



Kawimbi v Modern Coast Building and Construction Ltd (Cause 59 of 2018) [2025] KEELRC 1833 (KLR) (24 June 2025) (Ruling)

Neutral citation: [2025] KEELRC 1833 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 59 OF 2018
K OCHARO, J
JUNE 24, 2025**

BETWEEN

JERA EDWIN KAWIMBI CLAIMANT

AND

MODERN COAST BUILDING AND CONSTRUCTION LTD RESPONDENT

RULING

1. When this matter was called for hearing on 5th June 2025, and as the Claimant had begun giving evidence, Counsel for the Respondent objected to the production of the documents that the Claimant had filed and served under the list of documents dated 17th January 2018. These were copies of his identification card, job card, and payslip.
2. Counsel for the Respondent argued that the objection is based on the “originality of documents to be used at trial.” The Respondent has not seen the originals of the documents. Furthermore, when the Claimant amended his statement of claim, he did not file any witness statements.
3. Counsel for the Claimant submitted that the Claimant possesses the original documents listed above that were filed and served.
4. On the issue of filing fresh witness statements after the amendment of the statement of claim, he argued that the matter had already been addressed by Justice Ndolo and Justice Nzei. The objections raised by the Respondent were dismissed by the two Judges.
5. I have carefully considered the arguments presented by Counsel for the parties. I have no hesitation in stating that the Respondent's objection is a suitable candidate for rejection.
6. Pursuant to the Procedure Rules of this court, documents are filed simultaneously with pleadings, and when they have been filed accordingly, any concerns regarding them should be raised at the pre-trial conference, not during the trial. Courts cannot liberally permit a practice such as that proposed by the



Respondent, as it would undermine the court's overriding objective and the purpose of the pre-trial procedural steps outlined in the Procedure Rules of this court – ELRC.

7. Furthermore, the Procedure Rules have established mechanisms such as document inspection that should be utilised to prevent objections, like those raised by the Respondent, which only serve to delay the disposal of matters.
8. For the comfort of the Respondents regarding seeing the original documents, this court has ordered a physical hearing instead of a virtual one.
9. I take a clear view that there is no legal requirement that, whenever pleadings are amended, a new set of documents and witness statements must be submitted, unless the amendments involve a substantial change in the factual issues of the case.
10. In the upshot, I find the objection raised by the Respondent's Counsel lacking merit. It is hereby dismissed.

READ, DELIVERED AND SIGNED THIS 24TH DAY OF JUNE, 2025.

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OCHARO KEBIRA

JUDGE.

