



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2009/26  
Judgment No.: UNDT/2010/003  
Date: 12 January 2010  
Original: English

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**Before:** Judge Izuako  
**Registry:** Nairobi  
**Registrar:** Jean-Pelé Fomété

MWACHULLAH

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for applicant:**  
Self-represented

**Counsel for respondent:**  
Shelly Pitterman

1. On 5 October 2009, Registrar of the United Nations Dispute Tribunal (UNDT) in Nairobi wrote to the Parties in this case formally notifying them of the court's receipt of the file in the instant matter, and advised them of further steps to be taken. The Parties were given until 19 October 2009 to i.) examine the index of the file and advise on the completeness of the record; ii.) confirm the details of their counsel; and iii.) make any further submissions.

2. On 19 October 2009, the Registry received a reply to its letter from the Respondent, filed by the United Nations High Commissioner for Refugees (UNHCR). There was no reply from the Applicant.

3. UNHCR's letter included what appeared to be a motion on receivability. The Registry then wrote to UNHCR and provided them with a template for motions and asked that the identified format be complied with. The Respondent was given until 30 October 2009 to file its reformatted motion, which it did on 27 October 2009.

4. In order to ascertain the Applicant's interest in pursuing his claim, a Legal officer from the Registry telephoned the Applicant on 28 October 2009, during the course of which conversation the Applicant was apprised of the importance of meeting the deadlines set by the court.

5. The Applicant was informed that the UNDT was seised of a Motion on Receivability in respect of this case, and that the purpose of the phone call was also to confirm the contact details provided. The Applicant was also informed that he was going to be served with the Motion, and will be given 10 days to respond. The Applicant undertook to do the necessary.

6. The Respondent's Motion was served on the Applicant using his Yahoo email address on 28 October 2009, giving him 10 days to respond. To-date, a Reply has not been filed.

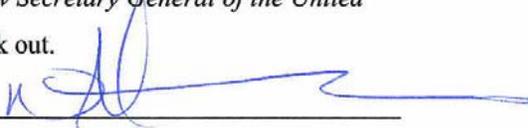
7. The Registry has since made several attempts to contact the Applicant by telephone using the landline and mobile numbers provided. A message was also left at his Office asking that he returns call as a matter of urgency. The Registry's most recent attempt to get in touch was on 7 December 2009, to no avail.

8. On 28 December 2009, the Registry wrote to the Applicant and asked that he indicates his intentions in respect of his claim against UNHCR. This letter was dispatched to the Applicant by registered mail, and to his official and Yahoo email addresses.

9. The Applicant was clearly advised that should there be no response from him by close of business on 8 January 2010, a Judgment will be entered to strike out the matter.

10. In light of the foregoing, the Tribunal finds that the Applicant has been consistently dilatory in the pursuit of this claim. Leaving the matter open on the court's docket would be inappropriate in view of the Applicant's clear lack of interest in pursuing this claim.

**ORDERS** the matter of *Emmanuel Mwachullah v Secretary General of the United Nations*, registered as UNDT/NBI/2009/26 struck out.



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Judge Izuako

Dated this 12<sup>th</sup> day of January 2010

Entered in the Register on this 12<sup>th</sup> day of January 2010.



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Jean-Pelé Fomété, Registrar, UNDT, Nairobi