

BERNARD VENGAYI  
versus  
DR GIDEON GONO  
and  
BENJAMIN CHUMA  
and  
NEW DONNINGTON FARM

HIGH COURT OF ZIMBABWE  
BERE J  
HARARE, 1 October 2009

*C Tafireyi*, for the plaintiff  
*I.A. Karawley*, for the defendant

### RULING

BERE J: When we last appeared in this court the plaintiff's counsel applied for a postponement on the basis that plaintiff's papers were not in order and that he was appearing on behalf of a colleague who was not available to handle the trial on 28 September 2009. Counsel was given the indulgence by this court to file the necessary papers and put plaintiff's house in order. It was made abundantly clear to counsel that whoever was responsible for handling this matter had to avail himself today for trial purposes. I sympathise with counsel's alleged misfortune but if his earlier submissions on 28 September 2009 are anything to go by he is not the one who is supposed to handle this matter. A fellow practitioner is the one who is supposed to represent the plaintiff. A litigant is the one who chooses his legal practitioner and there are occasions when such a litigant must bear the consequences of the conduct of his counsel.

In my view this is one such a case. We cannot have different legal practitioners taking turns to come to this court to seek postponements particularly where they represent the plaintiff who would have dragged the other party to court. A litigant who brings a case to court must have the enthusiasm to see his matter finalised. This is missing in this case.

The dilatory conduct of the legal practitioner involved in this matter does not help at all and the matter must be finalized. Everything said, I am more inclined to dismiss plaintiff's claim with costs.

Accordingly plaintiff's claim is dismissed with costs.

*Mabulala & Motsi*, plaintiff's legal practitioners  
*Gollop & Blank*, Defendants' legal practitioners