

**REPUBLIC OF KENYA
IN THE HIGH OF KENYA AT NAIROBI
CIVIL SUIT NO.....OF 2019**

PETER WANYAMA.....PLAINTIFF

=VERSUS=

NELSON HAVI.....DEFENDANT

PLAINT

(FASTRACK)

1. The Plaintiff is a male adult of sound mind residing and working for gain in the Republic of Kenya, an advocate of the High Court of Kenya; whose address for service for purposes of this suit is care of **HUMPHRE MANYANGE, ADVOCATE 1ST FLOOR, MARSABIT PLAZA, ROOM 107, NGONG ROAD, P.O BOX 100245 – 00101, NAIROBI**
2. The Defendant is a male adult of sound mind residing and working for gain in the Republic of Kenya, his address for service for purposes of this suit shall be through the Plaintiff Advocate’s office.
3. At all material times relevant to this suit, the Defendant ran and operated a verified twitter account, Nelson Havi, @NelsonHavi, and Facebook account, Nelson Havi.
4. On or about 3rd January 2019, the Defendant published by posting on his twitter page; about the nature and or character of the Plaintiff in a manner that was and is considered to be defamatory in nature as follows;

“Peter Wanyama is a known collaborator of judiciary cartels whose agenda and scheme is known. Onslaught against Professor Tom Ojienda is to control JSC and appoint pliant CJ, DCJ and SCOK Judges. CoA Judge Otieno Odek a witness against Ojienda is an obvious intended beneficiary.”

5. The Defendant further published on the same date(3rd January 2019), in response to a post by the Director of Public Prosecutions that;

“This pronouncement confirms that you are continuing investigations on Professor Tom Ojienda in contravention of the Order made on 31.12.2018. It also explains how Peter Wanyama has been procured to enable you arrive at a pre-determined outcome of the matter...”

6. The Defendant also published that;

“Peter Wanyama is a shameless traitor and a wet boy. He has been hovering around professor Tom Ojienda and his legal team, collecting intelligence and transmitting it to his masters. He is indeed a witness in the intended prosecution of his master and mentor. Judas Iscariot reborn.”

7. The Defendant similarly published that;

“DCI has a damning file on Peter Wanyama relating to theft of millions from a county Government in Western Kenya, which file has not been acted upon. It does not therefore, surprise that he has been sanitized overnight from a suspect to a witness against Professor Tom Ojienda.”

8. The words as published on the twitter and Facebook pages of the Defendant and released to the Public as a whole and was accessible to a wide audience both the general public and professional circle; referred and were meant to refer to the Plaintiff.

PARTICULARS OF REFERENCE

- (a) The Plaintiff reiterates paragraph 4,5,6,7 above,
- (b) The Defendant referred to the Plaintiff by name in the Twitter and Facebook page posts and made reference to the Plaintiff’s character in a defamatory manner;
- (c) By the posting of the said posts, the Plaintiff was identified by a large and unquantifiable number of readers as the statement was carried over the internet, and reached a wide audience including his wife, children, parents, sisters and brothers, close family relatives, former school mates, work colleagues, clients, employees and other peers in his academic, professional circle.
- (d) The Plaintiff was and is identifiable as the individual referred to by the said words, statements and inferences.

9. In their natural and ordinary meaning the words meant/mean and were/are understood by right thinking members of the society to mean that;

In relation to paragraph 4 above

- (a) The Plaintiff is dishonest, a conspirator and an associate of an illegal cabal in the judiciary,
- (b) The Plaintiff is a member of an illegal outfit in the judiciary or working with the judiciary to actuate ill and nefarious objectives in appointment of judiciary officials,
- (c) The Plaintiff is a schemer and a gun for hire for illegal outfits within the judiciary
- (d) The Plaintiff has no regard to the law and bends the law to suit his alleged needs,
- (e) The Plaintiff has no integrity,
- (f) The Plaintiff is a criminal and a saboteur,
- (g) The Plaintiff is an evil and reprehensible person,
- (h) The Plaintiff is corrupt and of a corruptible nature.

In relation to paragraph 5 above

- (a) The plaintiff is a dishonest person and conspires with the state to subvert justice,
- (b) The Plaintiff is a liar,
- (c) The Plaintiff serves the interest of the state in persecuting his colleagues,
- (d) The Plaintiff belongs to a criminal gang involved in irregular prosecutions to undermine his colleagues,
- (e) The Plaintiff has questionable moral tendencies and is hired by the state,
- (f) The Plaintiff has no integrity and is dishonorable.

In relation to paragraph 6 above

- (a) The is a treacherous person,
- (b) The Plaintiff is deceitful,
- (c) The Plaintiff is a coward and cowardly,
- (d) The Plaintiff is a spy for hire,
- (e) The plaintiff is double faced,
- (f) The Plaintiff is duplicitous,
- (g) The Plaintiff is disloyal,
- (h) The Plaintiff is not a discreet person,
- (i) The Plaintiff is corrupt and corruptible,
- (j) The Plaintiff is contemptible.

In relation to paragraph 7 above

- (a) The Plaintiff is a thief and plunderer,
- (b) The Plaintiff is a criminal enjoying state protection,
- (c) The Plaintiff is corrupt and corruptible,
- (d) The Plaintiff relies of other to launder his reputation,
- (e) The Plaintiff has no integrity,
- (f) The Plaintiff is not professional.

10. In the words so published by the Defendant, the innuendo in the said words were understood by right thinking members of the society to meant that

- (a) The Plaintiff is a criminal and a thief,

- (b) The Plaintiff is not accountable for his actions,
- (c) The Plaintiff cannot be trusted,
- (d) The Plaintiff has no regard to the law or procedures,
- (e) The Plaintiff is intent on constituting a judicial arm of government in breach of the constitution to serve his own benefit,
- (f) The Plaintiff is involved in the formation of a parallel judicial arm of government to benefit unknown persons,
- (g) The Plaintiff has no integrity and is dishonorable,
- (h) The Plaintiff lacks self-respect,
- (i) The Plaintiff is disrespectful and despicable

11. The Defendant's statements are false and actuated by malice, reckless and not based on any factual considerations, but meant to disparage the reputation of the Plaintiff and were understood to refer to the Plaintiff directly in connection with various allegations of professional misconduct, criminal activity contrary to the Penal Code; which acts had not occurred and which the Defendant knew or ought to have known to be untrue.

PARTICULARS OF MALICE

- a) Failing to prudently discharge its duty of care in ensuring the accuracy of the reports and statements published on the article resulting to the consequence publishing untruthful statements leading to injury of the Plaintiff's reputation;

- b) Refusing and/or failing to consult or obtain a comment from the Plaintiff before publishing the statements that touch on the Plaintiff's character, moral standing and as an advocate practicing in the High Court of Kenya;
- c) Refusing to give the Plaintiff an unqualified apology on account of the negative and injurious impression created as to the suspected involvement in the illegal and irregular acts and immoral and unethical conduct;
- d) Aggravating the defamation of the Plaintiff by publication of the statements complained of in its weekly newspaper with considerable public exposure and coverage to the whole world.

PARTICULARS OF RECKLESSNESS

- e) The Defendant referred to the Plaintiff as belonging to a cartel in the judiciary without any basis with the intention to ruin his standing amongst his colleagues, employees, family, members of the judiciary and the state itself,
- f) The Defendant accused the Plaintiff of dishonesty and manipulation of the judiciary without due regard to the officers of the judiciary and his clients whom he represents in court,
- g) The Defendant accused the Plaintiff of being procured by the DPP to undermine the course of justice without any reasonable justification.
- h) The Defendant deliberately accused the Plaintiff of being a coward and deceitful without any reasonable justification.
- i) The Defendant accused the Plaintiff of theft of public funds and the existence of a file in the possession of the DCI without any justification and thus calling him a thief.

- j) The Defendant made misleading statements about the Plaintiff without due regard to the truth and circumstances attendant thereto.
12. The Defendant's statements were actuated with malicious falsehood the intent of which hurt the professional standing and practice of the Plaintiff.
13. The statements made by the Defendant against the plaintiff amount to serious libel and have caused the Plaintiff grave damage, distress and embarrassment among family, his peers and community at large which damage is irreparable.
14. The Plaintiff has a right to have the estimation in which he stands in the opinion of others unaffected by false statements to his discredit by the Defendant.
15. The Plaintiff avers that there is no other suit instituted or pending between the parties hereto over the same subject matter.
16. That this Honorable Court has the jurisdiction to hear and determine this matter as the cause of action falls within this jurisdiction.
17. **REASONS WHEREOF**, the Plaintiff seeks this court to grant the following Prayers in favor of the Plaintiff against the Defendant:
- a) A permanent injunction restraining the Defendant from writing, publishing, any defamatory statements about the Plaintiff,
 - b) An apology and retraction of similar prominence as the defamatory statement;
 - c) General damages for libel;
 - d) General damages for malicious falsehood;
 - e) Aggravated and Exemplary damages;
 - f) Damages for psychological and emotional distress;

- g) Costs of this suit together with interest thereon; and
- h) Any other remedy that this Honourable court may deem fit to award.

DATED as **NAIROBI** this..... day of**2019**

HUMPHREY MANYANGE
ADVOCATE FOR THE PLAINTIFF

DRAWN & FILED BY:

HUMPHREY MANYANGE
ADVOCATE,
PRACTICE NUMBER: LSK/2019/01109
ADMISSION NUMBER: P.105/11128/14
1ST FLOOR, MARSABIT PLAZA, ROOM 107,
NGONG ROAD,
P.O BOX 100245 – 00101,
NAIROBI

TO BE SERVED UPON

NELSON HAVI
PARK SUITES, 3RD FLOOR, SUITE NO. 4
PARKLANDS ROAD,
OPPOSITE PARKLANDS POST OFFICE
NAIROBI

**REPUBLIC OF KENYA
IN THE HIGH OF KENYA AT NAIROBI
CIVIL SUIT NO.....OF 2019**

PETER WANYAMA.....PLAINTIFF
=VERSUS=
NELSON HAVI.....DEFENDANT

VERIFYING AFFIDAVIT

I, **PETER WANYAMA** of P.O BOX 100245-00100, Nairobi do hereby make oath and swear as follows:

1. **THAT** I am the Plaintiff herein, conversant with the facts of this case and hence competent to swear of this Affidavit.
2. **THAT** I have read the plaint and understood the contents therein.
3. **THAT** I verify the contents of the Plaint to be true and correct.
4. **THAT** all that is deponed herein is true to the best of my knowledge save for information received, sources of which I have disclosed.

SWORN at NAIROBI by the said
PETER WANYAMA
This.....day of.....2019

.....
DEPONENT

BEFORE ME
COMMISSIONER FOR OATHS

DRAWN & FILED BY:
HUMPHREY MANYANGE
ADVOCATE,
PRACTICE NUMBER: LSK/2019/01109
ADMISSION NUMBER: P.105/11128/14
1ST FLOOR, MARSABIT PLAZA, ROOM 107,
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PARK SUITES, 3RD FLOOR, SUITE NO. 4

PARKLANDS ROAD,

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DRAFT

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IN THE HIGH OF KENYA AT NAIROBI
CIVIL SUIT NO.....OF 2019**

PETER WANYAMA.....PLAINTIFF
=VERSUS=
NELSON HAVI.....DEFENDANT

WITNESS STATEMENT

1. My name is **Peter Wanyama**, the Plaintiff herein and of P.O. Box 100245 – 00101.
2. I have read the plaint filed herewith and verify its entire contents to be true and correct.
3. On or about 3rd January 2019, the Defendant published by posting on his twitter page; about me, Peter Wanyama allegedly about my nature and or character in a manner that was and is defamatory in as follows;

“Peter Wanyama is a known collaborator of judiciary cartels whose agenda and scheme is known. Onslaught against Professor Tom Ojienda is to control JSC and appoint pliant CJ, DCJ and SCOK Judges. CoA Judge Otieno Odek a witness against Ojienda is an obvious intended beneficiary.”

4. The Defendant further published on the same date, in response to a post by the Director of Public Prosecutions that;

“This pronouncement confirms that you are continuing investigations on Professor Tom Ojienda in contravention of the Order made on 31.12.2018. It also explains how Peter Wanyama has been procured to enable you arrive at a pre-determined outcome of the matter...”

5. The Defendant also published that;

“Peter Wanyama is a shameless traitor and a wet boy. He has been hovering around professor Tom Ojienda and his legal team, collecting intelligence and transmitting it to his masters. He is indeed a witness in the intended prosecution of his master and mentor. Judas Iscariot reborn.”

6. The Defendant similarly published that;
- “DCI has a damning file on Peter Wanyama relating to theft of millions from a county Government in Western Kenya, which file has not been acted upon. It does not therefore, surprise that he has been sanitized overnight from a suspect to a witness against Professor Tom Ojienda.”***
7. The words as published on the twitter and Facebook pages of the Defendant and released to the Public as a whole and was accessible to a wide audience both the general public and professional circle; referred and were meant to refer to the Plaintiff.

PARTICULARS OF REFERENCE

- (a) The I reiterate paragraph 3,4,5,6 above,
- (b) The Defendant referred to the me by name in the Twitter and Facebook pages posts and made reference to the Plaintiff’s character in a defamatory manner;
- (c) By the posting of the said posts, I was identified by a large and unquantifiable number of readers as the statement was carried over the internet, and reached a wide audience including his wife, children, parents, sisters and brothers, close family relatives, former school mates, work colleagues, clients, employees and other peers in his academic, professional circle.
- (d) I was and is identifiable as the individual referred to by the said words, statements and inferences.
8. In their natural and ordinary meaning the words meant/mean and were/are understood by right thinking members of the society to mean that;

In relation to paragraph 3 above

- (a) The I am dishonest, a conspirator and an associate of an illegal cabal in the judiciary,
- (b) The I am a member of an illegal outfit in the judiciary or working with the judiciary to actuate ill and nefarious objectives in appointment of judiciary officials,
- (c) I am a schemer and a gun for hire for illegal outfits within the judiciary

- (d) I have no regard to the law and bends the law to suit his alleged needs,
- (e) I have no integrity,
- (f) I am a criminal and a saboteur,
- (g) I am an evil and reprehensible person,
- (h) I am corrupt and of a corruptible nature.

In relation to paragraph 4 above

- (a) I am a dishonest person and conspires with the state to subvert justice,
- (b) I am a liar,
- (c) I serve the interest of the state in persecuting his colleagues,
- (d) I belong to a criminal gang involved in irregular prosecutions to undermine his colleagues,
- (e) I have questionable moral tendencies and a state informant,
- (f) The I have no integrity and dishonorable.

In relation to paragraph 5 above

- (a) The is a treacherous person,
- (b) I am deceitful,
- (c) I am a coward and cowardly,
- (d) I am a spy for hire,
- (e) I am double-faced,
- (f) I am duplicitous,
- (g) I am disloyal,
- (h) I am not a discreet person,

(i) I am corrupt and corruptible,

(j) I am contemptible.

In relation to paragraph 6 above

(a) I am a thief and plunderer,

(b) I am a criminal enjoying state protection,

(c) I am corrupt and corruptible,

(d) I rely don't have a good reputation,

(e) I have no integrity,

(f) I am not professional.

9. In the words so published by the Defendant, the innuendo in the said words were understood by right thinking members of the society to mean that

(a) I am a criminal and a thief,

(b) I am not an accountable person,

(c) I cannot be trusted,

(d) I have no regard to the law or procedure,

(e) I am involved in constituting a judicial arm of government in breach of the constitution,

(f) I intend to subvert the rule of law and the operations of the judicial arm of government.

(g) I have no integrity and is dishonorable,

(h) I lack self-respect,

(i) I am a disrespectful and despicable person,

10. The Defendant's statements are false and actuated by malice, reckless and not based on any factual considerations, but meant to disparage my reputation and were understood to refer to me directly in connection with various allegations of professional misconduct, criminal activity contrary to the Penal Code; which acts had not occurred and which the Defendant knew or ought to have known to be untrue.

11. The Defendant's statements were actuated with malicious falsehood the intent of which hurt my professional standing and practice.

12. The statements made by the Defendant amount to serious libel and have caused me grave damage, distress and embarrassment among family, his peers and community at large which damage is irreparable.

13. My reputation among my fellow advocates, members of the judiciary has been discredited and I normally get negative comments from counsel and members of public.

14. The Defendant has declined to apologize, withdraw the statements.

15. I hereby ask the Court to grant me remedies as follows:

- a) A permanent injunction restraining the Defendant from writing, publishing, any defamatory statements about the Plaintiff,
- b) An apology and retraction of similar prominence as the defamatory statement;
- c) General damages for libel;
- d) General damages for malicious falsehood;
- e) Aggravated and Exemplary damages;

- f) Damages for psychological and emotional distress;
- g) Costs of this suit together with interest thereon; and
- h) Any other remedy that this Honourable court may deem fit to award.

16. That is all I wish to state.

.....
PETER WANYAMA

DATED as **NAIROBI** this..... day of**2019**

DRAWN & FILED BY:

HUMPHREY MANYANGE
ADVOCATE,
PRACTICE NUMBER: LSK/2019/01109
ADMISSION NUMBER: P.105/11128/14
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REPUBLIC OF KENYA

**IN THE HIGH OF KENYA AT NAIROBI
CIVIL SUIT NO.....OF 2019**

PETER WANYAMA.....PLAINTIFF

=VERSUS=

NELSON HAVI.....DEFENDANT

LIST OF WITNESSES

1. Peter Wanyama,
2. Any other witness to be called by the plaintiff on notice,

DATED as NAIROBI this..... day of**2019**

**HUMPHREY MANYANGE
ADVOCATE FOR THE PLAINTIFF**

DRAWN & FILED BY:

**HUMPHREY MANYANGE
ADVOCATE,
PRACTICE NUMBER: LSK/2019/01109
ADMISSION NUMBER: P.105/11128/14
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REPUBLIC OF KENYA

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PETER WANYAMA.....PLAINTIFF

=VERSUS=

NELSON HAVI.....DEFENDANT

LIST OF DOCUMENTS

1. Twitter Page extracts
2. Facebook Extracts
3. Certificate of authentication

DATED as NAIROBI this..... day of2019

HUMPHREY MANYANGE
ADVOCATE FOR THE PLAINTIFF

DRAWN & FILED BY:
HUMPHREY MANYANGE
ADVOCATE,
PRACTICE NUMBER: LSK/2019/01109
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**REPUBLIC OF KENYA
IN THE HIGH OF KENYA AT NAIROBI
CIVIL SUIT NO.....OF 2019**

**PETER WANYAMA.....PLAINTIFF
=VERSUS=
NELSON HAVI.....DEFENDANT**

To:
Nelson Havi
Park suites, 3rd Floor, Suite No. 4
Parklands Road,
Opposite Parklands Post Office
NAIROBI

(Summons shall be served through the Plaintiff's Advocate's Offices)

WHEREAS the above-named Plaintiff has instituted a suit against you upon the claim, the particulars of which are set out in the copy plaint with annexure attached hereto.

YOU ARE HEREBY REQUIRED within days from the date of service hereof to enter an appearance in the said suit.

Should you fail to enter an appearance within the time mentioned above, the Plaintiffs may proceed with the suit and judgment may be given in your absence.

Given under my hand and the Seal of the Court this day of, 2019

.....
DEPUTY REGISTRAR

Note: You may appear in this by entering an appearance either appointed advocates at **NAIROBI**. Appearance can be entered by filing with the Court Memo. of Appearance (forms are obtained from Court at 15 cents each) in duplicate, shoeing the defendant's address for service. A filing fee must accompany such memoranda. A copy of the Memo. Of Appearance should also be sent to the plaintiff or his advocates, if any.
