

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**
(Civil Jurisdiction)

Civil
Case No. 25/1795 SC/CIVL

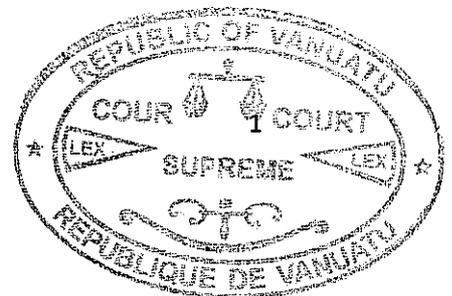
BETWEEN: Parmod Achary
Claimant

**AND: Ombudsman of the Republic of
Vanuatu**
Defendant

Date: 10 November 2025
Before: Justice V.M. Trief
Counsel: Claimant – Mr D.K. Yawha
Defendant – OAG

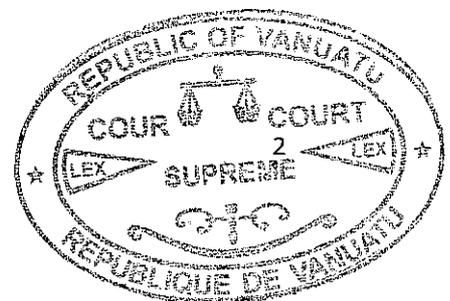
DECISION AS TO STRIKE-OUT APPLICATION

1. On 24 June 2025, the Claimant Parmod Achary filed the Claim seeking damages totalling VT32,000,000. The Claim named the Ombudsman of the Republic of Vanuatu as the First Defendant and the Attorney General as the Second Defendant.
2. On 3 July 2025, the First Defendant filed a Response denying the whole of the Claim.
3. On 9 August 2025, Mr Achary filed a Notice of Discontinuance against the Second Defendant. Subsequently, I ordered that the First Defendant is renamed, the 'Defendant.'
4. On 3 October 2025, the Defendants filed Submissions in support of the Application to Strike Out. However, I cannot see a strike-out application on the



Court file. I consider that is an irregularity which can be cured by my declaring that those submissions are **deemed** to be a strike-out application (the 'Application') pursuant to rule 18.10(2)(d) and (f) of the *Civil Procedure Rules* ('CPR') and the inherent jurisdiction of the Court. I so **declare**.

5. It is submitted for the Defendants that the subject matter of both the present matter CC 25/1795 and the earlier proceedings CC 23/3387 arise from the same set of facts. It is submitted that therefore the principle of *res judicata* applies hence Mr Achary should have put forward every point that properly belonged to the subject matter of the proceeding in the initial claim (CC 23/3387): *Nalpini v President of the Republic of Vanuatu* [2019] VUCA 68 and *Family Kalmet v Kalmet* [2017] VUCA 20. The Defendants also cited *Anura Limited (formerly Orion Marine Limited) v Sealegs International Limited* [2024] NZCA 538 in which the New Zealand Court of Appeal emphasized that Courts require parties to a proceeding to bring forward their whole case. A party is not allowed to bring forward in a second claim what it ought to have brought forward in the first claim.
6. On 7 October 2025, the Defendants filed the Sworn statement of Agnes Tari in support of the Application. The Defendants submitted that therefore the bringing of the Claim in CC 25/1795 is an abuse of process and should be struck out.
7. On 20 October 2025, Mr Achary filed his Sworn statement in response to the Sworn statement of Agnes Tari in support of the Defendants' Application to Strike Out. He deposed that the Claim in the present matter is not a repetition or re-litigation of the Claim in CC 23/3387 as it is a claim for damages regarding the obtaining of an *ex parte* Order in Civil Case No. 2461 of 2019 ('CC 19/2461'), its service on him and communicating it to the staff at the Vanuatu National Provident Fund ('VNPF') Office. He stated that CC 19/2461 was mentioned in the Claim in CC 23/3387 at paras 27 and 28 to show the chain of events leading to his prosecution. However, there was no damages claim in relation to the CC 19/2461 *ex parte* Order in CC 23/3387, as he wanted it to be dealt with separately from his damages claim in CC 23/3387 in relation to the execution of the search warrant and his prosecution.
8. Having considered the Application and sworn statements, the Application is **granted** for the following reasons:
 - a) CC 19/2461 was mentioned in the Claim in CC 23/3387 at paras 27 and 28 to show the chain of events leading to the prosecution of Mr Achary in Criminal Case No. 2837 of 2019 ('CRC 19/2837');



- b) By the Claim in CC 23/3387, Mr Achary sought damages for trespass in the execution of a search warrant at the premises of the VNPF where he was the General Manager at the time, for conversion as his documents and chattels were seized, for unlawful and unwarranted prosecution by way of CRC 19/2837 against him, and for intensified medical pain and suffering.
- c) The Claim in CC 23/3387 was determined by the decision as to assessment of damages dated 6 November 2025: Achary v Ombudsman of the Republic of Vanuatu [2025] VUSC 306; and
- d) I consider that given that CC 19/2461 was part of the chain of events and the facts leading to the prosecution of Mr Achary in CRC 19/2837, any damages claim in relation to CC 19/2461 should have been sought in CC 23/3387 as the principle of *res judicata* applies as there has been a final determination of the substantive issues (in CC 23/3387) and which principle extends to arguments of issues (raised in the present matter CC 25/1795) which should properly have been determined at that time: Republic of Vanuatu v FR8 Logistics Ltd [2020] VUCA 15 at [15]-[19], Family Kalmet v Kalmet [2017] VUCA 20 at [31]-[35] and Nalpini v President of the Republic of Vanuatu [2019] VUCA 68.
9. Accordingly, the Claim in the present matter is **struck out**.
10. Costs shall follow the event. The Claimant is to pay the Defendant's costs of the proceeding fixed summarily in the amount of VT60,000 **by 4pm on 30 November 2025**.

DATED at Port Vila this 10th day of November, 2025
BY THE COURT


Justice Viran Molisa Trief

