

IN THE HIGH COURT OF FIJI
CENTRAL DIVISION
AT SUVA

[CIVIL JURISDICTION]

Civil Action No. HBC 172 of 2022

BETWEEN : **KAVA EXPRESS PTE LIMITED** a limited liability company having its registered office at Lot 1 & 2 Matua Street, Walubay, Suva and principle place of business at Lot 1 & 2 Matua Street, Walubay, Suva.

Plaintiff

AND : **WILLIAMS & GOSLING PTE LIMITED** a limited liability company having its registered office Williams & Gosling Building, 80-82 Harris Road, Suva and principal place of business at Williams & Gosling Building, 80-82 Harris Road, Suva.

1st Defendant

AND : **BIOSECURITY AUTHORITY OF FIJI** a statutory body established under Biosecurity Act 2008, having its headquarters at Level 3, Provident Plaza, Ellery Street, Suva, Fiji.

2nd Defendant

AND : **FIJI REVENUE AND CUSTOMS SERVICES** a statutory body having its headquarters at Nasese, Suva, Fiji.

3rd Defendant

AND : **SASHI PRAKASH** of 27890, Balwin Street, Hayward, California 94544, USA, occupation unknown to the Plaintiff.

4th Defendant

Before : Acting Master L. K. Wickramasekara

Counsel : Amrit Chand Lawyers for the Plaintiff
Mitchell Keil Solicitors for the 1st Defendant

Date of Ruling : 01st of March 2024

RULING

01. 1st Defendant in this action have filed Summons on the 18/11/2022, to wholly Strike Out the Writ of Summons and the Statement of Claim as filed by the Plaintiff. This summons is supported with an affidavit of one Edward Dixon Yuen sworn on the same day.
02. The Plaintiff has opposed the said summons and has filed an Affidavit in Opposition on the 23/12/2022 as sworn by one Arvin Ajay Sami sworn on the 22/12/2022.
03. An Affidavit in Reply was filed by the 1st Defendant on the 13/02/2023 as sworn by Edward Dixon Yuen sworn on the 03/02/2023.
04. Comprehensive written submissions have been filed by both parties prior to the Hearing of the summons and the Hearing was taken up on the 19/09/2023 where counsels for both the parties made extensive oral submissions.
05. Having carefully considered the pleadings in the matter, the affidavit evidence of the parties and the written and oral submissions tendered, I now proceed to make my Ruling on the Summons to Strike Out as follows.
06. Plaintiff's claim arises out of an alleged fraud and breach of duty of care by the Defendants. The Plaintiff is a business engaged in exporting 'kava'. It is alleged that the 1st Defendant, as a 'freight forwarding company' has exported 'kava', time to time, purportedly from the Plaintiff to the 4th Defendant from 2019 to 2021. Plaintiff claims that it had never used the services of the 1st Defendant in exporting 'kava' and had never exported any 'kava' to the 4th Defendant. As such the Plaintiff claims that the 1st Defendant had colluded with whoever that had exported 'kava' under the guise of the Plaintiff's name and with collusion of all other Defendants in processing the consignments of 'kava', had caused loss and damages due to the huge tax liability created by these fraudulent exports of 'kava'.
07. The orders prayed for as per the Plaintiffs Statement of Claim are as follows:
 - i. *AN ORDER that the 1st Defendant's export license shall be suspended until this matter is concluded in light of the dollar value and due to fraud act being transacted for numerous years.*
 - ii. *A DECLARATION ORDER that the export sent to the 4th Defendant via using the services of the 1st Defendant under Plaintiff's name from year 2019 to 2021 is declared null and*

void, as it was without the consent, knowledge and authority of the Plaintiff;

- iii. *A DECLARATION ORDER that the Plaintiff did not received any proceeds of sale or monies from the said export made to the 4th Defendant from year 2019 to 2021;*
- iv. *A DECLARATION ORDER that the Plaintiff is not entitled to pay any TAX or VAT based on the export that was done under Plaintiff's name to the 4th Defendant from year 2019 to 2021*
- v. *A DECLARATION ORDER that the transaction for export done to the 4th Defendant via 1st Defendant under the security checks of 2nd and 3rd Defendants was done fraudulently;*
- vi. *A DECLARATION ORDER that the Plaintiff is entitled to the damages from all Defendants due to Plaintiff names being tarnished and spoilt in the export market as follows:*
 - i. *Sum of \$2,000,000.00 (Two Million) to the Plaintiff to be paid by the 1st Defendant;*
 - ii. *Sum of \$2,000,000.00 (Two Million) to the Plaintiff to be paid by 2nd Defendant;*
 - iii. *Sum of \$2,000,000.00 (Two Million) to the Plaintiff to be paid by 3rd Defendant;*
 - iv. *Sum of \$2,000,000.00 (Two Million) to the Plaintiff to be paid by 4th Defendant*
- vii. *Interest*
- viii. *Costs*
- ix. *Any further orders that court deems just and fair.*

08. The cause of action as against the 1st Defendant pursuant to the Statement of Claim has two parts. One under paragraph 24 of the Statement of Claim termed as 'Particulars of Fraud caused by 1st to 4th Defendants' and the other under the heading 'Cause of Action Against the 1st Defendant by the Plaintiff' from paragraph 28 to 34 of the Statement of Claim. For clarity, I shall reproduce the same in this ruling.

"Particulars of Fraud caused by 1st to 4th Defendants.

- i. *The consignment sent to 4th Defendant is not based on any receipt of order by the Plaintiff from the 4th Defendant;*
- ii. *The employees of the 1st, 2nd and 3rd Defendants have colluded together to make a consignment documents (SIC) on behalf of the Plaintiff and send it to the 4th Defendant.*
- iii. *That the 4th Defendant has colluded with the 1st, 2nd and 3rd Defendants to accept the consignment without any knowledge of the Plaintiff*
- iv. *That the 2nd and 3rd Defendant has failed in its duty and services by sending the consignment to the 4th Defendant on the name of Plaintiff.*

Cause Of Action Against the 1st Defendant by the Plaintiff

28. *THAT the 1st Defendant has failed in its duty to properly take the identity of the person sending the consignment to the 4th Defendant.*
 29. *THAT the 1st Defendant colluded with the person who had sent the consignment to 4th Defendant by assisting the said person to make false consignment documents and accepting the same with the forged signature of the Plaintiff.*
 30. *THAT the 1st Defendant had failed to check with the Plaintiff or to contact the Plaintiff upon the 1st Defendant receiving instructions on the consignment to be sent to the 4th Defendant.*
 31. *THAT verification process was not done whether the actual consignment for export is sent by the Plaintiff*
 32. *THAT the 1st Defendant has a duty to see that the exporter takes out the insurance for the consignment that is exported, however, in this case, the 1st Defendant has failed to adhere to the same.*
 33. *THAT not at any time the 1st Defendant has informed the Plaintiff that the delivery of the consignment of export has been delivered to the 4th Defendant despite, 1st Defendant's having advanced information management and freight tracking capabilities to enhance with a worldwide network of recognized agents ensuring that all shipments are delivered safely and on time.*
 34. *THAT 1st Defendant's license shall be suspended until; Plaintiff gets the full information as to how the said consignment was exported to the 4th Defendant."*
09. The Defendants position in filing this application to strike out, in summary is, that the Plaintiff has not given any particulars of the alleged fraud, or the duty of care owed to the Plaintiff by the 1st Defendant in the Statement of Claim. It is the position of the 1st Defendant that the claim against the 1st Defendant is mere speculation, and the Plaintiff has not disclosed a reasonable cause of action against it. Furthermore, it is submitted that there is no evidence of any tax liability against the Plaintiff and that the loss and damages claimed against the 1st Defendant has no reasonable cause. It is therefore submitted that the Plaintiff's claim against the 1st Defendant is misconceived in facts and law and thus, is frivolous and vexatious and is an abuse of the process of the Court.
10. Plaintiff's position as explained through the Affidavit in Opposition is that the 1st Defendant at all material times has acted as 'the freight forwarding agency and or custom agents' for the alleged consignments of 'kava' and there's documents generated with the 1st Defendants name on them which exhibit the same. It is further claimed that the 1st Defendant, as a freight forwarding company, owed a duty of care to the Plaintiff to check the authenticity of the consignments allegedly received from the Plaintiff and to ensure that the goods are duly insured. Accordingly, it is claimed that the 1st Defendant either acted fraudulently and or negligently and shipped these consignments of 'kava' to the 4th Defendant causing the loss and damage created through the tax liability owing to these exports.

11. In Affidavit in Reply, the 1st Defendant has submitted to Court, that the Plaintiff as per its Statement of Claim has failed to give any particulars as to the authenticity of these alleged documents and or any particulars as to how and where such documents have been generated from. It is further submitted that there are no particulars as to how or on what basis a duty of care is owed to the Plaintiff by the 1st Defendant, when the Plaintiff itself is claiming that it had never used the services of the 1st Defendant. It is also claimed that the Plaintiff in its own admission as per the Affidavit in Opposition has admitted that the 2nd Defendant had not imposed any tax liability based on these alleged exports and as such there is no cause of action disclosed for damages at all.

12. I shall now move on to consider the relevant legal provisions and the legal precedence in respect of a Striking Out application. Defendants have filed their Summons to Strike Out pursuant to all grounds from (a) to (d) at Order 18 Rule 18 (1) and Order 18 Rule 5, 6, and 9 of the High Court Rules 1988. Order 18 Rule 18 is as follows.

Striking out pleadings and indorsements (O.18, r.18)

18.- (1) *The Court may at any stage of the proceedings order to be struck out or amended any pleading or the indorsement of any writ in the action, or anything in any pleading or in the indorsement, on the ground that—*

(a) it discloses no reasonable cause of action or defence, as the case may be; or

(b) it is scandalous, frivolous or vexatious; or

(c) it may prejudice, embarrass or delay the fair trial of the action; or

(d) it is otherwise an abuse of the process of the court;

and may order the action to be stayed or dismissed or judgment to be entered accordingly, as the case may be.

(2) *No evidence shall be admissible on an application under paragraph (1)(a).*

(3) *This rule shall, so far as applicable, apply to an originating summons and a petition as if the summons or petition, as the case may be, were a pleading.*

13. Master Azhar, in the case of **VERONIKA MEREONI V FIJI ROADS AUTHORITY**: HBC 199/2015 [Ruling: 23/10/2017] has succinctly explained the essence of this Rule in the following words.

“At a glance, this rule gives two basic messages, and both are salutary for the interest of justice and encourage the access to justice which should not be denied by the glib use of summery procedure of pre-emptory striking out. Firstly, the power given under this rule is permissive which is indicated in the word “may” used at the beginning of this rule as opposed to mandatory.

It is a "may do" provision contrary to "must do" provision. Secondly, even though the court is satisfied on any of those grounds mentioned in that rule, the proceedings should not necessarily be struck out as the court can, still, order for amendment. In Carl Zeiss Stiftung v Rayner & Keeler Ltd (No 3) [1970] Ch. 506, it was held that the power given to strike out any pleading or any part of a pleading under this rule is not mandatory but permissive, and confers a discretionary jurisdiction to be exercised having regard to the quality and all the circumstances relating to the offending plea. MARSACK J.A. giving concurring judgment of the Court of Appeal in Attorney General v Halka [1972] FJLawRp 35; [1972] 18 FLR 210 (3 November 1972) held that:

"Following the decisions cited in the judgments of the Vice President and of the Judge of the Court below I think it is definitely established that the jurisdiction to strike out proceedings under Order 18 Rule 19 should be very sparingly exercised, and only in exceptional cases. It should not be so exercised where legal questions of importance and difficulty are raised".

14. The first ground to consider in respect of the Summons to Strike Out by the Defendants is the absence of a reasonable cause of action. No evidence is admissible for this ground for the obvious reason that, the court may only conclude an absence of a reasonable cause of action, merely on the pleadings itself, without any extraneous evidence. His Lordship the Chief Justice A.H.C.T. GATES (as His Lordship then was) in Razak v Fiji Sugar Corporation Ltd [2005] FJHC 720; HBC208.1998L (23 February 2005) held that:

"To establish that the pleadings disclose no reasonable cause of action, regard cannot be had to any affidavit material [Order 18 r.18(2)]. It is the allegations in the pleadings alone that are to be examined; Republic of Peru v Peruvian Guano Company (1887) 36 Ch.D 489 at p.498".

15. Citing several authorities, Halsbury's Laws of England (4th Edition) in volume 37 at para 18 and page 24, defines the reasonable cause of action as follows:

"A reasonable cause of action means a cause of action with some chance of success, when only the allegations in the statement of case are considered" Drummond-Jackson v British Medical Association [1970] 1 ALL ER 1094 at 1101, [1970] 1 WLR 688 at 696, CA, per Lord Pearson. See also Republic of Peru v Peruvian Guano Co. (1887) 36 ChD 489 at 495 per Chitty J; Hubbuck & Sons Ltd v Wilkinson, Heywood and Clark Ltd [1899] 1 QB 86 at 90,91, CA, per Lindley MR; Hanratty v Lord Butler of Saffron Walden (1971) 115 Sol Jo 386, CA.

16. The Court may not use its discretionary power to strike out a claim under this Rule, for the reasons it is weak, or the plaintiff is unlikely to succeed. The power should rather

be used when the claim is obviously unsustainable. His Lordship the Chief Justice A.H.C.T. GATES in Razak v Fiji Sugar Corporation Ltd (supra) held that:

“The power to strike out is a summary power “which should be exercised only in plain and obvious cases”, where the cause of action was “plainly unsustainable”; Drummond-Jackson at p.1101b; A-G of the Duchy of Lancaster v London and NW Railway Company [1892] 3 Ch. 274 at p.277.”

17. If the statement of claim or defence contains degrading charges which are irrelevant, or if, though the charge be relevant, unnecessary details are given, the pleading becomes scandalous (see: **The White Book** Volume 1 (1999 Edition) at para 18/19/15 at page 350). Likewise, if the proceedings were brought with the intention of annoying or embarrassing a person or brought for collateral purposes or irrespective of the motive, if the proceedings are obviously untenable or manifestly groundless as to be utterly hopeless, such proceedings becomes frivolous and vexatious (per: Roden J in Attorney General v Wentworth (1988) 14 NSWLR 481, said at 491).
18. In **The White Book** in Volume 1 (1987 Edition) at para 18/19/14 states that:

“Allegations of dishonesty and outrageous conduct, etc., are not scandalous, if relevant to the issue (Everett v Prythergch (1841) 12 Sim. 363; Rubery v Grant (1872) L. R. 13 Eq. 443). “The mere fact that these paragraphs state a scandalous fact does not make them scandalous” (per Brett L.J. in Millington v Loring (1881) 6 Q.B.D 190, p. 196). But if degrading charges be made which are irrelevant, or if, though the charge be relevant, unnecessary details are given, the pleading becomes scandalous (Blake v Albion Assurance Society (1876) 45 L.J.C.P. 663)”.
19. On the other hand, if the action is filed without serious purpose and having no use, but intended to annoy or harass the other party, it is frivolous and vexatious. Roden J in Attorney General v Wentworth (1988) 14 NSWLR 481, said at 491 that:
 1. *Proceedings are vexatious if they instituted with the intention of annoying or embarrassing the person against whom they are brought.*
 2. *They are vexatious if they are brought for collateral purposes, and not for the purpose of having the court adjudicate on the issues to which they give rise.*
 3. *They are also properly to be regarded as vexatious if, irrespective of the motive of the litigant, they are so obviously untenable or manifestly groundless as to be utterly hopeless.*
20. In Halsbury's Laws of England (4th Ed) Vol. 37 explains the abuse of process in para 434 which reads:

"An abuse of the process of the court arises where its process is used, not in good faith and for proper purposes, but as a means of vexation or oppression or for ulterior purposes, or more simply, where the process is misused. In such a case, even if the pleading or endorsement does not offend any of the other specified grounds for striking out, the facts may show that it constitutes an abuse of the process of the court, and on this ground the court may be justified in striking out the whole pleading or endorsement or any offending part of it. Even where a party strictly complies with the literal terms of the rules of court, yet if he acts with an ulterior motive to the prejudice of the opposite party, he may be guilty of abuse of process, and where subsequent events render what was originally a maintainable action one which becomes inevitably doomed to failure, the action may be dismissed as an abuse of the process of the court."

21. I have also considered Order 18 Rule 11 (1) of the High Court Rules where it is stated,

"Particulars of pleading (O.18, r.11)

11.-(1) Subject to paragraph (2), every pleading must contain the necessary particulars of any claim, defence or other matter pleaded including, without prejudice to the generality of the foregoing words-

- (a) particulars of any misrepresentation, fraud, breach of trust, willful default or undue influence on which the party pleading relies; and*
- (b) where a party pleading alleges any condition of the mind of any person, whether any disorder or disability of mind or any malice, fraudulent intention or other condition of mind except knowledge, particulars of the facts on which the party relies."*

22. I further take notice of case authorities, as relied upon by the respective counsels in their written submissions, as to how 'fraud and negligence' to be pleaded and to what extent particulars of it be given in the pleadings.

*"In **Hillview Limited v. Construction (Fiji)** [2012] Civil Action No. 41 of 2008 (10 February 2012) [see Tab 5] Master Amaratunga (as His Lordship was then) citing the case of **Druma and Ors v. Nakete and Ors** (HBC No. 214/2017) commented as follows:*

"Fraud is a most serious matter and a most serious allegation. 'Fraud' cannot be asserted in a court of law without proper foundation ... the [defendant] has raised this in its contentions as to a lack of particulars, and particulars of fraud are essential to a claim of fraud. Particulars are set down in relation to fraud in the Statement of Claim. However, the particulars must or must also focus itself- that is, what are the particulars of the fraud or fraudulent conduct. It is not enough, in my opinion, simply to say that various monies have been paid

fraudulently or as a result of fraud. Particulars must, as noted, incorporate with precision the actual conduct involved in the payout of the monies and in decision-making as to the payout, etc which supports (in the Plaintiff's contention) actual fraudulent conduct."

23. In **Kento (Fiji) Ltd v. Naobeka Investment Ltd** [2022] FJHC 125; HBC027.2016 (21 February 2022) [see Tab 6] Mr Justice Tuilevuka in discussing the importance of particulars enunciated the following at paragraph 63(a) and (b):

"(a) Particulars are important. They enable the other side to know what evidence they ought to be prepared with and to prepare for trial, to limit the generality of pleadings, and to define clearly the issues to be tried and flowing from that, the discovery process required. This all augurs well for a fair trial.

(b) The nature and level of particulars will depend on the facts of the particular case (e.g. a claim where fraud, negligence, misconduct, breach of contract, future losses, loss of profits and special damages). However, such particulars as time, place, amounts, names of persons, nature and dates of instruments are important. In addition to these, any other fact or circumstances relied upon to give rise to the plaintiff's cause of action, must be pleaded."

24. In **Three Rivers District Council v Bank of England** [2001] 2 ALL E.R 513 the House of Lords at paragraphs 51-52 stated the following:

"51. On the other hand, it is clear that as a general rule, the more serious the allegation of misconduct, the greater is the need for particulars to be given which explain the basis for the allegation. This is especially so where the allegation that is being made of bad faith or dishonesty. The point is well established by authority in the case of fraud.

52. In Wallingford v Mutual Society (1880) 5 App Cas 685, 697 Lord Selborne LC said: With regard to fraud, if there be any principle which is perfectly well settled, it is that general allegations, however strong may be the words in which they are stated, are insufficient even to amount to an averment of fraud of which any court ought to take notice. In the same case, at p 709, Lord Watson said: My Lords, it is a well-known and a very proper rule that a general allegation of fraud is not sufficient to infer liability on the part of those who are said to have committed it. And even if that were not the rule of the common law, I think the terms of Order XIV would require the parties to state a very explicit case of fraud, or rather of facts suggesting fraud, because I cannot think that a mere statement that fraud had been committed, is any compliance with the words of that rule which require the defendant to state facts entitling him to defend. The rule must require not only a general and vague allegation but some actual fact or circumstance or circumstances which take together imply, or at least very strongly suggest, that a fraud must have been committed, those facts being assumed to be true."

25. In respect of 'principles of negligence' I refer to the following authority as submitted by the counsel for the 1st Defendant where the principle has been succinctly elaborated. In **Dakuna v. Laucala Island Resort Limited** [2017] FJHC 10. HBC 150 OF 2015 (20 January 2017) (see Tab 9) Master Jude Nanayakkara (as he was then) in paragraph 7 enunciated the following in relation to pleading a negligence claim:
"On pleading a negligence claim, Atkin's Court Forms (2nd Edition, 1976 Issue), Volume 20 at Page 6 states "The Plaintiff in an action for damages for negligence must plead and prove three distinct elements of the tort:
(1) That the defendant owed him a duty of care;
(2) That the defendant was in breach of that duty; and
(3) That he has suffered damage as a result of that breach.
The learned authors of Bullen & Leakes Precedents of Pleadings (11th Edition) at page 553, state the following:
*It is not enough for the plaintiff in his Statement of Claim to allege merely that the defendant acted negligently and thereby caused him damage; he must also set out facts which show that the alleged negligence was a breach of a duty which the defendant owed to the plaintiff. The Statement of Claim ought to state facts upon which the supposed duty is founded, and the duty to the plaintiff with the breach of which the defendant is charged (per Willies J. In **Gautret v Egerton** (1867) L.R. 2 C.P. 371, cited with approval by Lord Alverston C.J. in **West Rand Central Mining Co. v R** [1905] 2 K.B at 400). Then should follow an allegation of the precise breach of that duty, of which the plaintiff complains, in other words, particulars must always be given in the pleading, showing in what respect the defendant was negligent; and lastly the details of the damage sustained."*
26. The Plaintiff's claim revolves around a very thin assumption that since the alleged export of 'kava' consignments have been processed (allegedly) through the 1st Defendant as a freight forwarding agent, the 1st Defendant has somehow colluded with whoever the actual exporter is, to commit fraudulent exports as alleged by the Plaintiff. There is, however, no particulars, whatsoever, as to what fraudulent acts or the nature of the fraudulent acts the 1st Defendant had committed and or as to how or to what extent the 1st Defendant had colluded in committing these alleged fraudulent exports. In consequence, I find that the Plaintiff's pleadings on fraud against the 1st Defendant overwhelmingly falls short at legally acceptable pleadings of 'fraud'. These allegations of fraud, as pleaded by the Plaintiff against the 1st Defendant are merely vague and general allegations of fraud.
27. Furthermore, the Court finds that there's no particulars given as to how a duty of care is owed to the Plaintiff by the 1st Defendant or as to the nature and basis of such duty of care. When considering the Statement of Claim as a whole, it is clear that the notion of a duty of care owed by the 1st Defendant to the Plaintiff, is also a mere general assumption to the effect, that the 1st Defendant, as a freight forwarding company, owes a duty of care to each and every business entity when an export consignment is

processed through the 1st Defendant, in such business entities name, that the 1st Defendant must verify the authenticity of the exporter and to ensure that there is freight insurance for the consignment. There is no reference at all, to any business agreements and or contracts or terms of business, that may be existing between the 1st Defendant and any potential exporters and or any legal responsibilities casted by law on the 1st Defendant as a freight forwarding agency, in creating such a distracted assumption on duty of care owed by the 1st Defendant to the Plaintiff.

28. Plaintiff's only reference to back all these assumptions are several documents referred to as export documents bearing the name of the 1st Defendant. There are no particulars at all, as correctly pointed out by the 1st Defendant, as to the author of these documents, how and when these documents have come into existence and or of the process of generating such documents. As noted by the Court during the Hearing, these documents have no company stamp or signatures on them. As such, it is not at the least clear whether these documents have actually been used in the alleged exports. There are simply no particulars at all regarding these documents. In the above circumstances, I do find the claim against the 1st Defendant, based on such documents, to be an abuse of process.
29. In the backdrop of above facts and discussions, I do concur with the submissions by the 1st Defendant and accordingly find that the claim against the 1st Defendant is in fact a fishing expedition and that there's no reasonable cause of action disclosed against the 1st defendant and or it is an abuse of process.
30. In view of the above considerations and findings of the Court, I conclude that the Writ of Summons, and the Statement of Claim against the 1st Defendant is plainly unsustainable and has no reasonable prospect of success. I therefore conclude that it should accordingly be struck out pursuant to Order 18 Rule 18 of the High Court Rules.
31. Accordingly, exercising the discretionary power of the Court under Order 18 Rule 18 (1) of the High Court Rules, I shall wholly strike out all pleadings of the Plaintiff as against the 1st Defendant.
32. Further, having considered all the facts and circumstances as discussed in the foregoing paragraphs, I find that the 1st Defendant is entitled for the costs of this application at a higher scale.
33. In consequence, the following final orders are made.
 - a. The Summons to Strike Out as filed by the 1st Defendant on 18/11/22 is hereby allowed subject to costs against the Plaintiff, that shall be summarily assessed by the Court,

- b. Plaintiff's Writ of Summons and Statement of Claim filed on 16/06/22 as against the 1st Defendant and the Reply to the Statement of Defence of the 1st Defendant filed on 02/09/22 is hereby wholly struck out and dismissed pursuant to Order 18 Rule 18 (1) of the High Court Rules 1988.
- c. Plaintiff shall pay a cost of \$ 2000.00 to the 1st Defendant as summarily assessed by the Court, as costs of these proceedings.



**L. K. Wickramasekara,
Acting Master of the High Court.**

**At Suva,
01/03/2024.**