

Case *Note*

CASE NOTES & COMMENTARY
ODPC & HIGH COURT, KENYA

ONE RULING, DIGESTED ON ITS OWN – THE FACTS, THE HOLDING, AND THE PRACTICE POINT

📅 [2026] KEHC 4735

You can't plead your way into jurisdiction and object your way out of it

Balicha v Platinum Credit Limited

PRELIMINARY OBJECTION OVERRULED CASE NOTED DATA PROTECTION · ADMINISTRATIVE LAW

BY THE EDITORIAL BOARD, MUCHANGI PATRICK & CO. ADVOCATES

A police officer sued after his salary was wrongly deducted for a loan he never took, adding claims of unlawful collection of his passport photo, ID, salary details and M-Pesa statements. The lender later objected that only the Data Commissioner had original jurisdiction over such claims. The Court didn't reach that question on the merits, because the lender's own defence had admitted the Court's jurisdiction in an earlier paragraph — a party cannot take an inconsistent factual position in the same suit without amending its pleadings first. The Court added, independently, that a claim combining constitutional and common-law wrongs with a Data Protection Act element is not "purely statutory" and survives on that basis too.

PRACTICE POINT

Never plead an admission of jurisdiction as a fallback position — it can be used to defeat a jurisdictional objection you later need to raise.

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HOW THIS TOUCHES A LIVE ODPC MATTER

Whether you are defending a complaint, appealing a determination, or bringing a privacy claim of your own, the forum you choose and the procedural record you build early usually decide the outcome.

Muchangi Patrick & Co. Advocates represents complainants and respondents before the Office of the Data Protection Commissioner and on appeal, judicial review and constitutional petition before the High Court.

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