



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (NAIROBI LAW COURTS)**

**Civil Suit 1094 of 2004**

**KENNETH OGUTU EKESSAH ..... PLAINTIFF/RESPONDENT**

**VERSUS**

**ALLPACK INDUSTRIES LIMITED .....1<sup>ST</sup> DEFENDANT**

**KENYA UNION OF PRINTING, PUBLISHING,**

**PAPER MANUFACTURES & ALLIED WORKERS .....2<sup>ND</sup> DEFENDANT/APPLICANT**

**RULING**

This Chamber Summons brought under VI Rule 13 (1) (a) of the Civil Procedure Rules seeks to have the Plaintiff's case in "**the plaint herein**" against the 2<sup>nd</sup> Defendant be struck out on the ground that it discloses no reasonable cause of action against the 2<sup>nd</sup> Defendant.

M/s J.A Guserwa representing the 2<sup>nd</sup> Defendant submitted that this was an application for an order to have the 2<sup>ND</sup> Defendant struck off the pleadings as the Cause of action as filed discloses no cause of action against the 2<sup>nd</sup> Defendant.

Mr. Conll Rajaba Mwondi the 2<sup>nd</sup> Defendant's National General Secretary has sworn a supporting Affidavit. The Plaintiff seeks damages for wrongful dismissal from employment. Was employed by the 1<sup>st</sup> Defendant who exercised right to dismiss the Plaintiff and the 2<sup>nd</sup> Defendant had no part at all to play. M/s Guserwa submitted further that nothing shows the role the 2<sup>nd</sup> defendant played in the dismissal of the Plaintiff. That is why this application was not opposed. No cause of action disclosed. Application be granted.

Having carefully considered what has been said in the light of the plaint, original or amended particularly paragraphs 8,9 and 10, I do not agree with what M/s Guserwa has said and therefore this Chamber Summons is hereby dismissed with no order as to costs.

Dated and delivered at Nairobi this 7<sup>th</sup> day of December, 2007.

**J.M. KHAMONI**

**JUDGE**