

**THE REPUBLIC OF UGANDA**

**IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA**

**LABOUR DISPUTE REFERENCE 271 OF 2016**

**MUSAASIZI ENOCK ::CLAIMANT**

**VERSUS**

**CIPLA/QUALITY CHEMICAL LTD::RESPONDENT**

**BEFORE**

**THE HON. JUSTICE ANTHONY WABWIRE MUSANA, Ag.J**

**PANELISTS:**

**Ms. ADRINE NAMARA,**

**Ms. SUZAN NABIRYE &**

**Mr. MICHAEL MATOVU.**

**Representation:**

Mr. Derrick Kizito for the Respondent. The Respondent's Representative is not in Court.

The Claimant and his Counsel are absent.

**Court Clerk:** Mr. Samuel Mukiza.

**RECUSAL.**

This Labour Dispute Reference was inherited from His Lordship, The Hon. Justice Asaph Ruhinda Ntengye, Chief Judge Emeritus of the Industrial Court and assigned to my docket.

Upon perusal, I established that the Claimant, Mr. Enoch Musaasizi was my erstwhile client. While at the Bar, I had provided legal advice on various matters including this employment dispute. I have obtained personal knowledge of Mr. Musaasizi's claim against the Respondent.

In view of this fact and for the reasons below, I am of the conscience to recuse myself from participating in these proceedings.

- 1.0 The provisions of Article 28 of the Constitution of the Republic of Uganda 1995, enjoin, in the administration of justice, a protection of the citizens fundamental rights to a fair and public hearing by an independent and impartial tribunal.
- 2.0 The presumption of impartiality also carries considerable weight in the judicial process. The United Nations Bangalore Principles on Judicial Conduct call to mind impartiality as a core attribute of the judiciary and a perception of partiality is likely to leave a sense of grievance and of injustice, thereby destroying confidence in the judicial system.<sup>1</sup>
- 3.0 The tenets of the judicial oath to which I am sworn, require the exercise of the judicial function without fear or favour, ill will, bias or prejudice.
- 4.0 The veritable guide on recusal in our jurisdiction is to be found in **Supreme Court Miscellaneous Application No. 3 of 2021 In Re An Application For Recusal of the Hon. Alphonse Chigamoy Owiny Dollo-CJ by H.H Male Mabirizi**. In a most expansive discourse on the law on recusal of a judicial officer in Uganda, the Honorable Chief Justice of Uganda observed that Principal 2.1 of the Uganda Judicial Code of Conduct provides for mandatory recusal where a judicial officer has personal knowledge of the disputed facts concerning the proceedings.
- 5.0 While partiality on my part has not been suggested, the test whether my partiality will reasonably be questioned is a necessary and important test in the present circumstances. My integrity and impartiality have neither been discarded nor called into question but that there might be a perception of impartiality based on a previous and recent Advocate-Client relationship may not be entirely unavoidable. I cannot, therefore in good conscience, preside of these proceedings.

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<sup>1</sup> Bangalore Principle 2.1 <https://www.unodc.org/documents/ji/training/bangaloreprinciples.pdf> last accessed on 29.09.2022 2:36 pm.

Accordingly, of my own motion and volition and in conformity with the provisions of paragraph 6(1) of The Constitution (Recusal of Judicial Officers) (Practice) Directions, 2019, hereby refrain from participating in these proceedings. In keeping with paragraph 3(a) of the Directions, the parties are hereby notified. The file is sent back to the Registrar of this Court for reallocation.

**Dated at Kampala this 30<sup>th</sup> day of August 2022**

**ANTHONY WABWIRE MUSANA**

**Ag. Judge**

**PANELISTS**

**1. Ms. ADRINE NAMARA**

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**2. Ms. SUZAN NABIRYE**

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**3. Mr. MICHAEL MATOVU**

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Delivered in the presence of Mr. Derrick Kizito, Counsel for the Respondent.

The Claimant and his Counsel are absent.