

– CONFESSIO EST REGINA PROBATIONUM –
– PROBATIO PROBATISSIMA –
– CONFESSIO FACTA IN JUDICIO OMNI PROBATIONE MAJOR EST –



**SMALL CLAIMS TRIBUNAL
(EUROPEAN SMALL CLAIMS PROCEDURE)**

ADJUDICATOR
ADV. DR. KEVIN CAMILLERI XUEREB

Sitting of Wednesday, 31st of January, 2018

Claim Number: **9 / 2017**

OUBOUSSAD LYLIA

VERSUS

CALLEJA FRANCO

The Tribunal,

Having seen the Claim Form (Form A) filed by the claimant on the 16th November, 2017 whereby the same, in line with Regulation (EC) no. 861/2007,¹ requested the Tribunal to condemn defendant to pay her the sum of three thousand, five hundred, thirty seven Sterlings and forty four pound Sterlings (GBP £3,537.44p) [equivalent to €4,010.29c] for the reasons explained under Section 8.1 of the mentioned Claim Form (*tergo* of *fol.* 3). While claimant demanded the costs of these proceedings, as per Section 7.3.1 of the Claim Form, she did not request interest on the indicated amount, as per Section 7.4 of the relative Claim Form (see *fol.* 3).

¹ As amended by "Regulation (EU) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation (EC) No 861/2007 establishing a European Small Claims Procedure and Regulation (EC) No 1896/2006 creating a European order for payment procedure".

Having seen that the defendant was duly notified with the relative acts of the proceedings on the 1st of December, 2017 (see *tergo* of *fol.* 41) and that the same filed his response (Form C) in terms of Article 5(3) and/or 5(6) of Regulation (EC) no. 861/2007 on the 5th of January, 2018 (*fol.* 42) whereby he admitted the claimant's claim, as evidenced in Section 1 of the said Form C (*fol.* 43).

Took cognizance of all the acts of the present proceedings and also of the documents relating to the case, notes that both parties demanded no oral hearing to take place (*vide* Section 9.1 of the Form A at *tergo* of *fol.* 3 and Section 3 of defendant's Form C at *fol.* 43).

The Tribunal considers:

The Tribunal has perused and examined all the documentary evidence submitted by the claimant (at *fol.* 6–38) in support of her claim, in particular her detailed "timeline of factual events" (at *fol.* 6–7) wherein she lists her allegations and defines her grievances against the defendant.

Since the defendant registered a formal admission of claimant's claim, the Tribunal has no alternative, or discretion, but to accede to claimant's request and condemn defendant to pay her the sum of three thousand, five hundred, thirty seven Sterlings and forty four pounds (GBP £3,537.44p) [equivalent to €4,010.29c].

It is a very old tenet at law that "confessio est regina probationum",² which means that a confession (or admission) is the best form of evidence ("probatio probatissima"³). Furthermore, the admission by defendant in this case did not emerge from any documentation exhibited by claimant or one that may be inferred therefrom, but it was tendered voluntarily and explicitly by the same in his formal response (Form C). Therefore, as the Latin maxim states, "confessio facta in iudicio omni probatione major est",⁴ which signifies that a confession made in court (or

² On this principle, see, *inter alia*, **Carmelo Bonnici noe v. Ronald Farrugia et** (Court of Appeal, Superior jurisdiction, 26th of October, 1970; not published); **Massimo Vella v. V. Petroni (Imports) Ltd** (Court of Appeal, Inferior jurisdiction, 28th of November, 2007); **Galscer & Bilom Ltd v. Anthony Azzopardi** (Court of Appeal, Inferior jurisdiction, 22nd of May, 2009); and **APS Bank Ltd v. Francis Xavier Micallef** (Court of Appeal, Inferior jurisdiction, 7th of July, 2010).

³ On this principle see "Massime, Enunciazioni e Formule Giuridiche Latine" (Hoepli 1993) by **Umberto Albanese**, at p. 295. See also "Il Latino In Tribunale: Dizionario dei Broccardi e Termini Latini" by **Federico del Giudice** (Simone ed. IV, 2011) at p. 260 where there is stated, *inter alia*, that, "Con il termine probatio probatissima si è soliti fare riferimento alla confessione che è il mezzo probatorio per eccellenza."

⁴ On this principle, see "Trayner's Latin Maxims" (Sweet & Maxwell, 4th edition, 1993) at pp. 92–93.

formally during proceedings) is of greater effect than any proof: “*Se resa in giudizio essa vincola il giudice, il quale dovrà ritenere raggiunta la prova in ordine alla veracità dei fatti ammessi, traendone ogni conseguenza in sede di decisione della causa.*”⁵

Thus, no argument is required since there is an explicit and unconditional admission of the defendant that the sum demanded by the claimant is owed to her by him as described in claimant’s Form A (corroborated by the documents attached thereto). Such an admission is the best evidence that an opposing party can rely upon, and though not conclusive *in* or *per se*, it is decisive of the matter at issue, unless successfully withdrawn or proved erroneous. In this case, there is nothing contrary on record in order to show that the defendant’s admission was withdrawn or was submitted erroneously.

Decision:

Therefore, in the light of defendant’s admission, the Tribunal condemns the defendant to pay claimant the sum of three thousand, five hundred, thirty seven Sterlings and forty four pound Sterlings (GBP £3,537.44p) [equivalent to €4,010.29c] in line with claimant’s request contained in the relative Claim Form (Form A).

No interest is to run on the said amount of GBP £3,537.44p, as per Section 7.4 of the Claim Form, whereas the costs of the present proceedings, as per Section 7.3.1 of the Claim Form, are to be borne entirely by the defendant.

Finally, the Tribunal orders that a copy of this judgment is served upon the parties in terms of Article 13 of Regulation (EC) no. 861/2007.

Sgnd. ADV. DR. KEVIN CAMILLERI XUEREB
Adjudicator

Sgnd. ADRIAN PACE
Deputy Registrar

⁵ See “Il Latino In Tribunale: Dizionario dei Broccardi e Termini Latini” by **Federico del Giudice** (Simone ed. IV, 2011) at p. 67.