



**Before:** Judge Alexander W. Hunter, Jr.

**Registry:** Geneva

**Registrar:** René M. Vargas M.

FORTEAU

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

---

**ORDER  
ON CASE MANAGEMENT**

---

**Counsel for Applicant:**

George G. Irving

**Counsel for Respondent:**

Yehuda Goor, ALD/OHR, UN Secretariat

## **Introduction**

1. On 10 April 2019, the Applicant filed an application contesting the Administration's decision of 11 January 2019 to deny his claim for compensation under Appendix D to the Staff Rules ("Appendix D") and his claim of breach of duty of care. As remedies, the Applicant requested that (1) the contested decision be rescinded and his claim be submitted to the Advisory Board on Compensation Claims ("ABCC") and (2) compensation be awarded for breach of duty of care.

2. On 14 September 2020, the Dispute Tribunal issued Judgment *Forteau* UNDT/2020/167 dismissing the Applicant's application.

3. The Applicant appealed and on 29 October 2021, by Judgment *Appellant* 2021-UNAT-1157, the Appeals Tribunal set aside the above-mentioned UNDT Judgment "except for its findings on the [non-]receivability of the Appellant's claim of gross negligence or breach of duty of care and the applicable version of Appendix D". The Appeals Tribunal also remanded the case "for a hearing de novo before a different [Dispute Tribunal] Judge".

4. The remanded case was registered under Case No. UNDT/NY/2019/022/R1, subsequently transferred to the Tribunal's Geneva Registry, where it was registered under Case No. UNDT/GVA/2022/002/T, and assigned to the undersigned Judge.

## **Consideration**

5. In its Judgment *Appellant* 2021-UNAT-1157, the Appeals Tribunal vacated the Dispute Tribunal's judgment in part on two grounds:

- a. The Dispute Tribunal did not find whether the Applicant's claim totaled less than or in excess of USD25,000; and
- b. The contested decision was *ultra vires* since the Secretary of ABCC failed to consult the ABCC.

6. The Tribunal notes that, in light of the Appeals Tribunal's ruling that the Applicant's claim of gross negligence or breach of duty of care was correctly found not receivable, the only remedy that the Applicant seeks is the rescission of the contested decision and the resubmission of his case to the ABCC.

IT IS ORDERED THAT:

7. **By Wednesday, 23 March 2022**, the parties shall submit their comments following the Appeals Tribunal's Judgment *Appellant* 2021-UNAT-1157. The Tribunal will thereafter adjudicate the case based on the papers before it.

(Signed)

Judge Alexander W. Hunter, Jr.

Dated this 8<sup>th</sup> day of March 2022

Entered in the Register on this 8<sup>th</sup> day of March 2022

(Signed)

René M. Vargas M., Registrar, Geneva