

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

Civil
Case No. 25/3228 SC/CIVL

**BETWEEN: ERIC NOEL A. CSIBA of Beverly Hills
Estate**
Contact: 7317075
Email address: usiaraga2@gmail.com
/ scibaeric57@gmail.com
Claimant

AND: DORA LEITAP SAMUEL
DIRECTOR GENERAL INVESTIGATOR,
OFFICE OF THE OMBUDSMAN
First Defendant

AND: KEVIN SIMON
PRINCIPAL CORPORATE SERVICES,
OFFICE OF THE OMBUDSMAN
Second Defendant

AND: GREGORY TAKAU
FIRST PRINCIPAL LEGAL OFFICER,
OFFICE OF THE OMBUDSMAN
Third Defendant

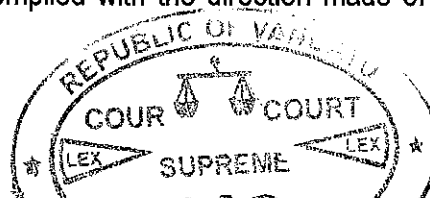
AND: OFFICE OF THE OMBUDSMAN
OMBUDSMAN HOUSE, PORT VILA
Fourth Defendant

Date of Hearing: 20 March 2026
Before: Justice M A MacKenzie
Counsel: Claimant – Mr E Csiba - in person
Defendants – Mr J Ngwele

RULING / ORDERS

Introduction

1. On 2 March 2026, Mr Csiba filed an application pursuant to rule 18.11 of the CPR. This is on the basis that the Defendants have not complied with the direction made on 4



December 2025 for the Defendants to file and serve all sworn statements by 30 January 2026.

2. The relief sought in the application was as follows:
 - a. That the Court invoke Order 3 made on 4 December 2025 for an interlocutory hearing in the first week of March 2026.
 - b. That the Defendants' Counsel show cause why an order should not be made for failing to comply with the direction to file sworn statements by 30 January 2026.
 - c. That the Court enter a default judgement against the Defendants as they have no prospective defence to the claim. Amongst other things, that is because they have failed to file sworn statements as directed.
 - d. Wasted costs of VT 200,000.

3. Rule 18.11 of the CPR says:

18.11 Failure to comply with an order

(1) This rule applies if a party fails to comply with an order made in a proceeding dealing with the progress of the proceeding or steps to be taken in the proceeding.

(2) A party who is entitled to the benefit of the order may require the non-complying party to show cause why an order should not be made against him or her.

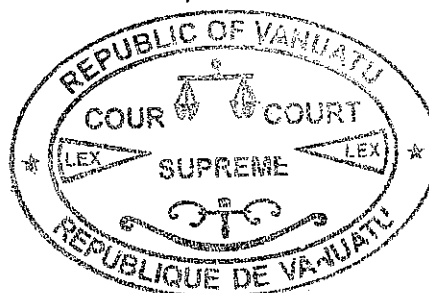
(3) The application:

- (a) must set out details of the failure to comply with the order; and*
- (b) must have with it a sworn statement in support of the application; and*
- (c) must be filed and served, with the sworn statement, on the non-complying party at least 3 business days before the hearing date for the application.*

(4) The court may:

- (a) give judgment against the non-complying party; or*
- (b) extend the time for complying with the order; or*
- (c) give directions; or*
- (d) make another order.*

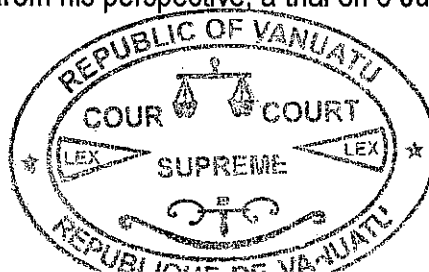
(5) This rule does not limit the court's powers to punish for contempt of court.



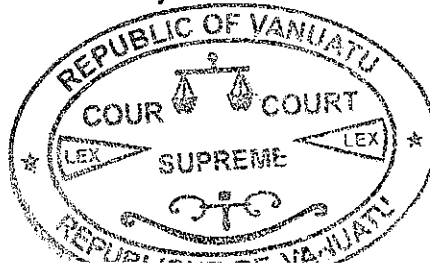
4. Rule 18.11 applies because the Defendants have not complied with an order of the Court. They have not sought an extension of time to do so. The Defendants' Counsel is well aware that Court Orders are not optional. They must be complied with.
5. Rule 18.11 contemplates a hearing date being allocated to determine the application for the Defendants to show cause why an order should not be made against them. There has today been a hearing to consider whether to make any orders pursuant to rule 18.11(4) of the CPR.
6. In submissions filed today, Mr Csiba sought the following orders:
 - a. That judgment be entered against the Defendants pursuant to rule 18.11(4)(a) CPR.
 - b. That the Court should refuse to extend time for the filing of the Defendants sworn statements
 - c. An order for wasted costs.
 - d. That a one day formal proof hearing be listed.

Discussion

7. Mr Csiba's primary concern is that the trial date of 6 July 2026 is too far away from his perspective. And as such, he is looking for ways to shorten the time to trial. As I have previously explained to Mr Csiba, 6 July 2026 was the earliest date available for a one day trial. Today I have reiterated to Mr Csiba that if there is a possibility of the trial being held earlier, the court will accommodate that. The trial will only be able to be held earlier if an already scheduled trial does not proceed.
8. Mr Ngwele accepted there has been non-compliance with the order made on 4 December 2025 for the Defendants to file all sworn statements by 30 January 2026. He advises that he was awaiting further documentation in order to prepare the sworn statements. He assured the court that all the sworn statements could be filed by 27 March 2026, if time is extended for that to happen.
9. Mr Ngwele submitted that time that should be extended. As he correctly said, orders under rule 18.11 are discretionary. He contends that there are disputed factual and legal issues that need to be dealt with at a full trial where the evidence of both the Claimant and the Defendants can be tested.
10. Mr Csiba submits that rule 18.11 is clear. He has complied with directions made and so it is unfair that the Defendants have failed to do so. I asked what the prejudice was in the event that time to file the sworn statements was extended, as there is already a trial date? As Mr Csiba reconfirmed to the Court, from his perspective, a trial on 6 July 2026 is too long to wait.



11. I now address the orders sought by Mr Csiba in his submissions. The first point to make is that it is a matter of discretion as to whether orders should be made in a particular case under rule 18.11. It may well depend on the magnitude and persistence of the noncompliance but will always be fact specific. It does not automatically follow that if there is noncompliance with a court order, that orders under rule 18.11 must follow.
12. I do not enter judgment in the Claimant's favour pursuant to rule 18.11(4)(a), as sought. Firstly, judgment will usually be appropriate only in cases of a persistent or critical non-compliance: see *Gidley v Mele* [2007] VUCA 7 and *Ferrieux v Vanuatu Maritime Authority* [2004] VUSC 69. This is not such a case. In no shape or form though, is the Court condoning the Defendants' non-compliance. I am concerned and displeased that the Defendants have failed to comply with the direction to file sworn statements by 30 January 2026. Court orders are not optional. Judges expect them to be complied with. But here, the Defendants' actions cannot be characterised as persistent. Further, the non-compliance is not critical in the sense that there is no indication that it will delay a trial.
13. Secondly, as I said in the Minute of 6 March 2026, granting relief by way of a default judgement is not available. This issue was also addressed at the conference on 4 December 2025. I reiterate what was said at paragraph 2 of that Minute. Given the nature of the relief sought (declaration of unlawfulness and unjustified demotion), rules 9.2 and 9.3 of the CPR do not apply. Factual findings will need to be made, before any relief or damages can be considered. See also *Daniel v Tao* [2025] VUCA 27.
14. As to whether the court should exercise its discretion to extend time to file the sworn statements, Mr Ngwele confirms that the sworn statements can be filed by 27 March 2026. There is also merit to his contention that where there are disputed facts and legal issues, then there should be a full merits trial with the opportunity for both the Claimant and Defendants to present their evidence and arguments.
15. While the lack of a trial date until July 2026 is distressing and concerning to Mr Csiba, there is no discernible prejudice to him if a further seven days being given to the Defendants to file sworn statements. There is a trial date already scheduled, so the lack of compliance with the timetable and directions will not derail the trial date which has been set. Accordingly, I extend the time for the Defendants to file their sworn statements. They are to be filed by 4 pm 27 March 2026. The court expects strict compliance with this order.
16. Ordinarily, the lack of compliance would warrant a wasted costs order. However, Mr Csiba is self-represented. Accordingly, a costs order is not available to him: rule 15.4 of the CPR. I asked Mr Csiba if he had incurred any disbursements in relation to the application. He confirmed that he had - in the vicinity of VT 15,000. Disbursements can be paid to a self-represented party. Accordingly, I make an order that the Defendants are to pay Mr Csiba the sum of VT 15,000 for disbursements by 27 of March 2026.



17. I declined to allocate a formal proof hearing, given that I have extended time for the sworn statements to be filed. A formal proofing is allocated in circumstances where there is no defence and/or evidence.

Orders

18. I make the following orders:

- a. Time is extended for the defendants to file sworn statements. The defendants are to file sworn statements by 4pm 27 March 2026.
- b. The defendants are to pay Mr Csiba's disbursements of VT 15,000 by 27 March 2026.
- c. I decline to enter judgment in favour of the Claimant pursuant to ule 18.11(4)(a) of the CPR.
- d. Given that time has been extended by 7 days for the filing of the Defendants' sworn statements, I decline to list a formal proof hearing.

**DATED at Port Vila this 20th day of March 2026
BY THE COURT**

name
.....
Justice M A MacKenzie

