



3. Mr Tannang has not formally informed Ms Hazelman nor the court of his supposed specialist visit. Counsel for the Plaintiff asked that the matter proceed for formal proof. I agreed. The claim was formally proved.
4. I have yet to deliver my judgment on this matter.

## **B. MOTION TO SET ASIDE**

5. On 10<sup>th</sup> October 2024, Counsel for the Defendant filed a Motion to Set Aside Judgment and the matter be re-heard. He relies on Order 30 Rule 2 of the Supreme Court Rules and the inherent jurisdiction of the Court.
6. Mr Tannang has filed an affidavit in support and says:
  - i. At 0917 on the 22<sup>nd</sup> of August, he had emailed Ms Sariah Ika, clerk of the Supreme Court and Ms Hazelman ‘if we could vacate the hearing as I was called in to see gastroenterologists.’(sic)
  - ii. He attached a copy of this email.
  - iii. The email also shows the response from Ms Hazelman at 1158am that the email was received late. Based on her client’s instructions, she had objected to any further adjournments. The matter proceeded on an undefended basis.
7. It is noteworthy that there is no evidence that Mr Tannang did see the specialist as per his email.

## **C. PLAINTIFFS RESPONSE**

8. Mr Tagivakatini submitted that the application is premature as there is no judgment yet.

## **D. ORDER 30 RULE 2**


9. It provides:

- ‘ (1) Any judgment, order or verdict obtained where one party does not appear at the trial may be set aside by the court, on the application of that party, on such terms as it thinks just.
- (2) An application under this rule shall be made within 7 days after the trial.

## **E. DISCUSSION**

10. I agree with Mr Tagivakatini that the application before the court is premature. Order 30 Rule 2 refers to “*any judgment, order or verdict.*” There is no judgment yet.
11. The application is dismissed with costs in the cause.

DATED this 18<sup>th</sup> day of October 2024.

  
Kiniviliame T. Keteca  
Acting Chief Justice

