M.A. Consulting Group Ltd v Kibiru (Civil Appeal 479 of 2019)
[2024] KECA 667 (KLR) (14 June 2024) (Judgment)

Neutral citation: [2024] KECA 667 (KLR)

REPUBLIC OF KENYA

IN THE COURT OF APPEAL AT NAIROBI

CIVIL APPEAL 479 OF 2019

MA WARSAME, S OLE KANTAI & JM MATIVO, JJA

JUNE 14, 2024

BETWEEN

M.A. CONSULTING GROUP LTD ..... APPELLANT

AND

JANE KIBIRU ..... RESPONDENT

(An appeal against the Judgment and Decree of the Employment and Labour Relations Court of Kenya, Nairobi (Onyango, J.) dated 26th July, 2019 in ELRC No. 497 of 2015)

JUDGMENT

1. By a letter of offer dated 31st January 2012, the appellant, M/s M.A. Consulting Group, offered to employ the respondent, Jane Kibiru, as an associate consultant on contract basis. The salient terms of the offer were that the respondent was to serve in the said position for a period of 3 years with effect from 10th January 2012 to 9th January 2015. The contract was subject to renewal by mutual agreement. Pivotal to this dispute is clause 4 of the letter of offer which provided as follows:

> " The consultancy fees payable under this agreement will be Kshs.175,000/= (Kenya shillings One hundred seventy -five thousand Only) per month. A gratuity of 25% (twenty-five per cent) of annual gross salary per year will be paid at the end of the three-year contract period. No gratuity will be paid if this contract is terminated by either side, before its expiry i.e. before 9th January 2015."

2. The respondent signed the said letter of offer on 31st January 2012 (which also signed by the respondent) signifying her acceptance to the appellant's offer effectively bringing in to force a binding contract between the parties whose terms and conditions were as stipulated in the letter of offer. However, upon the expiry of the contract period, the respondent requested the appellant to pay her the

gratuity vide her letters/Memo dated 14th January 2015. The appellant's response to the respondent's aforesaid request is contained in its letter dated 26th January 2015, in which it stated:

> " Dear Ms. Kibiru, Gratuity 2012-2014
>
> I have seen your application for Gratuity and respond as follows:
>
> The offer of gratuity stands. However, there was very (sic) regrettably an error in the Letter of Offer where the applicable sentence should have read "A gratuity of 25% of the average annual gross salary will be paid at the end of every three years." Therefore, your Gratuity is now computed in the attached sheet.
>
> The due Gratuity will be paid to you in full. However, due to the current financial position of the company, the payment can only be made in instalments as indicated in the attached sheet.
>
> If you are agreeable to the foregoing, a voucher will be prepared for settlement of the first instalment.
>
> Please note that the company has reconsidered the issue of Gratuity and this will now not be paid in future. Other forms of compensation and reward for work well done will be worked out.
>
> Yours Sincerely,
>
> M.A. Consulting Group Ngure Mwaniki Managing Director

3. The appellant's aforesaid letter was accompanied by a tabulation of the reviewed gratuity. By a letter dated 3rd February 2015, the respondent objected to the revision of the gratuity clause and the said tabulation. She also wrote e-mails dated 13th February 2015 and 19th February 2015 as a follow up to her communication dated 3rd February 2015. By an e-mail dated 15th February 2015, the appellant acknowledged the respondent's refusal of its offer and in a memo dated 23rd February 2015, the respondent asserted her rejection to the appellant's offer because it did not accord with the contract which provided that the gratuity would be 25% of the annual gross salary per payable at the end of the three years' contract. On 6th March 2015, the appellant's secretary informed the respondent that if she was agreeable, the gratuity offered would be paid in one instalment rather than 3 instalments as indicated in the letter.

4. Aggrieved by the appellant's decision to review her gratuity, the respondent sued the appellant at the Employment and Labour Relations Court (the ELRC) vide memorandum of claim dated 26th March 2015 being cause number 497 of 2015 in which she sought a declaration that she was entitled to gratuity as per the terms of the contract and the employment letters and an order that she be paid Kshs.1,852,011/=. She also prayed for compensation, costs, interests and any further reliefs that the court would deem fit to grant.

5. On 30th April 2015, the appellant filed a reply to the respondent's claim, a counter-claim and set-off maintaining that under the contract, gratuity was not a precondition for employment but an incentive. It averred that prior to the lapse of the contract, the respondent was informed in a meeting that there was an error in the calculation of the gratuity. Also, by a letter dated 26th January 2015 it was explained to the respondent that gratuity ought to be calculated based on the average annual gross salary payable at the end of the three years' contract. Further, the said sum was payable subject to the counter-claim and set–off against the respondent. The appellant also averred that the respondent was negligent/incompetent in handling consultancy assignments/tenders prompting written warnings

dated 17th April 2015 and dated 5th February 2014. As a result of her negligence, the appellant averred that it was exposed to a potential loss of Kshs.10,972,289/=. Consequently, the appellant counter-claimed from the respondent Kshs.10,972,289/= as compensation. It also prayed that the gratuity be calculated at 25% of the average annual gross salary payable at the end of the three-year contract, less the amount it counter-claimed.

6. In response to the appellant's reply and counter-claim, the respondent maintained that the alleged error in calculation of the gratuity was raised on 26th January 2015 after the expiry of the contract. She disputed the alleged negligence in her work and averred that the appellant congratulated her for her good work when renewing her contract and even increased her pay. Therefore, the said allegations were an afterthought raised to avoid paying her gratuity after she refused to drop her case against the appellant. In addition, the respondent disputed the appellant's memo dated 17th April 2015 and averred that it was never bought to her attention and denied that the letter dated 5th February 2014 from the respondent was a warning, on the contrary it was a review of consultancy fee for the year 2014.

7. In its reply to the respondent's reply to the defence and defence to counter-claim, the appellant reiterated that it informed all its employees that it had made an error on the issue of gratuity and its employees agreed to the recalculated gratuity payment.

8. By consent of the parties, the case proceeded by way of written submissions. The trial judge (Ndolo J.) in the impugned judgement addressed two issues, namely; (a) The applicable formula for tabulating the respondent's gratuity. (b) Whether the respondent proved its counter-claim. Addressing the legality of the appellant's decision to change the gratuity payable, the learned Judge in the impugned judgment stated:

> "...Sections 10 (5) and 13 (1) of the *Employment Act* outlaw unilateral variation of terms of employment by an employer. Indeed, my brother Radido J in James Ang'awa Atanda and 10 others v Judicial Service Commission [2017] eKLR termed such a move as an unfair labour practice as contemplated under Article 41(1) of *the Constitution* of Kenya, 2010.
>
> 27. From the evidence on record, the Respondent notified the Claimants of the variation of the gratuity clause in response to their request for payment of gratuity. By this time, the Claimants had served their respective terms and earned gratuity as provided in their letters of offer. The Court therefore did not see any legal basis for the Respondent's attempt to interfere with the Claimants' accrued gratuity. No coercion, fraudor undue influence was pleaded, much less proved.
>
> 28. For the foregoing reasons, the Court finds and holds that the Claimants are entitled to full gratuity as set out in their respective letters of offer."

9. Regarding the Appellant's counterclaim, the learned Judge held as follows: .

> 29. The Respondent makes a counterclaim against the 1st Claimant in the sum Kshs.10,972,289 being loss occasioned by her professional negligence.In my understanding, this claim falls within the realm of special damages. In Godfrey Julius Ndumba Mbogori & another v Nairobi City County [2018] eKLR the Court of Appeal reiterated the well settled principle that a claim for special damages must be specifically pleaded and proved with a degree of certainty and particularity.
>
> 30. The parties themselves chose not to call viva voce evidence. Reading their written submissions however, gave the impression of Counsel testifying for their clients. This was a futile exercise

and an unnecessary burden to the Court. What is clear is that the Respondent did not bother to provide particulars of its counterclaim nor did it lead evidence to link the 1st Claimant with the alleged loss.

10. Having arrived at the above conclusions, the learned Judge allowed the respondent's claim and awarded her the full gratuity she was entitled to as set out in her offer letter and dismissed the appellant's counter-claim.

11. Aggrieved by the decision, the appellant filed this appeal seeking to overturn the judgment enumerating 7 grounds of appeal in its memorandum of appeal dated 30th September 2019. In summation, the grounds are that the learned judge erred in: (a) dismissing the counter-claim on the basis that the special damages had not been proved, yet the supporting documents were admitted supporting the loss of Kshs.10,972,289/=. (b) failing to find that the gratuity payable to the respondent could be set-off from the respondent's claim. (c) failing to evaluate the evidence and/or find that the respondent was guilty of professional negligence. (d) failing to determine whether the respondent's actions offended section 44 (4) (g) of the *Employment Act*. (e) failing to consider the appellant's submissions, and exhibiting bias.

12. During the virtual hearing of the appeal on 13th February 2024, learned counsel Mr. Kigata and Ms. Mbanya represented the appellant and the respondent respectively. Both parties filed written submissions which they highlighted.

13. In its submissions, the appellant addressed three issues, namely:

    (a) the effect of Rule 21 of the Employment and Labour Relations Court (Procedure) Rules, 2016 on documentary evidence. (b) what does "strictly proving special damages" entail. (c) whether an employer is entitled to damages arising from the negligent conduct of an employee.

14. On the effect of Rule 21 of the Employment and Labour Relations Court (Procedure) Rules, 2016 on documentary evidence, the appellant maintained that the parties agreed that the hearing would proceed on the basis of the documents already on record and written submissions. The appellant also submitted that the pleadings before the trial court contained evidence.

15. Regarding the special damages claimed, the appellant maintained that its counter-claim was proved on a balance of probabilities based on the documents already on record. The appellant argued that the learned Judge erred in dismissing its counter-claim. To buttress his aforesaid contestation, the appellant cited the Supreme court of Malawi decision in Knight Frank vs Blantyre Synod & Anor [2001] MWSC 3 which held that the standard of proof in civil cases is on a balance of probability and not beyond a reasonable doubt as is the standard generally in criminal cases. The Court proceeded to state that a plaintiff who claims special damages must adduce evidence or facts which give satisfactory proof of the actual loss he alleges in his pleadings to have suffered. Buttressed by the said decision, the appellant argued there is no rule of law requiring a party to produce receipts or adduce the best evidence in order to prove a civil case.

16. On her part, the respondent submitted that in its counter-claim, the appellant had pleaded that it would be pursuing what it described as potential loss of Kshs.10,972,289/= which was not particularized nor did the appellant demonstrate that the said loss was actually incurred. The respondent further argued that no documents were produced to demonstrate how the appellant arrived at the said sum. To support the foregoing submission, the appellant cited in Godfrey Julius Ndumba Mbogori vs Nairobi City Council [2018] eKLR in which this Court held that special damages must be pleaded and strictly proved.

17. Regarding the gratuity, the respondent cited National Bank of Kenya Ltd vs Pipe Plastic Samkolit (K) [2001] eKLR in support of the proposition that courts ought not to rewrite contracts for parties since

the parties are bound by the terms of the contract unless coercion, fraud or undue influence are pleaded and proved. It was the respondent's case that no vitiating factors were pleaded and proved in this case.

18. Responding to the allegations that she was negligent in performing her duties, the respondent argued that her competence was not an issue before the trial Court nor was she ever warned about her conduct. Conversely, after the lapse of her contract, she was offered an extension of the contract, and she was congratulated for a well-done job during her contract period between 2012 to 2015. Therefore, the alleged incompetence was an afterthought designed to counter her claim for her rightful gratuity. She maintained that the trial judge rightly held that gratuity was payable to her as per the contract.

19. Responding to the allegation that her alleged incompetence resulted in misquoting a figure of Kshs.19,027,711/= which exposed the appellant to reputational and financial loss, the respondent submitted that the alleged claim was not proved to the required standard. She maintained that it was the Managing Director and not herself who was in charge of all the teams that carried out consultancies, and in that capacity, he had the final say.

20. This being a first appeal, our role is to re-evaluate the evidence before the trial court and draw out our own conclusions. (See Kenya Ports Authority vs Kuston (Kenya) Limited [2009] 2 EA 212).

21. As the record shows, the parties recorded a consent agreeing to proceed by way of submissions. The appellant now faults the trial judge for dismissing its counter-claim for want of proof arguing that the judge failed to appreciate that the parties had agreed to rely on the documents filed. The appellant urges this Court to determine the effect of Rule 21 of the Employment and Labour Relations Court (Procedure) Rules, 2016 which permits cases to be determined by way of documentary evidence. Rule 21 provides as follows:

> 21. The Court may, either by an agreement by all parties, or on its own motion, proceed to determine a suit before it on the basis of pleadings, affidavits, documents filed and submissions made by the parties.

22. However, the germane issue here is wider than the mere invocation of Rule 21. The real issue is whether from the pleadings filed in court, there existed a dispute or disputes of fact which ought to have been proved by way of oral evidence. The respondent's claim before the trial court was that the appellant had refused to pay her gratuity which was due and payable contrary to the clause 4 of their contract. The appellant in its defence not only disputed the claim, but proceeded to mount a counter claim in which it accused the respondent of professional negligence and incompetence which it claims exposed it to financial loss. It claimed the alleged financial loss from the respondent. The respondent filed a reply to the defence and a defence to the counter-claim reiterating her claim and disputing the alleged negligence and incompetence and denied the amount counter-claimed. Undeterred, the appellant filed a reply to the respondent's response, again asserting its claim.

23. Clearly, the pleadings as highlighted above disclosed highly contested issues of fact. To successfully pursue a case in court, it is necessary to adduce evidence to back the claim. A party cannot just imagine that he has a case. He must prove it. Contested issues of fact must be proved by admissible and relevant evidence. For example, to prove negligence, the appellant was required to prove that the respondent owed it a duty of care, that the respondent breached the duty and that it suffered loss as a result of the respondent's negligence. The appellant suggests that on the strength of the above rule, having submitted documents in court, it discharged the required burden of prove. With tremendous respect, the appellant misunderstood the import Rule 21. The legislature in its wisdom deployed the word "may" in the above rule which is not mandatory. Learned counsel had a solemn duty to guide his client on the best way to proceed to prove the contested issues of fact. Counsel cannot just file documents

in court and assume that it will surmount the requirement that he who alleges must prove. The appropriate step was to proceed by way of viva voce evidence so as to prove the contested issues of fact

24. In every litigation a litigant is expected to put his best foot forward. A litigant cannot mount a claim founded on contested issues of fact which require proof on a balance of probabilities and expect to surmount the required burden of proof by simply filing a bundle of documents in court. The appellant forgot that unlike its case which essentially stood on contested issues of fact, the respondent's claim was mounted on the interpretation of clause 4 of the contract. Because the contract was not disputed, her claim could effectively be determined without adducing oral evidence.

25. It follows therefore that where the resolution of the dispute before the Court requires the Court to make a determination of disputed issues of fact that is not a suitable case for parties to proceed by way of submissions. Conversely, where the case involves resolution of points of law or interpretation of an uncontested document, then, the parties can submit on the law and interpretation of the document and leave it to the Court to determine the issues. The appellant was manifestly misled by assuming that a claim for special damages or negligence or incompetency could be proved by way of submissions. The appellant cannot now turn around and blame the trial Court for finding that it did not prove its claim.

26. Closely tied to our above finding is the question whether the appellant proved its claim for special damages. Ideally, our above finding that the appellant was misguided in proceeding by way of documents owing to the nature of its claim is sufficient to dispose this claim also. However, the appellant insisted that it proved its claim for special damages blamed the trial court for failing to consider its documents, yet it allowed the respondent's claim which was also based on the documents filed. At paragraph 35 of its counter-claim, the appellant pleaded as follows:

> "As a result of the negligence of the respondent in not carrying out her duties diligently, professionally and with due care and attention and detail, the claimant has been exposed to loss on account (sic) the respondent giving an underquoted sum of Kshs.19.027,711/ = leading to a potential loss of Kshs.10,972,289/= which the claimant claims from the respondent to compensate for the shortfall."

27. The appellant proceeded to claim the said sum at prayer (iii) of its counter-claim. Notably, in the above cited paragraph, the appellant clearly referred to "potential loss" as opposed to loss incurred. Despite such a clear averment, the appellant proceeded to claim the said sum as if the loss had been incurred and properly pleaded. The core issue here is to understand the function of and purpose of good pleadings and to underscore that the appellant's reply and counter-claim as drawn was manifestly wanting. The paragraph reproduced above and the prayer for the said sum are totally irreconcilable. The Australian Supreme Court in SMEC Australia Pty Ltd vs McConnell Dowell Constructors (Aust) Pty Ltd [2011] VSC 492 at [3]-[6] had the following to say about on the principles of good pleadings:

> "In a mathematical proof, elegance is the minimum number of steps to achieve the solution with greatest clarity. In dance or the martial arts, elegance is minimum motion with maximum effect. In filmmaking, elegance is a simple message with complex meaning. The most challenging games have the fewest rules, as do the most dynamic societies and organizations . An elegant solution is quite often a single tiny ideathat changes everything. ... Elegance is the simplicity found on the far side of complexity.
>
> While elegance in a pleading is not a precondition to its legitimacy, it is an aspiration which, if achieved, can only but advance the interests of justice. A poorly drawn pleading, on the other hand, which does not tell a coherent story in a well ordered structure, will fail to achieve

the central purpose of the exercise, namely communication of the essence of case which is sought to be advanced.

... Crafting a good pleading calls for precision in drafting, diligence in the identification of the material facts marshalled in support of each allegation, an understanding of the legal principles which are necessary to formulate complete causes of action and the judgment and courage to shed what is unnecessary.

Although a primary function of a pleading is to tell the defending party what claim it has to meet, an equally important function is to inform the court or tribunal of fact precisely what issues are before it for determination." (Emphasis supplied)

28. It is of course, a basic principle that particulars of claim should be so phrased that a defendant may reasonably and fairly be required to plead thereto. This must be seen against the background of the further requirement that the object of pleadings is to enable each side to come to trial prepared to meet the case of the other and not be taken by surprise. Pleadings must therefore be lucid and logical and in an intelligible form; the cause of action or defence must appear clearly from the factual allegations made. In elementary grammar, the words "potential loss" and "actual loss incurred" cannot be confused to convey the same meaning. On this ground alone, the appellant's claim was bound to fail as it did.

29. Having concluded herein above that the appellant's claim for the alleged "potential loss" was a non-starter, we do no think it will add value for us to address our mind to the question whether the said claim was proved by way of evidence. It will suffice for us to underscore that special damages, loss of income or loss of profits by their very nature must be strictly proved. As the trial court noted, a litigant cannot simply throw documents to the court as the appellant herein did and expect the court to find that he has surmounted the required standard of proof. This is because except where the defendant does not dispute liability, this first element of a claim for lost profits or loss of income, which is proximate cause, typically requires an in-depth analysis of both the applicable law and the facts. Specifically, the plaintiff must show, by a preponderance of the evidence, that the plaintiff's alleged loss was the proximate result of the breach, the so-called "but-for test" (i.e., but for the breaching conduct, the plaintiff would have earned profit). Establishing such a loss requires evidence, as opposed throwing documents to the court.

30. Next, we address the appellant's argument that the respondent was negligent in her work. Again, this claim collapses for want of evidence. In any event, a reading of the appellant's letter dated 26th January 2015 addressed to the respondent shows that the appellant was very happy to renew the respondent's contract for a further period of two years. In the said letter, the appellant stated as follows:

> " we express our appreciation of your contribution to the company and look forward to a continued amicable and fruitful working association."

31. We will now address our mind to the question whether the respondent proved her claim for gratuity. Earlier in this judgment we reproduced the gratuity clause. It will add no value for us to reproduce it here. Instead, we will interpret the said clause to determine whether the learned judge was correct in her finding

32. The correct approach to the interpretation of contracts or agreements is to give meaning to the words used in the document sought to be interpreted, applying the normal rules of grammar and syntax viewed with attendant factual context, in order to determine what the contracting parties intended. The starting point is to identify the intention of the contracting parties. This is an objective test; the court's concern is to identify the intention of the parties by reference to what a reasonable person having all the background knowledge which have been available to the parties would have understood

them to be using the language in the contract to mean. (See Lord Hoffman in Chartebrook Ltd. vs Persimmon Homes Ltd [2009] UKHL 38, para. 14). In seeking to harmonize different clauses of the document, we should not give effect to one clause to the exclusion of another, even though they seem conflicting or contradictory, or adopt an interpretation which neutralizes a provision if the various clauses can be reconciled.

33. A reading of clause 4 leaves no doubt that the parties agreed that a gratuity of 25% of the respondent's annual gross salary per year was to be paid to her at the end of the three-year contract. The clause expressly provided that no gratuity would be paid if the contract was terminated by either side before its expiry. This was the only permissible exception to the invocation of this clause. We note that vide letter dated 26th January 2015, obviously written after the expiry of the contract between the parties, the appellant wrote to the respondent as follows:

> " ...The offer of gratuity stands. However, there was very regrettably an error in the Letter of Offer where the applicable sentence should have read "A gratuity of 25% of the average annual gross salary will be paid at the end of every three years." Therefore, your Gratuity is now computed in the attached sheet."

34. The Respondent objected to the revision of the gratuity clause and the accompanying tabulation by letter/memo dated 3rd February 2015 leading to the suit before the trial court. The contract between the parties is not disputed. It is settled law that contracts are voluntary undertakings and contracting parties are free to specify the terms and conditions of their agreement, and that when parties do contract, the court does not have the right or ability to substitute its judgment for that of the parties. Indeed, when a contract is clear and unambiguous, a court's role is to interpret the contract as written and not rewrite it because, just as with any other contract, an employment contract can only be changed with the agreement of both parties and not unilaterally. As was stated by this Court in National Bank of Kenya v Pipeplastic Samkolit (K) Ltd and Another [2001] eKLR:

> " A Court of law cannot re-write a contract between the parties. The parties are bound by the terms of their contract, unless coercion, fraud or undue influence are pleaded and proved. There was not the remotest suggestion of coercion, fraud or undue influence in regard to the terms of the charge. As was stated by Shah JA in the case of Fina Bank Limited vs Spares & Industries Limited (Civil Appeal No 51 of 2000) (unreported): "It is clear beyond peradventure that save for those special cases where equity might be prepared to relieve a party from a bad bargain, it is ordinarily no part of equity's function to allow a party to escape from a bad bargain".

35. The above being the correct legal position, it is our view that the appellants attempt to unilaterally alter the terms of the contract after its expiry was in itself a breach of the same contract the parties voluntarily signed. We therefore reject the appellant's invitation to this Court to sanitize or condone such a breach. In any event, the appellant's attempt to alter the contract after its expiry and when the gratuity had fallen due and payable flies on the face of sections 10 (5) and 13 (1) of the *Employment Act* which bars unilateral alterations of employment contracts and a breach of Article 41 (1) of *the Constitution* which outlaws unfair labour practices. At this point, benefits in terms of the gratuity earned had accrued in her favour, therefore, any attempt to deprive her rights is an affront to the constitutional principles enshrined in Article 41 (1).

36. Lastly, the appellant contended that the trial court disregarded its submissions. Granted, when evaluating submissions, it is imperative to evaluate all the submissions, and not to be selective in determining what submissions to consider. However, by requiring the trial court to consider and

weigh all submissions does not mean that the judgment of the trial court must also include a complete embodiment of all submissions made or the evidence led, as if it comprises a transcript of the proceedings. All it means is that the summary of the evidence led and the submissions must indeed entail a complete embodiment of all the material evidence/submissions made. In order to determine whether there is any merit in any of the submissions made by the respective parties in this appeal, this Court must consider the submissions and evidence led in the trial court, juxtapose it against the judgment by the trial court, and finally determine whether there is any basis for interfering with the said judgment.

37. This means that if a Court of Appeal is of the view that a particular fact is so material that it should have been dealt with in the judgment, but such fact is completely absent from the judgment or merely referred to without being dealt with when it should have, this will amount to a misdirection on the part of the trial court. The appeal court must then consider whether the said misdirection, viewed either on its own or cumulatively together with any other misdirection's, is so material as to affect the judgment, in the sense that it justifies interference by the Court of Appeal. We have gone through the submissions and evidence tendered before the trial court. We have also read the judgment, the evaluation of the evidence and submissions and the reasons for the decision. We are satisfied that the learned considered all the material before him. We find no merit in the argument that the trial court did not consider the appellant's evidence or submissions.

38. Arising from our analysis of the grounds cited in this appeal, the opposing submissions made by the parties, the authorities cited and the law, it is our conclusion that this appeal lacks merit and it falls for dismissal. Accordingly, we dismiss this appeal with costs to the respondent. The appellant shall also pay to the respondent the costs of the proceedings before the trial Court.

DATED AND DELIVERED AT NAIROBI THIS 14TH DAY OF JUNE, 2024.

M. WARSAME

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JUDGE OF APPEAL

S. ole KANTAI

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JUDGE OF APPEAL

J. MATIVO

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JUDGE OF APPEAL

I certify that this is a true copy of the original

SIGNED

DEPUTY REGISTRAR