



REPUBLIC OF KENYA



**Okuto v Metropol Corporation Ltd & another (Cause E141 of 2025)  
[2026] KEELRC 106 (KLR) (27 January 2026) (Ruling)**

Neutral citation: [2026] KEELRC 106 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E141 OF 2025  
S RADIDO, J  
JANUARY 27, 2026**

**BETWEEN**

**DAMARIS ACHIENG OKUTO ..... CLAIMANT**

**AND**

**METROPOL CORPORATION LTD ..... 1<sup>ST</sup> RESPONDENT**

**METROPOL CREDIT REFERENCE BUREAU LTD ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. Damaris Achieng Okuto (the Claimant) sued Metropol Corporation Ltd and Metropol Credit Reference Bureau (the Respondents) on 27 February 2025, asserting unfair termination of employment, breach of contract and constitutional violations.
2. The Respondents filed a Response on 19 June 2025.
3. On 30 July 2025, the Respondents filed a Counterclaim. This prompted the Claimant to file a Response to the Counterclaim on 24 August 2025.
4. On 10 October 2025, the Claimant filed a Motion seeking orders:
  - i. The Defendants' Counterclaim dated 18<sup>th</sup> July 2025 and filed on 30<sup>th</sup> July 2025 be struck out as having been filed out of time and way after the close of pleadings.
  - ii. The Counterclaim dated 18<sup>th</sup> July 2025 be struck out for being incompetent, fatally defective and improperly on record.
  - iii. The Counterclaim dated 18<sup>th</sup> July 2025 be struck out as the Honourable Court lacks jurisdiction to deal with the issues raised therein.
  - iv. Costs of this application be borne by the Defendant/Respondent.



5. The primary grounds in support of the Motion were that the Statement of Claim had been served upon the Respondents on 28 March 2025; the Respondents entered appearance on 15 April 2025 and a Response on 19 June 2025 outside the prescribed time; the pleadings closed 14 days thereafter on 2 July 2025; the Respondents only filed a Counterclaim on 30 July 2025, outside the time allowed under Order 7 Rules 3 & 5 of the Civil Procedure Rules and without leave of the Court; the Counterclaim, a cross-suit should have been filed together with the Response and that the Counterclaim raised issues of a criminal nature and data law, falling outside the purview of this Court.
6. The Court gave directions on the Motion on 25 November 2025, and the Respondents filed a replying affidavit on 17 December 2025 (should have been filed and served before 28 November 2025).
7. In the affidavit, the Respondents' Head of Legal Department deponed that a Counterclaim being a suit on its own could legally stand; the Deputy Registrar had with the consent of the Claimant had on 4 June 2025 granted the Respondents 14 more days to file a Response; that the Respondents only managed to file a Response and sought for more time on 19 June 2025 to file more pleadings and documents and leave was granted by the Deputy Registrar; the Counterclaim was therefore filed on 30 July 2025; pleadings had not closed when the Counterclaim was filed; that Rule 29(2) of the Employment and Labour Relations Court (Procedure) Rules, 2024 contemplated filing of Counterclaims; the Court had jurisdiction over the claims in the Counterclaim as they emanate from an employer – employee relationship and the Court had the discretion under Article 159 of *the Constitution* to regularise and entertain the Counterclaim.
8. None of the parties filed submissions within the set timelines agreed with the Court on 25 November 2025.
9. The Court has considered the Motion, affidavits and makes the following determinations.
10. First, the Respondents filed the replying affidavit to the Motion outside the time allowed by the Court and without giving out any explanation or leave of the Court.
11. In order to administer justice fairly, the Court will allow and entertain the replying affidavit.
12. Second, there is nothing on record to suggest that the Deputy Registrar granted leave or allowed the Respondents time to file court process after the prescribed timelines, either on 3 June 2025 (not 4 June 2025) and 19 June 2025.
13. The Response was therefore filed outside the prescribed time without leave and would be for expunging from the record.
14. Because the Claimant has not directly challenged the validity of the Response, and in the interest of justice, the Court will allow the Response on the record.
15. Third, the Claimant filed a Response to the Counterclaim on 24 August 2025 and the instant Motion on 10 October 2025.
16. Considering that there is a Response to the Counterclaim on the record, and in the interest of justice, the Court will allow the Counterclaim deemed as validly on record and to be heard on the merit.
17. Four, the claims in the Counterclaim relate directly to an employer – employee relationship, the clearance process upon separation (return of company property) and squarely within this Court's jurisdiction.



18. Lastly, Rule 29(2)(g) of the Employment and Labour Relations Court (Procedure) Rules, 2024 envisages the filing of a Counterclaim at the time a Response to a Statement of Claim is filed that is within 28 days upon service of the Statement of Claim and Notice of Summons.
19. Because of the state of the record, the Court will not strike out the Counterclaim.
20. The delivery of this Ruling has been brought forward with notice to the parties.

### **Orders**

21. In light of the above, the orders sought in the Motion dated 1 October 2025 are declined and the same is dismissed.
22. For clarity
  - i. The Response is admitted into the record.
  - ii. The Counterclaim and Response to the Counterclaim are admitted into the record.
  - iii. The Respondents are ordered to file and serve witness statements and any further documents within 7 days from today.
  - iv. The Claimant at liberty to file and serve any further documents within 7 days of service by the Respondents.
  - v. The parties to file and exchange hard copy paginated trial bundles within 30 days of today.
23. The Respondents have exhibited laxity in complying with prescriptive timelines set by the Rules governing the conduct of litigation before this Court. They have not fulfilled their obligation to cooperate with the Court to achieve an expeditious, proportionate and just trial of the Cause. They have not offered any plausible explanations and they directed to meet the costs of the instant Motion assessed at Kshs 35,000/- to be paid within 30 days from today.

**DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIROBI ON THIS 27<sup>TH</sup> DAY OF JANUARY 2026.**

**RADIDO STEPHEN, MCIARB**

**JUDGE**

Appearances

For Claimant Malela Basil & Co. Advocates

For Respondent Nchogu, Omwanza & Nyasimi Advocates

Court Assistant Wangu

