

**REPUBLIC OF KENYA**  
**AT ALUOCHIER DISPUTE RESOLUTION (info@aluochier.co.ke)**  
**ARBITRATION CASE NO. ADRC2025-002**

BETWEEN

BIMA SHEKAMETA BHAI .....CLAIMANT

AND


PETER OKOTH .....1<sup>ST</sup> RESPONDENT  
PATRICK OKELLO .....2<sup>ND</sup> RESPONDENT  
CALLEB ODHIAMBO .....3<sup>RD</sup> RESPONDENT  
DAVID YAGO .....4<sup>TH</sup> RESPONDENT  
REINHARD BONKE .....5<sup>TH</sup> RESPONDENT  
JAMES ONYANGO .....6<sup>TH</sup> RESPONDENT  
JOHN OTIENO .....7<sup>TH</sup> RESPONDENT  
DEMINAL OGWARI.....8<sup>TH</sup> RESPONDENT

**NOTICE OF APPOINTMENT OF ADVOCATES**

**TAKE NOTICE** that the Claimant herein BIMA SHEKAMETA BHAI has appointed the firm of OTIENO DAVID & ASSOCIATES ADVOCATES to act for and represent his interests in this matter.

**HENCEFORTH** all future correspondences, notices and court processes for purposes of this arbitration reference only shall be addressed to: **OTIENO DAVID & ASSOCIATES ADVOCATES, JUNIOR BIZ MART, 2<sup>ND</sup> FLOOR, OPPOSITE GRABO HOTEL SUNA - MIGORI. Email: [otienodadvocates@gmail.com](mailto:otienodadvocates@gmail.com) Tel: 0717065507 / 0732447500**

DATED at **MIGORI** this **23<sup>rd</sup>** day of **September**, 2025

  
\_\_\_\_\_  
**OTIENO DAVID & ASSOCIATES**  
ADVOCATES FOR THE CLAIMANT

**DRAWN & FILED BY:**

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PRACTICE No. LSK /2025/003856

**TO BE SERVED UPON:**

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**CLAIMANT'S WRITTEN SUBMISSIONS**

**(In opposition to the Respondents' Objection dated 8<sup>th</sup> September, 2025)**

**BACKGROUND**

1. The Claimant filed a Statement of Claim dated 27<sup>th</sup> August 2025 before this Tribunal in which he seeks judgment against the Respondents jointly and severally in the manner set out on the face of the Claim.
2. The said Statement of Claim was duly served upon the Respondents together with the necessary accompanying statements and documents whereupon the instant Objection was filed.
3. The Respondents takes issues and or objects to the instant arbitration proceedings on the 5 grounds outlined in the Objection dated 8<sup>th</sup> September, 2025.
4. On 10<sup>th</sup> September, 2025 the Honourable Arbitrator issued directions on prosecution of the Respondents Objection by way of written submissions. Regrettably, the Respondent has failed to comply with the said directions, but the Claimant hereby proceeds to file and serve his submissions in order to move this matter forward without any undue delay.

**ISSUES FOR DETERMINATION**

5. We are of the humble view that the substantive issue for determination is whether the Respondents' Objection is merited.

**Whether the Respondents' Objection is merited**

6. The Respondents contention is grounded on the following issues:

- a) That there is no commercial and or contractual transaction between the parties thus no binding agreement to arbitrate exists.
  - b) That the issues raised in the Claimant's claim border both on civil and criminal actions and are way outside the purview of an Arbitration Tribunal.
  - c) That the Claimant's matter is best handled within the court system through court annexed mediation.
  - d) That the Claimant single handedly appointed an Arbitrator in this matter.
  - e) That the issues raised in the Claim can only be handled through a judicial system in the courts of law.
7. **Section 17 (1)** of the Arbitration Act, Cap 49 Laws of Kenya grants an arbitral tribunal the power to rule on its own jurisdiction and to rule on any objection with respect to the existence or validity of an arbitration agreement.
8. The Respondents contend that the process of appointment of the sole arbitrator in this matter was unilateral and they are therefore apprehensive of impartiality in the conduct of proceedings. **Section 12 (3), (c) and (4)** of the Arbitration Act provides for the process of appointment of an Arbitrator by parties, and it is our humble submission that the Claimant has satisfied the statutory requirements in this regard.
9. The Respondents do not refute service of the pleadings in this matter. However, there is no evidence that the Respondents complied with the requirements of **section 12** of the Act. Having waived their right to participate in the appointment of an Arbitrator, the Respondents instant objection on the process of appointment is unjustifiable. In the case of **Aywa v African Center for Technology Studies (Miscellaneous Application E534 of 2025) [2025] KEHC 12944 (KLR)** the Court stated:
- "The import of section 12(3) & (4) of the Arbitration Act is that, once a party notifies the other party of the appointment of an arbitrator and the defaulting party does not comply, "the other party may appoint his arbitrator as sole arbitrator, and the award of that arbitrator shall be binding on both parties as if he had been so appointed by agreement."**
10. The Respondents contention that the issues raised in the Claim fall outside the purview of this Arbitration Tribunal are entirely baseless and unsubstantiated. We submit that there is no legal framework that divests this Arbitration Tribunal of jurisdiction to determine matters of the nature pleaded in the Claimant's Statement of Claim. In any event, the Respondents Objection does not disclose the existence of any law ousting this Tribunal's jurisdiction to handle the instant matter. Arbitration is a known method of dispute resolution and it is not in the Respondents place to cherry pick mediation or any other method of dispute resolution to be employed in determining the Claimant's Claims against the Respondents.

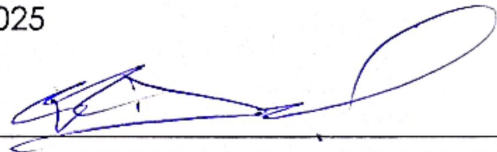
11. In any event, we invite this Honourable Tribunal to note that the peculiar nature of the dispute before is that it cannot be premised on an agreement between parties.

12. In view of the foregoing, the Claimant submits that the Objection dated 8<sup>th</sup> September, 2025 is bad in law and has been filed with the intention of subverting these arbitration proceedings and to frustrate the Claimant's attempt to obtain a just and expeditious determination of his dispute with the Respondents. The Claimant further submits that the Respondents conduct in these proceedings are clearly indicative of their calculated intention to disregard the provisions of **section 19A** of the Arbitration Act which enjoins parties 'to do all things necessary for the proper and expeditious conduct of arbitral proceedings.'

13. Finally, it is our submission that the jurisdiction of this tribunal has been properly invoked by the Claimant, and the tribunal is clothed with the requisite authority to determine the issues raised in the Claimant's statement of claim. We pray that the Respondents Objection be dismissed with costs to the Claimant.

14. It is so respectfully submitted.

DATED at **MIGORI** this **23<sup>rd</sup>** day of **September**, 2025



**OTIENO DAVID & ASSOCIATES**  
ADVOCATES FOR THE CLAIMANT

**DRAWN & FILED BY:**

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