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TRANSCRIPT OF PROCEEDINGS

O/N H-542962

FEDERAL CIRCUIT COURT OF AUSTRALIA

SYDNEY REGISTRY

JUDGE STREET

No. SYG 1092 of 2015

RATU PIO TIKOVAKAYALEWA KAUTOGA

and

MINISTER FOR IMMIGRATION AND BORDER PROTECTION and ANOTHER

SYDNEY

9.43 AM, THURSDAY, 28 MAY 2015

MR N. POYNDER appears for the applicant

MS N. JOHNSON appears for the 1st respondent

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MR N. POYNDER: Mr Poynder: Your honour while I'm on my feet I have another matter this morning. Matter number 18 Kautoga.

5 HIS HONOUR: There's a court book in this matter, is there? There's a court book that has been filed, is that right?

10 MR N. POYNDER: It hasn't been delivered yet, your Honour. The Minister has provided some suggested consent orders in which the court book is proposed to be provided by 11 June.

HIS HONOUR: The application doesn't identify any jurisdictional error.

15 MR POYNDER: Yes. My instructions, at this stage, are limited to advising on the merits of the case. I can't advise on the merits of the case until I've seen the court book. I was instructed on this last night at about 6 o'clock.

HIS HONOUR: What's the respondent's position?

20 MS N. JOHNSON: Your Honour, the first respondent's position is that this should be listed for a final hearing in the future, your Honour.

HIS HONOUR: What's the issue that the first respondent says arises?

25 MS JOHNSON: Your Honour, I – this is not my matter and I've only been advised to attend the directions hearing. However, I am instructed that it raises an arguable case for the relief claimed and it - - -

HIS HONOUR: There's nothing in the application that identifies any ground.

30 MS JOHNSON: Your Honour, all I have before me is actually the proposed short minutes of order. I don't actually have the file as I was asked just to attend the directions hearing.

35 HIS HONOUR: Have you seen the court book, Mr Poynder?

MR POYNDER: I haven't, your Honour. I only received instructions at 6 o'clock last night.

40 HIS HONOUR: I fix the matter for hearing at 9.30 am on Tuesday, 12 June – sorry – Tuesday, 9 June – 9.30 on Tuesday, 9 June - - -

45 MR POYNDER: Well, your Honour, that's not going to give the applicant any time to prepare for the case. We don't get the court book until the 11th. So there's a chance we won't be in a position to proceed on that date.

HIS HONOUR: Well, you better be ready, Mr Poynder - - -

MR POYNDER: Well - - -

HIS HONOUR: - - - because I won't adjourn it.

MR POYNTER: - - - your Honour, there is a - - -

5 HIS HONOUR: Mr Poynder, you - - -

MR POYNTER: Your Honour, there are procedural - - -

HIS HONOUR: Mr Poynder - - -

10 MR POYNTER: - - - requirements to have the matter ready for hearing - - -

HIS HONOUR: Mr Poynder, sit down, please.

15 MR POYNTER: Well, for the transcript, your Honour - - -

HIS HONOUR: No, no. Sit down - - -

MR POYNTER: - - - I think it's important - - -

20 HIS HONOUR: - - - sit down – sit down, Mr Poynder - - -

MR POYNTER: - - - that your Honour takes note - - -

25 HIS HONOUR: Mr Poynder, sit down.

MR POYNTER: - - - of the procedural requirements in this court.

HIS HONOUR: Mr Poynder, if you engage in talking over me again, I will have

30 you removed. Sit down.

MR POYNTER: I will indicate to the court that - - -

HIS HONOUR: No. Please, Mr Poynder, comply - - -

35 MR POYNTER: - - - an application will be made for an - - -

HIS HONOUR: - - - with what I've said - - -

40 MR POYNTER: - - - adjournment on that day.

HIS HONOUR: Sit down, Mr Poynder, now. Please.

MR POYNTER: Yes. That was for the transcript, your Honour.

45

HIS HONOUR: Sit down now, please, Mr Poynder. Your repeated raising to your feet and not complying with my directions is a contempt of court. If you engage in it again, I will have you dealt with for contempt. Do you understand that?

5 MR POYNDER: May it please your Honour.

HIS HONOUR: I direct the applicant to file and serve any amended application and any affidavit evidence upon which the applicant wishes to rely, together with submissions, by 2 June. The respondent is to file any affidavit in reply and any
10 submissions in which it wishes to rely by 7 June.

MS JOHNSON: If the court pleases.

HIS HONOUR: Mr Poynder, this is a very busy list. It requires counsel, solicitors
15 and applicants to assist the court in dealing with the list. I really won't tolerate the behaviour that you've engaged in just recently. You must cooperate with the court. I understand your desire to advance your client's case but you must do so consistently with the directions made by the court.

20 MR POYNDER: Can I be heard on that, your Honour?

HIS HONOUR: No.

25 **MATTER ADJOURNED at 9.49 am ACCORDINGLY**