

**IN THE HIGH COURT OF SOLOMON ISLANDS**

**CIVIL JURISDICTION**

**Civil Case Number 302 of 2018**

BETWEEN: **REGINALD NGATI , ROBSON SISIATA**  
**MAX ELIZA, RIBI KIKONI,** - First Claimants

AND: **LUKE MAEFITI, GEORGE FA'AMAEA,**  
**CHRIS A TOATA, CRESWICK C RAMO** - Second Claimants

AND: **SOLOMON ISLANDS NATIONAL UNIVERSITY** - Respondent

**Date of Hearing:** 4<sup>th</sup> May 2021.

**Date of Ruling:** 14<sup>th</sup> May 2021.

*Mr. R. Firigeni for First and Second Claimants - Claimants.*

*Mr. A. Radclyffe for Defendant.*

**KENIAPISIA; PJ:**

**RULING ON ORAL APPLICATION TO STRIKE CLAIM UNDER**  
**RULE 9.72 (D)**

1. I ruled on a Chapter 15 Conference on **28/02/2019**. I allowed this claim to go to trial. And called upon claimants to take the lead. From **28/02/2019** to **8/03/2021**, claimants counsel did nothing to prepare matter for trial. I recall asking counsel Firigeni when mentioning his other matters at one or two motions days before. Counsel told me parties were negotiating a settlement. Hence delay. On **8/03/2021**, Mr Firigeni wrote requesting the matter be listed for mention. And was listed for today. Counsel should not write to mention matter. He should just prepare matter for trial. And request a PTC when matter is ready for trial. If there were problems in preparing matter for trial, then he could request file for mention.
2. I heard Mr Firigeni that there was attempted settlement. There was difficulty to get instructions from the students because they have all left Honiara. Now Mr Firigeni has obtained instructions to proceed to trial.
3. Counsel Radclyffe orally applied to strike the claim under Rule 9.72 (d). Counsel submit the claim should be struck out without notice, because it has not progressed inside 12 months. Counsel say his client made offer for settlement in **May 2019**. But no response was received from claimants.

4. Whatever both counsel submitted on, I cannot verify in terms of evidence. But I am satisfied claimants were very slow to prepare their claim for trial. I ruled on **28/02/2019**, at a Chapter 15 Conference. And called upon claimants to take lead in preparing matter for trial. Counsel Firigeni was only writing to list matter for mention on **8/03/2021**. This is more than two years sitting on the file, since the Chapter 15 Conference Ruling.
5. And this is what I do not like – delaying of cases. Should client's case suffer from lawyer's slackness? I exercise discretion not to strike the matter. Clients should not suffer for their lawyer's failures and slackness. It would be different, if I had made *unless* order. Under Rule 9.72 (d), Court can strike matter for non-progress in 12 months, without notice. But today was at motions. With notice. So not permitted to strike out under Rule 9.72 (d).
6. **I will list this matter for trial on 16/07/2021, at 8:00am. Parties can prepare matter for trial. And if there are difficulties, they can alert the Court. On 29/06/2021, at 9:30 am motion, I will conduct a quick PTC. Associate to check on trial preparations every week. Lawyers should know what to prepare for trial. They should just get onto. And if they have difficulties, they can alert the Court.**





AR/vo

**1<sup>st</sup> May 2019**

**Taifisi Lawyers  
P O Box 2140  
HONIARA**

**WITHOUT PREJUDICE**

Dear Sirs,

**Ngati & others v SINU cc 302/18**

I refer to your letter of 22<sup>nd</sup> March 2019 on which I have now obtained my client's instructions.

My client proposes the following for each Claimant on a without prejudice basis:-

- (a) Max Elijah. SINU will allow him to complete his program and he will graduate provided he completes his program successfully. He is an SIG sponsored student and he has registered for Semester 1, 2019. The refund of fees is therefore not an issue.
- (b) Reginald Ngati. SINU has agreed to waive his fees when the course is offered.
- (c) Robson Sisiata. SINU has agreed to waive his fees when the course is offered in Semester 2, 2019.
- (d) George Fa'amaea and Creswick Ramo are both privately sponsored students. SINU will carry forward any fees paid during the period of their suspension to Semester 1, 2019.
- (e) Ribby Kikoni, Chris Toata and Luke Maefiti. They are all SIG sponsored students. Their fees during the suspended period will be carried forward as they are still sponsored by SIG.

My client will not agree to pay costs. If this case goes to trial the judge may well conclude there was fault on both sides. In the circumstances the parties should bear their own costs.

Yours faithfully

**ANDREW RADCLYFFE**