

**IN THE MAGISTRATES COURT AT NADI
CIVIL JURISDICTION**

Civil Case No. 63 of 2024

BETWEEN : CREDIT CORPORATION (FIJI) PTE LIMITED

Plaintiff

AND : FILIPE BATIWALE & KATARINA TINAI

Defendants

RULING

1. This is the Plaintiff's claim filed on 11 June 2024.
2. It's a liquidated claim for the sum of \$16,466.71 and post judgment interest pursuant to Order 32 Rule 8 of the Magistrates Court Act (*sic) and costs on solicitor/client indemnity basis.
3. The Plaintiff thereafter made an ex-parte application for substituted service filed on 25 October, 2024 with an affidavit in support to serve the First named Defendant by way of advertisement in the newspaper.
4. Leave was granted on 6 November 2024 for substituted service on the First named Defendant by advertising in the newspaper.
5. There is an unfiled Affidavit of Service on file. The Court will not accept an unfiled Affidavit of Service. It is the Plaintiff counsel's responsibility (not the court's) to ensure their Affidavits are filed.
6. When this matter was last called on 17 January 2025, the Court notes that the counsel appearing on behalf of the Plaintiff had informed the court that the Affidavit of Service was filed on 16 January 2025.
7. This was misleading as the only Affidavit of Service on file has not been filed.
8. The court also notes that there is no Affidavit of Service in relation to the Second named Defendant.
9. As such the Court is not satisfied that the requirements for service on both named Defendants has been met.

10. The Court reiterates that proper service is fundamental to ensuring that all parties are afforded the right to be heard. Service is not a mere formality; it is a fundamental aspect of procedural fairness, ensuring that a defendant is made aware of proceedings against them and given an opportunity to respond. The Court expects parties, particularly legal practitioners, to adhere to service requirements with diligence and accuracy.

11. In this instance, the Plaintiff, in its haste to obtain judgment, has neglected to meet basic procedural requirements. The Court is particularly concerned that counsel for the Plaintiff misrepresented the status of the Affidavit of Service, which remains unfiled. Such conduct not only delays the administration of justice but also undermines the Court's trust in representations made by counsel.

12. Furthermore, the Plaintiff's failure to follow proper procedure has resulted in unnecessary use of the Court's time and resources. This is unacceptable, as the Court's role is to administer justice efficiently, and it relies on parties to act with due care and responsibility in progressing their matters.

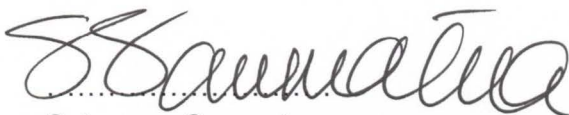
Court Orders:

Accordingly, the Court orders as follows:

1. The Plaintiff shall **file** proper affidavits of service, evidencing compliance with service requirements, before any further steps can be taken in the proceedings.
2. The matter is adjourned to a date to be fixed for mention to allow for compliance.
3. The Plaintiff is cautioned that any further failure to comply with procedural requirements may result in cost sanctions against it.

The Court urges parties to be meticulous in following procedural rules, as non-compliance ultimately delays the resolution of cases and burdens the judicial system unnecessarily.

Any party aggrieved by this decision has the right to appeal within one month under Order 37 Rule 3 of the Magistrates Court Rules 1945.



Setavana Saumatua
Resident Magistrate
25 February, 2025.

