

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
COMMERCIAL AND TAX DIVISION
CIVIL SUIT NO.409 OF 2012

PATRICK WABWILE PAMBA.....1ST PLAINTIFF
EDNA WANJIRU MWANGI.....2ND PLAINTIFF
ARTHUR D. WASHE.....3RD PLAINTIFF
JOHN GITAU KAMAU.....4TH PLAINTIFF
JOHN K. THAGANA.....5TH PLAINTIFF
JOHN NYUGUTO NDERITU.....6TH PLAINTIFF
JACOB OTIENO OBIERO.....7TH PLAINTIFF
EDWIN MAINA WAWERU.....8TH PLAINTIFF

VERSUS

EQUITY BANK LIMITED.....1ST DEFENDANT
JAMES NJUGUNA MWANGI.....2ND DEFENDANT
MARY WANGAI WAMAE.....3RD DEFENDANT
KENNETH MBAABU MUCHIRI.....4TH DEFENDANT
GERALD GACHOKA WARUI.....5TH DEFENDANT
ANDREW MWANGI KIMANI.....6TH DEFENDANT

[The 2nd, 3rd, 4th, 5th and 6th Defendants are being sued
as Trustees of Equity Bank Share Ownership Plan "ESOP?"]
RULING NO.2

FINAL CALCULATIONS

1. It is common ground that the plaintiffs ceased to work for the Bank on the following days:

	<u>NAME</u>	<u>DATE</u>
1.	Patrick Wabwile Pamba	28 th March 2007
2.	Edna Wanjiru Mwangi	16 th January 2008
3.	Arthur D. Washe	26 th June 2007
4.	John Gitau Kamau	31 st January 2008
5.	John K. Thagana	30 th June 2007
6.	John Nyaguto Nderitu	28 th July 2007
7.	Jacob Otieno Obiero	3 rd July 2007
8.	Edwin Maina Waweru	21 st April 2007

2. In line with the Judgement, each of the plaintiffs became entitled to receive payment by the 30th day after he/she ceased to be employed by the Bank.

3. Therefore, the Court declared that the price per share should be pegged to the value of shares on the 30th day from the date when each employee left his/her job.

4. The plaintiff made available the Price Lists from the Nairobi Securities Exchange. Based on the said Price Lists, the prices of the shares were as follows;

	<u>DATE</u>	<u>SHARE PRICE</u>

1.	26 th February 2007	Kshs. 91.50
2.	14 th February 2008	Kshs. 145.00
3.	25 th July 2007	Kshs. 130.00
4.	29 th February 2008	Kshs. 157.00
5.	25 th July 2007	Kshs. 130.00
6.	27 th August 2007	Kshs. 128.00
7.	1 st August 2008	Kshs. 274.00
8	21 st May 2007	Kshs. 98.00

5. I note that the plaintiffs chose to use the “Average Prices” instead of the actual prices which were prevailing on the 30th day after each of them ceased to work at the bank.

6. On the other hand, the defendants used the actual share prices, which were provided by the plaintiffs.

7. The court had made it clear that the price to be used in calculating the amounts payable were the actual figures prevailing at the Nairobi Securities Exchange. Therefore, the plaintiffs erred when they applied the Average Prices.

8. On the question the number of days, the defendants have calculated the interest until 13th February 2017. However, as the plaintiffs received the undisputed amounts on 5th April 2017, the interest should be calculated for a further 51 days.

9. By my calculations, the extra sums payable on Account of further Interest is as follows;

	<u>NAME</u>	<u>AMOUNT IN KSHS.</u>
1.	Patrick Wabwile Pamba	Kshs.124,836.48
2.	Edna Wanjiru Mwangi	Kshs. 33,964.71
3.	Arthur D. Washe	Kshs.188,907.75
4.	John Gitau Kamau	Kshs. 27,722.30
5.	John K. Thagana	Kshs.166,192.22
6.	John Nyaguto Nderitu	Kshs.686,301.07
7.	Jacob Otieno Obiero	Kshs.546,125.59
8.	Edwin Maina Waweru	Kshs.109,939.73
	Aggregate Interest	Kshs.1,835,257.58

DATED, SIGNED and DELIVERED at NAIROBI this 31st day of May 2017.

FRED A. OCHIENG

JUDGE

Ruling read in open court in the presence of

Ooyo for the Plaintiffs

Miss Mwika for Kiche for the Defendants

Collins Odhiambo – Court clerk.