



**Kenya Private Universities Workers Union v Umma University (Cause  
667 of 2019) [2025] KEELRC 2271 (KLR) (31 July 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2271 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 667 OF 2019**

**L NDOLO, J  
JULY 31, 2025**

**BETWEEN  
KENYA PRIVATE UNIVERSITIES WORKERS UNION ..... CLAIMANT  
AND  
UMMA UNIVERSITY ..... RESPONDENT**

**RULING**

1. This ruling flows from the Claimant’s Notice of Motion dated 31<sup>st</sup> October 2024, seeking the following orders:
  - a. An order directing the Respondent’s Vice-Chancellor, Idle O. Farah, PhD, OGW to appear in court to show cause why he should not be held in contempt of orders of the Court and/or directions to the OCS, Kajjado Police Station, to arrest and produce him in court;
  - b. An order directing the Respondent to pay arrears in union dues amounting to Kshs. 2,696,099.88 and a further Kshs. 47,299.99 per month until the hearing and determination of the suit;
  - c. An order directing the Respondent to comply with the court orders issued on 10<sup>th</sup> March 2020, to allow the Claimant Union to organise its members at the Respondent.
2. The application is supported by an affidavit sworn by the Claimant’s General Secretary, Peter Emisembe Owiti and is based on the following grounds:
  - a. That the Court issued orders on 10<sup>th</sup> March 2020, directing the Respondent to allow the Claimant to meet workers on various dates, both at the main campus in Kajjado and Thika campus;
  - b. That the Respondent declined to allow the Claimant to meet the workers as directed by the Court, despite the Claimant’s request in writing;



- c. That the Claimant served the Respondent's Advocate on record; with check-off forms for 43 members who had acknowledged their membership with the Claimant, authorising the Respondent to comply with Section 48 of the Labour Relations Act, read together with Section 19 of the Employment Act but the Respondent refused to comply with the law;
  - d. That the Respondent's Advocate on record called the Claimant's General Secretary asking him to desist from writing to the Respondent's Vice-Chancellor, requesting for a meeting at the University to organise its members as per Section 56 of the Labour Relations Act;
  - e. That the Respondent has continued to disobey the mandatory provisions of the law by refusal to deduct and remit union dues;
  - f. That the Respondent has violated Form 'S' being; ministerial order to deduct and remit union dues to the Claimant's gazetted account
3. The Respondent's response is contained in a replying affidavit sworn by its Acting Human Resources Manager, Siama Amin Ismail, on 2<sup>nd</sup> December 2024.
  4. Ismail depones that the Claimant's representatives visited the Respondent's main campus in Isinya and Thika campus, on several occasions in 2019/2020, with a view to recruiting employees into union membership.
  5. She denies that the said representatives were denied access, adding that the University's management remained unaware of their presence on campus as they did not notify the administration of their activities.
  6. Ismail further depones that even before the issuance of the court orders of 10<sup>th</sup> March 2020, the Claimant's representatives had accessed both campuses where they spoke to staff members, without any hindrance, notwithstanding that there was no prior notice.
  7. Ismail concedes that the Claimant served the Respondent's Advocates with check-off forms, but states that out of the 43 persons recruited, 33 had never been employees of the Respondent. She adds that these persons comprised of security personnel, cleaners and others in the employ of third party service providers.
  8. According to the Respondent, only ten persons on the check-off forms, were truly its members of staff, with seven of them having since left its employment, and one being an intern for the period between 7<sup>th</sup> May 2019 and 30<sup>th</sup> July 2019, leaving only two persons still in employment.
  9. It is deponed that upon writing to the two staff members, Elyne Kalei and Mercy Ngunyi, regarding their permission to deduct union dues from their salaries, they are said to have rejected union membership.
  10. In its written submissions dated 3<sup>rd</sup> April 2025, the Respondent states that the prayers sought in this application were dispensed with via a consent order issued by Ongaya J on 10<sup>th</sup> March 2020.
  11. According to the Respondent, whereas the said order directed, inter alia, that the Claimant Union be granted access to the University's Thika and Kajado campuses, on 13<sup>th</sup> March 2020 and 26<sup>th</sup> March 2020 respectively, the Union failed to follow up on the visits as mandated by the Court, only to write to the University on 7<sup>th</sup> February 2023 asking for alternative dates.
  12. The Respondent further submits that the Claimant's prayers in the application are similar to those sought in the main claim. It is also submitted that some of the prayers are in the nature of mandatory injunctions, which are not ordinarily granted at the interlocutory stage.



13. Moreover, the Respondent submits that the party who is alleged to be in contempt of court has not been served with the application and is not therefore before the Court to defend himself. Instructively, it is said that the said person is no longer an employee of the Respondent.
14. In addition, the Respondent takes the position that the subject orders were incapable of being obeyed due to restrictions occasioned by the onset of the COVID-19 pandemic.
15. By its application, the Claimant seeks a wide range of prayers; ranging from an order citing the Respondent's Vice-Chancellor for contempt of court to a mandatory injunction, directing the Respondent to remit union dues to the Claimant.
16. Looking at the pleadings and submissions filed by the parties with respect to the application, there are many issues of fact in contention which can only be determined pursuant to a full trial. Of significance is the fact that the prayers sought in the application are similar to those the Claimant pursues in the main claim. I find no reason to support the summary procedure initiated by the Claimant.
17. Regarding the prayer in the nature of a mandatory injunction, I am guided by the general principle of law that save in exceptional circumstances, a mandatory injunction should not be issued at the interlocutory stage. The Court of Appeal affirmed this position in its decision in Joseph Kaloki t/a Royal Family Assembly v Nancy Atieno Ouma [2020] eKLR.
18. More significantly, the person the Claimant alleges to be in contempt of court, Idle O. Farah, PhD, OGW was not notified about these proceedings. Moreover, the averment by the Respondent that Farah was no longer in its employment was not dislodged.
19. In its written submissions dated 3<sup>rd</sup> April 2025, the Respondent cites the decision in Abdiwahab Abdullahi Ali v Governor County Government of Garissa & another [2013] KEHC 2168 (KLR) where it was held that a person who is the subject of contempt proceedings ought to be served personally.
20. Overall, I find the Claimant's application unmeritorious and proceed to dismiss it with costs in the cause.
21. Orders accordingly.

**DELIVERED VIRTUALLY AT NAIROBI THIS 31<sup>ST</sup> DAY OF JULY 2025**

**LINNET NDOLO**

**JUDGE**

Appearance:

Mr. Owiti for the Claimant

Mr. Mohamed for the Respondent

