Shipping Company Stay Affidavit on Delay Repayment Risk and Available Security

Educational sample 252 | 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

CIVIL APPEAL NO [reference]

[APPELLANT] v [RESPONDENT]

AFFIDAVIT

1. I am [company officer identity and position], authorised by [actual authority]. I state facts within my knowledge and information from [identified advocates or records]. I support the stay motion in the existing appeal and identify the judgment and decree without changing their operative terms.

2. The judgment was delivered on [date], the memorandum lodged on [date] and this application prepared on [date]. For the source sequence those events were July 2023, August 2023 and April 2024. My actual explanation for each intervening period is [facts and supporting records], including any inactivity.

3. Proceedings were requested on [proved date]. The request, payment, response and date records became available are [annexures]. I state whether the record of appeal has actually been filed, its filing reference and outstanding step. An available draft record is not described as a filed appeal record.

4. The decree allocates [actual share] of [principal and further charges] to this company. The current storage account, collection position and any execution step known to me are [records]. I distinguish existing judgment debt from charges alleged to continue accruing after judgment.

5. The feared substantial loss and repayment risk are [specific facts, source and recipient]. I do not claim the decree holder lacks means merely because I do not know its assets. The security genuinely available is [amount, bank confirmation or other evidence], with a realistic proposed deposit period.

6. I disclose all earlier stay applications, orders, payments and agreements concerning the vehicles. I explain the company steps to prosecute the appeal and mitigate continuing charges. This affidavit supplies neither a court stay nor a right to retain or collect vehicles beyond the actual decree.

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.

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 dispute over ownership of imported vehicles generated storage charges. The trial order allocated KSh 13,583,667 and further demurrage between two parties at fifty per cent each, with interest and costs. One liable company filed an appeal in August 2023 but sought a stay only in April 2024 after a July 2023 judgment. Its officer asserted repayment risk and offered security, while the vehicles continued accumulating charges.

The High Court dismissed the stay application with costs because the roughly ten-month delay was unexplained and the applicant had not filed its available appeal record. The ruling did not determine the final appeal merits or hold that every large demurrage decree warrants a stay. Order 42 rule 6 permits the appellate court to consider stay whether the court below granted or refused one; an opponent contrary assertion was not a statutory prerequisite adopted by the Court.

An appeal does not automatically stay execution. Under Order 42 rule 6, address substantial loss with evidence, explain every relevant delay and propose adequate security for due performance. Keep existing judgment debt, continuing storage charges, collection rights and mitigation separate. A corrected specimen cannot supply a missing explanation or stop accruing charges without an actual order or agreement.

[2025] KEHC 1381 (KLR) - 21 February 2025. Source decision: https://new.kenyalaw.org/akn/ke/judgment/kehc/2025/1381/eng%402025-02-21

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/diamond-shipping-services-limited-v-kencott-cfs-3-others-2025-kehc-1381-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.