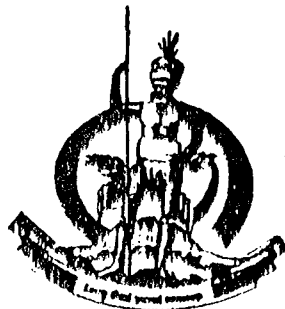


**REPUBLIQUE
DE
VANUATU**



**REPUBLIC
OF
VANUATU**

JOURNAL OFFICIEL

OFFICIAL GAZETTE

2 JANVIER 2001

NO. 1

2 JANUARY 2001

SONT PUBLIES LES TEXTES SUIVANTS

noted - J - 05/01

NOTIFICATION OF PUBLICATION

LEGAL PRACTITIONERS ACT [CAP. 119] --

- APPOINTMENT OF DISCIPLINARY COMMITTEE ORDER NO. 28 OF 2000.

COURTS ACT [CAP. 122] --

- THE HIGH COURT (CIVIL PROCEDURE) RULES, 1964.

THE MAGISTRATES COURT (CIVIL PROCEDURE) RULES, 1976.

THE SUPREME COURT AND THE MAGISTRATE COURT OF THE REPUBLIC OF VANUATU --

- PRACTICE DIRECTION: CASE PROGRESS -- CRIMINAL JURISDICTION.

SUPREME COURT OF VANUATU --

- PRACTICE DIRECTION: INTERIM CASE MANAGEMENT.

REPUBLIC OF VANUATU

LEGAL PRACTITIONERS ACT [CAP. 119]

Appointment of Disciplinary Committee Order No. 28 of 2000

In exercise of the powers conferred upon the Law Council by subsection 7 (1) of the Legal Practitioners Act [CAP. 119], the Law Council makes the following Order:

1. Appointment of Disciplinary Committee

(1) The following persons are appointed as members of the Disciplinary Committee:

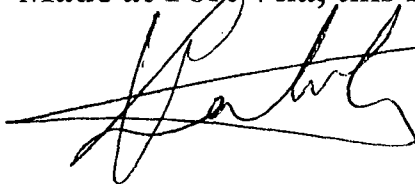
- (a) Justice Roger Coventry as Chairman
- (b) Mr. Julian Ala
- (c) Mrs. Catherine Beattie
- (d) Chief Tom Numake
- (e) Mrs. Grace Molisa

(2) These appointments are for a period of 1 year and come into effect from the date on which this Order is made.

2. Commencement

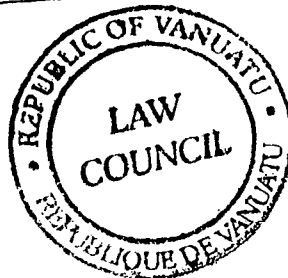
This order commences on the day on which it is made.

Made at Port Vila, this 22nd day of December, 2000.



**Vincent Lunabek
Chief Justice (Acting)
Chairman**

For and on behalf of the Law Council



REPUBLIC OF VANUATU

THE COURTS ACT [CAP 122]

THE HIGH COURT (CIVIL PROCEDURE) **RULES, 1964.**

THE MAGISTRATES COURT (CIVIL PROCEDURE) **RULES 1976**

To speed up the progress of cases and to pave the way for the introduction of new Rules and full case management.

IN EXERCISE of the powers conferred upon the Judicial Committee by Section 30 of the Courts Act (CAP 122) the Judicial Committee makes the following Rules:

CITATION

- 1. These Rules (as amended) may be cited as the High Court (Civil Procedure) Rules, 1964, and the Magistrates Court (Civil Procedure) Rules, 1976 and shall come into operation on the First day of January 2001.**

APPLICATION

- 2. These Rules shall apply in all causes and matters to which they extend in the Supreme Court and the Magistrates Court.**

SCOPE OF AMENDMENTS

- 3. These Amendments relate to the following:**
 - (a) The life of a Writ to be reduced from 12 to 3 months, and renewable for 3 not 6 months.**
 - (b) Radio message to be good service of documents and notice of hearing.**

- (c) The period before a summons to strike out proceedings (for want of prosecution) can be issued to be reduced from 12 to 3 months.
- (d) The giving of a power to a judge or magistrate to strike out, without notice, any proceeding for want of prosecution after 6 months.

4. The Amendments are as follows:

(1) The Life of a Writ.

(a) Supreme Court.

- Order 6 Rule 1** - **Concurrent Writs**
Line 2 - Delete "twelve", insert "three"
- Order 8 Rule 1** - **Renewal of Writ**
Line 2 - Delete "twelve", insert "three"
Line 4 - Delete "twelve", insert "three"
Line 8 - Delete "six", insert "three"
- Forms**
- Appendix A** - Under "Memorandum to be subscribed on the writ"
- Part 1 No.1** - Line 1 - Delete "twelve", insert "three"
Line 2 - Delete "six", insert "three"
- Part 1 No.2** - As in Part 1 No. 1

(b) Magistrates Court

- Order 8 Rule 17 (1)** - Line 1 - Delete "six", insert "three"
- (2)** - Line 3 - Delete "six", insert "three"
- Line 6 - Delete "six", insert "three"

The amendments made to Order 6 rule 1, Order 8 Rule 1 and the Forms of the High Court (Civil Procedure) Rules 1964 and Order 8 Rule 17 of the Magistrates Court Rules above concerning the life of a writ only apply to writs issued after the 1st day of January 2001

(2) Service by Radio Message

(a) Supreme Court

Order 10 Rule 1 - Insert "(f) by service message broadcast on the radio or television by Vanuatu Broadcasting and Television Corporation or any other broadcasting station stating a convenient place where documents if any may be collected and the date and time of any hearing".

Order 10 Rule 3 -Line 4 after the word "made" Insert, "save that application may be made orally to a court and without a supporting affidavit".

(b) Magistrates Court

Order 8 Rule 5 - Insert "(g) by service message broadcast on the radio or television by Vanuatu Broadcasting and Television Corporation or any other broadcasting station stating a convenient place where documents if any may be collected and the date and time of any hearing."

(3) Strike Out

(a) Supreme Court

Order 62 Rule 1 - Line 2 Delete "one year" insert "three months"
Line 5 Delete "returnable in one month"
Line 10 after the word "accordingly" Insert ", provided that no cause or matter shall be Struck out until at least three months after the commencement of this amendment unless no proceeding has been taken on that cause or matter for the twelve months prior to the issue of the summons."

Order 62 Rule 3 - Line 1 after "Rule 1" insert "and Rule 4"

Order 62 - Insert after Rule 3 , "4

(1)- Where in any cause or matter there has been no proceeding for six months from the last proceeding heard, and neither party has, under Order 64, rule 9, given to the other party one month's notice of his

intention to proceed a Judge in Chambers may if he thinks fit with or without notice to any party strike out part or all of the action.

- (2)- Where any action is so struck out the Registrar shall notify the parties to the action by ordinary post or such other means as he or she determines appropriate.”

(b) Magistrates Court

New Order

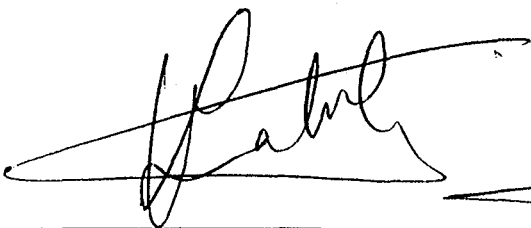
- After Order 35 Insert “ORDER 36

- (1) – Where in any cause or matter there has been no proceeding for six months from the last proceeding heard a Magistrate may if he thinks fit with or without notice to any party strike out part or all of the action.

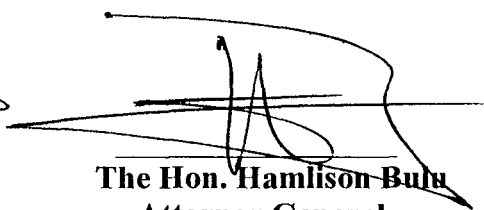
- (2) – Where any action is so struck out the Clerk shall notify the parties by ordinary post or such other means as he or she determines appropriate.”

The amendments made under the heading “service by Radio Message” to the end of these Rules apply to all causes and matters from the date of the commencement of these Rules (1st day of January 2001)

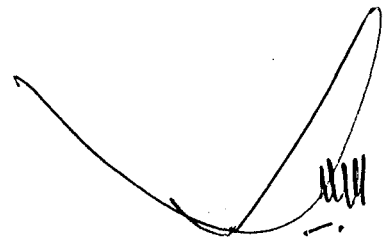
DATED at Port Vila, this 15 day of December 2000



**The Hon. Vincent Lunabek
Chief Justice (Acting)
Chairman (Acting)**



**The Hon. Hamlison Bulu
Attorney General
Member**



**Mr. Dudley Aru
Member**

**THE SUPREME COURT AND
THE MAGISTRATES COURT
OF THE REPUBLIC OF VANUATU**

[CRIMINAL JURISDICTION]

PRACTICE DIRECTION : CASE PROGRESS - CRIMINAL JURISDICTION

These directions will be guidelines for the progress of cases in the criminal jurisdiction of the Magistrates Court and the Supreme Court of the Republic of Vanuatu

CASE PROGRESS

Magistrate Court

At the beginning of each year a plea day a month will be fixed for the hearing of cases committed from the Magistrate Court.

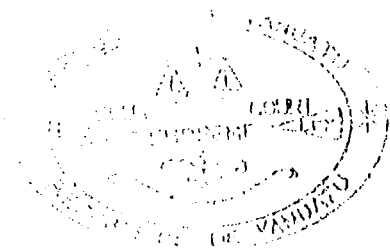
Not less than three clear working days before the Plea Day, the lawyer for the defendant shall notify the Public Prosecutor of the likely pleas to be entered.

Committal

Plea Day,
Supreme Court

- 1) The Public Prosecutor, the defendant and his/her lawyer, if any, must attend and each hand to the judge the completed Plea Day Questionnaire. (see as attached)
- 2) If the defendant pleads guilty then the judge will proceed to hear matters for sentence.
- 3) If the defendant pleads not guilty then directions for trial will be given and a trial date fixed.
- 4) The judge will note the trial date on the front of the file and in his diary. The Chief Registrar will note the trial date in her diary.
- 5) The judge will issue a written 'Order' recording the directions made.

Trial



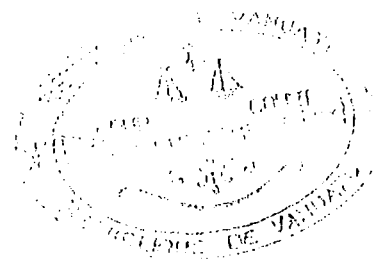
Judgment



Sentence

The Public Prosecutor will have ready the antecedents and 3 checked copies of the defendants previous convictions, if any.

The defence lawyer will have ready all mitigation, for delivery if there is a conviction.



ATTACHED

PLEA DAY QUESTIONNAIRE

PP-v-_____

CRC _____ / _____

(1 Form for each defendant)

Lawyer _____

Charge 1 2 3 4 5 6 7 8

Likely Plea

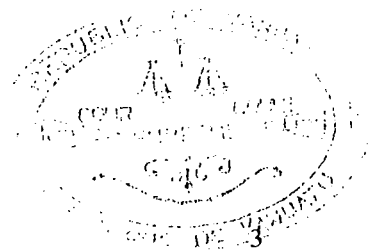
PROSECUTION

A Charges

1. Are these pleas acceptable?
2. Are alternatives acceptable?
 Which alternative charges?
3. Are there any proposed changes to the charges?
 If so, serve on the defence as soon as possible. Attach a copy.

B Witnesses

1. Will the prosecution be serving any more statements from the
 Witnesses?
 If so, give details.
 When will the statements be served?
2. Will the prosecution be calling any further witnesses?
 If so, give details.
 When will the statements be served?
3. Will interpreters be required?
 Which witnesses and which languages?



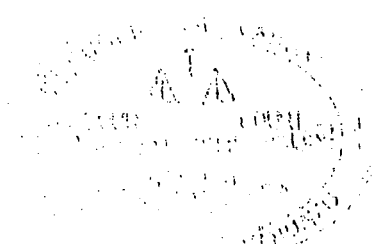
4. Are there any dates the witnesses are not available?
5. Do the witnesses have any special difficulties? (e.g. travelling from an outer island.)
6. Is any special facility or consideration required for a witness ? (e.g. child/screen/security.)
7. Will the prosecution be calling any experts? Give details

C. Trial

- 1 How long will the trial last?
- 2 Which witnesses do you intend to call?
Which witnesses statements can be read?
- 3 Will any of the following help the trial?

Plans	Site visits
Schedules	
- 4 Which exhibits are required for trial?
- 5 Has there been compliance with the Practice Direction on Disclosure?
- 6 Any other matter which require discussion before the trial?

N.B. There is NO obligation on any Defendant to answer any of these questions. It will not harm a defendant's case if he does not answer them



DEFENCE

A Guilty Plea

If there are acceptable guilty pleas can the court proceed to sentence?

If not, why not?

Are there charges and/or alternatives the defendant would be willing to plead guilty to?

Has the prosecution been informed?

Which charges?

B Not Guilty Plea

1 Are there any legal objections to the charges?

2 Are there any legal points to be raised before trial?

3 Which witness statements can be read?

4 Which exhibits are required at court?

5 Which issues can be agreed?

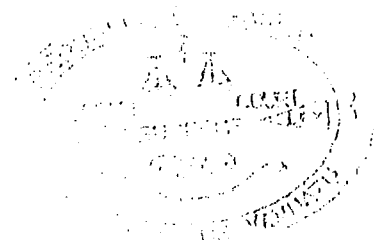
6 (a) How many witnesses will the defence call?

(b) Can their statements be served on the prosecution and agreed?

(c) Will any require interpreters?
Which language?

(d) Are there any dates the witnesses are not available?

(e) Do the witnesses have any special difficulties?
(e.g. travelling from an outer island.)



(f) Is any special facility or consideration required for a witness (e.g. child/screed/security)

(g) Will the defence be calling any experts? Give details.

7 Will the defence be producing / asking for

Plans

Site visits

Schedules

8 Have all possible matters been agreed with the prosecution?

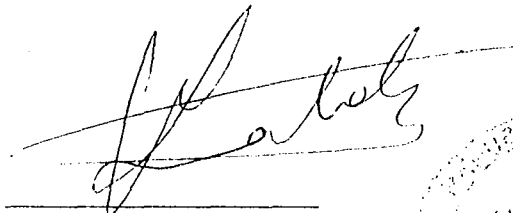
9 Is the defence ready for trial?

10 What is the defence?

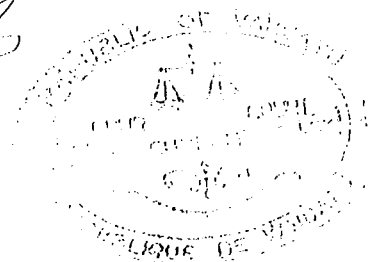
N.B. There is NO obligation on any Defendant to answer any of these questions. It will not harm a defendant's case if he does not answer them.

These practice directions will come into force on the First day of January 2001.

DATED at Port Vila, the 15 day of December 2000



**Vincent Lunabek
Chief Justice (Acting)**



THE SUPREME COURT
of the
REPUBLIC OF VANUATU

PRACTICE DIRECTION: INTERIM CASE MANAGEMENT

These directions will be guidelines for the Interim case management in the Supreme Court of the Republic of Vanuatu.

GENERAL

A. The overriding objective

- (1) The overriding objective is to enable the court to deal with cases justly.
- (2) Dealing with a case justly includes, so far as is practicable-
 - (a) ensuring that the parties are on an equal footing;
 - (b) saving expense;
 - (c) dealing with the case in ways which are proportionate-
 - (i) to the amount of money involved;
 - (ii) to the importance of the case;
 - (iii) to the complexity of the issues; and
 - (iv) to the financial position of each party;
 - (d) ensuring that it is dealt with expeditiously and fairly; and
 - (e) allotting to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases.

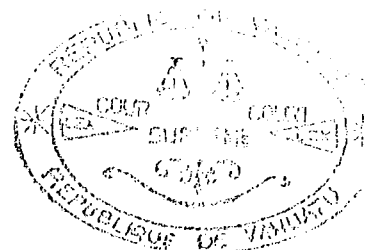
B. Application by the court of the overriding objective

The court must seek to give effect to the overriding objective when it-

- (a) exercises any power given to it by the Rules; or
- (b) interprets any rule.

C. Duty of the parties

The parties are required to help the court to further the overriding objective.

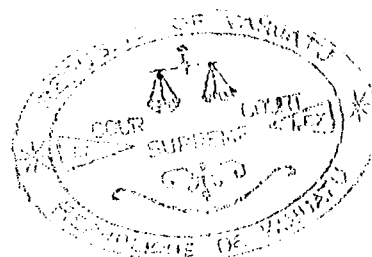


D. Court's duty to manage cases

- (1) The court must further the overriding objective by actively managing cases.
- (2) Active case management includes-
 - (a) encouraging the parties to co-operate with each other in the conduct of the proceedings;
 - (b) identifying the issues at an early stage
 - (c) deciding promptly which issues need full investigation and trial and accordingly disposing summarily of the others;
 - (d) deciding the order in which issues are to be resolved;
 - (e) encouraging the parties to use an alternative dispute resolution procedure if the court considers that appropriate and facilitating the use of such procedure;
 - (f) helping the parties to settle the whole or part of the case;
 - (g) fixing timetables or otherwise controlling the progress of the case;
 - (h) considering whether the likely benefits of taking a particular step justify the cost of taking it;
 - (i) dealing with as many aspects of the case as it can on the same occasion;
 - (j) dealing with the case without the parties needing to attend at court;
 - (k) making use of technology; and
 - (l) giving directions to ensure that the trial of a case proceeds quickly and efficiently.

E. Application of this Practice Direction

- (1) This Practice Direction is intended to pave the way for permanent Case Management and a new set of Rules of Civil Procedure for the Supreme Court and Magistrate Court.
- (2) This Practice Direction is designed to work with the current Rules and any interim changes.
- (3) This Practice Direction shall apply to the Supreme Court.



CASE PROGRESS – CIVIL

EVENTS

ACTION / NOTES

Issue of Writ



Filing of Appearance
Reply, if any



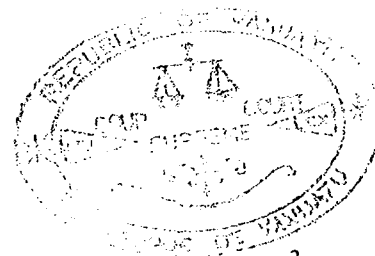
Conference 1



Time to Carry Out
Directions. Hear
Interlocutory
Applications



- 1) The life of the Writ is limited to 3 months, renewable for 3 months, (See Interim Rule changes)
- 2) The Chief Registrar will register the case and enter it in her/his diary on a date shortly after the 3 month period.
That date will be marked on the front of the file.
The Chief Registrar will randomly allocate the case to a judge and pass the file to him/her.
- 3) The judge will acquaint him/herself with the case, enter the check date in his diary and return the file to the Chief Registrar.
- 1) The Chief Registrar will fix a conference date before the allocated judge between 14 and 28 days later and notify the parties.
- 2) If the date is not convenient then the Chief Registrar must be requested within 7 days of notification to fix another conference date.
- 1) The parties or their lawyers must attend and each hand to the judge the completed Conference Questionnaire (as for as applicable and possible).
- 2) The judge will give directions for the progress of the case and fix a date for any interlocutory applications and/or Conference 2.
- 3) The judge will note the next date on the front page of the file, in his/her diary and the Chief Registrar will note the date in her diary.
- 4) The judge will issue written 'Order' recording the directions made.



Conference 2



- 1) The parties or their lawyers must attend and, each hand to the judge the completed Conference Questionnaire (as far as applicable).
- 2) The judge will require the agreed matters and outstanding issues to be defined and recorded.
- 3) The judge will give directions for the progress and trial preparation of the case and fix a trial date.
- 4) The Judge will note the trial/next date on the front of the file, in his/her diary, Chief Registrar will note it in her diary.
- 5) The judge will issue a written 'Order' recording the directions made.

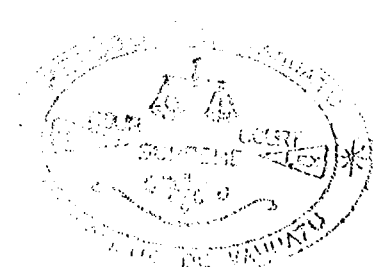
Time to Carry Out Directions.



Trial



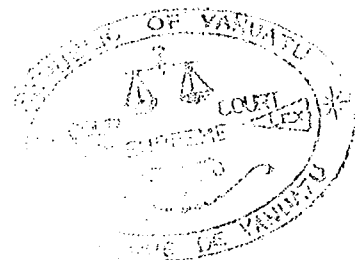
Judgment



TIME TARGETS

The following are the Time Targets for all cases, unless there are exceptional circumstances or a case or step is complex.

Conference Dates Interlocutory Hearings	Within <u>21 days</u> from date of request. If part of a directions order within <u>14 days</u> of the time limited for the last action.
Discovery, Inspection, Interrogatories, Answers, Request for/ Reply to Further and Better Particulars	Periods of <u>7</u> to <u>14 days</u> .
Trial (3 days or less)	Within <u>3 months</u> of the decision to set down for trial.
Part-heard Trial	Within <u>28 days</u> of last date of hearing
Judgement	To be given at a fixed date and time within <u>14 days</u> of the conclusion of the evidence. The typed signed and sealed judgment to be available within <u>7 days</u> of the date of giving the judgment.
Total Time from Filing of Action To Final Judgment	Within <u>8 months</u>
Request for Taxation	Within <u>28 days</u> of costs order
Taxation Hearing	Within <u>28 days</u> of request for taxation.



CONFERENCE QUESTIONNAIRE

CASE _____
ANSWERS for _____

NUMBER CC _____ / _____
LAWYER _____

Have there been attempts to settle?
Is ADR appropriate?
Any amendments to pleadings?
Any other parties to be joined?

Prospects of success?

Directions Needed (with times)

Discovery
Inspection
Interrogatories
Answers

Request for F + BP
Reply to F + BP

Schedule Agreed Facts
Agreed Law

Date for Motion + For What
Interlocutory Apply + For What

Is the case complex / require special treatment? Why?
What are the issues?

CONFERENCE 2 / TRIAL PREPARATION

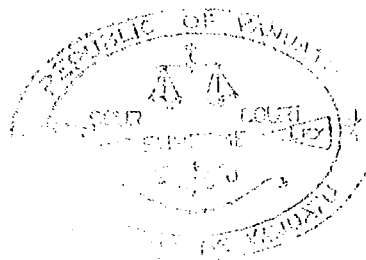
Have all direction to date been complied with?
If not, state which and why.
Any objection to the judge hearing the case.

No of Witnesses:
Inconvenient dates:
Experts
Evidence by Affidavit
Written submissions

Agreed Issues
Schedules
Other Directions

Likely hearing Time.

Signed _____

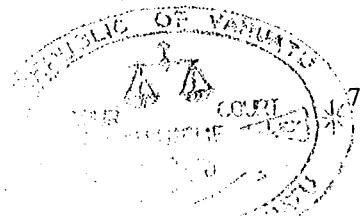


GENERAL PROVISIONS

1. No case will be adjourned sine die.
2. If parties are not required to attend then the judge will enter a check date on the front of the file and in his/her diary and pass the file to Chief Registrar for noting in her diary.
3. The Chief Registrar will maintain a diary for the next hearing/check date for all cases. The Chief Registrar will seek to have cases struck out under the 3 months or 6 months rule as soon as possible after the expiry of the relevant period.
4. It is the duty of the Court, the parties and their lawyers to keep the number of conferences to a minimum. Every conference shall produce meaningful steps or directions to progress the case.
5. Judge, lawyers and parties must be punctual and prepared for all hearings. They must have with them diaries for fixing of the next hearing date. Lawyers and parties must ensure appointments do not clash.
6. If a lawyer or party has not complied with any directions then this must be stated on the Conference Questionnaire, together with reasons.
7. If a lawyer or party has not complied with any direction between a conference and trial or anticipates for any reason the case cannot proceed on the trial date then he/she must inform the court and the other parties immediately and seek an early conference date.
8. If for any reason a lawyer or party is not present at a hearing it is the responsibility of that person to ascertain what occurred at the hearing as quickly as possible.
9. (a) If a lawyer or party
 - (i) fails to comply with this Practice Direction or any directions of the court or
 - (ii) fails to attend a hearing or, is late or
 - (iii) is responsible for the delay of any hearing

and as a result the case is delayed, or time or costs are wasted then the judge may make a wasted costs order.

- (c) The judge will make a summary assessment of the wasted costs and order them to be paid within 7 days. The assessment will be on

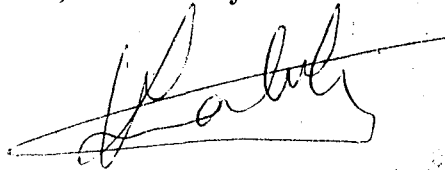


a solicitor and own client basis unless there are good reasons to order a party and party basis.

10. The court will not halt the progress of a case pending the hearing of an interlocutory appeal unless it is fundamental to the action itself.
11. The parties to a case may not change any direction or order by consent. If a change is agreed it shall be placed in writing, signed + dated by the parties and sent to the judge. The judge will only agree the change if it assists in the progress of the case. The change will only become effective upon the signature by the judge.
12. (Reducing of agreed facts and law to writing).
13. The parties to a case must notify the court as soon as a case is settled.

These practice Directions will come into force on the First day of January 2001

DATED at Port Vila, this 15th day of December 2000



Vincent Lunabek
Chief Justice (Acting)

