

REPUBLIC OF MALAWI

IN THE INDUSTRIAL RELATIONS COURT

ZOMBA REGISTRY

IRC MATTER NUMBER ZA 192 OF 2025

BETWEEN

ELLENA MPHONGOZIDANA……..…….APPLICANT

AND

YAMBA MALAWI……RESPONDENT

CORAM:

HON. PETER M.E. KANDULU, DEPUTY CHAIRPERSON

Mumvana Mtukule, Counsel for the Applicant

Kamfose, Counsel for the Respondent

Mr Patrick Banda: Court Clerk

RULING ON A MOTION TO STAY JUDGMENT

Introduction

The Court delivered a judgment against the Respondent. Following the delivery of the judgment, the Respondent filed a motion to stay the judgment and further moved the court to recall a witness. The motion is premised on the allegation and excuse that a certain date indicated on the record or motion appeared to be the 9th rather than the 7th, creating confusion or a mismatch.

Arguments of the Parties

The application is opposed by the Applicant. The basis of the opposition is that the Respondent's assertion that the date "7th" looked similar to or could be mistaken for "9th" is completely unfounded and untrue. On the relevant page, the figure representing the 9th is written clearly and distinctly as a 9, and the figure representing the 7th looks exactly and unmistakably like a 7. Had the Respondent's counsel been truthful and objective in their observation, a simple side-by-side comparison of the two dates would have revealed that they are entirely distinct. Consequently, the Respondent's excuse lacks merit and is not justifiable.

Court's Analysis and Findings

This Court has conducted a careful perusal and visual inspection of the two dates in question as they appear on the record.

Upon examination, it is patently clear that the dates look completely different. There is a "9" that distinctly looks like a 9, and there is a "7" that distinctly looks like a 7. There is no ambiguity, confusion, or mismatch as alleged by the Respondent.

The Court finds that the Respondent's counsel attempted to mislead the court by raising a false ambiguity regarding numbers that are clearly legible and distinguishable on their face. An excuse built upon a non-existent discrepancy cannot form a valid basis for recalling a witness or granting the relief sought.

Disposition

Accordingly, the motion to stay the judgment and recall the witness is hereby denied with costs.

Pronounced at Zomba this 10th day of November, 2026.



HON. PETER M.E KANDULU

DEPUTY CHAIRPERSON