



**Andwati v Strathmore University (Cause E093 of 2025)
[2025] KEELRC 3201 (KLR) (14 November 2025) (Ruling)**

Neutral citation: [2025] KEELRC 3201 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E093 OF 2025
SC RUTTO, J
NOVEMBER 14, 2025**

BETWEEN

SHARON MUVOKA ANDWATI CLAIMANT

AND

STRATHMORE UNIVERSITY RESPONDENT

RULING

1. Before this Court for determination is a Notice of Motion dated 16th June 2025, through which the Claimant Applicant seeks an order directing the Respondent to reopen and grant her access to her official work email address, sandwati@strathmore.edu, for purposes of retrieving crucial communications and documents relevant to this case.
2. The Application is premised on the grounds set out on its face and is supported by the Affidavit of the Claimant, Sharon Muvoka Andwati, sworn on 16th June 2025. Ms. Andwati avers that during her employment with the Respondent, she was assigned an official email address, namely sandwati@strathmore.edu, through which she conducted all work-related correspondence. She contends that upon termination of her employment, access to the said email account was disabled, thereby preventing her from retrieving crucial information pertinent to this case.
3. Ms. Andwati further states that the Respondent, in its Response to the Statement of Claim and Counterclaim, has made certain averments which she considers false and which necessitate evidentiary proof before this Honourable Court.
4. She asserts that the evidence required to rebut the Respondent's allegations is contained in the official email account assigned to her by the Respondent.
5. Ms. Andwati adds that, to her knowledge, when employees leave the Respondent's employment, their official email accounts are retained in their existing form and can therefore be accessed if authorization is granted.



6. She expresses apprehension that, in ordinary circumstances, the Respondent could be compelled to produce the relevant documents; however, she fears that the Respondent may delete or tamper with the contents of the said email account if only directed to produce specific documentation therefrom.
7. In response to the Application, the Respondent filed a Replying Affidavit sworn on 9th July 2025 by Grace Kamengere, who describes herself as the Director of the Respondent's Medical Centre.
8. Ms. Kamengere avers that she has been advised by her advocates, whose advice she verily believes to be true, that the orders sought by the Claimant are in the nature of discovery, which is governed by strict procedural requirements. She states that for discovery orders to be granted, an applicant must specify the information sought with sufficient detail to enable proper identification and retrieval of the relevant documents.
9. She further avers that in the absence of such specificity, an applicant is not entitled to discovery orders, as discovery is not intended to serve as a fishing expedition to enable a party to assess the strength of their case by examining the opposing party's evidence.
10. Ms. Kamengere asserts that the Claimant has not provided sufficient particulars of the information sought to justify the prayer for access to her former official email account hosted by the Respondent.
11. She adds that the Claimant's broad and imprecise request to retrieve "crucial documents and conversations" fails to identify any specific materials essential to her case and does not indicate which particular documents or emails she requires to respond to the Respondent's pleadings. In her view, this renders the Application overly intrusive and speculative, as it is unsupported by evidence that the email account contains material relevant to the dispute.
12. Ms. Kamengere contends that the Application amounts to a fishing expedition, seeking unrestricted access to the Respondent's email systems without specifying the particular documents or correspondence sought, thereby disregarding established legal procedures and placing an undue burden on the Respondent.
13. She further avers that the Claimant's own bundle of documents already contains relevant email correspondence exchanged during her employment, including communications with her former work team and other parties. That in spite of this, the Claimant has not identified any additional materials she wishes to obtain from the email account, underscoring the speculative nature of her request.
14. In Ms. Kamengere's view, the Application is an afterthought, having been filed only after the Respondent had already filed and served its Response to the Memorandum of Claim.
15. She further avers that granting the Claimant unfettered access to the email address previously assigned to her would pose a significant risk to the integrity and confidentiality of the Respondent's internal data, as it could expose sensitive institutional information, including third-party data, thereby prejudicing the Respondent.
16. Ms. Kamengere further terms the Claimant's apprehension that the Respondent may delete or alter email contents as speculative and unsupported by evidence.

Submissions

17. The Application was canvassed by way of written submissions. The Court has given due consideration to the submissions by both parties.



Analysis and Determination

18. Through the instant Motion, the Claimant seeks an order compelling the Respondent to reopen and grant her access to her former official work email address, sandwati@strathmore.edu, for the purpose of retrieving certain conversations and documents she deems crucial to the prosecution of her case.
19. Section 22(a) of the *Kenya Civil Procedure Act 1997* empowers the Court to order the discovery, inspection, production, and admission of documents or other material evidence. The provision states as follows:
 - “Subject to such conditions and limitations as may be prescribed, the court may, at any time, either of its own motion or on the application of any party—
 - a. make such orders as may be necessary or reasonable in all matters relating to the delivery and answering of interrogatories, the admission of documents and facts, and the discovery, inspection, production, impounding and return of documents or other material objects producible as evidence;
20. The purpose of discovery is well articulated in Halsbury’s Laws of England, Volume 13, Paragraph 1, which provides as follows:
 - “The function of discovery of documents is to provide the parties with the relevant documentary material before trial so as to assist them in appraising the strength and weakness of their relevant cases, and thus provide the basis for the fair disposal of the proceedings before it or at the trial. Each party is thereby enabled to see before the trial or to adduce in evidence at the trial relevant documentary evidence material to support or rebut the case made against him, to eliminate surprise at or before the trial relating to the documentary evidence and to reduce the cost of litigation.”
21. Fundamentally, discovery in legal proceedings is aimed at facilitating a fair and just determination of disputes by enabling parties to obtain and exchange relevant information and evidence prior to trial. This pre-trial process is essential to avert surprises, promote transparency, and allow parties to make informed decisions in the preparation and presentation of their respective cases.
22. In seeking access to her former work email address, the Claimant avers that the Respondent has made certain averments in its Response to the Statement of Claim and Counterclaim which she considers false and requiring evidence before this Court. She maintains that the evidence necessary to disprove the Respondent’s allegations is contained in the official email account previously assigned to her by the Respondent.
23. The Respondent, in opposition, contends that the Claimant’s Application amounts to a fishing expedition, seeking unfettered access to its email systems without identifying the specific or relevant material sought.
24. The Respondent further argues that the Claimant has failed to identify the particular emails she seeks, their relevance to the matter before the Court, or the necessity of such access to the just resolution of the case.
25. In response, the Claimant submits that her request does not constitute a fishing expedition, as she is not seeking access to the Respondent’s general email system but only to her former work email account, and solely for the purpose of retrieving documents and correspondence relevant to this suit.



- 26. Upon review of the Claimant’s Motion, it is apparent that, beyond the general request for access to her former work email account, the Claimant has not identified the specific information or documents within the said account that she seeks to retrieve in support of her case.
- 27. Indeed, in her Supporting Affidavit, the Claimant refers to certain averments in the Respondent’s Statement of Response and Counterclaim, which she considers untrue and contends can be disproved through evidence contained in her former work email account. This being the case, one wonders why the Claimant did not narrow down her request to specific documents or communications, the relevant timeframe, and their significance to the issues in dispute.
- 28. Given the broad and unspecific nature of the Claimant’s request, the Court is unable to ascertain the relevance of the email correspondence to which access is sought.
- 29. Consequently, the Notice of Motion dated 16th June 2025 is hereby disallowed, with no order as to costs.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 14TH DAY OF NOVEMBER 2025.

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STELLA RUTTO

JUDGE

In the presence of :

Mr. Mwangale for the Claimant Applicant

Ms. Njueini for the Respondent

Elijoy Court Assistant

ORDER

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules , which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court had been guided by Article 159(2) (d) of *akn ke act 2010 constitution the Constitution* which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *akn ke act 2010 constitution the Constitution* and the provisions of Section 1B of the *akn ke act 1924 3 Civil Procedure Act* (Chapter 21 of the Laws of Kenya) which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

STELLA RUTTO

JUDGE

