



The law as it stands is that where a party does not file any reply, it will be taken to have accepted the averments as true.<sup>1</sup> The Applicant's uncontroverted averments are accepted; for this reason, this application would succeed.

- [5] On consideration of the merits of the application, the principles governing amendment of pleadings as set out by Wamala J. in *Okello Wilbert v Obel Ronald*,<sup>2</sup> include attending to the real matter in controversy, not working injustice to the other side, avoiding multiplicity of proceedings, absence of malafides and an amendment ought not to be allowed where any law expressly prohibits it.<sup>3</sup> Our perusal of the draft amended memorandum of claim demonstrates intended amendments of an elaborative fact of denial of offences at the disciplinary hearing of the 22<sup>nd</sup> of June 2022 and correcting erroneous computations of (i) UGX 406,368,000 instead of UGX 1,166,688,000 and, (ii) UGX 73, 166,329 instead of including UGX 97,682,765 to make a total of UGX 170,849,094. It is our view that these are not new facts and are intended to amplify the Applicant's cause. We find that the proposed amendments do not introduce a new cause of action or work an injustice or prejudice to the Respondent. They clarify the Claimant's claim.
- [6] In *Mulowoza Brothers Ltd v N. Shah & Co Ltd*,<sup>4</sup> it was held that amendments should be freely allowed to determine the real question in controversy without undue regard to technicalities except if it causes an injustice that cannot be compensated by costs or introduces a new cause of action. It is our view that the Applicant meets the threshold in the present case as he does not introduce a new cause of action.
- [7] We were asked to make provision for costs. In *Joseph Kalule v GIZ*<sup>5</sup>, our persuasion was that costs in employment disputes are the exception rather than the rule, and may be awarded for misconduct. The Respondent appeared in Court and took filing directions but did not adhere to them. If it were the Respondent's inclination not to oppose the application, an express indication would have served the judicial economy by simply filing a no-contest. For this reason, we think it appropriate to grant the Applicant costs of this application.

#### Directions

- [7] Therefore, we make the following directions:
- (i) The Applicant is granted leave to file an amended memorandum of claim within seven days of this ruling, that is, by the 7<sup>th</sup> of December, 2023.

<sup>1</sup> See *Wasswa v Achen* [1978] HCB 297.

<sup>2</sup> High Court Civil Miscellaneous Application No. 97 of 2020 [2021] UGCommC 9 (26 March 2021)

<sup>3</sup> See also *Sarope Petroleum Ltd v Orient Bank & 2 Ors* H.C.MA 72 of 2011, *Gasol Transport Ltd v Obene* [1990-1994] EA 88

<sup>4</sup> SCCA No. 26 of 2020

<sup>5</sup> LDR 109 of 2020

(ii) The Respondent shall file a reply within seven days from the date of service of the amended memorandum of claim.

(iii) The Applicant shall have taxed costs of the application.


Signed in chambers at Kampala this 30<sup>th</sup> day of Nov 2023.

Anthony Wabwire Musana,  
Judge, Industrial Court

The Panelists Agree:

1. Hon. Adrine Namara,
2. Hon. Susan Nabirye &
3. Hon. Michael Matovu.

  
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30<sup>th</sup> November 2023  
10.00 a.m.

**Appearances**

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| 1. | For the Applicant:  | <b>Ms. Charity Masiko</b><br><b>Applicant in Court.</b>                                |
| 2. | For the Respondent: | <b>Ms. Eseza Victoria Ssendege</b><br><b>No representative of Respondent in Court.</b> |
|    | Court Clerk:        | <b>Mr. Samuel Mukiza.</b>  |

**Ms. Masiko :** Matter for ruling, and we are ready to receive it.  
**Ms. Ssendege :** That is the position.  
**Court :** Ruling delivered in open Court.

Anthony Wabwire Musana,  
Judge, Industrial Court.