Notice of Motion for Transfer and Consolidation

Transfer and Consolidation of Construction Cross-Claims — Milimani High Court — Commercial & Tax Division

Educational reconstruction based on a published Kenyan judicial decision. This is newly drafted sample wording, not the original filed document and not a case handled by our team. Parties and identifying details are replaced with fields for completion. The source judgment may display original public case details.

Purpose and correct procedural stage

Looking for a notice of motion for transfer and consolidation for transfer and consolidation of construction cross-claims in Nairobi? This page provides a reconstructed draft for Milimani High Court — Commercial & Tax Division, with editable Word and PDF downloads. A Kenyan lawyer or advocate can adapt the document to the correct party, evidence and procedural stage.

Use the formal section only after completing the fields from the actual record. The educational notes and later outcome are separate from the draft and should not be filed as allegations that existed at the earlier stage. Keep the actual party’s legal position: Contractor seeking transfer.

Reconstructed formal document

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
COMMERCIAL AND TAX DIVISION
CASE NO [number] OF [year]
[Applicant] — APPLICANT
VERSUS
[Respondent] — RESPONDENT

NOTICE OF MOTION FOR TRANSFER AND CONSOLIDATION

1. NOTICE OF MOTION
Under section 18 of the Civil Procedure Act and the applicable procedural provisions reviewed for this application.

2. TAKE NOTICE that the Applicant will move the Court on [date fixed by the Court] for the following orders:

3. Transfer [identified small claim] to the competent Chief Magistrate's Court at Milimani; consolidate it with [identified related civil suit] subject to appropriate case-management directions; preserve unresolved arbitration objections; costs as directed.

4. GROUNDS OF THE APPLICATION

5. The commercial dispute concerned waterproofing works at an apartment development, including ancillary structures. The service provider pursued an invoice claim in the Small Claims Court.

6. The contractor pursued a substantially larger claim concerning alleged defective works, remedial expenditure and related contractual amounts in the Chief Magistrate's Court. Those allegations were contested and were not findings of defective workmanship.

7. The proceedings arose from overlapping works and transaction documents, including an earlier contract and a later purchase order. The applicant sought transfer of the small claim to the magistrates' court and consolidation with the related suit.

8. An arbitration provision has been raised in opposition. The Applicant seeks coordinated case management without inviting a final determination of that objection through this transfer application; any properly raised arbitration issue is to be preserved for determination by the competent court.

9. The accompanying supporting affidavit identifies the two proceedings, their stages, the common transaction documents and the issues requiring coordinated directions. No determination of contractual liability or arbitration validity is sought by the transfer itself.

10. The Applicant proposes that the receiving court give directions on the lead file, pleadings, common evidence, reserved objections and costs so that neither party loses an opportunity to address the distinct claims.

DATED at [place] this [day] of [month] [year].
[Party or advocate signature]
[Name and capacity]
[Address for service]
TO: [opposing party or advocate, verified service details].

Evidence and adaptation checks

Small claim record: Identify invoice dispute and present procedural stage. Record to locate: Statement of claim, response and existing directions.

Magistrates' suit: Demonstrate overlap and that larger cross-claims cannot simply be inserted into SCC. Record to locate: Plaint, defence and relief claimed in the related proceeding.

Works documents: Common factual questions and disputed contractual link. Record to locate: Contract, purchase order, scope and correspondence.

Remedial records: Identify allegations to be tried, not declare liability already established. Record to locate: Actual inspection, repair and cost documents, if held.

Arbitration terms: Preserve the unresolved forum issue without pretending it has been waived. Record to locate: Complete relevant agreement and objection documents.

Do not file a multi-million-shilling counterclaim in the Small Claims Court on the strength of this sample. Verify receiving-court competence and avoid describing alleged construction defects as proved.

What happened later — educational context only

The High Court ordered transfer and consolidation. The substantive defect allegations and the arbitration issue were not finally determined by that procedural order.

The sample was drafted retrospectively from the published reasons. It is not evidence that these exact words, schedules or documents were filed in the source proceedings. Factual assertions must be verified independently before any real filing.

Source judgment and filing review

[2025] KEHC 12761 (KLR) — https://sheriahub.com/cases/ke/caselaw/jiangxi-water-and-hydropower-construction-kenya-limited-v-infolite-technologies-limited-2025-kehc-12761-klr

Full published judicial text, including final orders, reviewed 8 October 2026. The linked text is a reproduction of the judicial decision. The sample cites that decision as its factual and procedural starting point, not as a guarantee of another case's outcome.

Before use, a qualified Kenyan advocate should check current legislation and rules, court competence, limitation or appeal time, prescribed forms, electronic-record foundations, service and registry directions. Do not copy historic contract terms into a different transaction.