Company Liquidation Hearing Debtor Submissions Under Section 427

Educational sample 315 | 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

INSOLVENCY PETITION NO [reference]

[LOGISTICS CREDITOR PETITIONER] v [DEBTOR COMPANY RESPONDENT]

WRITTEN SUBMISSIONS

1. The Respondent addresses the petition at its competent hearing rather than seeking to reverse earlier coordinate-court orders through the same rejected preliminary application. All earlier operative decisions are identified and respected pending any lawful appeal or review.

2. The Petitioner must prove entitlement to the liquidation relief requested. The refusal to strike out the petition does not dispense with the statutory grounds, genuine debt evidence and the Court assessment at the substantive hearing.

3. The remaining account is addressed from admitted invoices and credits at [pages]. Any substantial dispute is identified precisely, with the legal effect of earlier findings fairly acknowledged. These submissions cannot add a new receipt or account not lawfully before the Court.

4. Section 427 allows the Court to dismiss, adjourn conditionally or unconditionally, make an interim liquidation order or another appropriate order. The Respondent seeks [specific supported disposition] and explains its factual and statutory basis.

5. Mitchell Cotts [2025] KEHC 9455, paragraphs 24–26, preserved this distinction when dismissing the strike-out motion and directing the petition before Wangari J. It did not finally resolve every balance or order liquidation.

6. The Respondent asks for the supported section 427 disposition, suitable directions if necessary and appropriate costs. No automatic stay, discharge of the debt or assurance of corporate rescue is claimed from the existence of this draft.

DATED at [place] on [date]. Signed [party or advocate]. DRAWN AND FILED BY [name and address for service]. TO BE SERVED UPON [each affected person and address].

Use and evidence notes

Identify pleaded issues, admitted evidence and genuine record pages. Follow directions on length, authorities, filing and service. Submissions do not introduce exhibits or cure missing substantive prayers. Distinguish what a party sought from what the Court ordered, and an unsuccessful historical position from the actual holding. Apply the relevant personal-bankruptcy or corporate-liquidation provisions and prescribed procedure, rather than treating every insolvency application as an ordinary civil motion.

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 logistics creditor petitioned to liquidate a company for a disputed remaining USD 94,202.68 after earlier statutory-demand litigation and payments. The company applied to strike out the petition on grounds similar to its earlier unsuccessful challenge. Previous orders had permitted insolvency proceedings after non-compliance with security directions.

The Court dismissed the company strike-out application out of deference to the earlier coordinate-court orders and directed the petition to proceed before Wangari J. Costs were to abide the petition outcome. It did not make a liquidation order; the creditor still had to satisfy the Court at the petition hearing.

Section 427 preserves the Court choices on the liquidation petition, including dismissal or adjournment. A failed strike-out motion does not establish final insolvency or entitlement to liquidation. Reconcile payments and exact balances without duplicating credits. The narrative has inconsistent dates for earlier orders; use certified orders, not an assumed chronology. Corporate liquidation and personal bankruptcy use different prescribed processes.

[2025] KEHC 9455 (KLR) - 27 June 2025. Source decision: https://sheriahub.com/cases/ke/caselaw/mitchell-cotts-freight-kenya-limited-v-paleah-stores-limited-2025-kehc-9455-klr

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/mitchell-cotts-freight-kenya-limited-v-paleah-stores-limited-2025-kehc-9455-klr

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.