

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 9467

## Vicarious liability holds – but so does proportionality

Premier Credit Ltd v Office of the Data Protection Commissioner & Another

PARTLY ALLOWED CASE NOTED DATA PROTECTION · ADMINISTRATIVE LAW

BY THE EDITORIAL BOARD, MUCHANGI PATRICK &amp; CO. ADVOCATES

Independent sales agents kept texting a woman who had formally asked to be removed from marketing lists, despite the lender's denial that her number was even in its system. The Court affirmed liability: agents acting within the scope of their delegated authority make the principal vicariously liable, and a lender that fails to produce its actual agency agreements can't complain when adverse inferences are drawn against it. But the Court also revised the KES 650,000 award down to KES 200,000, reasoning that an award pitched at a level that risks forcing closure of a smaller lender is punitive rather than compensatory, and out of step with prevailing economic conditions.

**PRACTICE POINT**

Vicarious liability for agents is now settled law under the Act – but so is the principle that compensation must be evidence-based and proportionate to the size of the respondent, not maximalist by default.

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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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This case note summarises and comments on a published High Court judgment reviewing a determination of the Office of the Data Protection Commissioner, or a first-instance privacy matter. It is prepared for general informational purposes, reflects our own analysis and characterisation of the judgment, and does not constitute legal advice.

The citation is provided so readers can access the full judgment on Kenya Law; organisations should consult qualified legal counsel before acting on any point summarised here.

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