



REPUBLIC OF KENYA



**Thakrar v WPP PLC & 8 others (Commercial Case E147 of 2024)
[2025] KEHC 7382 (KLR) (Commercial and Tax) (29 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 7382 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
COMMERCIAL CASE E147 OF 2024
JWW MONG'ARE, J
MAY 29, 2025**

BETWEEN

BHARAT KUMAR THAKRAR PLAINTIFF

AND

WPP PLC 1ST DEFENDANT

WPP-SCANGROUP PLC 2ND DEFENDANT

RICHARD OMWELA 3RD DEFENDANT

PRATUL SHAH 4TH DEFENDANT

ANDREW SCOTT 5TH DEFENDANT

DOMINIC GRANGER 6TH DEFENDANT

JON EGGAR 7TH DEFENDANT

JASON DAY 8TH DEFENDANT

SHAHID SADIQ 9TH DEFENDANT

RULING

Introduction and Background

1. The Plaintiff is a shareholder of the 2nd Defendant and used to be its Chief Executive Officer (CEO) between 1st October 2005 to 23rd March 2021 whereas the 3rd – 9th Defendants (“the Defendants”) are/were its directors. The Plaintiff was suspended from the Defendants on 18th February 2021 after allegations emerged that the Plaintiff was engaging in conduct contrary to the 2nd Defendant’s



policies and procedures, its Code of Business Conduct and Board Charter which led to the Plaintiff's resignation on 23rd March 2021.

2. By a plaint dated 22nd March 2024, the Plaintiff challenges the legality and processes that led to his suspension and eventual resignation and he accuses the Defendants of racial bias and neo-colonialist practices, inducement, breach of contract and duties, and malice. It thus seeks inter alia damages for reputational, emotional and mental loss and damage, an injunction to restrain the Defendants from continual publication, or any further publication of defamatory expressions and injurious falsehoods and an order requiring them to make an unqualified retraction of the allegations against the Plaintiff, or alternatively, a publication of a statement clearing the Plaintiff of the allegations contained in their publications and/or statements.
3. The Defendants have now filed the Notice of Motion dated 3rd July 2024 seeking to strike out the Plaint for reasons that the same is a claim for adjudication by the Employment and Labour Relations Court (ELRC), the claims for injury to the Plaintiff's reputation are time barred and that the suit discloses no reasonable cause of action against them. The Plaintiff has responded to this application through his Grounds of Opposition dated 25th September 2024. The application was disposed by way of written submissions which together with the pleadings I have considered and will make relevant references to in my analysis and determination below.

Analysis and Determination

4. The main issue falling for determination is whether the suit against the Defendants ought to be struck out for want of jurisdiction, cause of action and limitation of time. I propose to first deal with the issue of jurisdiction because without it, this court cannot move any further (see *The Owners of Motor vessel Lillian 'S' v Caltex Kenya Limited* [1989] KECA 48 (KLR)). The Defendants have stated that this is a labour dispute which ought to be dealt with by the ELRC as the Plaintiff claim arises from the termination of his employment contract with the 2nd Defendant and he seeks his gross salary as well as future earnings and incomes that he would have earned had the contract not been terminated.
5. On his part, the Plaintiff submits that to invoke the ELRC's jurisdiction, the cause of action of a claimant ought to emanate from an employer-employee relationship but that in the present case, the employment relationship was exclusively between the Plaintiff and the 2nd Defendant. That at no point in time was the 1st Defendant a party to that relationship and therefore, the 1st Defendant could not be subjected to any employment disputes pertaining to the employment contract. From this submission, the Plaintiff expressly admits that his claim is that of an employer-employee relationship as between himself and the 2nd Defendant and that the only reason that the ELRC's jurisdiction is ousted is the claim that the 1st Defendant is accused of inducing the 2nd Defendant to dismiss him. I tend to disagree and I will illustrate the why.
6. The ELRC is a court with the status of the High Court established by Parliament under section Article 162(2)(a) which empowers Parliament to, "establish Courts with the status of the High Court to hear and determine disputes relating to:(a) employment and labour relations." By dint of Article 162(3), Parliament is authorized to "determine the jurisdiction and functions of the Courts contemplated in clause (2)." Pursuant to this power, Parliament enacted the [*Employment and Labour Relations Court Act*](#) (Chapter 8E of the Laws of Kenya) where Section 12(1) thereof further provides for the jurisdiction of the ELRC in the following terms:
 - 12 (1) The Court shall have exclusive original and appellate jurisdiction to hear and determine all disputes referred to it in accordance with Article 162(2) of [*the Constitution*](#) and the provisions



of this Act or any other written law which extends jurisdiction to the Court relating to employment and labour relations including—

- a. disputes relating to or arising out of employment between an employer and an employee;

7. From the above, any dispute relating to an employer and employee is a matter for the ELRC. The Plaintiff's suit is entirely based out of his employee relationship with the 2nd Defendant and the termination thereof and that all his claims against the Defendants relate to and arise out of his employment with the 2nd Defendant. Whether the other Defendants were involved in any impropriety is a matter that the ELRC can determine. I have also gone through the reliefs sought by the Plaintiff which as I stated in the introductory part include damages, an injunction, and an order of specific performance all of which are of an employment nature. I agree with the Defendants' submissions that the Court of Appeal in Kenya Medical Research Institute v Davy Kiprotich Koech [2018] KECA 128 (KLR) held that the ELRC has power to award such reliefs including damages for a claim of defamation that is connected to the wrongful termination of employment, where it is alleged that the defamatory statements substantially and materially affected his employability, which is similar to what the Plaintiff is seeking in this suit.
8. It is for the above reasons that I find that this court has no jurisdiction to determine this matter which falls squarely with the ELRC as it relates to and arises out of a dispute between an employer and employee. At this point, the court cannot move any further and can only strike out the suit for want of jurisdiction.

Conclusion and Disposition

9. The 3rd-9th Defendants' application dated 3rd July 2024 is allowed and the Plaintiff's suit is struck out for want of jurisdiction with costs to the Defendants.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 29TH DAY OF MAY 2025

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J.W.W. MONG'ARE

JUDGE

In the Presence of:-

1. Mr. Bwire holding for the Plaintiff/Applicant.
2. Ms. Wameyo holding Mr. Kuyo for the 1st and 2nd Defendant.
3. Mr. Lawson Ondieki for the 3rd to 9th Defendant.
4. Amos - Court Assistant

