

---

**BETWEEN:                   ROLAND LEONG                   -       Plaintiff**

**AND            :           1.    CAROLINE FUSIMALOHI  
                                  2.    TANIELA FUSIMALOHI**

**-           Defendants**

**Mrs D. Stephenson for the Plaintiff**

**No appearance by the Defendants**

**ASSESSMENT OF DAMAGES**

1. On 18 May 2012 I found for the Plaintiff in his action in defamation against the Defendants. This is my assessment of the damages to be awarded to the Plaintiff.
2. The facts and matters complained of by the Plaintiff are set out in sufficient detail in the judgment of 18 May and need not now be repeated.
3. Mrs Stephenson filed helpful written submissions on 13 June which explained the general principles relating to the award of damages in defamation and which referred me to three local authorities. Mrs Stephenson concluded by submitting:

“that the nature of the defamatory statements (personal insults) – specifically intended to harm the Plaintiff’s reputation (which he had worked hard over the years to earn), the overall conduct of the Defendants and their refusal to compromise or apologize, as well as their failure to present a substantive defence at trial warrant a substantial award of damages (including an element of aggravated damages) in favour of the Plaintiff”.

4. In sub paragraphs A and B of the prayer for relief in the Statement of Claim the Plaintiff had sought :

- “A General damages in the sum of \$300,000;
- B Aggravated damages in the sum of \$200,000”.

Mrs Stephenson conceded that this claim had been calculated on the basis that, as alleged in paragraph 8 of the Statement of Claim, publication of the defamatory material had not only, as turned out to be the case, been to the General Manager of Total Petroleum in Suva Fiji but had also been to :

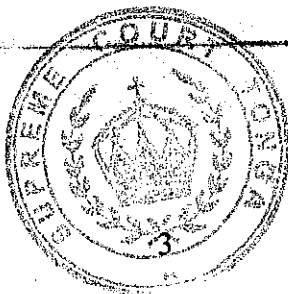
- (1) Tonga Electricity Commission;
- (2) Public Service Commission ;
- (3) Ministry of Labour Commerce and Industries ;
- (4) Tonga Immigration ;
- (5) Tonga Police ; and
- (6) Ministry of Public Enterprises.

5. Even acknowledging a degree of artificiality in excising the originally pleaded publications, it is plain that the extent of the damage to the

Plaintiff's reputation was very much reduced by the much more limited extent of the actual publication and Mrs Stephenson did disagree.

6. In my view, the principal factors which tend to aggravate the damages are first, the particularly nasty tone of the defamatory letter – P4, secondly the demeaning allegations contained in the letter, thirdly the Defendants' express intention to damage the Plaintiff's reputation both personal and professional and fourthly the letter's publication to the Plaintiff's employer which latter fact caused the Plaintiff to be summoned to Suva to offer an explanation. On the other hand, I do not think there is any material before me to justify Mrs Stephenson's suggestion that the "likely result" of the publication of the letter is that "the Plaintiff's chances of further promotion at Total may well have been compromised". On the contrary, the Court's vindication of the Plaintiff and its award of damages to him should wholly restore his good character in the eyes of his employer.
  
7. Although separate awards have sometimes been made for "general" and "aggravated" damages in my view then is no advantage in subdividing the total award in this case. Taking all the circumstances into account including those referred to Mrs Stephenson's submissions, I find that an appropriate award, incorporating the aggravating matters, to be \$10000. The Plaintiff will also have his costs, to be taxed if not agreed.

**DATED: 18 July 2012.**



**CHIEF JUSTICE**