

23/05/19

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IN THE SUPREME COURT OF TONGA
APPELLATE JURISDICTION
NUKU'ALOFA REGISTRY

AM 8 of 2019

BETWEEN : TOFUA FIFITA

- Appellant

AND : SEINI T. A. 'UNGA

- Respondent

BEFORE LORD CHIEF JUSTICE PAULSEN

RULING ON APPLICATION FOR LEAVE TO APPEAL OUT OF TIME

1. This is an application for leave to appeal out of time against a default judgment entered in the Magistrate's Court. The application is made on the grounds that the defendant was not served and was not present at the hearing to present his defence.
2. The application is misconceived. The correct procedure in such a case is not an appeal but an application under Rule 7(3) Magistrates Court (Civil) Rules to set aside the default judgment (with an accompanying application for an extension of time to make such an application if necessary).

Result

3. The application is dismissed There shall be no order for costs

DATED: 22 May 2019.



A handwritten signature in black ink, appearing to be 'O.G. Paulsen'.

O.G. Paulsen
LORD CHIEF JUSTICE

rec'd 23/5/19
HLC