



**Impulse Promotions Limited v Oswe & 7 others (Civil Case E542 of 2024)
[2026] KEHC 3079 (KLR) (Commercial and Tax) (5 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 3079 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
CIVIL CASE E542 OF 2024
F GIKONYO, J
MARCH 5, 2026**

BETWEEN

IMPULSE PROMOTIONS LIMITED PLAINTIFF

AND

EDWARD OSWE 1ST DEFENDANT

GEORGE LODONGA 2ND DEFENDANT

CHRISTINE WANGUI 3RD DEFENDANT

MILLICENT WAMUYU NGATIA 4TH DEFENDANT

ZUHURA ODHIAMBO 5TH DEFENDANT

MICHAEL OGILLO 6TH DEFENDANT

**AFRICAN MARKETING CONFEDERATION (SUED THROUGH ITS
SECRETARY GENERAL DAVID BALIKUDEMBE) 7TH DEFENDANT**

**CHARLES KARIUKI (SUED IN THEIR REPRESENTATIVE CAPACITY
AS THE REGISTERED OFFICIALS OF THE MARKETING SOCIETY OF
KENYA) 8TH DEFENDANT**

RULING

1. The 8th defendant seeks to be discharged and struck out from the proceedings primarily on the grounds of lack of privity of contract and improper joinder.
2. The request has been made through the notice of motion dated 12th September 2024 expressed to be brought under Section 1A, 1B, 3, and 3A of the [Civil Procedure Act](#) (Cap 22) and Order 1 Rule 10 of the Civil Procedure Rules, 2010.



3. The application is supported by the affidavit sworn by David Balikuddembe on 12th September 2024 and written submissions dated 20th May 2025.
4. The plaintiff opposed the application through a replying affidavit sworn by Fred Rabongo on 5th March 2025 and written submissions dated 23rd June 2025.
5. The 8th defendant seeks to be discharged and struck out from the proceedings primarily on the grounds of lack of privity of contract and improper joinder. More specifically: -
 1. That the contract dated 19th June 2024, which is the basis of the suit, was entered into exclusively between the plaintiff and the Marketing Society of Kenya (MSK).
 2. That there is no contractual relationship between it and the plaintiff.
 3. Its inclusion is vexatious, a waste of judicial time, and an abuse of the court process.

Response: you are necessary party

6. The plaintiff's main contentions are that the 8th defendant is a necessary party as: -
 1. The contract was explicitly intended for the benefit of the 8th defendant's conference.
 2. The request for proposal for ideation and management of the conference was sent by the Marketing Society of Kenya on behalf of the 8th defendant because it does not have offices in Kenya. Its response to the request was sent to the 8th defendant directly.
 3. The 8th defendant's officials were involved in procurement execution of the contract and attended virtual brief meetings to approve contract milestones.
 4. There is an exception to privity of contract where a contract is made for the benefit of a third party, that party cannot avoid obligations arising from it, especially after accepting the benefit.
7. The plaintiff relied on Communications Commission of Kenya & 3 Others v Royal Media Services Limited & 7 others [2014] eKLR, Pravin Bowry v John Ward & another [2015] KECA 215 (KLR) and Meme v Republic [2004] 1 EA 124 on the principles for joinder of a party.
8. The plaintiff relied on Karuri Civil Engineering (K) Limited v Equity Bank Limited [2019] KECA 866 (KLR) and Savings & Loan (K) Limited v Kanyenje Gakombe & another [2015] KECA 784 (KLR) on the exception to privity where a contract is made for the benefit of a third party.

Analysis and Determination

9. The central issue is whether the 8th defendant is a necessary or proper party in this suit.
10. Order 1 Rule 10 (2) of the Civil Procedure Rules provides that: -

“(2) The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all questions involved in the suit, be added.”



11. The 8th defendant argued that its name ought to be struck out from the suit as there is no cause of action against it.
12. On the other hand, the plaintiff asserted that the 8th defendant is a necessary and proper party for the effectual and complete adjudication of the questions raised in this suit.
13. “A party may be joined in a suit, not because there is a cause of action against it, but because that party’s presence is necessary in order for the court to effectually and completely adjudicate upon and settle all the questions involved in the cause or matter...” *Deported Asians Custodian Board v Jaffer Brothers Ltd* [1999] 1 EA 55 (SCU)
14. The plaintiff exhibited a copy of the contract dated 19th June 2024, the request for proposal, its proposal and plan for the conference and screenshots of invitations to treat issued by the 8th defendant.
15. The request for proposal was issued for the African Marketing Confederation (AMC), the Marketing Society of Kenya was the local representative of the AMC and it was involved in the preliminary meetings.
16. From the foregoing, the plaintiff has demonstrated that the contract was for the benefit of the 8th defendant.
17. Therefore, the court finds that the 8th defendant is a necessary party for the effectual and complete adjudication of this matter. *Communications Commission of Kenya & 3 Others v Royal Media Services Limited & 7 others* [supra]
18. With regard to the description or capacity in which the AMC is sued; I find this to be a curable defect which is not a substantive ground for the striking out of the suit against the 8th defendant.

Disposal

19. In the upshot, the 8th Defendant’s application dated 12th September 2024 is dismissed.
20. Costs of this application shall be in the cause.

DATED, SIGNED AND DELIVERED AT NAIROBI THROUGH MICROSOFT TEAMS ONLINE APPLICATION THIS 5TH DAY MARCH, 2026

F. GIKONYO M

JUDGE

In the presence of: -

Oriaro for Owuor for Plaintiff

Arunga for Ms Wale for 1st -7th defendant

Ms Gathira for Dr. Kamotho for 8th defendant

CA – Ivan/Aggrey

