

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

Civil Case No. 40 of 2012

BETWEEN: FRANK GALLO

Claimant

AND: EDENHOPE LIMITED

First Defendant

AND: PETER COLMAR

Second Defendant

Coram: *Mr. Justice Oliver A. Saksak*

Counsel: *No appearance by Claimant
Mr. Nigel Morrison for Defendants*

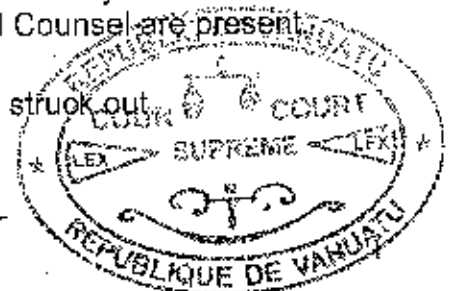
Date: *20th September 2013*

ORDER

WHEREAS:-

1. The Claimant filed his claim on 25th September 2012.
2. The Defendants filed a Defence on 26th October 2012.
3. The Court called the case for First Conference on 5th November 2012 during which time neither the Claimant nor his legal Counsel were present.
4. Upon request by Ms Roberts the Court issued orders for payment of security for costs within 14 days being the sum of VT1.000.000, the matter being made returnable on 3rd December 2012.
5. On 3rd December 2012, neither the Claimant nor his legal Counsel were present and Mr. Morrison sought a suspension pursuant to Rule 15.22 of the Civil Procedure Rules for a further 14 days. The Court granted the orders and gave liberty to the defendants to apply to have the proceeding dismissed.
6. The notice of conference returnable today was issued by the Court on 11th September 2013. Neither the Claimant nor his legal Counsel are present.
7. Mr. Morrison orally applies for the proceeding to be struck out.

Now therefore the Court being satisfied that the Claimant:-




- (a) Has not complied with previous Court Orders; and
- (b) Has not taken necessary and active steps to ensure the proceeding continues; and
- (c) Pursuant to the Court's powers in Rule 9.10(1) and (2)(a) and (d).

The Court orders that this proceeding be hereby struck out with no order as to costs.

DATED at Luganville this 20th day of September 2013.

BY THE COURT


OLIVER A. SAKSAK
Judge

