

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI HIGH
COURT CIVIL CASE. EQ.3.2.....2024.

HON. SAKAJA ARTHUR JOHNSON..... PLAINTIFF

-VERSUS-

JEROTICH SEIL.....1ST DEFENDANT

STANDARD GROUP PLC.....2ND DEFENDANT

PLAINT

(Fast Track)

1. The Plaintiff is a male adult of sound mind and understanding, residing and working for gain in Nairobi, within the Republic of Kenya. His address for services for purposes of this suit shall be care of **OKATCH AND PARTNERS ADVOCATES- LOWER HILL DUPLEX APARTMENTS-2nd FLOOR SUITE 18, UPPERHILL AND P.O BOX NO. 38480-00100 NAIROBI.**
2. The 1st Defendant is a female adult, a residence of Kilimani Area within the County of Nairobi ***(Service of summons shall be effected through the Plaintiff's Advocates Offices).***
3. The 2nd Defendant is a duly registered company in the Republic of Kenya whose headquarter is located on Mombasa Road. ***(Service of summons shall be effected through the Plaintiff's Advocates Offices).***
4. On the 26th day of January, 2024, the 2nd Defendant/Respondent herein, in a morning show programme dubbed "The Situation Room" that was aired by one of its radio stations by the name Spice FM, hosted the 1st Defendant as the guest speaker where alongside the programme hosts namely Mr. Eric Latiff, Ms. Ndu Okoh and Mr. Charles T Muga, went on a discourse of discussing the guest's views about the recent unveiled Chinese Property Developers Association.

5. During the said show, the 1st Defendant herein changed the platform to a one sided bashing party as she went on a trajectory of vitriol, defamatory slander of extreme nature as against the Plaintiff and indeed spewed a lot of untrue, unsubstantiated and malicious and defamatory words.
6. The programme hosts, the producers and indeed the 2nd Defendant never made an attempt to stop the 1st Defendant from continuing to use the platform provided to perpetrate the slander that she had delved into and neither did they even try to reach out to the plaintiff to inform him of the wild unsubstantiated allegations as against his person and as such in the least at least get his rejoinder or side of the story.
7. During the said show the 1st Defendant herein uttered words the following words about the Plaintiff/Applicant herein.

"...the community are organised, they do public participation informing the developers that you are not going to construct here send them away somehow, these guys end up getting permission/permits that they require and finally after launching the association and going to visit the Governor Sakaja in his office, the following day all permits were issued and they are excavating as we speak..."

8. Furthermore, while questioned as to whether she had raised the concerns she was raising through the office of the Governor she vehemently stated that:-

"Yes I have raised the said concerns with the Chief Executive Officer Nairobi County, Governor Sakaja himself...I have raised it directly he does not take my calls anymore, I have taken it to X and he has not interacted with the said debate, he is absent. However, you will see him going to launch the Chinese Property Development Association and tell them how wonderful it is to, welcome to the city we shall facilitate you but his voters, the people who he swore to serve he is not engaging them where is he?"

"Governor Sakaja uko wapi? Mbona umekimya?"

9. She alluded to the fact that the Governor had **"gotten to bed"** with the Chinese Property Developers and thus neglected the voters who have elected him into his office, to add salt to the injury she vehemently stated that the Governor Johnson Sakaja had left the groups whatsapp in order to avoid accountability and she vehemently stated that: **".....Governor Sakaja, left all the Kilimani Foundation whatsapp groups quietly in the dead of the night on the 27th day of December, shortly after that, the Chinese are in his office thereafter, he is launching the Chinese property Developers Association, immediately after permissions are issued to this company called Alina on Likoni Lane and the MD of Alina is the vice chair of the Chinese property Developers Association. If this is not cartel what is?"**

10. The said words referred to and were understood to refer to the plaintiffs and the same were in their natural and ordinary meanings meant and were understood by right thinking members of the public to mean that: -

- i. That there is a cartel in the city and the plaintiff is part and parcel of the said Cartel.
- ii. That the plaintiff is supporting the said cartel.
- iii. That the plaintiff, His Excellency, the Governor Nairobi and the Chinese Property Developers Association did something unethical in the said meeting in the office of the Plaintiff.
- iv. That the plaintiff may have been bribed in the meeting.
- v. That the Plaintiff breached the physical planning Act and all procedures leading to approvals being issued to wit the said approvals and permits were issued to the Chinese Property Development Association.
- vi. That the Plaintiff is out of touch with his electorates and the residents of Nairobi.
- vii. That the Plaintiff intentionally ignores the residents and their plight and has an "I don't care" attitude.

- viii.** That the Plaintiff is not deserving of being a leader.
- ix.** The Plaintiff is a selfish leader who does not consider the plight of the Nairobians.
- x.** That the plaintiff is not fit to be the Governor of Nairobi City County.
- xi.** That the Plaintiff is irresponsible careless and has negated his oath of office.
- xii.** That the Plaintiff is a danger to the Nairobians.
- xiii.** That the plaintiff has manipulated the systems in favour of the Chinese Property developers' association.
- xiv.** That the plaintiff is discriminatory as against the residents who are Kenyans in favour of Chinese developers association.

2. Further or in the alternative and without prejudice to the foregoing the said publication meant and were understood to mean by way of insinuation and innuendo by the defendants that:

- (i) The plaintiff has been bribed by the Chinese Developers Association as a result the said permits were issued.
- (ii) The Plaintiff attended the function due to a conferment of a benefit from the Chinese developers association.
- (iii) That the plaintiff can only appear in such a function and support such a venture when he is getting a benefit.
- (iv) That the plaintiffs support of any venture or project is a commodity for sale.
- (v) The plaintiff has abused his position and power.
- (vi) The plaintiff has betrayed the public trust bestowed on him.

PARTICULARS OF DEFAMATION

- i.** That there is a cartel in the city and the plaintiff is part and parcel of the said Cartel.
- ii.** That the plaintiff is supporting the said cartel.
- iii.** That the plaintiff, His Excellency, the Governor Nairobi and the Chinese Property Developers Association did something unethical in the said meeting in the office of the Plaintiff.
- iv.** That the plaintiff may have been bribed in the meeting.
- v.** That the Plaintiff breached the physical planning Act and all procedures leading to approvals being issued to wit the said approvals and permits were issued to the Chinese Property Development Association.
- vi.** That the Plaintiff is out of touch with his electorates and the residents of Nairobi.
- vii.** That the Plaintiff intentionally ignores the residents and their plight and has an "I don't care" attitude.
- viii.** That the Plaintiff is not deserving of being a leader.
- ix.** The Plaintiff is a selfish leader who does not consider the plight of the Nairobians.
- x.** That the plaintiff is not fit to be the Governor of Nairobi City County.
- xi.** That the Plaintiff is irresponsible careless and has negated his oath of office.
- xii.** That the Plaintiff is a danger to the Nairobians.
- xiii.** That the plaintiff has manipulated the systems in favour of the Chinese Property developers' association.
- xiv.** That the plaintiff is discriminatory as against the residents who are Kenyans in favour of Chinese developers association.

11. On the contrary, the Plaintiff avers that: -

- a. *He is a reputable and honest citizen of the Republic of Kenya, working hard to make an honest living; and*
- b. *He is a man of utmost integrity and has never been found culpable of any offence.*
- c. *He has at all times discharged his mandate fully, properly, diligently, faithfully and with utmost good faith.*
- d. *He has always been able to communicate with the Nairobian on in so many forums and platforms.*
- e. *His constitutional obligation in leadership is not limited to only those who elected him but also those who don't so long as they are in Nairobi city County and partake of the services that are the mandate of the County.*

12. The words uttered in the radio segment about the Plaintiff by the 1st Defendant were very shocking, disturbing and paining and the situation was made even worse when the Plaintiff started receiving more calls from colleagues, members of the public, residents of Nairobi, family and friends.

13. As a result of the defamatory utterance, the Plaintiff's/Applicant's reputation is being tarnished in the eyes of right-thinking members of the society, especially being that the Plaintiff was duly elected as the Governor, Nairobi City County as a consequence whereof the Plaintiff/Applicant is suffering grave damage, distress and embarrassment the Nairobi residence his colleagues is the political scenes, friends, family and the community at large.

14. Furthermore, the said utterance have not only questioned integrity of Governor, Johnson Sakaja but the same have attacked his qualifications to hold office as provided for under **Chapter Six of the Constitution of Kenya, 2010** in spite of the fact that the same is not backed up by any shred of evidence.

15. Despite the fact that the same segment is defamatory and has highly questioned the integrity of the Governor, the 2nd Defendant through the 3rd Respondent has caused the wide spread of the said segment by sharing videos of the said segments on its X account, You-tube and other social media platforms.
16. Quite disturbingly, the topic of discussion in the said segment was more about the Plaintiff and the same was geared towards portraying him as one of the undesirable public figures and not fit to hold his current position as a Governor of Nairobi City County.
17. It is the Plaintiff's secure contention that utterances of the 1st Defendant in such a manner was meant to whip out public emotion against him, ridicule, humiliate, disparage and persecute him, which has indeed been achieved because as a consequence of the false, malicious, negligent and distribution therefrom, his reputation, image and status in the society has been brought into great, deep and extensive odium, contempt and disrepute in the eyes of members of the society and in particular the residence of Nairobi, colleagues, friends, family members, associates and community in general.
18. The effect of the said words, and reckless and negligent use of the Plaintiff's name has been to diminish and besmirch my hard-earned reputation and instead expose me to ridicule, odium and contempt in the eyes of all that know me.
19. The Defendant's actions have not only caused the Plaintiff considerable mental anguish but great level of embarrassment based on the pontification by the 1st Defendant.
20. The Plaintiff therefore seeks for judgement orders to be made against the Defendants as per the prayers herein under.

21. Demand was made and not respondent to.

22. The cause of action arose within the jurisdiction of this Honourable Court.

23. There is no other suit pending neither have there been other previous proceedings as between the Plaintiff and the Defendant over the subject matter.

REASONS WHEREFORE the Plaintiff prays for judgment against the Defendant for:

- a. ***A declaration that the words uttered by the 1st Defendant about the Plaintiff in the morning show morning show programme dubbed "The Situation Room" that was aired by one of its radio stations by the name Spice FM are defamed the plaintiff by way of slander.***
- b. ***A declaration that the 1st Defendant acted recklessly and negligently when she uttered the said defamatory statements about the Plaintiff during the said segment.***
- c. ***A declaration that the 2nd Defendant acted recklessly and negligently by not stopping the 1st Defendant from going on with the said defamatory discourse and not even issuing a disclaimer and instead published it in its online media platforms.***
- d. ***A permanent injunction prohibiting the Defendants, their employees' servants and/or agents from publishing or uttering in any manner whatsoever, any defamatory stories about the plaintiffs and the subject matter of this petition.***
- e. ***An order compelling the Defendants to withdrawal and retract the publication complained of by the Plaintiff and further to issue an unqualified, unequivocal written apology to the Plaintiff within seven (7) days from the date of judgment.***
- f. ***A declaration that the defendants are both severally and jointly liable to pay the plaintiff the following for defaming him.***

1. *General Damages for libel and slander of Kshs 100,000,000/=.*
2. *Aggravated damages for libel and slander.*
3. *Costs of the suit;*
4. *Interest on (1) (2) and (3) above;*
5. *Any other or further relief that this Honourable Court may deem just and fit to award in the circumstances.*

DATED at NAIROBI this 31st day of JANUARY, 2024

OKATCH AND PARTNERS
ADVOCATES FOR THE PLAINTIFF

DRAWN AND FILED BY:

OKATCH & PARTNERS
ADVOCATES
2ND FLOOR, SUITE 18
LOWER HILL DUPLEX APARTMENTS
UPPER HILL ROAD P.O.
BOX 34651-00100

NAIROBI.

Email: info@okpadvocates.co.ke

Tel: 0703699333

File reference O & P / 1542 / 2024

TO BE SERVED UPON

- 1) JEROTICH SEII
- 2) STANDARD GROUP PLC,
HQ OFFICE
MOMBASA ROAD,
P.O. BOX 30080-00100
NAIROBI.

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI HIGH
COURT CIVIL CASE.....2024.

HON. SAKAJA ARTHUR JOHNSON..... PLAINTIFF

-VERSUS-

JEROTICH SEIL.....ST 1 DEFENDANT

STANDARD GROUP PLC.....2ND DEFENDANT

VERIFYING AFFIDAVIT

(Under Order 4 Rule 2 of the Civil Procedure Rules, 2010)

I, SAKAJA ARTHUR JOHNSON, of care of Post Office Box No. 34651-00100 NAIROBI, do hereby MAKE OATH and state as follows:

1. **THAT** I am a male adult of sound mind and understanding, the Plaintiff herein, fully conversant with all the facts giving rise to this suit and therefore competent to swear this Affidavit.
2. **THAT** I have read the Complaint and understood the contents therein and I verify that the same are true and correct.
3. **THAT** there is no other suit pending neither have there been other previous proceedings as between the Defendant and I over the subject matter of this suit.
4. **THAT** all that is deposed herein is true to the best of my knowledge and belief.

SWORN at NAIROBI)

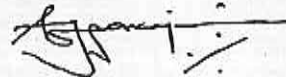
By the said)

SAKAJA ARTHUR JOHNSON)

This 31st day of January 2024)

BEFORE ME:)

DOROTHY JEMATOR)
ADVOCATE)
COMMISSIONER FOR OATHS)
P. O. Box 6438-0300, NAIROBI)
P.105/7879/10, LSK...../...../.....)
COMMISSIONER FOR OATHS)



DEPONENT

DRAWN AND FILED BY:

OKATCH & PARTNERS
ADVOCATES
2ND FLOOR, SUITE 18
LOWERHILL DUPLEX APARTMENTS
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- 2) STANDARD GROUP PLC, HQ OFFICE
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-VERSUS-

ST

JEROTICH SEII.....1 DEFENDANT

STANDARD GROUP PLC.....2ND DEFENDANT

LIST OF DOCUMENTS.

1. Video clip of the show/segment of the programme dubbed "The Situation Room" that was aired by one of its radio stations by the name Spice FM on the morning of the 26th day of January, 2024.
2. Certificate of Electronic Evidence in relation to the video clip.
3. A transcript of the video clip of the show.
4. Certificate of transcription.
5. Pictures of the publication in the online platforms.
6. Certificate of Electronic Evidence of the pictures of the publication in the online platforms.
7. Demand letter dated the 26th day of January, 2024.
8. Any other document that may be deemed relevant with leave of this Honourable Court.

DATED at NAIROBI this 31st day of JANUARY 2024.

OKATCH AND PARTNERS
ADVOCATES FOR THE PLAINTIFF

DRAWN AND FILED BY:
OKATCH & PARTNERS
ADVOCATES
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-VERSUS-

ST

JEROTICH SEII..... 1 DEFENDANT

STANDARD GROUP PLC.....2ND DEFENDANT

LIST OF WITNESSES

1. H.E SAKAJA ARTHUR JOHNSON.
2. Any other witness that may be deemed relevant with leave of this Honourable Court.

DATED at NAIROBI this day of JANUARY 2024.

OKATCH AND PARTNERS
ADVOCATES FOR THE PLAINTIFF

DRAWN AND FILED BY:

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-VERSUS-

JEROTICH SEII.....1ST DEFENDANT

STANDARD GROUP PLC.....2ND DEFENDANT

WITNESS STATEMENT

I, SAKAJA ARTHUR JOHNSON, of care of Post Office Box No. 34651-00100 NAIROBI, do hereby state as follows:

1. That I am the Plaintiff herein and well conversant with all the facts giving rise to this suit.
2. **THAT** I am the Governor of Nairobi City County having been sworn into office on the 25th day of August, 2022 and the 1st Respondent herein.
3. **THAT** since I took the oath of office I promise the Nairobi residence to give my best in ensuring that Nairobi works again and the same is backed up by the fact that my slogan during the company period and even now while in office is "*Let's make Nairobi Work.*"
4. **THAT** I have been undertaking my constitutional mandate with utmost zeal, dedication and great sacrifice to see that the City in the sun not only regains its lost glory but indeed works for the betterment of all the city residents.
5. **THAT** on the 26th day of January, 2024 the on the 26th day of January, 2024, the 2nd Defendant/Respondent herein, in a morning show programme dubbed "The Situation Room" that was aired by one of its radio stations by the name Spice FM, hosted the 1st Defendant as the guest speaker where alongside the programme hosts namely Mr. Eric Latiff, Ms. Ndu Okoh and Mr. Charles T. Muga, went on a discourse of

discussing the guest's views about the recent unveiled Chinese Property Developers Association.

6. **THAT** during the said show, the 1st Defendant herein changed the platform to a one sided bashing party as she went on a trajectory of vitriol, defamatory slander of extreme nature as against me and indeed spewed a lot of untrue, unsubstantiated, malicious and defamatory words clearly meant to damage my reputation and insinuate that I have acted in a betrayal of public faith and as such I am not an honest leader with integrity.
7. **THAT** the programme hosts, the producers and indeed the 2nd Defendant never made an attempt to stop the 1st Defendant from continuing to use the platform provided to perpetrate the slander that she had delved into and neither did they even try to reach out to me to inform me of the wild unsubstantiated allegations as against my person and as such in the least at least get my rejoinder or side of the story
8. **THAT** the 1st defendant, with a lot of courage made allegation to the effect that I was taking bribes from the Chinese Developers, giving permits for the change of user from a four-storage zone to the tall building that are being seen at the Nairobi Kilimani areas. She vehemently stated that **"...the community are organised, they do public participation informing the developers that you are not going to construct here send them away somehow, these guys end up getting permission/permits that they require and finally after launching the association and going to visit the Governor Sakaja in his office, the following day all permits were issued and they are excavating as we speak..."**
9. **THAT** quite disturbingly, I was a topic of discussion in the said segment where the 1st Defendant became the judge, jury and the executioner as she portrayed me as one of the corrupt leaders who have been

taking bribes from the developers hence occasioning the current ongoing rapid development of tall buildings in Kilimani area.

10. **THAT** the 1st Defendant further instigated that the change of user for some developments in the said area had been rejected and it was only after the officials of the Chinese Property Developers Association had visited my office that all over sudden the permits were miraculously granted.
11. **THAT** consequently, I started receiving a lot of phone calls regarding the said the sentiments that were made against me in the said radio segments.
12. **THAT** I therefore decided to get a clip of the said radio segment where I confirmed indeed that my name was numerously mentioned during the said show that I was a threat to the environment as it was my fault that the leafy suburbs had been destroyed by the tall developments.
13. **THAT** I was quite perturbed being that the 1st Defendant is a resident of Nairobi and has been living in the said Kilimani area since childhood as stated in the said segment and thus privy to the fact that the tall buildings in the Kilimani area and the change of user has been something that started even before I was elected to office as the Governor of Nairobi City County.
14. **THAT** I am the Governor of the County but that does not necessarily mean that every decision made by the county or any of its official is a personal decision of the Governor.
15. **THAT** the County has different sectors and departments manned by professionals under which there are thousands of employees who indeed carry out the day to day activities / work of the County.

16. **THAT** furthermore, being that the 1st Defendant is leader in the society and marred with the fact that we are both members of the same political party, I found the said utterances to be very malicious considering that the 1st Defendant could easily reach out to me and air her concerns which she did not and has not to date.

17. **THAT** it was thus a shocker why the 1st Defendant/Respondent uttered the said words on a platform that reaches millions of people and indeed obfuscated the narrative to fit her intentions.

18. **THAT** it was my expectation that the 1st Defendant/Respondent being a leader and if she indeed had any iota of evidence of her serious allegations as against me, she should have reported it to the relevant authorities but she instead used the platform provided to persecute me in the Court of public opinion.

19. **THAT** it is my secure contention that the utterances of the 1st Defendant/Respondent in such a manner was meant to whip out public emotion against me, ridicule, humiliate, disparage and persecute me through the false, malicious, negligent and irresponsible words and comments made by the 1st defendant and the 2nd defendant in fact went ahead to add insult into injury by the irresponsible distribution and / or publication of the said segment.

20. **THAT** this has tarnished my reputation, image and status in the society and has brought my reputation into great deep and extends disrepute, odium and contempt in the eyes of members of the society and in particular Nairobi residents, my political opponents, colleagues, friends, family members, associates, and community general.

21. **THAT** the effect of the said words, and reckless and negligent use of my name has been to diminish and besmirch my hard-earned reputation and expose me to ridicule, odium and contempt in the eyes of all that know me.
22. **THAT** the 1st Defendant's/Respondent's actions have not only caused me considerable mental anguish and embarrassment, but also aroused a lot of emotions from members of the public who may be taking the words of the 1st Defendant as true based on the platform she was given to spread the untrue and malicious slander.
23. **THAT** I am advised by my advocates on record, Okatch & Partners, which advise I verily believe to be true that indeed this Court is clothed with the requisite and necessary powers and tools to not only stop the continuing defamatory acts but to indeed prevent any further or extension of the same.
24. **THAT** indeed, the 1st Defendant's/Respondent's actions have caused my reputation in the public sphere to be seriously threatened with total ruin.
25. **THAT** to add salt to the injury, for the 1st Defendant/Respondent to make her story more viable, she had to lie that I had secretly left the Kilimani group WhatsApp at ungodly hours of the 27th day of December, 2023 in order to avoid any form of accountability.
26. **THAT** indeed it is not disputed that on the 19th day of December, 2023 the Chinese Property Developers Association was launched in Nairobi County and indeed one of my constitutional roles as a Governor is attract investment in the County as the same will generate revenue, create jobs to the un-employed youths and as such discharging my duty cannot be an excuse for an allegation that I have been bribed.

27. **THAT** in any case the National Government registered the said association and as such it is not a proscribed or illegal association and indeed cannot be discriminated against even by myself as Governor.

28. **THAT** as the Governor of this great city, I have attended and graced many functions where various groups, noble ideas, investments and development is being launched and I have done so purely as it is part of my role to encourage such.

29. **THAT** it is clearly evident that the extent of the damage done by the 1st Defendant's/Respondent's story is of untold proportions that words alone can never describe.

30. **THAT** I am apprehensive that unless this Honourable Court urgently intervenes and grants the orders sought in the instant application, I will continue to suffer irreparable loss as the Defendants/Respondents will continue to publish defamatory materials against me.

31. **THAT** it is on this basis that I instructed the firm of **OKATCH AND PARTNERS ADVOCATES** to institute these proceedings.

32. It is on this basis that I instructed the firm of **OKATCH AND PARTNERS ADVOCATES** to institute these proceedings.

33. The prayers I am seeking are:

- a. **A declaration that the words uttered by the 1st Defendant about the Plaintiff in the morning show morning show programme dubbed "The Situation Room" that was aired by one of its radio stations by the name Spice FM are defamed the plaintiff by way of slander.**

- b. A declaration that the 1st Defendant acted recklessly and negligently when she uttered the said defamatory statements about the Plaintiff during the said segment.**
- c. A declaration that the 2nd Defendant acted recklessly and negligently by not stopping the 1st Defendant from going on with the said defamatory discourse and not even issuing a disclaimer and instead published it in its online media platforms.**
- d. A permanent injunction prohibiting the Defendants, their employees' servants and/or agents from publishing or uttering in any manner whatsoever, any defamatory stories about the plaintiffs and the subject matter of this petition.**
- e. An order compelling the Defendants to withdrawal and retract the publication complained of by the Plaintiff and further to issue an unqualified, unequivocal written apology to the Plaintiff within seven (7) days from the date of judgment.**
- f. A declaration that the defendants are both severally and jointly liable to pay the plaintiff the following for defaming him.**
 - 1. General Damages for libel and slander of Kshs 100,000,000/=.**
 - 2. Aggravated damages for libel and slander.**
 - 3. Costs of the suit;**
 - 4. Interest on (1) (2) and (3) above;**
 - 5. Any other or further relief that this Honourable Court may deem just and fit to award in the circumstances.**

34. I am advised by my Advocates on record, which advice I verily believe to be true, that this Honourable Court has the jurisdiction and mandate to grant the prayers sought.

35. That is all I wish to state.

[Handwritten signature]

.....
HON. SAKAJA ARTHUR JOHNSON.