

REPUBLIC OF KENYA
IN THE EMPLOYMENT & LABOUR RELATIONS COURT
AT NAIROBI

ELRC PETITION NO. E203 OF 2025

(Before Hon. Lady Justice Hellen Wasilwa, J)

NATHAN BRONZE ONSARE ASIAGA.....1ST
PETITIONER
MARTIN OKOTH OMWAYI2ND
PETITIONER

VS

ONESMUS MALUKI MUTIO (being THE
SECRETARY GENERAL, UNIVERSITY
ACADEMIC STAFF UNION
(UASU) - MMU CHAPTER).....1ST
RESPONDENT

GILBERT MITEI KOECH (being THE
SECRETARY GENERAL, KENYA
UNIVERSITIES STAFF UNION
(KUSU), MMU CHAPTER).....2ND
RESPONDENT

ALBERT KOCHEI (being THE CHAIRMAN,
UNIVERSITY COUNCIL, MULTIMEDIA
UNIVERSITY OF KENYA).....3RD
RESPONDENT

THE PRINCIPAL SECRETARY,
MINISTRY OF EDUCATION.....4TH
RESPONDENT

AND

PROF. ROSEBELLA ORANGI MARANGA.....INTERESTED
PARTY

ROBERT KENNEDY OTIENO....PROPOSED 2ND INTERESTED
PARTY

RULING

- 1 The Proposed 2nd Interested Party/Applicant filed a Chamber Summons dated 9th October 2025 seeking orders that: -
 - 1) *The Applicant be enjoined as an Interested Party in this suit.*
 - 2) *The costs of this Application be provided for.*

Proposed 2nd Interested Party/Applicant's Case

- 2 The Applicant avers that he is a member of staff where the Interested Party is the Vice Chancellor and also a member of Kenya Universities Staff Union where the 2nd Respondent is Branch Secretary directly affected by the subject matter of the petition and has approximate interest and personal stake in it.
- 3 The Applicant avers that in the circumstances, he is intimately connected with these proceedings and the outcome and is therefore a necessary party for the purposes of fair and just adjudication of the dispute herein.
- 4 The Applicant avers that his exclusion from the proceedings would cause prejudice, miscarriage of justice and misrepresentation of facts affecting members of the union and the entire staff which facts can better be presented to the court by an independent union member; and that is who the Applicant is.

- 5 It is the Applicant's case that the judgment in this matter shall bind him, fellow union members and staff.
- 6 He avers that if he is excluded, there will be real and substantial, prejudice against the *audi alteram partem* rule of the true state of issues among majority of staff and union members. Therefore, it will be in the interest of justice that the application be allowed.
- 7 The Applicant avers that the Petitioners have conflict of interest as they are pursuing personal gains without due regard to the interest of majority of staff members and union members. Thus, he is the best person to bring out these interests before this court as he has evidence to support this.
- 8 The Applicant avers that the Petitioners filed this suit before exhausting available internal mechanisms and without consulting the union membership and staff whose interests they purport to pursue; a matter that the Applicant will address in details if this court allows the joinder application.
- 9 The Applicant avers that Prof. Rosebella Orangi Maranga, though listed as Interested Party, has not been included by the Petitioners under the same capacity in the court e-filing system, her address of service not indicated in the petition and her representation not described. The Applicant if granted by the court to be a party shall demonstrate why the listed interested party should have

been the Petitioner in this matter and why she has colluded with the Petitioners to waste judicial time despite pending internal decision on the matter.

- 10 The Applicant avers that he has taught several units at Multimedia University including MME 2225 Solid Mechanics I, MME 2311 Mechanics of Machines II, and MME 2325 Solid Mechanics III, for which he has not been paid, and he is currently teaching MME 2312 Mechanics of Machines I, MME 2316 Solid Mechanics II, and MME 2413 Vibrations.
- 11 He further avers that he has taught at the TVET institute of the university, and his payments for this engagement remain unaddressed despite raising the issue through union petitions.
- 12 The Applicant avers that his presence in these proceedings is necessary to demonstrate the real and continuing harm suffered since the 3rd Respondent and the Council have not acted on prayers in the union petitions and it will ensure the court is fully informed of the factual matrix.
- 13 The Applicant avers that he possess video evidences of speeches made by the 3rd Respondent and Council members acknowledging the union petitions and the issues raised therein, which he is prepared to present to the Court.
- 14 It is the Applicant's case that he was present during the presentation of the union petitions and witnessed the 2nd

Petitioner's failure to object, despite everyone being given an opportunity by the unions and Council.

- 15 The Applicant avers that the 1st Interested Party fell ill on 10th March, 2025 and was hospitalized at the Nairobi Hospital, a matter brought to attention of the Council by herself.
- 16 Following receipt of notification of illness, the Council sat on 12th March, 2025 to deliberate on continuity and one Prof Geoffrey Kihara Rurimo who appointed to act for a period of three months as required under Section 26(2) of the Multimedia University of Kenya Charter, 2013.
- 17 The Applicant avers that the Petitioners misrepresent facts by alleging that the matter was brought to the attention of the Council through Petitions by Unions.

3rd Respondent's Case

- 18 In opposition, the 3rd Respondent filed Grounds of Opposition dated 6th November 2025 on the following grounds:

- 1. The Proposed 2nd Interested Party is not a necessary party as no orders are sought against him and he will be directly affected by any final order and/or decree that may be issued.*
- 2. The Proposed 2nd Interested Party is not necessary party as his presence is not necessary in order to enable the Court effectively and completely*

adjudicate upon the questions involved in the Petition and his presence is not necessarily complete and final decision on the questions involved in the proceedings.

3rd Respondent's Submissions

19 The 3rd Respondent submitted that the principles for joining a party to a suit as an Interested party were summarized by Nambuye (J) (as she then was) in **Joseph Njau Kingori v Robert Maina Chege & 3 others [2002] KEHC 1192 (KLR)** as follows:—".....the guiding principles when an intending party is to be joined are as follows:

- 1.** *He must be a necessary party*
- 2.** *He must be a proper party.*
- 3.** *In the case of a defendant there must be a relief flowing from that defendant to the plaintiff.*
- 4.** *The ultimate order or decree cannot be enforced without his presence in the matter.*
- 5.** *His presence is necessary to enable the Court to effectively and completely to adjudicate upon and settle all questions involved in the suit."*

20 The 3rd Respondent submitted that Proposed 2nd Interested Party does not satisfy the criteria for being joined as a party for the following reasons: The 2nd Interested Party will not be personally affected by any of the final orders sought in the Petition as the Orders are specific to the Respondents and relate specifically to discussion of the

Interested Party Health; The Proposed 2nd Interested Party's presence is not necessary for the Court to make a just and conclusive determination of the Petition; The Proposed 2nd Interested Party is a member of staff of Multi Media University of Kenya who is not a Party to the suit and against whom no Orders are sought.

- 21 I have examined the averments of the parties herein. The applicant seeks to be enjoined in this petition for the reasons that he will bring out issues in this petition not presented by the petitioner.
- 22 The applicant has averred that he is a necessary party by virtue of being a member of the 2nd respondent union and where the interested party is the Vice Chancellor. He avers that the petitioners are conflicted and are pursuing personal gain in the matter.
- 23 The 3rd respondents opposed the application averring that the 2nd proposed IP is not a necessary party and no orders have been sought against him and he will be directly affected by any trial order/decreed that may be issued. They also aver that the applicant is not a necessary party as his presence is not necessary in enabling the court effectively and completely adjudicate upon the question involved in the petition.
- 24 The applicant has indeed indicated that he is a member of 3rd respondent and where the 1st interested party is a Vice Chancellor. It is true then that as a member of the Union,

his interests shall be articulated by his union and other officials of the union including the University Council and the PS Ministry of Education.

25 I have also looked at the prayer being sought in this application and petition. They relate to the 1st interested parties' health situation and the 1st IP being a party to this case is well able to defend herself. There is no new thing that the applicant will add to this petition. He has not demonstrated why he is a necessary party to this petition. I find thus that the application for joinder has no merit and is thus dismissed accordingly. There shall be no order of costs.

**Dated, Signed and Delivered Virtually at Nairobi
this 15th Day of January, 2026.**

**HELLEN WASILWA
JUDGE**