

Malsol v. Ngiratechekii, 7 ROP Intrm. 24 (1998)
CELESTINO MALSOL,
Appellant,

v.

AKIWO NGIRATECHEKII,
Appellee.

CIVIL APPEAL NO. 18-97
Civil Action No. 154-88

Supreme Court, Appellate Division
Republic of Palau

Issued: February 24, 1998

Counsel for Appellant: Marvin Hamilton, Esq.

Counsel for Appellee: J. Roman Bedor, T.C.

BEFORE: LARRY W. MILLER, Associate Justice; R. BARRIE MICHELSEN, Associate Justice; and ALEX R. MUNSON, Part-time Associate Justice.

PER CURIAM:

In 1988, appellee Akiwo Ngiratechekii instituted a personal injury action against appellant Celestino Malsol and two other defendants.¹ Malsol filed an answer *pro se*. On March 11, 1997, the Trial Division issued an order setting the case for trial on April 29, 1997. The defendants did not appear on that date, and the trial was held in their absence. The Trial Division found in favor of Ngiratechekii. Malsol, by counsel, filed a notice of appeal and an opening brief, arguing that the Trial Division erred in proceeding with the trial in his absence when there was no proof of service indicating that he had been **125** served with a copy of the order setting the trial date.²

The trial file does not contain a proof of service or any other documents indicating that Malsol was served with a copy of the March 11, 1997 order setting the trial date. Furthermore, the Trial Division's decision does not contain any findings of fact concerning Malsol's receipt of that order.

¹ The other two defendants did not appeal.

² Malsol argued also that the Trial Division erred in awarding punitive damages against him when no evidence of his financial condition was admitted at trial. We have rejected that same argument and see no reason to reach a different result here. While either party may introduce evidence of a defendant's wealth, such proof is not a necessary element of a plaintiff's claim for punitive damages. *See Wolff v. Arugay*, 7 ROP Intrm. 22 (1998); *Robert v. Ikesakes*, 6 ROP Intrm. 234 (1997).

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We do not believe that we can proceed with this appeal without a better factual record concerning service of the March 11, 1997 order. Accordingly, this case is hereby REMANDED to the Trial Division to make a factual determination whether Malsol received the March 11, 1997 order or was otherwise aware that a trial date had been set. We retain jurisdiction over this appeal and instruct the Trial Division to forward its factual findings to us.