



**Miseda v Jubilee Insurance Company of Kenya Limited (Cause  
1611 of 2018) [2024] KEELRC 1128 (KLR) (16 May 2024) (Ruling)**

Neutral citation: [2024] KEELRC 1128 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 1611 OF 2018  
NZIOKI WA MAKAU, J  
MAY 16, 2024**

**BETWEEN**

**VICTORIA MISEDA ..... CLAIMANT**

**AND**

**JUBILEE INSURANCE COMPANY OF KENYA LIMITED ..... RESPONDENT**

**RULING**

1. Objection is taken by Mr. Mbaluto for the Respondent to a line of questioning that Mr. Oyatta has taken. Mr. Mbaluto asserts that the questions have taken the matter on a trajectory that is new and one that is not supported by the testimony adduced in the Claimant's witness statement. He asserts a new Chief Executive Officer is being mentioned and there is also mention of PIP yet these have featured nowhere in the documentation availed by Claimant. He thus asserts this is an ambush and should be stopped.
2. Mr. Oyatta, learned counsel for the Claimant asserts in his response that the objection is misplaced and the Claimant cannot have put everything in her statement. He asserts that all she is relating to court is the facts of the case and that it is impossible to put everything down. He thus sees no reason for counsel's objection to the testimony he is adducing.
3. In his reprise, Mr. Mbaluto states that the Claimant has invoked the name of the Chief Executive Officer and that granted none of his witnesses is the Chief Executive Officer nor occupying senior managerial positions, there would be need to rebut what is being stated by Claimant by availing a witness who can speak to those issues.
4. In the *Employment and Labour Relations Court (Procedure) Rules* 2016, there is a provision at Rule 14(7) which provides that where a court either on its own Motion or on application by a party, is satisfied that a pleading does not adequately set out the particulars required by it or for any other reason the court requires clarification on any pleading or submission by a party, it may request the party to



provide further details or file any supplementary pleadings as it may consider necessary within such period as it may determine or specify and the party so requested shall provide them to the court and the other party.

5. Additionally, Rule 21 of the Rules does provide for a determination of a suit by way of the pleadings, affidavits, documents filed and submissions made by the parties. This recognizes, as does Rule 14(7) cited in my previous iteration of the Rules, that parties are to place as much as is practical all thus be to rely on for purposes of the case as the Rules place a premium on the laying of the case by parties in the documents and pleadings.
6. As the Claimant is now adverting to issues that the Respondent correctly asserts are not contained in her witness statement or pleadings, the court upholds the objection with a caveat. The Claimant is granted 7 days within which she is to file and serve the additional documents in relation to the aspects of appointment and the performance improvement programme that she asserts she underwent.
7. The Respondent is granted a similar period within which to avail a statement and documents if need be to answer to the said aspects as will arise in the Claimant's further witness statement. Consequently, the court defers the matter to a mention on 30<sup>th</sup> May 2024 to ascertain the filed documents and give directions as to the hearing and disposal of this suit.
8. As a side note court impresses upon parties approaching the court to as much as possible where prevailed to file evidence in support of their cases to place all the relevant evidence to court to enable the dispensation of justice without hiccups such as what we have witnessed today.

It is so ordered.

**DATED AND DELIVERED AT NAIROBI THIS 16<sup>TH</sup> DAY OF MAY 2024**

**NZIOKI WA MAKAU**

**JUDGE**

