



**Kenya Pipeline Company Limited v Mwita (Cause E559 of 2021)
[2022] KEELRC 13170 (KLR) (10 November 2022) (Ruling)**

Neutral citation: [2022] KEELRC 13170 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E559 OF 2021
L NDOLO, J
NOVEMBER 10, 2022**

BETWEEN

KENYA PIPELINE COMPANY LIMITED CLAIMANT

AND

ANDREW MWITA RESPONDENT

RULING

1. The subject of this ruling is the Respondent’s Notice of Motion dated 20th July 2022 seeking leave to file defence out of time.
2. The application is supported by the Respondent’s own affidavit and is premised on the following grounds:
 - a. The Respondent did indeed receive summons to enter appearance;
 - b. The Respondent forwarded the summons to his then Advocates, Leparmarai & Co Advocates;
 - c. The said Advocates assured the Respondent that they had taken over the matter and exhibited to him a notice of appointment;
 - d. The Respondent has tried to get in touch with the said Advocates but is unable to trace them as their former office in View Park Towers remains closed;
 - e. The Respondent has a meritorious defence to the suit;
 - f. Granting of the orders will not in any way prejudice the Claimant.
3. In his affidavit in support of the Motion, the Respondent depones that a search with the Law Society of Kenya confirmed that his former Advocate, Leparmarai Henry Yoni is no longer in active practice.



4. Rule 13(5) of the Employment and Labour Relations Court (Procedure) Rules empowers the Court to extend time for filing of pleadings. The Claimant does not oppose the Respondent's application and the reason advanced for the delay in filing a defence is reasonable.
5. I therefore grant leave to the Respondent to file his defence out of time. The said defence shall be filed and served upon the Claimant within the next twenty-one (21) days from the date of this ruling.
6. The costs of the Motion will be in the cause.
7. Orders accordingly.

DELIVERED VIRTUALLY AT NAIROBI THIS 10TH DAY OF NOVEMBER, 2022.

LINNET NDOLO

JUDGE

Appearance:

No appearance for the Claimant

Mr. Thiong'o for the Respondent

