



**Kathuri v Scania East Africa Limited (Cause E392 of 2021)  
[2022] KEELRC 12802 (KLR) (11 October 2022) (Ruling)**

Neutral citation: [2022] KEELRC 12802 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E392 OF 2021  
J RIKA, J  
OCTOBER 11, 2022**

**BETWEEN**

**LEAKEY TOM KATHURI ..... CLAIMANT**

**AND**

**SCANIA EAST AFRICA LIMITED ..... RESPONDENT**

**RULING**

1. Hearing in this Claim closed on 14<sup>th</sup> June 2022.
2. Parties confirmed the filing of their Closing Submissions on 20<sup>th</sup> July 2022, and were advised that Judgment would be delivered on notice.
3. It has become necessary for the Court, acting suo moto, to review its order of 20<sup>th</sup> July 2022.
4. In the process of reviewing the Parties' Pleadings, in preparation of the Judgment, the Court has encountered an impediment, necessitating return of the file to the Registry, for the attention of the Deputy Registrar and the Parties.
5. The Statement of Response on record, is dated 10<sup>th</sup> February 2021, and is filed by the Law Firm of Hamilton Harrison and Mathews, on record for the Respondent.
6. Service is indicated to be upon the Law Firm of Mbugua Ng'ang'a for the Claimant. The Law Firm on record for the Claimant is Kembi-Gitura.
7. The title to the Statement of Response is altered by hand, indicating the Claimant as Leakey Tom, not Leakey Tom Kathuri. The original printed name, which was cancelled by hand, indicates the Claimant is Didier Uhoranigonga.



8. The Respondent in shown by hand, as Scania E.A, while the printed, cancelled Respondent, is shown as Msingi East Africa Limited. The Statement is drawn and filed by the Law Firm of Hamilton, Harrison and Mathews.
9. The Cause Number on the Statement of Response, is similarly altered by hand.
10. The Statement of Response on record, which the Court had gone to a great length in reviewing, in preparation of Judgment, appears unrelated with the other Pleadings filed by the Parties, that is: Statement of Claim; Statement of Further Response; and Reply to the Statement of Response.
11. It refers to disciplinary proceedings against the Claimant on the grounds of bribery and corruption, while the other Pleadings, refer to redundancy.
12. The Evidence adduced by the Parties relates to redundancy.
13. It is not clear how the Statement of Response was altered by hand; who occasioned the alteration; and who filed or caused to be filed, the wrong Statement of Response. The answer has to lie somewhere between the Respondent's Advocates' Chambers, and the Court Registry. The Court is of the view that the answer needs to be found. This problem is not a minor clerical error. The Court was about to complete writing its Judgment, and to invite Parties for its delivery, based on the Statement of Response dated 10<sup>th</sup> February 2021. It is only the presence of the further Pleadings, and the Evidence recorded from the Parties, that have alerted the Court to this impropriety. It is clear that there is a problem which needs to be brought to the attention of the Registry and the Parties, investigated and remedied, before the Court can proceed with judgment-writing.
14. It would be appropriate for the Court and the Parties' Advocates, to investigate and find out who is responsible for filing of the wrong Statement of Response; and who altered the names of the Parties without any leave of the Court. There must be an explanation, because if ignored, such mischief impedes the administration of justice. The correct Statement of Response, accompanied by the Investigation Report from the Deputy Registrar, should be placed on the record, before the Court can proceed with judgment-writing.

**It is ordered: -**

- a. The order on delivery of Judgment on notice is reviewed and stayed.
- b. The file is referred back to the Registry.
- c. The Deputy Registrar shall investigate the circumstances surrounding the alteration by hand, and filing of the Statement of Response on record, dated 10<sup>th</sup> February 2021, and file an Investigations Report.
- d. Parties shall assist the Deputy Registrar with the investigations.
- e. The correct Pleadings shall be placed on the record.
- f. Mention before the Deputy Registrar on a date to be assigned by the Deputy Registrar for further directions.

**DATED, SIGNED AND RELEASED THE PARTIES ELECTRONICALLY, UNDER THE MINISTRY OF HEALTH AND JUDICIARY COVID-19 GUIDELINES, AT NAIROBI, THIS 11<sup>TH</sup> DAY OF OCTOBER 2022.**

**JAMES RIKA**  
**JUDGE**

