

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA (CIVIL DIVISION)
MISCELLANEOUS APPLICATION NO. 269 OF 2021
(ARISING OUT OF CIVIL SUIT NO. 335 OF 2020)

1. **ACHAN CATHERINE KATE**
2. **AKULLO TEDDY**
3. **ANGWENA JANET MECTOR**
4. **ARINAITWE MACTOSE**
5. **BUKENYA EDWARD**
6. **KIWUMULO LOY DIANAH**
7. **MIVULE ABBEY**
8. **MUCHWA BENJAMIN**
9. **MWANJE ROBERT**
10. **NGORORANO EMMANUEL**
(Suing by representative order on
their own behalf and on behalf of
other similarly situated former
employees of Crane Bank Ltd who
were aggrieved by the conduct of
DFCU Bank Ltd as their new
employer as of 23 October 2017)



.....**APPLICANTS**

VERSUS

DFCU BANK LIMITED

.....**RESPONDENT**

CHAMBER SUMMONS

(Under Order VI rule 4 and Order X, rules 12,14 and 18 CPR SI 71-1)

LET ALL PARTIES CONCERNED attend the Learned Judge in chambers on the 28th
day of April 2021 at 11:00 in the forenoon or afternoon as
Counsel for the applicants can be heard on application for the following orders –

1. That the respondent's agents and servants be ordered to produce and permit the applicants and their advocates inspect and make copies of the following documents or classes of documents, namely:
 - (a) The Purchase of Assets and Assumption of Liabilities Agreement between the Bank of Uganda and the respondent referred to in paras 5.2 and 5.3 of the Witness Statement of Defence (WSD);
 - (b) The lists of employees referred to in paras 5.4, 5.5(a)-(e), 5.6, 5.7 and 5.8 of the WSD and in the list of documents attached to the WSD, plus their respective contracts of employment with Crane Bank Ltd (CBL) and/or the respondent;
 - (c) Written notices of resignation as referred to in para 5.4(b) of the WSD;
 - (d) Any and all contracts of the "employees retained by the respondent [that] were revised to ensure pay and benefits parity with the respondent's employees" as implied in para 5.5 of the WSD;

- e) Any and all documents showing that the respondent did not "underpay former CBL staff for doing the same or broadly similar jobs or jobs of equal value compared to pre-existing employees of the respondent" as implied in para 5.5 of the WSD, including the payroll of the respondent in the month before the acquisition of CBL business (December 2016 to January 2017), the payroll of the respondent after the acquisition of CBL business from 25 January 2017 to 23 October 2017 and the corresponding returns and payment slips for PAYE and NSSF contributions;
- (f) Any and all contracts between the respondent and independent contractors to whom it outsourced the services implied in para 5.6(a) of the WSD;
- (g) The list(s) of former CBL employees that were laid off for reasons implied in para 5.6(a) of the WSD;
- (h) The list(s) of former CBL employees that were laid off for reasons implied in para 5.6(b) of the WSD;
- (i) Any and all documents showing the respondent's "branch optimization process" implied in para 5.6(c) of the WSD;
- (j) The list(s) of former CBL employees that were laid off for reasons implied in para 5.6(c) of the WSD;
- (k) Any and all termination letters for the employees referred to in para 5.7(a) of the WSD;
- (l) The notification made to the Commissioner of Labour referred to in para 5.7(b) of the WSD;
- (m) Any and all documents showing that the respondent promptly paid "appropriate termination packages (including relocation allowances)" to the employees referred to in para 5.7(c) of the WSD;
- (n) Certificates of service referred to in para 5.7(d) of the WSD;
- (o) List of roles that were allegedly duplicated as indicated in paras 5.6(c) and 5.8(a) of the WSD;
- (p) List of expatriates who were not retained as indicated in para 5.8(c) of WSD;
- (q) Written notice of the advice referred to in para 5.8(d) of the WSD;
- (r) Any and all documents showing that the respondent made an ex gratia payment of UGX 1,000,000/= to all laid off employees as indicated in para 5.8(e) of WSD; and

- (s) Any and all documents notifying former CBL employees about the respondent's "grievance redress mechanism" referred to in para 5.8(f) of the WSD.
2. That costs of this application be paid by the respondent with a certificate for two counsel.

TAKE FURTHER NOTICE that the grounds of this application are stated in the affidavit of **ARINAITWE MACTOSE**, the 4th applicant named above, attached hereto which shall be read and relied upon at the hearing.

This summons was taken out by Centre for Legal Aid, Teachers' House, 2nd Floor, Plot 28/30 Bombo Road, P.O. Box 29285 Kampala, Maxim Advocates, 2nd FI, Room 346, Serena Conference Center, Nile Avenue, P.O. Box 29285, Kampala.

Given under my hand and seal of this Court this.....7th.....day of.....April.....2021



REGISTRAR

Extracted jointly by:

Centre for Legal Aid,
Teachers' House, 2nd Floor,
Plot 28/30 Bombo Road,
P.O. Box 29285.
KAMPALA.

Tel: 0414-200-203, 0757200204

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- (Suing by representative order on
their own behalf and on behalf of
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]:.....APPLICANTS

VERSUS

DFCU BANK LIMITED

]:.....RESPONDENT

AFFIDAVIT IN SUPPORT OF CHAMBER SUMMONS

I, ARINAITWE MACTOSE, c/o Centre for Legal Aid, P.O. Box 29285 Kampala do solemnly make an oath and state that:

1. I am an adult male Ugandan of sound mind, the 4th applicant named above, suing by representative order on my behalf and on behalf of other similarly situated former employees of Crane Bank Ltd who were aggrieved by the conduct of DFCU Bank Ltd as their new employer as of 23 October 2017.
2. On 1 October 2020 the applicants filed in this Court **Civil Suit No. 335 of 2020** against the respondent for reinstatement, an account, damages, interest and costs for unjust discrimination and other human rights violations, fraud, negligence, breach of duty, bad faith, breach of trust and unjust enrichment in relation to the restructuring purportedly undertaken by the respondent in 2017 which resulted in both wrongful and constructive dismissals of numerous former Crane Bank Ltd (CBL) employees. **(Attached hereto marked AM-1 is a copy of the plaint)**
3. The respondent filed a Written Statement of Defence (WSD) on 22 October 2020. **(Attached hereto marked AM-2 is a copy of the WSD)**

4. I know that on 16 November 2020, in a bid to obtain further and better particulars of matters pleaded in the WSD, the applicants through our counsel at Centre for Legal Aid filed and served on the respondent's counsel M/s Sebalu & Lule Advocates a notice to produce documents which were expressly or impliedly referred to in the WSD. **(Attached hereto marked AM-3 is the copy of the notice)**
5. The respondent has unjustifiably failed to respond to the aforesaid notice.
6. As a former branch manager familiar with the operations and records policy of the respondent at the material time and with the allegations made by the respondent in its WSD, I know that the respondent failed to make a comprehensive list of documents relating to matters hinted on in its WSD.
7. Based on the same experience, I know that the documents requested for in the notice relate to decisions that were made by the respondent concerning the rights, status and benefits of the applicants and other similarly situated former CBL employees, before and after it took over the business of CBL, and so they are or have been in the possession, power and custody of the respondent or its servants and agents.
8. I also know that some documents are a legal requirement in the course of restructuring the workforce of an organization, and so they are or have been in the possession, power and custody of the respondent or its servants and agents. For instance, the payroll, payment schedules, and notification that the respondent allegedly made to the Commissioner of Labour in relation to the restructuring programme complained of in the suit.
9. Further, I know that by granting this application, Court will facilitate fair and expeditious disposal of the suit, by curtailing delay and reducing expense, as the applicants and their advocates shall thereby be enabled to scrutinize for themselves the documents through which the respondent intends to show that it treated them fairly and justly upon acquisition of the CBL business, and that it did not commit the fraud, bad faith, negligence, breach of duty and human rights violations complained of.
10. On account of the foregoing, I know and verily believe that timely and accurate disclosure of documents which are the subject of this application will facilitate pre-trial admissions, concessions, compromise and/or settlement of the suit either in whole or in part, thereby reducing costs.

1. I swear this affidavit in support of the application for further and better particulars of matters in the respondent's WSD, and for discovery by way of production and inspection of the documents or classes of documents described in the summons to which this affidavit is affixed.
12. Whatever I have stated hereinabove is true and correct to the best of my knowledge, and where the context indicates that some of the facts and matters are not within my personal knowledge, I verily believe them to be true.

SWORN at Kampala by the said]
ARINAITWE MACTOSE]
this 7TH day of APRIL 2021]

Arinaitwe Mactose
DEPONENT

BEFORE ME

Fabian
COMMISSIONER FOR OATHS



DRAWN AND FILED JOINTLY BY:

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