



2. On 1 April 2016 I refused an application by the plaintiff for an adjournment of the trial of this proceeding for reasons that I set out in a minute of the same date. Following that decision, in a letter to the Court dated 16 May 2016 Mrs. Vaihu, who has been representing the plaintiff, applied for leave to withdraw as the plaintiff's lawyer. I directed that her application should be heard today when the case came on for hearing.
3. At the hearing today Mrs. Vaihu made her application for leave to withdraw as the plaintiff's lawyer. She said that she has no instructions from the plaintiff. Last week she had been contacted from the United States by a third party to say that the plaintiff intended to engage a new lawyer. She was unaware if any steps had been taken in that regard and she still has the plaintiff's file. I granted Mrs. Vaihu leave to withdraw but noted that her office remains the address for service of the plaintiff should there be any subsequent steps taken in this proceeding, at least until such time as a notice of change of lawyer is filed.
4. In the absence of any appearance by or on behalf of the plaintiff Mr. Niu applied on behalf of the first and second defendants that the plaintiff's claim be dismissed and that judgment be entered for the defendants with costs. Mr. Lutui advised the Court that he has instructions from the third defendant to support the first and second defendant's application.

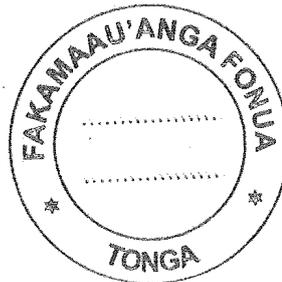
- 5 Nothing has been put before me today to make me reconsider my decision to refuse the plaintiff an adjournment of the hearing. The plaintiff has been aware of the hearing date for some time and, as I have set out in my decision of 1 April 2016, must have been aware when he filed the action that he could not come to Tonga for any hearing because of restrictions imposed on his ability to travel outside of the United States. Today there was no appearance for the plaintiff despite the advice Mrs. Vaihu received that a new lawyer would be engaged. There was no communication with the Court as to any steps that had been taken to appoint a new lawyer or any application made for evidence to be taken by alternative means to accommodate the plaintiff's inability to travel.
- 6 In addition to all of that, there was no new information before the Court to suggest that the plaintiff might within a reasonable time frame be able to leave the United States to come to Tonga to pursue this action. That is entirely unacceptable in circumstances where the defendants have been subject to injunctions maintaining the status quo since May 2014.

**Result**

7. Mrs. Vaihu is granted leave to withdraw but her office remains the plaintiff's address for service until a notice of change of lawyer is filed.

- 8 There being no appearance for or on behalf of the plaintiff and no evidence advanced in support of his claim I hereby dismiss the plaintiff's claim and enter judgment for the defendants.
- 9 The defendants are entitled to their costs to be fixed by the Registrar.
- 10 The interim orders of this Court dated 28 May, 2014 are hereby discharged.

**DATED: 23 May 2016.**



A handwritten signature in black ink, appearing to be "Ane".

**PRESIDENT**