



**Solheim v Onyango t/a Dennis Onyango & Associates & 2 others (Civil Suit E756 of 2024)
[2026] KEHC 2803 (KLR) (Commercial and Tax) (27 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 2803 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
CIVIL SUIT E756 OF 2024
FG MUGAMBI, J
FEBRUARY 27, 2026**

BETWEEN

JOHN B SOLHEIM PLAINTIFF

AND

DENNIS ONYANGO T/A DENNIS ONYANGO & ASSOCIATES .. DEFENDANT

AND

STANBIC BANK LIMITED 1ST PROPOSED INTERESTED PARTY

BANKING FRAUD INVESTIGATION UNIT 2ND PROPOSED INTERESTED PARTY

RULING

1. By two applications dated 21st July 2025 and 2nd August 2025, the Applicant, seeks substantially similar orders starting with the joinder of the 1st and 2nd proposed interested parties to these proceedings. He also seeks that the Respondent and the 1st proposed interested party (the Bank) be compelled to provide a comprehensive account statement for bank account number 0100009398478, held in the name of the Respondent, from the date of his first deposit on 18th August 2023 up to the present date and for the Respondent to produce the account opening forms in respect of the said account.
2. The Applicant additionally prays that, should there be a finding of misappropriation of the aforesaid funds, the Respondent be ordered to reimburse the said sum together with accrued interest within a stipulated period. Finally, the Applicant seeks that the 2nd proposed interested party be directed to investigate the said account and file a comprehensive report, rendering a true statement in respect of account number 0100009398478, domiciled at Stanbic Bank, Chiromo Branch, Swift Code SBICKENX.



3. The applications are supported by the affidavits of JOHN B SOLHEIM and opposed by the Replying Affidavit of DENNIS ONYANGO. I note that neither of the intended interested parties have responded to the application even though the Bank did enter appearance and file submissions to the applications.
4. In his response, the Respondent contends that the Applicant's reliance on the exhibited remittance advices is misplaced. The first remittance of USD 87,097 dated 18th August 2023 was expressly for the purchase of shares in Xico Trading Company. The Applicant has not disclosed whether such shares were acquired, nor explained why they were not. The Respondent emphasizes that he is not a director of Xico Trading Limited, and any claim for enforcement or refund must be pursued against that company.
5. The second remittance of USD 86,000 dated 2nd October 2023 was indicated as being for the purchase of an apartment in Nairobi. The Respondent denies involvement, stating he was neither instructed to assist nor aware of which advocates were engaged. He reiterates that Xico Trading Limited was involved, and any refund claim should be directed there.
6. The third and fourth remittances, totaling USD 230,000, related to the purchase of copper under an agreement between JY Minerals and Xico Trading Limited. The Respondent was not privy to the transaction and cannot be held responsible for its outcome.
7. The Respondent further argues that although the funds passed through his account, they did so strictly on the instructions of his client, Xico Trading Limited. The mere routing of the Applicant's money through his account does not render the funds his property, nor does it create any advocate-client relationship between him and the Applicant.
8. The Respondent also opposes the joinder of the Bank and the Banking Fraud Investigation Unit, and maintains that the material placed before the court does not justify their joinder. He argues that these entities are neither necessary nor proper parties to the suit, and that the motive behind their joinder is to convolute the matter and delay its determination. The Applicant has not demonstrated any relief sought against them or any role they are expected to play. If evidence were required, witness summons to the relevant officials would suffice.
9. Turning to the application of 5th August 2025, the Respondent submits that the request to compel the Bank to render statements for account number 0100009398478 is unnecessary and intrusive. He explains that the account was not opened solely for transactions involving the Applicant, but contains multiple transactions involving innocent third parties whose confidential information should not be exposed. The Applicant has not demonstrated compelling reason to override this confidentiality.
10. The Respondent further contends that there exists no relationship or obligation between him and the Applicant that would form a legal basis to compel production of the bank statements. He argues that even if the court were to find him indebted to the Applicant after trial, he would still be required to pay the sums due regardless of the state of the bank account. He describes the request for statements as unclear, unnecessary, and a distraction from the central issue which is whether or not he is indebted to the Applicant. On the basis of these arguments, the Respondent implores the court to find both applications lacking in merit and to dismiss them with costs.

Analysis and Determination

11. From the pleadings and submissions referred to, the following issues arise for determination:



- i. Whether Stanbic Bank Limited and the Banking Fraud Investigation Unit are necessary and proper parties to be joined in these proceedings.
- ii. Whether the Plaintiff has established a sufficient basis to compel the Defendant and Stanbic Bank to produce account statements and account opening forms for account number 01XXXXXXXX98478.

Whether Stanbic Bank Limited and the Banking Fraud Investigation Unit are necessary and proper parties to be joined in these proceedings:

12. The law on joinder of parties is set out under Order 1 Rule 10(2) of the Civil Procedure Rules, 2010, which provides:

“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 just, order that the name of any party improperly joined be struck out, and that the name of any person who ought to have been joined, 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.”

13. This provision grants the court wide discretion to join parties, even for a specific and limited purpose, where their presence is necessary to enable the court to fully and fairly resolve the dispute.

14. The Supreme Court in *Trusted Society of Human Rights Alliance V Mumo Matemu & 5 Others*, [2014] eKLR defined an interested party as:

“one who has a stake in the proceedings, though he or she was not a party to the cause ab initio. Such a person feels that his or her interest will not be well articulated unless he or she appears in the proceedings, and participates in the process.”

15. Similarly, in *Francis Kariuki Muruatetu & Another V Republic & 5 others* Petition No. 15 as consolidated with No. 16 of 2013, [2016] eKLR the Supreme Court set out the threshold required for an interested party in any proceedings as follows:

- (i) The personal interest or stake that the party has in the matter must be set out in the application. The interest must be clearly identifiable and must be proximate enough, to stand apart from anything that is merely peripheral.
- (ii) The prejudice to be suffered by the intended interested party in case of nonjoinder, must also be demonstrated to the satisfaction of the Court. It must also be clearly outlined and not something remote.
- (iii) Lastly, a party must, in its application, set out the case and/or submissions it intends to make before the Court, and demonstrate the relevance of those submissions. It should also demonstrate that these submissions are not merely a replication of what the other parties will be making before the Court.

16. Applying these principles to the present case, the Applicant seeks to join Stanbic Bank Limited for purposes of producing account statements and account opening forms relating to account number 0100009398478, held in the Respondent’s name. The Applicant further seeks that the Banking Fraud Investigation Unit be directed to investigate the account and file a report.



17. The Respondent argues that no relief is sought against these entities, and that their joinder would convolute the matter. He contends that if evidence is required, witness summons would suffice. He also raises confidentiality concerns regarding third-party transactions.
18. I have perused the Complaint filed in this matter. While it is true that no substantive relief is sought against the Bank, the court must consider whether its presence is necessary to enable the court to “effectually and completely adjudicate” the matter. The bank is the custodian of the records central to this dispute. Without its participation, the court may lack the evidentiary foundation to determine whether misappropriation occurred. The confidentiality concerns raised can be addressed by appropriate protective orders limiting disclosure to the transactions relevant to this dispute.
19. The joinder of Stanbic Bank, therefore, while not necessary to the entire dispute is important to facilitate the production of crucial evidence. This falls squarely within the discretion granted under Order 1 Rule 10(2). On the other hand, the Banking Fraud Investigation Unit has no direct custodial role over the account records, and its investigative mandate may be invoked through other statutory mechanisms. Its joinder is therefore unnecessary.

Whether the Plaintiff has established a sufficient basis to compel the Defendant and Stanbic Bank to produce account statements and account opening forms for account number 0100009398478:

20. The second issue for determination is whether the Applicant has established a sufficient basis to compel the Respondent and the Bank to produce account statements and account opening forms in respect of account number 0100009398478.
21. The law is settled that the relationship between a bank and its customer is one founded upon confidentiality. The bank is under a duty not to divulge information concerning its customer’s account except in limited circumstances. This principle has been affirmed by the Court of Appeal in *NIC Bank Limited V Odhiambo & 2 Others* [2025] KECA 347 (KLR) where the Court stated:

“Banker-client confidentiality is a fundamental principle of banking law, protected under Section 40 of the *Banking Act*. However, the court has the authority to order the disclosure of documents if it determines that doing so is essential for the proper administration of justice.”
22. In the present matter, the Respondent has not denied holding the account in question, nor has he denied receiving the Applicant’s funds into that account. The Bank has equally not filed a replying affidavit to contest the specific averments made with reference to it. The existence of the account and the receipt of the Applicant’s funds are therefore not in dispute. In these circumstances, a fiduciary relationship arises, for equity demands that one who has received and holds another’s funds is under a duty to render a true and proper account of their application. What remains contested is the purpose for which the funds were remitted and whether that purpose was ultimately achieved.
23. The Applicant seeks production of both account statements and account opening forms. I am persuaded that the account statements relating to the Applicant’s account are directly relevant to the resolution of the dispute. They will demonstrate whether the funds were applied for the intended purpose. However, as regards the account opening forms, no sufficient basis has been laid for their production.
24. The Respondent has admitted ownership of the account, and the existence of the account is not contested. Compelling production of account opening forms would additionally serve no useful



purpose in the circumstances and would unnecessarily intrude into confidential information unrelated to the Applicant's claim.

25. I am equally mindful that the Respondent's account may contain transactions beyond those involving the Applicant. To order disclosure of all account dealings would expose unrelated third-party transactions and offend the principle of confidentiality. The proper balance is to limit disclosure to statements touching only on the Applicant's funds. This will safeguard confidentiality while at the same time ensuring the Applicant's right to a fair trial.
26. In dealing with the final prayer for reimbursement, the court must be guided by principle. The Applicant prays that, should there be a finding of misappropriation of the funds remitted into the Respondent's account, the Respondent be ordered to reimburse the said sum together with accrued interest within a stipulated period.
27. This prayer is in the nature of a substantive relief. It is not ancillary to the interlocutory application for production of account records, but rather goes to the merits of the dispute. The jurisdiction of the court at this stage is confined to determining whether the Applicant has laid a sufficient basis for discovery and production of documents. The question of misappropriation, and whether reimbursement should follow, is a matter for trial upon evaluation of evidence. To grant such a prayer at this interlocutory stage would amount to prejudging the merits of the suit without the benefit of a full hearing.

Disposition

28. In light of the foregoing, the application succeeds in part to the following extent:
 - i. The application to join Stanbic Bank Limited as an interested party is allowed, but strictly for the limited purpose of producing the account statements relevant to the matters in question as shall be directed by this Court;
 - ii. The joinder of the Banking Fraud Investigation Unit is declined, as its participation is not necessary for the resolution of the dispute.
 - iii. Stanbic Bank is directed to produce statements of account number 0100009398478 limited to the transactions involving the Plaintiff's funds within thirty (30) days. For the avoidance of doubt, the production of the statements shall be undertaken by Stanbic Bank, not the Defendant, so as to ensure their accuracy and authenticity.
 - iv. The prayer for production of account opening forms is declined.
 - v. Costs shall abide the outcome of the main suit.

DATED, SIGNED AND DELIVERED IN NAIROBI THIS 27TH DAY OF FEBRUARY 2026.

F. MUGAMBI

JUDGE

Delivered in presence of:

Langat, Yegon for the applicant

Ondiek for the 1st intended interested party

Mr Onyango for the respondents

Court Assistant: Lillian

