Grounds of Objection Defending an Application for Additional Appeal Security

Educational sample 128 | Nairobi

Educational reconstruction from a reported Kenyan judgment. This is newly drafted text, not an original court filing and not a matter handled by our team. Identifying details are replaced with bracketed fields. Verify the facts, current law, jurisdiction and court directions before signing, swearing or filing.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE SUPREME COURT OF KENYA

PETITION OR APPLICATION NO [reference]

[APPELLANT OR APPLICANT] v [RESPONDENT]

GROUNDS OF OBJECTION

1. The Respondent opposes the proposition that additional security is inherently incompatible with access to justice. A costs protection power exists, but its exercise must be justified in the particular case.

2. The Respondent identifies the evidenced recovery risk on which it relies. Foreign incorporation or an unsupported assertion of inability to pay cannot replace examination of the actual circumstances.

3. The requested amount must be supported by a reasonable costs basis and must account for the disputed money already held. Estimated High Court costs should not be presented as taxed appellate costs.

4. The Respondent submits that proportionate alternatives and compliance terms can be considered. It must answer the objection that a condition preventing any merits hearing was unreasonable.

5. The relief sought remains confined to security. The historical conditional order was set aside; this sample does not claim that the bank won either the security appeal or a final deposit recovery judgment.

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

Use and evidence notes

Under the official Supreme Court Rules 2020, rule 42 permits grounds of objection, an affidavit, or both, ordinarily within fourteen days of service unless directed otherwise. Check current directions and actual service. Keep objections within the appealed issues; facts need admissible evidence. Different relief or a different ground for affirmance may need the applicable cross-appeal or notice procedure. A response is not an automatic permission to introduce new issues.

Authorities and record references: [authority and proposition]; [relevant admitted document and page]; [court direction governing this filing].

Source and procedural limits

A failed hotel transaction generated a claim concerning a KES 185,000,000 deposit held by the bank. After the suit was dismissed, the Court of Appeal ordered KES 20,000,000 additional security as a condition for the appeal. The Supreme Court considered the certified security question, not the merits of deposit recovery.

The Supreme Court allowed the appeal on the specific security issue, set aside the conditional order and remitted the substantive appeal to the Court of Appeal. Each party bore its own costs. Security for costs is not unconstitutional in every case, and deposit refund was not finally adjudicated.

Constitution Articles 48, 50 and 159; Article 163(4)(b) certification; proportionate exercise of security discretion. The source discusses the historical Court of Appeal rules and nominal security. Current amounts and rule numbering must be verified before a new application.

[2023] KESC 11 (KLR) — 17 February 2023. Original judgment: https://supremecourt.judiciary.go.ke/wp-content/uploads/2025/01/Supreme-Court-Law-Reports-2023-Vol-1.pdf#page=529

The original decision may identify participants. The specimen replaces their identifying details. A source decision is not proof that a draft was filed, that an allegation succeeded, or that the same result will follow in another case.