Company Affidavit Identifying Security Order Deposit and Untaxed Costs

Educational sample 127 | 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]

AFFIDAVIT

1. I am [authorised company officer] and identify the records already placed before the appellate courts. My authority and the relevant corporate records are annexed as S1.

2. S2 is the Court of Appeal order requiring KES 20,000,000 additional security and specifying the consequence of non-compliance. I reproduce its actual terms in the confidential filing.

3. S3 identifies the KES 185,000,000 deposit and the records of its receipt relied upon in the litigation. I do not assert that the disputed deposit has already been adjudged repayable to the Appellant.

4. S4 contains the costs estimate and the available taxation record. An estimate asserted by a party is identified as an estimate; an amount not taxed is not described as a certified costs award.

5. S5 contains the certification ruling. Any statement of present resources or inability to pay must come from admissible financial evidence and, if new, requires the applicable permission.

SWORN by [deponent] at [place] on [date]. Signature [ ]. BEFORE ME [Commissioner for Oaths]. This sample has not been sworn.

Use and evidence notes

This is an illustrative affidavit identifying existing records, not permission to add fresh appellate evidence. State the deponent’s authority, personal knowledge and source of information. Verify each exhibit and page reference. Obtain leave or directions where an additional affidavit is required; new evidence requires the applicable admission procedure. Complete the jurat before a competent Commissioner for Oaths. The public sample is unsworn and contains no exhibits. An affidavit is not legal submissions.

Exhibit schedule: [label]; [document date]; [description]; [existing record pages or basis of admission]. Do not append invented or missing records.

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.