

Tonga Development Bank (TDB) Press Release

TDB COURT CASE IS NOT FINISHED, IT'S ONGOING.

Next steps: The next step in the proceedings is for Tatafu Moeaki, NRBT, Katalina Tohi and Tevita Motulalo to file their defences assuming they pay the legal costs of TDB, CEO Emeline Tuita and Chairman Penisimani Ve'a (the **plaintiffs**) regarding the set aside application. Then the parties will proceed to a full hearing where evidence will be called from both sides. The plaintiffs remain committed to vindicating their legal rights at the full hearing.

HERE ARE THE DETAILS.

1. Due to several press statements already released regarding the ruling of the Lord Chief Justice Bishop KC on 27 January 2025, many of our customers have asked the bank to clarify the full ruling. This press release aims to clarify the position for our many customers. This ruling was made in one of two ongoing cases involving TDB with this case being between TDB, CEO Emeline Tuita and Chairman Penisimani Ve'a (the **plaintiffs**) against Tatafu Moeaki, National Reserve Bank of Tonga (NRBT) Katalina Tohi, Tevita Motulalo and Kalino Latu (the **defendants**). Kalino Latu has not been served with the claim and therefore he was not involved in this ruling.
2. **Tatafu Moeaki, NRBT and Katalina Tohi failure to Submit a Defence:** The plaintiffs commenced the proceedings on 13 August 2024 seeking damages of almost \$25million and alleged that:
 - (a) Tatafu Moeaki and NRBT had unlawfully disclosed to the media information about the plaintiffs, an act prohibited by section 19 of the NRBT Act which carries an imprisonment not exceeding 4 years or a fine not exceeding \$20,000.
 - (b) the dissemination of false information had defamed the plaintiffs.
3. Tatafu Moeaki, NRBT and Katalina Tohi failed to file and serve a defence within the 28 days required by the law and, as a result of this failure, default judgment was entered in favour of the plaintiffs on 23 September 2024 for the defendants to pay approximately \$25million to the plaintiffs.
4. **Application to set aside default Judgment:** In the recent Court application, Tatafu Moeaki, NRBT, Katalina Tohi and Tevita Motulalo applied to the Court to set aside the default judgment he issued on 23 September 2024 to allow them to file a defence, The reasons given by Tatafu Moeaki, NRBT and Katalina Tohi for the failure to file a defence within the required 28 days included:
 - Tatafu Moeaki: - Mr Moeaki was engaged in addressing issues in proceedings CV 24 of 2024 and CV 32 of 2024."
 - National Reserve Bank of Tonga – "Time got away with them."

- Katalina Tohi – Mrs Tohi could not find a lawyer and was waiting to see what the First and Fifth Defendants would do.
5. Tevita Motulalo alleged he had filed a defence on time; however, his defence was not found in the Court file at the time of the ruling on 23 September 2024 (nor was it served until after the default judgement was issued). The Lord Chief Justice commented of the “unfortunate circumstance that documents filed sometimes go astray in the present state of the registry.”
 6. **Objection from TDB:** TDB, along with its CEO and Chairman, objected to the defendants’ application, arguing:
 - The defendants had no valid reasons for failing to file a defence within the 28 days required by law.
 - The defendants did not have an arguable defence.
 7. **Court’s Ruling:** Other than Tevita Motulalo, the Lord Chief Justice found that Tatafu Moeaki, NRBT and Katalina Tatafu, had no credible excuse for not filing a defence on time. His Honour stressed that the Court’s rules must be followed and that the Tatafu Moeaki, NRBT and Katalina Tohi’s excuses were “simply not good enough.” However, recognising the case’s importance and public interest, and determining that no irreparable harm would come to the plaintiffs, his Honour decided to set aside the default judgment he issued on 23 September 2024. This means that this case will go to full trial and evidence will be called.
 8. **Cost Orders:** The default judgment was set aside and the case will proceed to full trial but on the condition that Tatafu Moeaki, NRBT and Katalina Tohi pay the plaintiffs’ legal costs.

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