

**IN THE HIGH COURT OF SOLOMON ISLANDS**

**CIVIL JURISDICTION**

**Civil Case No. 19 of 2019**

**BETWEEN: FREDDY RAIHA SAIKALI OR MR. FREDDY RAIHA** Claimant  
(Also Trading under Kiribati registered business name  
"Microcean Trading")

**AND: SOLOMON BREWERIES LIMITED** Defendant  
(Also known as "Solbrew")

**Date of Hearing: 17<sup>th</sup> August 2022.**

**Date of Ruling: 2<sup>nd</sup> September 2022.**

*Counsel; Mr. D. Nimepo for Claimant.*

*Counsel; Mr. E. Soma for Defendant.*

**KENIAPISIA; PJ:**

**RULING ON WHETHER OR NOT TO ENFORCE AN "UNLESS ORDER"**

1. On the **2<sup>nd</sup> November 2021**, I was just about to go on annual leave. My annual leave was a long one, having earned my long service leave entitlement. I went on annual leave in **November/December 2021**. I was due back in **March/April 2022**. In **November 2021**, I noted that the claim was moving at a snail's pace. For instance, defendant filed an amended defence on **15/7/2020**. Yet there was no Reply from claimant, until **2 November 2021**. This means claimant was not working hard to progress his claim to trial. So on **2/11/2021**, I ordered claimant to file a Reply to the amended defence by **16/11/2021**. List of documents by **30/11/2021**. Inspection **14/12/2021**. Agreed facts, **25/1/2022**. Mention on first motion of **March 2022**. As can be seen, it was an ambitious plan to prepare for trial, in spite of Christmas and New Year holiday. It is good to have an ambitious plan in place. And to work hard. But if problems occur, then the ambitious plan will be affected. This is why the "unless order", was lenient in that, it recognised, "if there is a reasonable cause for delay, the "unless order" can be waived". I will recite the relevant "unless order":-

**"Unless the matter is prepared for trial by first motion of March 2022, the matter will be struck out, unless, there is a reasonable cause for delay"**

2. So the pertinent question is whether there was reasonable cause for delay in not preparing the matter for trial by **March 2022**? I will answer the question in the affirmative and give my reasons as follows:-
  - (i) **November and December 2021**, Honiara was not a peaceful town in view of the **November 2021** riots. There was so much disturbance going on around Honiara City necessitating the presence of overseas military in Honiara from **November**

**2021 to January 2022.** Even now in **August 2022**, we still have military presence in Honiara, but much reduced presence.

- (ii) **January 2022 – April 2022**, there was this Covid-19 pandemic community transmission and all the prohibitive health measures were put in place to control the spread of the disease in Honiara and Solomon Islands. There was much disturbance going on around Honiara City. I returned to work from annual leave after **14 March 2022**. I too was disturbed with having Covid-19 like symptoms, although I was not tested positive.
3. Lawyers, the Court and everyone in Honiara City or Solomon Islands were affected by the 2 above mentioned problems, between **November 2021** and **March 2022**. Court is taking judicial notice of these 2 problem events. Court is satisfied there was reasonable cause for the delay; as lawyers are not spared by these problems.
4. Before **November 2021**, this case was already experiencing a lot of delays from non-closure of pleadings, inter-locutories, interrogatories, amendment of pleadings and lawyers' slackness. And now there is room for more delays, because Counsel Nimepo is diagnosed with gout recently.
5. Court would like to have trial quickly. Court will allow Counsel to agree on trial preparation directions. Counsel Nimepo's evidence is saying pleading is yet to close, on the 3<sup>rd</sup> amended claim because defendant has not filed a defence to the 3<sup>rd</sup> amended claim. I leave Counsel to agree the trial preparation directions, as they will know what steps to take to prepare matter for trial in view of their personal commitments. But, I will say that if Counsel are ready, we must have trial later in 2022 or early 2023. Court can list trial in December 2022 or January 2023. No order on cost. Associate will check on trial preparations every 2 weeks. And inform the Judge to ensure matter is not stalled after this ruling.

