

IN THE SUPREME COURT OF THE REPUBLIC OF VANUATU
(CIVIL)

Civil Case No.337 of 2014

(1) Jessie Avock
(2) Susan Isobel Solip

Claimants

And

(1) Arthur .C. Edmanley
(2) Republic of Vanuatu

Defendants

Coran: Master Cybelle Cenac- Maragh sitting in Chambers.

Counsel: Mr. Temar for the Claimants

Mr. Lenon Hurie for the Defendants

ORDER

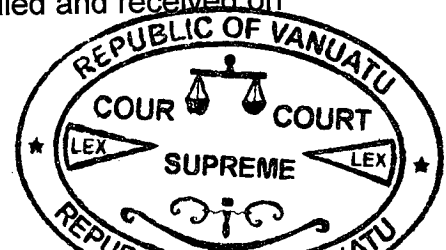
JUDGMENT ON TAXATION OF COSTS

The Claimants Application for Taxation is made pursuant to Order of the Court of the 28th September, 2015, that costs are to be costs in the cause. The Claimants Bill is dated and filed on the 6th October, 2015 for the total sum of VT\$1,022,626 made up as follows:

(a) Professional costs	VT\$898,000
(b) Disbursements	VT\$ 11,000

Total	909,000

Defendant Counsel filed an objection to the said Bill of Costs filed and received on the 21st October, 2015, the date of hearing.



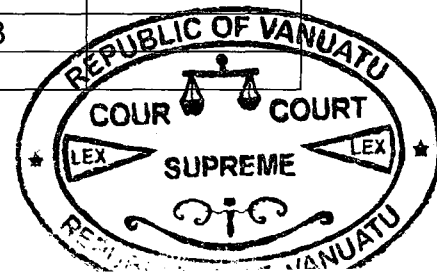
Counsel for the Claimant has stated his hourly rate at VT\$10,000 or VT\$1000 per unit (1unit amounting to 6 minutes).

Defendant Counsel provided the case of **Hurley v Law Council of the Republic of Vanuatu [2000] VUCA 10; CAC 12-99 at [20]** as the authority establishing the rate at which standard and indemnity costs are to be calculated. For the purposes of this taxation and in accordance with **Hurley** the rate was taken at VT\$10,000 per hour.

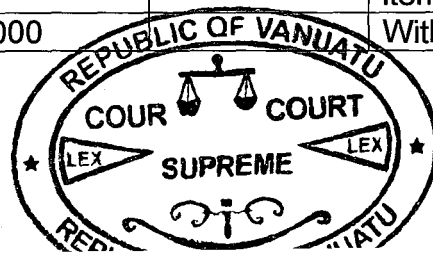
Throughout the Bill inclusions were made for such items as walking to court to file documents, assist clients to swear statements at Court, file documents, make copies, etc. The Court objected to these inclusions as, while it demonstrated the hands on approach of the Claimants Attorney it was not work that could be chargeable to the Defendant. The taxation of costs is dependent on the reasonable and necessary work and expenses incurred by the successful party and not work that could have and should have been undertaken by the staff of Chambers. While costs are meant to follow the cause, they do not serve the purpose of penalising the unsuccessful party by overestimated costs. No amounts were therefore granted under the objected heads.

I found this Bill to be grossly inflated, with a number of items double-billed and not well set out for the easy understanding of the Court and Defendant Counsel. Notwithstanding, I found Counsel for the Claimant flexible in the re-adjustment of his figures and both Counsel impressed me with their ability to compromise, without my assistance on certain items.

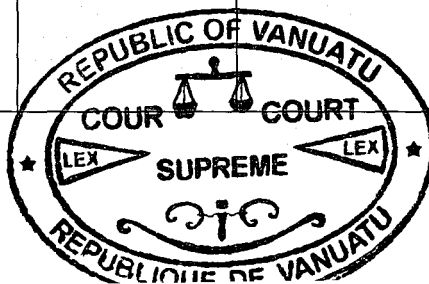
ITEM NO.	HOUR/RATE CLAIMED	HOUR/RATE ALLOWED	AMOUNT/VT CLAIMED	AMOUNT/VT ALLOWED	COMMENTS
1 & 2	81 mins	As claimed	12,000	12,000	No objection by defendant
3	39 mins	-	6,000	-	Withdrawn by Claimant Counsel
4	80 mins	30 mins	13,000	5,000	Delivery of documents and copies not chargeable. Time for drafting of the stated letter considered excessive
5	65 mins	30 mins	10,000	5,000	
6	60 mins	20 mins	10,000	3,333.33	
7	57 mins	15 mins	9,000	2,500	



8	56 mins	30 mins	9,000	5,000	
9	56 mins	30 mins	9,000	5,000	
10	50 mins	30 mins	8,000	5,000	
11	39 mins	15 mins	6,000	2,500	
12	78 mins	45 mins	13,000	7,500	
13	53 mins	45 mins	8,000	7,500	
14	35 mins	-	5,000	-	Withdrawn by Counsel
15	56 mins	30 mins	9,000	5,000	Agreed between parties
16 & 19 24 & 25	900 mins	120 mins	150,000	20,000	These items were grouped together as same work. Reduction was based on the fact that the cause of action was relatively simple and the quality of the draft was significantly lacking
17 & 18	300 mins	60 mins	50,000	10,000	
20	46 mins	30 mins	7,000	5,000	
21	34 mins	-	5,000	-	Withdrawn by Counsel
22	45 mins	as claimed	7,000	7,000	
23	46 mins	30 mins	7,000	5,000	
26	74 mins	-	12,000	0	Not granted as work considered to be that of a clerk and not Attorney and therefore not chargeable
27	60 mins	-	10,000	0	Not granted as considered a repetition of item 19
28	60 mins	-	10,000		Withdrawn



					by Counsel
29	92 mins	30 mins	15,000	5,000	The inclusion of the drafting of a proof of service was not included in the allowable amount
30	80 mins	-	13,000	0	Not granted for the drafting of a proof of service considered clerk work
31,32, 33 & 36	347 mins	30 mins	57,000	5,000	All work considered clerk work not chargeable. Grant made only for drafting of request for default judgment
34,35 & 37	232 mins	-	38,000	-	Withdrawn by Counsel
38	107 mins	-	17,000	-	Withdrawn by Counsel
39	120 mins	-	20,000	-	Not granted
40	180 mins	30 mins	30,000	5,000	Agreed jointly by Counsel
41	300 mins	30 mins	50,000	5,000	
42 & 44	330 mins	45 mins	55,000	7,500	Grant made only in relation to meetings with both clients
43	90 mins	30 mins	15,000	5,000	
45	90 mins	30 mins	15,000	5,000	
46	60 mins	-	10,000	-	Double-billed item. Withdrawn by Counsel



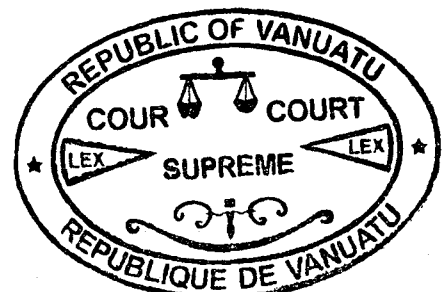
47	140 mins	60 mins	23,000	10,000	Only court attendance granted under this item
48	38 mins	30 mins	6,000	5,000	
49	130 mins	60 mins	21,000	10,000	Only court attendance granted under this item
50	300 mins	120 mins	50,000	20,000	Grant made only in relation to preparation of submissions
51	120 mins	90 mins	20,000	15,000	Only court attendance and conference with client granted
52	90 mins	60 mins	15,000	10,000	
53	83 mins	60 mins	13,000	10,000	
54	180 mins	as claimed	30,000	30,000	
TOTAL				259,833.33	

Disbursements:-

- | | |
|-------------------------------------|---------------|
| (a) Phone Charges | VT\$ 7,000.00 |
| (b) Photocopying/printing materials | VT\$ 4,000.00 |
| (c) Vat @ 12.5% | VT\$32,479.17 |

Total Allowed = VT\$43,479.17

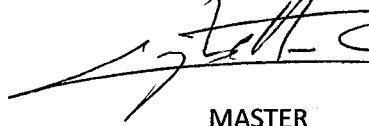
The total amount of professional costs and disbursements in my assessment and findings are certified in the sum of VT\$303,312.15



This Court orders the Defendant to pay the sum of VT\$303,312.15 to the Claimants Solicitor within 14 days from the date of receipt of this Order.

Dated at Port Vila, this 21st day of October, 2015

BY THE COURT



MASTER

