Executor Supporting Affidavit on a Foreign Will Competing Grants and Administration Status

Educational sample 262 | Mombasa

Educational reconstruction from a reported Kenyan decision. Newly drafted wording, not an original court filing or a matter handled by our team. Specimen identities are bracketed. Adapt to genuine facts, current law, jurisdiction and court directions before signing, swearing or filing.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE HIGH COURT AT MOMBASA

SUCCESSION CAUSE NO [reference]

IN THE ESTATE OF [DECEASED]

AFFIDAVIT

1. I am [Applicant identity], asserting appointment as executor under [authenticated will or order]. My residence, capacity, authority and source of knowledge are [particulars]. I support the accompanying revocation summons and identify the precise Kenyan cause and grant challenged.

2. The deceased died on [verified date] and the foreign will relied upon is dated [date]. The original or certified instrument, execution proof, language and competent translation are [annexures]. I state how each came into my possession and do not declare its validity established merely by annexing a copy.

3. The foreign court issued [exact grant or appointment] on [date]. The Kenyan resealing or recognition process relied upon is [cause, order and date], with the genuine certificate exhibited. I disclose its scope, any conditions and any challenge known to me. The foreign grant and Kenyan certificate are distinct instruments.

4. The competing intestate grant and confirmation were issued to [actual administrators] on [verified dates]. My discovery occurred on [date and circumstances]. Any pre-petition communication said to notify an administrator of the will is [letter, dispatch and receipt evidence], with lack of proof candidly stated.

5. The known administration completed or remaining is [assets, transfers, accounts and sources]. Claimed spouse, dependant or beneficiary status and disputed occupation are disclosed. I distinguish my own observations from another person account of a marriage or the deceased family arrangements.

6. The supporting grounds are [specified section 76 facts], and the preservation sought relates to [actual imminent risk]. I identify genuine annexures and information sources. Where this affidavit is sworn abroad, the actual authentication, oath and filing requirements must be completed; this specimen is neither notarised nor sworn.

SWORN by [deponent] at [place] on [date]. Signature [ ]. BEFORE ME [competent authorised oath administrator]. This specimen has not been sworn.

Use and evidence notes

Complete the deponent identity, authority and actual personal-knowledge or identified-information basis. Index and authenticate genuine exhibits; missing exhibits are not supplied by this text. An affidavit is evidence, not a vehicle for new unpleaded relief or invented expert conclusions. Obtain any required leave for a further affidavit and complete a valid jurat before a competent authorised person. This specimen is unsworn. Rule 44 affidavit reconstruction: identify the cause, grant, grounds and administration status. Authenticate foreign execution and translation. The source contains conflicting grant/confirmation dates; no date is silently resolved here. Apply the Probate and Administration Rules and the actual succession Court directions, rather than assuming ordinary civil motion procedure. Protect any minor or person lacking capacity.

Supporting material: [date]; [author or custodian]; [description]; [bundle page]; [authenticating witness]; [admission or permission]. Attach genuine records only. This public specimen contains no exhibits, signatures, personal identifiers or sworn declaration.

Source and procedural limits

A claimed foreign executor challenged a Kenyan intestate administration in an estate involving Kenyan land and a foreign will and grant. He relied on a later Kenyan resealing certificate. The administrators disputed the effect of the will on Kenyan assets, alleged a customary marriage and dependency, and opposed the claim. The filed chamber summons sought only temporary injunctions pending its own inter partes hearing, although affidavits and submissions asked for revocation.

The High Court struck out the chamber summons because it contained no substantive revocation or annulment prayer and did not use the rule 44 Form 107 summons. It declined to consider the merits. The decision did not establish fraud, invalidate either grant, decide the will effect on Kenyan assets or finally determine spouse or dependant status. Dates for the intestate grant and confirmation differ within the source narrative and must be verified from the actual instruments.

Section 76 and Probate rule 44 require the proper revocation application, including the grounds, identified grant and rule 44 affidavit/Form 14 requirements. Relief in an affidavit or submissions does not replace the prayer in the application. Authenticate a foreign will, grant, translation and any Kenyan resealing order, addressing the applicable succession and recognition law without assuming every foreign grant is automatically enforceable here.

[2025] KEHC 1523 (KLR) - 14 February 2025. Source decision: https://new.kenyalaw.org/akn/ke/judgment/kehc/2025/1523/eng%402025-02-14

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/in-re-estate-of-wolfgang-walter-wirth-deceased-2025-kehc-1523-klr.pdf

The original decision may identify participants. The specimen brackets identifying details. A source judgment does not prove this reconstruction was filed, an allegation succeeded, a later order remains unchanged or the same result will follow in another case.