

REPUBLIC OF KENYA

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT
MOMBASA**

CAUSE NO. E096 OF 2025

GEORGE TAITO KBUNJA CLAIMANT

VERSUS

CUP OF JOE LIMITED RESPONDENT

RULING

The claimant filed an application dated 11 December 2025 under the provisions of Article 10, 50 and 159 of the Constitution seeking orders:

- 1. The entry of appearance dated 23 September 2025 and all pleadings, applications, and documents filed in this cause by the firm of Nyinguro & Associates Advocates on behalf of the respondent be struck out and expunged from the court record.*
- 2. Nyinguro Fredrick Odumo be summoned to appear in court for cross-examination.*
- 3. The court takes action against Nyinguro Fredrick Odumo.*
- 4. The court be pleased to issue a summons to Mohammed Jafaar Ali to appeal for cross-examination on the contents of his Verified Affidavit and purport that he is a human resource manager.*
- 5. Upon cross-examination, the court be pleased to take action against Mohammed Jaffar Ali, including forwarding the file and documents for investigations and action by the Directorate of Criminal Investigations.*
- 6. Costs of this application be provided for.*

The claimant has filed his Supporting Affidavit and avers that the respondent entered appearance in this case through the firm of Nyinguro & Associates Advocates on 23 September 2025 and then filed pleadings for the respondent. The respondent also filed Notice of Preliminary Objections dated 13 October 2025, thus actively participating in these proceedings.

The claimant avers that the advocate purporting to act for the respondent under the name of Nyinguro & Associates Advocates is registered as employed by the judiciary and, thereby, is legally and ethically barred from engaging in private legal practice.

The Law Society of Kenya (LSK), in a letter dated 8 October 2025, confirmed that the said advocate is registered to practice within the Judiciary. The LSK further confirmed, by email dated 27 October 2025, that no advocate has declared that they are practising or working in the firm of Nyinguro & Associates Advocates.

The entry of appearance and all pleadings and documents filed by the said firm on behalf of the respondent were filed by a person not legally qualified or authorized to practice law. Such pleadings are null and void *ab initio* and should be expunged from the record. The continued presence of records filed by the entity Nyinguro & Associates Advocates undermines the integrity of the court proceedings and should therefore be struck out.

The claimant avers that the respondent engaged the services of an unqualified, illegal person, Mohammed Jafaar Ali, to work and operate as a human resources manager without qualifications or a licence. The said Jafaar Ali has sworn an affidavit that he is the human resources manager of the Respondent, with full knowledge that he has no qualifications or license to practice as such.

The claimant avers that he wrote to the Institute of Human Resource Management, the statutory professional body established under the Human Resource Management Professionals Act, to confirm whether Jafaar is a registered member and whether he is accredited. The institute confirmed that he is neither registered nor accredited. He is not allowed to practice as a human resource manager without a licence.

The claimant avers in his affidavit that the respondent's records are invalid and should be expunged.

In reply, the respondent filed the Replying Affidavit of Fredrick Nyinguro, an advocate who avers that he represents the respondent in this case. He's not an employee of the judiciary as alleged, and the firm of Nyinguro & Associates Advocates is a duly registered entity. The instant application by the claimant is misleading to the extent that the orders sought are in bad faith.

Nyinguro avers that, by letter dated 20 May 2017, he was employed by the Judiciary as a Legal Counsel for a term of 3 years from 1 June 2017, renewable subject to performance. The contract terminated, and he left the employment of the Judiciary upon the retirement of the Chief Justice.

Nyinguro avers that he entered private practice with the firm of Nyinguro & Associates Advocates and has been an advocate in good standing, holding a current Practising Certificate No. LSK/2025/001559 issued on 1 January 2025.

The instant application by the claimant is based on misinformation and a lack of verification and is intended to distract from addressing the respondent's objections. The application should be dismissed with costs.

The matters raised regarding Jafaar's qualifications as a human resources manager are questions of fact that should be addressed through evidence.

Determination

The parties have filed written submissions, which are being analysed, and the issues for determination are whether Fredrick Nyinguro, advocate, is an employee of the Judiciary and, if so, whether he is permitted to practice under the name Nyinguro & Associates Advocates and thus represent the respondent in these proceedings.

Whether the person of Mohammed Jafaar Ali is qualified as a human resource practitioner to testify in these proceedings.

The matters raised by the claimant regarding the attendance of Fredrick Nyinguro, advocate, in these proceedings are crucial and implicate the integrity of the court proceedings.

Even before the respondent filed a reply to the instant application, the court, on its own motion, wrote to the Office of the Chief Registrar to clarify if Fredrick Nyinguro Advocate was an employee of the Judiciary. Through a letter dated 16 December 2025, the Chief Registrar of the Judiciary confirmed that he was employee No. 57992 employed on contract as legal counsel in the Office of the Chief Justice from 1 June 2021 to 12 January 2021 upon the expiry of his contract. Hence, he no longer works for the Judiciary.

The respondent, through the Replying Affidavit of Fredrick Nyinguro, has confirmed the current status and admitted that he was employed by the Judiciary on a fixed-term contract that has since expired.

There is a letter dated 8 October 2025 from the LSK indicating that Nyinguro Fredrick Advocate is an advocate and has been *declared a legal officer of the Judiciary, with his address at the Supreme Court.*

To begin with, the contract between the Judiciary and Fredrick Nyinguro was for the position of Legal Counsel in the Office of the Chief Justice. There is a written contract to this effect.

Additionally, the contract was for a fixed term of 3 years, which lapsed in January 2021. This fact is confirmed by the custodian of records of the Judiciary, the Chief Registrar. There is no employment relationship between Fredrick Nyinguro and the Judiciary. The letter by the LSK giving the declared Legal Officer position is factually incorrect. The address of the Supreme Court does not preclude the conclusion that Fredrick Nyinguro has since left the service of the judiciary. The address provided, though misleading, cannot be used to expunge the records on file. Indeed, the firm of Nyinguro & Associates Advocates is registered at the address, and Fredrick Nyinguro holds a current Practising Certificate.

The firm of Nyinguro & Associates Advocates is properly on record in this case.

With regard to the attendance of Jafaar as the Human Resources Manager of the respondent, in employment and labour relations disputes, each party is allowed representation in person, through their advocate of choice or through the union or employer representative of choice under section 22 of the Employment and Labour Relations Court Act. The employer is therefore permitted to call its chosen witnesses to address the claim file in court. The claimant will have the chance to cross-examine the witnesses called by the respondent.

The roles or positions assigned to any employee or witness called while on the shop floor cannot constitute a bar to court proceedings. The need to invite the witnesses to be called by the respondent for cross-examination or to attend before the Criminal Investigations Department with regard to employment disputes is unnecessary. There are no exceptional reasons given touching on criminal conduct, forgery, fraud or other criminal acts that necessitate such action.

The matter should be heard on the merits.

Accordingly, the application dated 11 December 2025 is without merit and is hereby dismissed. Costs to abide by the outcome of the claim.

Delivered in open court at Mombasa, this 19th day of February 2026.

M. MBARŪ

JUDGE

In the presence of:

Court Assistant: Omar

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