County Secretary Grounds of Opposition to Unsupported Contempt Joinder

Educational sample 390 | 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

JUDICIAL REVIEW CAUSE NO [reference]

REPUBLIC v [COUNTY SECRETARY AND FINANCE OFFICERS]; EX PARTE [DECREE HOLDER]

GROUNDS OF OPPOSITION

1. The County Secretary opposes the motion insofar as it seeks personal contempt liability merely from that office designation. The applicant must identify the clear order binding this person, actual knowledge, the obligation to perform and the evidence of deliberate noncompliance.

2. The applicable accounting-officer responsibility must be established from the public-finance framework and genuine designation or delegation documents. Administrative leadership of the county does not, without more, prove that the County Secretary is the officer charged with satisfying the decree.

3. The source Court held the County Secretary joinder unwarranted and looked to the County Executive Committee Member for Finance in the absence of evidence of another accounting-officer appointment. That case-specific holding should not be converted into immunity for every official under every order.

4. The objection does not deny the binding nature of mandamus or the county obligation under the actual decree. It distinguishes enforcement of that obligation from personal coercive relief against an officer whose relevant duty has not been established.

5. A service denial alone is not advanced as decisive where actual knowledge through counsel or other proof exists. Disputed appointment, knowledge or compliance facts require competent evidence and cannot be resolved merely by these legal grounds.

6. The County Secretary requests dismissal of the unsupported personal contempt request against that office, appropriate directions identifying the properly responsible officer, and a fair costs order. No new stay or discharge of the underlying decree is sought through these grounds.

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

These are grounds of opposition to the actual motion, not a fact-finding preliminary objection or a replying affidavit. Tie each ground to the proper test and admitted record. Supply a separate authorised affidavit for disputed factual evidence where needed. Check court directions on response and service.

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 creditor held a subordinate-court decree for KES 6,824,470 plus interest and KES 429,370 costs. Mandamus to satisfy it was granted in June 2021 and extracted in July 2021. A later contempt motion alleged continued nonpayment. Officials disputed personal service and the persons cited. The ruling noted no supporting affidavit had been filed with the source contempt application.

The Court found the County Executive Committee Member for Finance in contempt and summoned that officer to show cause why imprisonment should not follow. It did not immediately impose a six-month sentence. The County Secretary joinder was unwarranted. Costs were borne by the county. The Mombasa cause was delivered virtually from Homa Bay.

Check Judicature Act section 5, Government Proceedings Act section 21 and Public Finance Management Act section 148 with current contempt procedure. The 2016 Contempt of Court Act was declared invalid; do not rely on it as operative authority. Verify the actual accounting-officer designation. Knowledge, clear order, breach and wilfulness require proof; nonpayment alone is not automatic imprisonment.

[2025] KEHC 5213 (KLR) - 6 February 2025. Source decision: https://sheriahub.com/cases/ke/caselaw/republic-v-county-secretary-2-others-county-government-of-mombasa-interested-party-mutemi-exparte-applicant-2025-kehc-5213-klr

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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.