

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT ELDORET

Civil Case 30 of 2008

PERPETUA JERONO BARTOO (Suing as

the Administrator and Defendant of

BENJAMIN RONO – DECEASED)PLAINTIFF

VERSUS

ROBERT KIPSANG YEGON 1ST DEFENDANT

MULTIPLE HAULIERS (E.A) LTD.....2ND

DEFENDANT

AND

DAMARIS NEKESA MATOFARI

(being sued as Legal representative of the Estate of

LUKA WEBO SABUNI – DCD)PROPOSED 3RD PARTY

RULING

Before me is an application by way of Chamber Summons brought by the Defendant under Order 1 Rule 1 of the CPR and Section 3 and 3A of the Civil Procedure Act seeking leave to issue 3rd Party Notice against **DAMARIS NEKESA MATOFARI** the Administrator of the Estate of **LUKA WEBO SABUNI** who was the owner of motor vehicle registration No. KAY 266Y Toyota Carina Saloon.

In support of the application **CLIVE CRITCHLOW** has sworn an affidavit giving grounds. Mr. Kimani Counsel for the Applicant submits that the claim in the suit arises out of a road accident involving two motor vehicles namely KAG 584J ZB 6784 and KAY 266Y. As a result of the said accident the deceased Benjamin Rono who was lawfully traveling in motor vehicle No. KAY 266Y sustained serious injuries which caused his death. The Plaintiff filed a suit against the owner of motor vehicle No. KAY 266Y as well as his driver. For the real issue in controversy to be effectively determined by the Court it is important and necessary to issue a Third Party Notice against the owner of motor vehicle registration No. KAY 266Y.

I agree with the Applicant. Accordingly the application is allowed in terms of prayer (a) and (b) of the ex parte Chamber Summons dated 11th May, 2009.

DELIVERED AND DATED AT ELDORET THIS 29TH DAY OF SEPTEMBER, 2009.

J. L. A. OSIEMO

JUDGE