

REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS

COURT OF KENYA AT NYERI

CASE NO. 407 OF 2017

NELSON MAINA.....CLAIMANT

VERSUS

KENYATTA UNIVERSITY.....RESPONDENT

RULING

1. Respondent seeks leave to file a statement and avail a witness. The Claimant objects on grounds that it would amount to a trial by ambush. The Claimant argues that what they would propound would be a surprise to them.
2. Respondent asserts through Counsel that the testimony is purely as per the response and would not entail filing of documents. The Advocate for Respondent therefore prays that they be allowed to avail the witness and have the witness testify. If the Court is minded testimony could be adduced without benefit of statement as per Counsel for Respondent.
3. In the case before me, the Respondent was availed numerous opportunities to file statements if need be but they did not. The Claimant has testified and in view of this fact and the fact that there would be a degree of prejudice to be suffered if examination of the Respondent's witness is allowed without a statement or after filing of a statement after the testimony of the Claimant today. The Court closes defence case and orders parties to file submissions as will be directed after this Ruling.

It is so ordered.

Dated and delivered at Nyeri this 21st day of January 2019

Nzioki wa Makau

JUDGE

I certify that this is a true

copy of the original

DEPUTY REGISTRAR