



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CIVIL CASE NO. 170 OF 2017**

**BULENT GULBAHAR .....1<sup>ST</sup> PLAINTIFF**

**REMAX CONSTRUCTION LIMITED.....2<sup>ND</sup> PLAINTIFF**

**VERSUS**

**NATIONAL HOSPITAL INSURANCE FUND.....DEFENDANT**

**RULING**

1. I have looked at the Plaintiff's *ex parte* Chambers Summons application dated 17<sup>th</sup> May 2019 and filed on 12<sup>th</sup> July 2019 and the Supporting affidavit of Bulent Gulbahar that was sworn on 17<sup>th</sup> May 2019 and heard oral submissions by their counsel. I note that the Summons to Enter Appearance were issued on 2<sup>nd</sup> August 2017 and expired on 7<sup>th</sup> August 2018.
2. Under Order 5 Rule 2 (1), an original summons other than a concurrent summons shall be valid in the first instance for twelve (12) months beginning with the date of its issue and a concurrent summons shall be valid in the first instance for the period of validity of the original summons which is unexpired at the date of issue of the concurrent summons.
3. In view of the fact that the original summons were issued on 2<sup>nd</sup> August 2017 and expired on 1<sup>st</sup> August 2018, they are dead and cannot be revived.
4. Accordingly, I find and hold that the Plaintiff's *ex parte* Chambers Summons application dated 17<sup>th</sup> May 2019 and filed on 12<sup>th</sup> July 2019 was not merited and the same is hereby dismissed but with no order as to costs as it was an *ex parte* application.
5. Orders accordingly.

**DATED and DELIVERED at NAIROBI this 25th day of September 2019**

**J. KAMAU**

**JUDGE**