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**IN THE SUPREME COURT OF TONGA  
CIVIL JURISDICTION  
NUKU'ALOFA REGISTRY**

**CV 27 of 2016**

**BETWEEN: VALERII SAMONOV**

**Plaintiff**

**AND : JONATHAN TRAISTER  
MIRACLE FROM HEAVEN CO LTD**

**Defendants**

**BEFORE THE LORD CHIEF JUSTICE PAULSEN**

**Counsel: No appearance by the plaintiff  
Mrs P Tupou for the defendants**

**Hearing: 18 December 2017**

**Date of Ruling: 18 December 2017**

**RULING**

[1] This action came before me for trial today. The case was set down to be heard this week despite the fact that this is a Court vacation period and special arrangements had to be made to have staff available to assist the Court. I took this course to accommodate the plaintiff who had expressed concern at what he perceived were delays in having the case heard.

*rec'd 19/12/17*  
*[Signature]*

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- [2] On 29 September 2017 I made timetabling orders to ensure that the case was ready for hearing. However, on 3 November 2017 the plaintiff's counsel was given leave to withdraw and the plaintiff took over the conduct of his own case. He filed a notice on 13 November requesting that all 'official documents' be sent to his personal email address.
- [3] Since then the plaintiff has taken no steps in the proceeding whatsoever. He has not complied with the timetable, he has not been in contact with the defendants' Counsel, he has not applied for an adjournment of the trial, he did not appear in Court today and he offered no explanation for his failure to do so. In an effort to contact the plaintiff, in recent days the Court has emailed him and telephoned him and when this did not work directed his former Counsel to contact him but nothing has come of this.
- [4] In those circumstances I can but infer that the plaintiff no longer has any interest in pursuing this proceeding.
- [5] In the absence of some communication from the plaintiff I feel I have no option but to accede to Mrs. Tupou's application on behalf of the defendants to dismiss this action. It would not be right or just for the defendants to have this case continue to hang over them when the plaintiff shows no signs of taking it further.
- [6] The defendants are entitled to their costs which are to be fixed by the Registrar but I note that the plaintiff shall have a credit in

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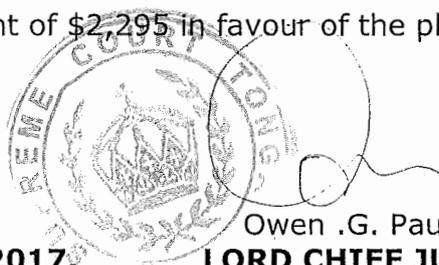
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the amount of \$2,295 being an award I make in his favour (having previously received detailed submissions from the plaintiff's Counsel) in respect of the defendant's failures to provide timely discovery and disclosure.

**Result**

- [7] The plaintiff's action is dismissed (Order 25 Rule 5 Supreme Court Rules).
- [8] The defendant is entitled to costs to be fixed by the Registrar but with a credit in the amount of \$2,295 in favour of the plaintiff.



**NUKU'ALOFA: 18 December 2017.**

Owen .G. Paulsen  
**LORD CHIEF JUSTICE**