



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT ELDORET**

**Civil Suit 154 of 2004**

**IAN KEINO ..... PLAINTIFF**

**VERSUS**

**ISAIAH KIPLAGAT ..... 1<sup>ST</sup> DEFENDANT**

**THE STANDARD LIMITED ..... 2<sup>ND</sup> DEFENDANT**

**CHRIS MBAISI ..... 3<sup>RD</sup> DEFENDANT**

**R U L I N G**

I have considered the Application for adjournment. I am satisfied that both the Counsels for the Defendants were duly served. Counsel for the 1<sup>st</sup> Defendant Mr. Ochieng Oduol is said to be in Nairobi and involved in another matter at the High Court there. He did not provide particulars of the said case. Order X, Rule II A (1) and (2) requires a party to make discovery by filing and serving on the opposite party a list of the documents relating to the matter in question in the suit which were or have been in his possession or power.

The Plaintiff duly did this in February, 2007. There is no obligation to file or serve copies of the documents. In many cases that is already happening.

I have seen the pleadings. This is a serious and heavily contested defamation case, I apprehend that if it goes to trial without the Defendants that there is a high likelihood that they will apply to set aside.

In all, I think that this suit deserves a full trial on the merits with all parties being heard. I am inclined to grant the adjournment. Next time the Defendants will be absent at their own peril.

The Defendants shall pay the Plaintiff's Counsel's costs (getting up for trial) and the costs/expenses incurred by the Plaintiff and witnesses which I shall assess right away. I will also give a new date in the new term.

I think Mr. Ochieng Oduol ought to have done more to show his good faith in making the application for adjournment. On the other hand, I have seen the bundle of documents that the Plaintiff served on the Defendants. They are substantial. They certainly require keen inspection considering that this is a defamation case. I know that the Plaintiff was not obliged to serve the documents. However, having chosen to serve and which gesture I must commend, it is in the interest of fair and expeditious trial that the parties have sufficient time to study the said documents. While the Rules are not elaborate after Summons for Directions was done away with, yet I think that a practice ought to be established that parties exchange copies of documents in advance for a fair and speed trial. I recommend such a practice to be nurtured by Counsel.

DATED AND DELIVERED AT ELDORET ON THIS 30<sup>TH</sup> DAY OF MAY, 2007.

M. K. IBRAHIM

JUDGE

FURTHER ORDER

The 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Defendants shall pay a sum of Kshs. 5,000/= all inclusive to the Plaintiff for the adjournment of this case. They are to pay this jointly and severally. The Defendants to pay Court adjournment fees to be shared equally.

The hearing of the suit is taken out and stood over to 9<sup>th</sup> October, 2007 at 9 a.m.

M. K. IBRAHIM

JUDGE