

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 7781

A signed consent letter and a "looks okay" WhatsApp reply defeat an unauthorised-image claim

Githinji v Muhindi Mweusi Supermarket Limited

CLAIM DISMISSED CASE NOTED DATA PROTECTION · ADMINISTRATIVE LAW

BY THE EDITORIAL BOARD, MUCHANGI PATRICK & CO. ADVOCATES

A former employee sued over the continued commercial use of her image on a supermarket's Facebook page and a billboard, alleging her signature on a consent letter had been forged and that she had never been paid for the advertising. The employer produced a signed consent letter and a WhatsApp message in which she had confirmed the final image was fine. The claim failed: allegations of fraud must be specifically pleaded and proved, and she had neither amended her pleadings to properly allege forgery nor called a handwriting expert to support it.

PRACTICE POINT

The flip side of *Matanta and Kipchirchir* above: where a business can actually produce a signed consent letter and a contemporaneous approval message, the burden shifts back to the claimant — and a bare, unpleaded allegation of forgery will not be enough to unwind it.

Cite this page: Muchangi Patrick & Co. Advocates, "A signed consent letter and a "looks okay" WhatsApp reply defeat an unauthorised-image claim: *Githinji v Muhindi Mweusi Supermarket Limited*" (dataprivacyadvocates.co.ke, 2026) <<https://dataprivacyadvocates.co.ke/case-githinji-v-muhindi-mweusi-supermarket-limited.html>>.

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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