



**Kenya Union of Domestic, Hotels, Educational Institutions, Hospital
and Allied Workers Union (KUDHEIHA) v Moi University (Cause
E040 of 2025) [2026] KEELRC 469 (KLR) (19 February 2026) (Ruling)**

Neutral citation: [2026] KEELRC 469 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT ELDORET
CAUSE E040 OF 2025
MA ONYANGO, J
FEBRUARY 19, 2026**

BETWEEN
**KENYA UNION OF DOMESTIC, HOTELS, EDUCATIONAL INSTITUTIONS,
HOSPITAL AND ALLIED WORKERS UNION (KUDHEIHA) CLAIMANT**
AND
MOI UNIVERSITY RESPONDENT

RULING

1. This is a ruling on the Notice of Motion dated 6th November 2025 brought by the Claimant under sections 3 and 12 of the *Employment and Labour Relations Court Act*, Article 159(2)(d) of *the Constitution* of Kenya and all other enabling provisions of the law.
2. It seeks for orders: -
 - i. Spent
 - ii. That leave of this Honourable court be granted to the Applicant/Claimant to amend the Memorandum of Claim dated 1st July 2025 in order to include other workers whose claim and details were not included as at the time this case was filed, whose names and documents are attached to the supporting affidavit herein.
 - iii. That the draft memorandum of Claim be deemed as duly filed on payment of requisite court fees and the same be served accordingly upon the Respondent
 - iv. That costs of this application be in the cause
3. The application is premised on the grounds that the Applicant/Claimant seeks to amend its Memorandum of claim dated 1st July 2025 in order to include other workers whose claim and details were not included as at the time this case was filed; that the respondent is the same for all and the subject



matter being redundancy is the same; that unless such an order is granted, there will be duplicity of cases involving the same Claimant and the same Respondent over exactly the same subject matter; that the amendment will assist the court in determination of the real issues in controversy between the parties to this case and to dispense of the case timeously and conclusively; that granted.

the amendment sought will not prejudice the Respondent in any manner and lastly, that the Claimant's members interests stand to suffer prejudice should the prayers in this application not be

4. The application is supported by the sworn affidavit of Albert Njeru Obed, the Claimant's Secretary General which sets out the aforementioned grounds.
5. The application is opposed. The Respondent filed a Replying Affidavit sworn by its Legal Officer, Dorcas J. Mengich on 20th November 2025 where she deposes that on 13th May 2025, redundancy notices were served on the Claimant providing the statutory thirty days' notice and that the said notices indicated that 382 employees would be affected. That the notices were accompanied by individual redundancy letters. The Respondents aver that no objections were raised by the Claimant within the notice period and that the Respondent proceeded to process redundancy packages, after which the affected employees were removed from the payroll and university systems, thereby ending the employment relationship.
6. The Respondent contends that the Claimant had already filed Eldoret ELRC EO32 of 2025 contesting redundancy for fourteen employees and later filed the present suit for ninety-six employees. It is the Respondent's assertion that the Claimant has been litigating the matter in a piecemeal manner despite being aware that 382 employees were declared redundant.
7. It is the Respondent's case that the additional employees sought to be included are in different circumstances, as some were satisfied with the process and are awaiting payment of their dues. In addition, it is contended that the application was filed four months after the suit was instituted, constituting unreasonable delay, that the application is made in bad faith and is intended to delay the conclusion of the matter.
8. The Respondent asserts that allowing the amendment will cause prejudice because it has already budgeted and allocated terminal dues in consultation with the Ministry and some employees accepted the redundancy terms and have legitimate expectations of payment.

Submissions

9. The application was canvassed by way of written submissions. The Claimant's submissions are dated 2nd December 2025 while the Respondent's submissions are dated 11th December 2025.
10. In its submissions, the Claimant contends that allowing the amendment will prevent multiplicity of suits and enable the Court to determine the dispute conclusively. The Claimant further submits that the amendment will assist the Court in determining the real issues in controversy and facilitate expeditious disposal of the case.
11. On its part, the Respondent submits that the Claimant was aware from the redundancy notice dated 14th May 2025 that 382 employees were affected, yet chose to file suit for only ninety-six employees. It argues that the four month delay in bringing the application is inordinate and unexplained, and that the amendment is sought out of negligence rather than mistake. The Respondent contends that it stands to suffer economic prejudice arising from already processed redundancy packages and the legitimate expectations of employees who accepted the process.



12. The Respondent submits that the Claimant will suffer no prejudice as the additional employees may pursue separate claims if necessary.
13. The Court was urged to dismiss the application with costs.

Analysis and Determination

14. The sole issue for determination is whether the Claimant should be granted leave to amend the Memorandum of Claim to include additional grievants.
15. The principles governing amendment of pleadings are well settled. Amendments may be allowed at any stage of proceedings provided they are necessary for determining the real questions in controversy, do not occasion prejudice to the opposing party that cannot be compensated by costs and are not brought in bad faith or with undue delay.
16. The Claimant seeks to include additional employees affected by the same redundancy process. The Respondent does not dispute that the redundancy process affected 382 employees and that the proposed grievants arise from the same exercise.
17. The Court is satisfied that the intended amendment relates to the same Respondent, the same redundancy process, and substantially similar issues of law and fact. Allowing the amendment will promote the overriding objective of the Court by avoiding multiplicity of suits and facilitating comprehensive adjudication of the dispute.
18. With regard to the Respondent's argument that it stands to suffer economic prejudice as it has processed redundancy packages and that some employees accepted the process, I am of the considered view that such issues can be addressed during the hearing where individual circumstances and entitlements can be assessed. The Respondent will have an opportunity to respond to the amended claim, and any prejudice can be compensated by costs.
19. In the premises, I allow the application dated 6th November 2025 in the following terms: -
 - i. The Claimant is granted leave to amend the Memorandum of Claim to include the additional grievants.
 - ii. The Amended Memorandum of Claim shall be filed within 14 days.
 - iii. The Respondent shall have leave to file a response within fourteen days of service.
 - iv. Costs of the application shall be in the cause.

DATED, SIGNED AND DELIVERED VIRTUALLY

THIS 19TH DAY OF FEBRUARY, 2026.

M. ONYANGO

JUDGE

