

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT NAIROBI
CAUSE NO. E512 OF 2023

PAULINE MUTHONI WANJOHI.....CLAIMANT
VERSUS
QUEENSVILE PHARMACY LIMITED
.....RESPONDENT

J U D G M E N T

1. The Claimant avers that she was employed by the Respondent as an accountant from 2017 until May 2023. She contends that throughout her employment, she performed her duties diligently and in the best interests of the Respondent.

2. The Claimant further asserts that in or around November 2022, she went on maternity leave, during which she was suspended for three weeks, as communicated through a letter dated 22nd December 2022. While still on leave, she was directed to report back to work on 24th January 2023, with only one (1) day’s notice to reconcile sales reports. She contends that this directive was discriminatory, unlawful, and contrary to employment law.

3. The Claimant further avers that she was subsequently invited to a disciplinary hearing on 2nd May 2023, which resulted in the termination of her employment on 24th May 2023.
4. She holds that her termination from employment was unfair and unlawful, and accordingly, seeks the following reliefs against the Respondent;
- a) An order be and hereby issued that the termination of the Claimant was unfair, illegal and unfair.*
 - b) An order be and is hereby issued that the alleged disciplinary meeting that culminated in the Claimant's employment being terminated was illegal, null and void.*
 - c) An order be and is hereby issued that the Claimant was discriminated due to her gender, sex and pregnancy contrary to her rights under the constitution.*
 - d) Severance pay of - Kshs 258, 918/-.*
 - e) 12 Months salary for unfair termination -Kshs 1,032,672/-.*
 - f) Compensation for annual leave and maternity leave days not taken – Kshs 129,459/-*
 - g) One (1) Months pay in lieu of notice - Kshs. 86, 306/-.*
 - h) General damages for discrimination on account of pregnancy.*

- i) Interest on (a), (b), (c), (d) and (e) above at commercial rates.*
- j) Certificate of Service to be provided.*
- k) Cost of the suit*
- l) Any other relief that this Honourable Court may deem fit to grant.*

5. Opposing the Claim, the Respondent filed a Statement of Defence and Counterclaim dated 15th August 2023. In the Defence, the Respondent denied that the Claimant performed her duties diligently, asserting that her tenure was marked by irregularities, financial improprieties, and fraud, resulting in a loss of **Kshs. 6,969,834.00.**
6. The Respondent further denies that the Claimant was asked to report to work during her maternity leave to perform reconciliations.
7. The Respondent further denies the Claimant's allegations of discrimination, contending that she received all her terminal dues and signed off on any future monetary claims against the Respondent.
8. The Respondent avers that the Claimant's suit is frivolous, vexatious, and an abuse of court process, and has urged the Court to dismiss the same with costs.
9. With respect to the Counterclaim, the Respondent contends that due to financial challenges, it commissioned an investigation into the Nelson Awori branch,

where the Claimant served as accountant. An audit revealed a deficit of Kshs. 6,969,834.00.

10. The Claimant, as the officer in charge of the branch accounts, was summoned to provide a detailed report accounting for the losses.

11. The Respondent asserts that the Claimant was given unrestricted access to all records. Her reconciliation did not tally, a fact she reportedly admitted.

12. The Respondent further claims that the Claimant was issued with a Notice to Show Cause, which she did not respond to satisfactorily, prompting disciplinary proceedings.

13. The Respondent further alleges that the Claimant expressed remorse during the disciplinary hearing and initially agreed to repay the sums, with the Respondent offering to facilitate deductions from her salary. However, she later refused to formalize the agreement in writing.

14. The Respondent avers that, based on the audit report, the Claimant's alleged admission, and her gross negligence in facilitating the loss, her employment was terminated.

15. It is on the basis of the foregoing that the Respondent counterclaims the sum of **Kshs. 6,969,834.00** being the amount it contends was lost under the Claimant's watch, together with interest and costs.
16. The Claimant disputes the Counterclaim, asserting that she was never informed of any investigation into the Respondent's financial status. She contends that at the start of her maternity leave in November 2022, no financial concerns were raised and denies conspiring with any other employee.
17. The Claimant further contends that, at the disciplinary hearing, the cashier admitted that she (Claimant) was unaware of the cash the cashier had taken.
18. She denies making any admissions or proposals to settle the matter, contrary to the Respondent's claims, and notes that the Respondent initially indicated a repayment amount of Kshs. 3.5 million, not the sum stated in the Counterclaim.
19. The Claimant asserts that the cashier responsible for handling cash is directly accountable for the financial discrepancies.
20. In light of the above, the Claimant prays that the Counterclaim be dismissed with costs and that judgment be entered in her favour as sought in the Claim.

21. The matter proceeded for hearing on 22nd September 2025 and 10th November 2025, during which both parties called oral evidence in support of their respective cases.

Claimant's Case

22. The Claimant testified in support of her case as CW1. At the outset, she sought to adopt her witness statement to constitute her evidence in chief. She further produced the initial and further lists and bundles of documents filed on her behalf as exhibits before the Court.

23. It was the Claimant's evidence that she applied for maternity leave on 25th November 2022. While still on leave, she received a suspension letter dated 22nd December 2022, citing suspected misconduct related to the misappropriation of funds. The suspension was stated to be for a maximum period of three weeks.

24. On 23rd January 2023, the Respondent recalled her to work to assist with reconciling the sales reports. She contended that this directive effectively intruded upon her maternity leave, requiring her to perform work duties during leave days.

25. Upon completing the financial reconciliation, she submitted a report of her findings to the Managing Director on 21st February 2023.
26. On 11th April 2023, she wrote to the Respondent seeking guidance on her return to work, noting that her maternity leave was set to end on the same date. The Respondent instructed her to report back on 13th April 2023.
27. On 25th April 2023, the Respondent emailed her summoning her to a disciplinary hearing scheduled for 2nd May 2023.
28. At the disciplinary hearing, the Claimant stated that she had never misappropriated the Respondent's funds and had no knowledge of how the deficit in the Lipa na M-Pesa system occurred.
29. She was surprised to receive a termination letter on 24th May 2023, citing gross misconduct and mismanagement of company funds.
30. The Claimant contended that the Respondent discriminated against her on account of her pregnancy.
31. She maintained that the customer sales records did not correlate in any way with the deficit alleged in her M-Pesa or bank transactions, as indicated in the forensic report.

32.The Claimant asserted that the Respondent unfairly terminated her without providing an opportunity to be heard or to present evidence in her defense.

33.She further denied any involvement in theft or conspiracy with another employee, explaining that when she or the branch manager intervened for the cashier, the cash sales reports reconciled correctly. She stated that the discrepancies arose only when the cashier was handling cash.

34.She was categorical that her role was supervisory, providing oversight rather than direct cash handling, which was the responsibility of the cashier.

Respondent's Case

35.The Respondent called oral evidence through **Allan Githinji, Rosebelle Wairimiu, and Kenneth Macharia**, who testified as RW1, RW2, and RW3, respectively. Mr. Githinji, who was the first to go, identified himself as the Respondent's Managing Director. Similarly, he adopted his witness statement as his evidence in chief and produced the Respondent's initial and further lists and bundles of documents, as exhibits before the Court.

36.RW1 testified that in January 2022, he became aware of the Respondent Company's deteriorating financial position, prompting an investigation focused on the Nelson Awori Branch, where the Claimant served as accountant.

37.He stated that the Company engaged the audit firm Kuguru & Associates to conduct a forensic audit at the branch, which revealed a deficit of **Kshs. 6,969,834.00.**

38.Following the audit, the Claimant, as officer in charge of branch accounts, was summoned to provide a detailed report explaining the deficit.

39.The Claimant submitted a reconciliation report acknowledging apparent discrepancies, but the report did not account for the full deficit identified in the audit.

40.A Notice to Show Cause dated 13th April 2023 was issued to the Claimant, to which she did not respond satisfactorily, leading the Company to initiate disciplinary proceedings.

41.RW1 stated that the disciplinary hearing took place on 2nd May 2023, with the Claimant in attendance. During the hearing, the Claimant allegedly admitted knowledge of theft, conspiracy with another employee, and failure to report the fraudulent activities.

42.The Claimant requested that another employee facing similar allegations be present. The Company accommodated this, and a joint hearing was conducted.

43. RW1 testified that, based on the admissions at the hearing, it was established that the Claimant was responsible for the Kshs. 6,969,834.00 deficit. The Claimant proposed repayment through monthly salary deductions.

44. According to RW1, the Claimant committed to repaying the full deficit.

45. The Company agreed and offered a structured repayment plan via monthly salary deductions. Despite accepting the proposal, the Claimant later refused to formalize it in writing.

46. RW1 added that on or about 6th February 2023, the Claimant apologized for failing to inform him of the situation.

47. He stated that, after providing the Claimant a fair hearing, the Company terminated her employment on 24th May 2023 in compliance with the Employment Act.

48. RW1 was categorical that the termination occurred two months after the Claimant returned from maternity leave, and not while she was on leave as alleged.

49.He asserted that no employee has ever been discriminated against on the basis of pregnancy.

50.RW1 further stated that following termination, the Company invited the Claimant to collect her terminal dues via a letter dated 2nd June 2023. She collected Kshs. 252,522.00 the same day and signed to acknowledge full settlement of monetary claims.

51.RW1 testified that a meeting on 25th May 2023 proposed repayment of the deficit in monthly installments of Kshs. 145,000.00, but the Claimant rejected this proposal.

52.He stated that a police report regarding the matter was filed at Kenyatta National Hospital Police Post on 14th June 2023 under “*stealing by servant.*”

53.RW1 added that on 27th January 2025, the Claimant requested a meeting to negotiate an amicable resolution, held at the Respondent’s advocates’ chambers. A debt settlement plan was agreed and shared with her, but she never responded despite repeated reminders.

54.He noted that the Claimant has blown hot and cold, at times admitting responsibility and proposing settlements, while simultaneously claiming unfair termination.

55. RW1 maintained that, being fully responsible for the loss, the Claimant ought to have repaid the full sum of **Kshs. 6,969,834.00.**

56. **Rosebelle Wairimu**, who testified as RW2, identified herself as Operations Manager and Accountant. Equally, she adopted her witness statement as her evidence in chief.

57. It is notable that the evidence of RW1 and RW2 was substantially similar.

58. RW2 stated that in September 2022, the Claimant was scheduled for maternity leave and, on this basis, was required to complete a reconciliation and handover before departure.

59. A reconciliation exercise was conducted to assess the branch's financial position, which revealed mismatches, including overbanking and unbanked funds.

60. RW2 averred that the Claimant acknowledged these discrepancies and promised to resolve them upon her return. No further discussion of the deficits occurred at that time.

61. During her leave, the Claimant continued to assist in reconciling figures and accounting for previously observed inconsistencies.

62. RW2 testified that auditors had been tasked with investigating why the branch was not posting accurate financial reports. The audit confirmed a deficit of Kshs. 6,969,834.00, and the Claimant was given access to conduct a self-reconciliation and submit a detailed report.

63. Despite the time, access, and resources provided, the Claimant was unable to fully account for the missing funds.

64. RW2 stated that she was part of the disciplinary committee that sat on 2nd May 2023. The Claimant and a second employee, facing similar issues, initially met the committee separately, but the Claimant requested a joint hearing.

65. According to RW2, the Claimant admitted at the joint hearing to colluding with the other employee to misappropriate funds.

66. The Company extended a repayment plan to the Claimant and the other employee, which they later declined to accept.

67. Consequently, the Claimant's employment was terminated for gross misconduct.

68. **Kenneth Macharia**, who testified as RW3, identified himself as an accountant and managing partner at Kuguru & Associates.

69.RW3 testified that he prepared an audit report dated 6th April 2023, which he submitted as his evidence in chief.

70.He stated that he was engaged by the Respondent to perform a forensic audit, as the M-Pesa records did not reconcile with the statements from Safaricom.

71.RW3 testified that his review of the pay bill numbers revealed significant discrepancies.

Submissions

72.The Claimant submitted that the Respondent failed to comply with the statutory requirements set out under **Sections 41, 43, 45 and 47(5) of the Employment Act.**

73.It was further submitted by the Claimant that the Respondent failed to address inconsistencies in its witness testimony and instead offered shifting explanations seemingly designed to cover evidentiary gaps.

74.The Claimant further contended that the evidence demonstrated she neither had access to nor control or opportunity to misappropriate the funds in question.

75.She further argued that the disciplinary process fell short of statutory standards, asserting that the allegations were vague, unsupported, and that she had been

recalled from maternity leave to respond to unspecified accusations. In support of these arguments, she relied on the authority of *Loice Otieno v KCB (2013) eKLR*.

76. The Claimant additionally submitted that the Respondent suspended her while she was on leave, unlawfully recalled her, raised concerns only after she proceeded on leave, terminated her employment shortly upon her return, and reported the matter to the police only after litigation commenced. In her view, this sequence of actions evidences discriminatory and retaliatory treatment.

77. Regarding the Counterclaim, the Claimant contended that it was speculative, malicious, and amounted to an abuse of the court process.

78. The Respondent, on its part, submitted that it had fully complied with the procedural fairness requirements under **Section 41 of the Employment Act**, noting that the Claimant was informed of the allegations, afforded an opportunity to respond, allowed to account for the missing funds, permitted to have a representative of her choice during the disciplinary hearing, and was duly heard.

79. The Respondent further argued that the termination was based solely on the Claimant's involvement in the loss of funds and her own admission that she was

aware the cashier was taking money but chose not to report it. According to the Respondent, this amounted to deliberate complicity.

80. Relying on the case of *Adpack Limited v Nyamasage (2025) KEELRC 262 (KLR)*, the Respondent maintained that it had a valid, reasonable, and lawful basis for the Claimant's termination.

81. On the allegation of discrimination, the Respondent submitted that the Claimant was granted her full maternity leave with pay, resumed work without any impediment, and had all her maternity-related medical expenses fully covered by the Respondent under a company-funded medical insurance scheme.

Analysis and Determination

82. Flowing from the pleadings by both parties, the evidentiary material on record, together with the rival submissions, the Court has isolated the following issues for determination: -

- i. Whether the Respondent has established the existence of a valid and fair reason for terminating the Claimant's employment;**
- ii. Whether the termination of the Claimant's employment met the requirements of procedural fairness;**
- iii. Whether the Claimant has proved the allegation of discrimination;**

- iv. **Whether the Claimant is entitled to the remedies sought; and**
- v. **Whether the Respondent's Counterclaim has merit.**

Valid and fair reason for termination?

83. The record bears that the Claimant's employment was terminated on grounds of gross misconduct and mishandling of company funds. Specifically, it was alleged that she participated in the theft and mismanagement of funds, thereby exposing the Respondent's business to significant operational and financial risk.

84. The Respondent's position is that concerns about the Company's deteriorating financial status prompted an investigation, leading to the engagement of a forensic audit firm, which uncovered a deficit of Kshs. 6,969,834/-.

85. In support of its case, the Respondent produced a forensic audit report dated 6th April 2023, showing M-Pesa deficits of Kshs. 4,032,938.00 for the period January to November 2022 and Kshs. 2,936,851.00 for the year 2021.

86. The Respondent also relied on a letter dated 21st February 2023 in which the Claimant acknowledged having undertaken the reconciliations and noted discrepancies between the bank/Mpesa statements and the cashier's Lipa na Mpesa records.

87. It is therefore undisputed that the Respondent suffered financial loss. What remains contested is the Claimant's role in the loss of the funds by the Respondent.

88. According to the Respondent, the Claimant admitted during the disciplinary hearing that she was aware of the ongoing theft of company funds, failed to report it, and thereby became complicit in the fraudulent activities.

89. The Claimant, however, has consistently denied the allegations and maintained that she did not directly handle cash, which was the sole responsibility of the cashier. She further asserted that the discrepancies only arose on days when the cashier was responsible for cash handling.

90. The Respondent produced minutes of the disciplinary hearing held on 2nd May 2023, indicating that the cashier, **Josephine Adera**, admitted to taking company funds on multiple occasions, though she claimed to have repaid them. Josephine also stated that the Claimant was unaware of her actions.

91. According to the same minutes, the Claimant and the cashier were heard jointly. The record shows that both acknowledged discovering a deficit during the September 2022 reconciliation and agreed to address it internally until the

Claimant returned from maternity leave. The minutes further indicate that they accepted responsibility and agreed to repay the deficit.

92. In her testimony before the Court, the Claimant denied admitting to any conspiracy or theft during the disciplinary hearing.

93. In further support of its case, the Respondent exhibited a copy of a letter dated 21st February 2023, in which the Claimant admitted conducting reconciliations and noting discrepancies.

94. Both parties further produced extracts of WhatsApp messages exchanged between the Claimant and RW1.

95. In a message sent to RW1 on 4th January 2023, the Claimant reported that she had reviewed the cashier's books up to September together with RW2, noting that while she and another staff member balanced, the cashier (Josephine) had a deficit. In the same message, the Claimant stated that Josephine had begun “sorting out” the banking before she (Claimant) went on leave, and that they had agreed on a timeline for addressing the issue. She apologized for failing to inform RW1, stating that she had hoped to “damage control” from within.

96. From the foregoing, it is evident that the cashier, Josephine, played a significant role in the loss of the Respondent’s funds.

97. Testifying under cross-examination, the Claimant admitted that she failed to report the discrepancy to RW1, stating that although she did not initially see the need to do so, she later recognized that she should have informed him.

98. It is therefore clear that the Claimant became aware of the deficit as early as September 2022, but chose not to escalate the matter and instead attempted to manage it internally.

99. While the Claimant may not have taken any company funds herself, her failure to report the deficit contributed to the concealment of the loss.

100. According to the audit report, **Kshs. 4,032,983.00** of the deficit was in respect of the period between January and November 2022. Therefore, by withholding the information regarding the deficit she had unearthed from RW1 in September 2022, the Claimant allowed further losses to occur in October and November 2022, losses that could have been avoided had she reported the matter promptly.

101. What's more, the Claimant acknowledged that reconciliation formed part of her responsibilities. Therefore, had she conducted reconciliations regularly and appropriately, the loss dating back to 2021 would likely have been discovered much earlier. The scale of the deficit points to a lapse in proper reconciliation over an extended period.

102. In view of the Claimant's conduct, the Court is persuaded that the Respondent had reasonable grounds to conclude that a valid and justifiable basis existed for terminating her employment.

103. Applying the applicable standard of proof under Section 43(2) of the Employment Act, the Court finds that the Respondent has demonstrated to the requisite standard the existence of a valid and fair reason for the termination of the Claimant's employment on account of her conduct.

Procedural fairness?

104. Pursuant to **Section 45(2)(c) of the Employment Act**, an employer bears the burden of proving that the termination of employment was carried out in accordance with a fair procedure. The specific requirements of a fair procedure are set out under **Section 41 of the Employment Act**. In this regard, an employer is obliged to notify an employee of the intended termination in a language that the employee understands. The employee must also be given an opportunity to respond to the allegations against them, in the presence of a fellow employee of their choice or a union representative.

105. From the record, the Claimant was issued with a Notice to Show Cause dated 13th April 2023 setting out the allegations against her. She responded through a letter dated 19th April 2023, in which she denied the allegations and requested that the cashier (Josephine) be present during the disciplinary hearing. Thereafter, she was invited to a disciplinary hearing, which was held on 2nd May 2023. The record further indicates that after presenting her own case, a joint hearing was conducted in the presence of the cashier.

106. In this case, it is notable that the Claimant has not identified any procedural shortcomings in the manner in which the Respondent conducted the disciplinary process. Her primary concern relates to her recall from maternity leave. However, this issue is unrelated to the disciplinary process itself, as she had already resumed duty in April 2023, and the disciplinary process commenced thereafter.

107. Overall, the Court has found no procedural flaw that would invalidate the process undertaken by the Respondent.

108. Consequently, the Court concludes that the Claimant's termination was carried out in compliance with the procedural requirements under Section 41 of the Employment Act, and the Respondent cannot be faulted on this account.

Discrimination?

109. The Claimant asserted that the Respondent discriminated against her on account of her pregnancy, arguing that the timing of the concerns raised immediately upon her return from maternity leave was indicative of discriminatory targeting.

110. **Section 5(3) of the Employment Act** prohibits discrimination in employment on various grounds, including race, colour, sex, language, religion, political or other opinion, nationality, disability, pregnancy, and marital status, and applies to all aspects of employment such as recruitment, training, promotion, terms and conditions of employment, and termination.

111. In considering the issue of pregnancy discrimination, the Court in the case of **GMV v Bank of Africa Limited (2013) eKLR** held as follows:

“All the ladies are required to do is establish a prima facie case, through direct evidence or statistical proof, that they have been discriminated against at employment, on account of their pregnancies. Courts have stated that the employee needs to:-

- *Establish she belongs to a protected class;*
- *Demonstrate she qualified for the job she lost;*
- *Show she suffered adverse employment action, directly as a result of her pregnancy. She must provide prima facie proof, that other explanations by the employer are pretextual, and the real reason for termination was the pregnancy;*

- *Lastly, the employee must as a minimum, establish that there is a nexus between the adverse employment decision, and her pregnancy...”*

112. In the present case, it is undisputed that the Claimant proceeded on maternity leave sometime in November 2022. It is also evident that during her maternity leave, the Respondent undertook an audit and required the Claimant to carry out reconciliation work from her end.

113. The record further shows that the Claimant completed her maternity leave, which she had combined with her annual leave, in April 2023 and resumed duty. Evidently, it was only after the Claimant’s return to work that the Respondent initiated the disciplinary process against her.

114. As stated herein, the Respondent exhibited a forensic audit report dated 6th April 2023 confirming that the company suffered financial loss. In addition, the Claimant’s own reconciliation revealed a deficit, and she admitted to RW1 that she had identified discrepancies as early as September 2022.

115. In view of these circumstances, it is clear that the disciplinary proceedings that led to the Claimant’s termination were not motivated by her pregnancy. Put

differently, there is no evidence of a causal link between the Claimant's pregnancy and the termination of her employment.

116. Guided by the standard articulated in the GMV case, the Court is not persuaded that the Claimant suffered any adverse employment action directly arising from her pregnancy, nor that her pregnancy was the actual reason for the termination of her employment.

117. Consequently, the Court finds that the Claimant has failed to establish a *prima facie* case of pregnancy-related discrimination that would shift the evidentiary burden to the Respondent to disprove the allegation.

118. For these reasons, the Claimant's claim with respect to discrimination fails.

Reliefs?

119. As the Court has found the termination of the Claimant's employment was based on a fair and valid reason and conducted in accordance with the procedure set out under Section 41 of the Employment Act, the Claim for notice pay and compensatory damages cannot be sustained. Equally, the claim for damages arising from alleged pregnancy-based discrimination fails, as the Court has found that the Claimant did not establish a *prima facie* case of discrimination.

120. The claim for severance pay is rejected, as severance is only payable under **Section 40(1) (g) of the Employment Act**, upon termination on account of redundancy, which is not the case herein.

121. The only claim that succeeds is the Claimant's entitlement to accrued leave days. Since her employment terminated on 24th May 2023, she is entitled to payment for accrued but untaken leave days up to that date.

Merit in the Counterclaim?

122. The Respondent lodged a Counterclaim seeking recovery of **Kshs. 6,969,834.00** from the Claimant.

123. The Respondent contends that the Claimant accepted responsibility for this deficit during the disciplinary hearing and agreed to a repayment plan, which she later rejected.

124. However, the record contains no evidence demonstrating that the Claimant admitted liability for the alleged loss of Kshs. 6,969,834/- or committed in writing, to reimburse the said amount.

125. The evidence on record instead shows that the Respondent’s cashier, Josephine Adera, admitted to taking company funds and expressly stated during the disciplinary hearing that the Claimant was unaware of her actions. As earlier noted, the Claimant’s shortcoming was her failure to report the discrepancies to the Respondent once she unearthed them.

126. In these circumstances, it would be unjust and unreasonable to hold the Claimant liable for the entire loss of **Kshs. 6,969,834/-** or to order her to refund the same.

127. Accordingly, the Counterclaim is dismissed.

Orders

128. Ultimately, the Claimant’s claim succeeds solely in respect of unpaid leave days, which the Court has calculated at **Kshs. 25,172.60**, representing five (5) months in 2023. This amount shall accrue interest at court rates from the date of this Judgment until full payment is made.

129. As the Claim has largely collapsed and the Counterclaim disallowed, the Court deems it appropriate that each party bears its own costs.

DATED, SIGNED and DELIVERED at MERU this 13th day of March 2026.

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STELLA RUTTO
JUDGE

In the presence of:

Ms. Odari for the Claimant

Mr. Shamma for the Respondent

Qabale Court Assistant

ORDER

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with **Order 21 Rule 1 of the Civil Procedure Rules**, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court had been guided by Article 159(2)(d) of the Constitution which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the Constitution and the provisions of **Section 1B of the Civil Procedure Act (Chapter 21 of the Laws of Kenya)** which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which

is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

STELLA RUTTO
JUDGE