act, a Constitutional or a Statutory Entity;

4. The Sworn statement of Agnes Tari, Litigation Manager of the Office of the Attorney General ('OAG') was filed in support. She deposed that Mr Koro had not provided to the OAG any prior written notice of the intention to sue the State as required by s. 6 of the *State Proceedings Act*.
5. In response, Mr Koro filed Application to Set Aside the Second Defendant's Strike-Out Application and his supporting sworn statement. Mr Koro deposed that on 25 August 2022, he emailed his notice under s. 6 of the Act to the Vanuatu Government email address of Arnold Kiel Loughman, the Attorney General on behalf of the Second Defendant. The same notice was also copied by email to Kency Jimmy, the Legal Officer of the Vanuatu Police Force on behalf of the First Defendant. He attached a copy of his email and the attached letter to his sworn statement.
6. In the circumstances, Mr Koro has shown that he did provide written notice to the State Law Office (now OAG) of his intention to sue the State and did so more than 14 days prior to the institution of proceedings.
7. For the reasons given, the Defendants' Application to Strike Out the Claim is **declined and dismissed**.
8. The costs of the Defendants' Application to Strike Out the Claim are reserved.
9. I make no order as to costs of the Claimant's Application to Set Aside the Second Defendant's Strike-Out Application as it was signed personally by the Claimant.
10. This matter is listed for Conference at **8am on 22 February 2023**.
11. The Claimant's Default Judgment Application is stood over to the Conference.

DATED at Isangel, Tanna this 24<sup>th</sup> day of November 2022  
BY THE COURT

  
Justice Viran Molisa Trief

