



**Stanori v Directline Assurance Company Limited (Civil Appeal E1199 of 2023)
[2025] KEHC 14479 (KLR) (Appeals) (17 September 2025) (Judgment)**

Neutral citation: [2025] KEHC 14479 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
APPEALS
CIVIL APPEAL E1199 OF 2023
LP KASSAN, J
SEPTEMBER 17, 2025**

BETWEEN

BEATRICE ATEMU STANORI APPLICANT

AND

DIRECTLINE ASSURANCE COMPANY LIMITED RESPONDENT

JUDGMENT

1. This Appeal emanates from a Ruling dated the 12th October 2023 which struck out a Defence on the basis that it did not raise triable issues. The brief facts of this matter is that the Respondent in this case filed a declaratory suit against the Appellant herein in order to satisfy Judgment and decree obtained in the Lower Court. I have read submissions and looked at the relevant documents and to dispose this matter, I wish to note the following;
 1. It is a well-established principle that striking out defence must be as a result of compelling reasons as such decision competes stiffly with a litigants' right to be heard. Courts must exercise caution in order to balance the right to fair hearing and the same prevent abuse of Courts processes by striking out unnecessary Defence.
 2. The Defence which was struck out challenged statutory notice to the Respondent herein and denied that the Respondent insured one Mr Peter Osodo who was found liable in the Lower Court Judgment. Infact the defendant denied being aware of the Lower Court proceedings despite "prove" of service which was tendered at the lower Court. What this Court needs to address itself to is whether denial of service or knowledge of a concluded matter can amount to triable issues or not. The Defendant gives the name of its insured as Mr Waweru. Can this amount to triable issues?



3. The trial Magistrate appears to have relied on the evidence produced in the lower Court especially the statutory notices and other documents. Can the documents produced in the lower Court be treated as genuine especially if produced by a party who is not the author? The reality is that not all documents produced in Courts are genuine and that is why there are incidents of forgeries in our Courts. This however should not be taken to mean that the documents in this matter are forgeries but the fact that a party has questioned these documents should prompt an opportunity to prove on the authenticity of the documents- and this can only be done through hearing.
4. The precedent, if set of not allowing a party who alleges that he/ it did not participate in a concluded matter either because of lack of service or any other reason is likely to have a far reaching ramification. What if parties decide to forge documents and have matters concluded unfairly, wouldn't it significantly affect business and industries or insurance companies?
5. Indeed, any plaintiff has a right to enjoy fruits of his judgement but the Court must juggle this right visa vis the right of a defendant to fair hearing. Courts have in many instances safeguarded the rights of both litigants with conditions such as deposit of decretal amount to an interest earning account.
6. In conclusion, I set aside the Ruling by Honourable Omodho dated the 12th day of October 2023 and direct as follows;
 - a. That the lower Court matter be heard by a Magistrate other than Honourable Omodho and be concluded within Six (6) months from today.
 - b. The Appellant to deposit the entire decretal amount to an escrow account within 30 days from today failure to which execution to issue.

2. Orders Accordingly.

DELIVERED, DATED AND SIGNED AT NAIROBI THIS 17TH DAY OF SEPTEMBER, 2025

L. P. KASSAN

JUDGE

Carol - Court Assistant

