Donee Witness Statement on Original Title Custody and the Bank File

Educational sample 432 | Nakuru

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 ENVIRONMENT AND LAND COURT AT NAKURU

ENVIRONMENT AND LAND CASE NO [reference]

[OWNER THROUGH AUTHORISED DONEE] v [BANK]

WITNESS STATEMENT

1. I am [donee] and identify the power of attorney under which I assist the owner. My actual role in acquiring and developing the property is [details]. The owner is abroad. I distinguish my personal knowledge from the owner account and from records supplied by the bank or police.

2. I retained the original title at [place and period] and identify it at [exhibit]. The genuine title date and official search are [particulars]. I describe custody and any access accurately; I do not claim continuous custody for a period I cannot verify.

3. Persons visited the property to value it at [date] and stated that it secured a bank loan. I record their identity and the words I actually heard. I then obtained [search or bank information], which disclosed the charge and third-party borrower.

4. The transaction papers I obtained through [identified lawful source] included the competing title, identity document, charge and spousal declaration. I identify the visible date and photograph differences and the owner genuine documents. Whether signatures are forged requires the appropriate evidence; this draft is not an expert report.

5. The owner travel records at [pages] show the relevant departure and return position. I explain the source and basis on which those records are produced and identify any further authenticating witness needed. I do not infer that a person abroad could never act through a genuine authority; the actual authority is addressed separately.

6. The correspondence asking the bank to correct the charge is at [pages], together with the response. My statement supports the actual cancellation claim. It contains no genuine title, identity photograph, passport or signature, and should be completed only from the truthful custody and transaction history.

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

Use the witness own truthful account, distinguish observed events from named information sources and identify bundle pages and authenticating witnesses. Follow the actual trial or succession witness directions. Additional evidence and statements require any applicable leave. An appeal ordinarily uses the admitted trial record; a new statement cannot be inserted without the proper procedure.

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

An owner living abroad challenged a KES 10 million charge securing another person loan. The owner donee retained the genuine title. The bank file used a title with a conflicting date, an identity photograph unlike the owner, a purported signature and a spousal document describing the owner as unmarried. Passport evidence placed the owner abroad at execution. The bank did not defend.

Nakuru ELC found the charge fraudulent, ordered its entry cancelled and the register restored, and held that the bank could not exercise chargee sale rights. Costs were awarded against the bank. No separate general-damages sum appears in the operative orders. The report also appears under [2019] eKLR.

Prove the owner positive title chain and the actual charge documents, not only suspicion. Authority of the donee and admissible travel/identity comparison require genuine documents. The opening report has an impossible charge date; use certified originals. Interim motion and affidavit below are prospective educational reconstructions of the reported threatened sale, not assertions that this wording was filed or an interim order granted.

[2019] KEELC 1532 (KLR) - 1 October 2019. Source decision: https://new.kenyalaw.org/akn/ke/judgment/keelc/2019/1532/eng@2019-10-01

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/james-mogunde-mogunde-suing-on-behalf-of-and-as-donee-of-power-of-attorney-from-edward-sakawa-nyasaka-v-faulu-micro-finance-bank-limited-2019-eklr

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.