

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA NAIROBI
CIVIL APPELLATE DIVISION
HCCA E537 OF 2024

TRIDENT INSURANCE COMPANY LIMITED..... APPELLANT
VERSUS
CHARLES MURITU MWANGI RESPONDENT

JUDGMENT

1. The trial magistrate by its ruling dated the 5th day of April 2024 struck out the Appellants defence and entered summary Judgement against the Appellant triggering this Appeal. This is a matter that can be determined by looking at the defence in order to see if it meets the threshold or if it is an abuse of the Court process as found by the Trial Magistrate. In looking at the defence, the Court must note that striking a defence is rather a draconian measure that denies the Constitutional right to a fair hearing.
2. The defence on record at paragraph 3 denies that the subject motor vehicle was in the Appellant's data base. It proceeds to deny having any contractual relationship with the owners of motor vehicles and I think these are key issues that can only be determined if the matter is heard. If this matter proceeds to its inclusion, either of the parties will be

compensated by costs and so there is no contemplated prejudice.

3. The conclusion is that this Appeal is merited and is hereby allowed. Each party shall pay own costs.

DATED, DELIVERED VIRTUALLY AND SIGNED ON THIS 26TH DAY OF JANUARY 2026.

**HON L P KASSAN
JUDGE**

**In the presence of;
Marua for Appellant
Kuyo/Wagay for Respondent
Carol - Court Assistant**