# Proposed Third Party Response to a Financier Indemnity Claim

Educational sample 488 | Kakamega

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 SMALL CLAIMS COURT AT KAKAMEGA

SMALL CLAIMS CASE NO [reference]

[CLAIMANT] v [RESPONDENT]

STATEMENT OF RESPONSE

1. The third party answers the notice issued under the joinder order dated [verified date]. The exact contribution or indemnity sought is [quoted from the actual notice], and each material allegation is answered at [completed particulars].

2. The third party position on possession, beneficial ownership and control of [vehicle] at the accident date is [truthful and documented]. Registered title, financing interests and actual use are distinguished; no ownership conclusion is invented.

3. The alleged duty to indemnify the financier rests on [actual contract or legal basis]. The third party admits [true admissions] and disputes [specific terms or causal connection], identifying the genuine supporting agreement or record.

4. Accident liability and the passenger injuries remain issues for the proper merits hearing on the admitted evidence. This response does not assert a witness account, payment or insurance cover absent a genuine source.

5. The third party requests proper service of the original claim, notice and relied-on documents, followed by a reasonable opportunity to respond and participate. Any counterclaim or independent monetary relief requires its own proper prescribed process.

6. The third party seeks dismissal or limitation of the indemnity claim only to the extent the merits evidence supports it, with appropriate costs. The source appeal restored a hearing and did not decide this proposed substantive defence.

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

Complete the prescribed Small Claims Court response and serve it under rules 9 and 12. Give precise admissions, denials and the evidence for any counterclaim or set-off. Check the current summons and directions; this is substantive wording, not the prescribed form. Adapt the prescribed third-party response and joinder directions. The source judgment did not decide the merits of an indemnity defence; bracketed facts require genuine instructions.

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

In a passenger-injury Small Claims case, a financier brought in the alleged beneficial vehicle owner as third party. Counsel appeared and then withdrew. Judgment followed without adequate opportunity for the third party to obtain representation and respond. The record contained no affidavit proving the original claim was served on that party. Setting-aside and review attempts had failed below.

On the law-only appeal the High Court set aside the entire default decree and remitted the dispute for merits determination, with each party bearing own appeal costs. The Court did not determine accident liability or award a new damages figure.

Small Claims sections 17, 25 and 27 protect natural justice, service and a proper opportunity to respond; section 30 documentary determination does not remove those safeguards. Section 38 appeals are confined to law. The report contains inconsistent judgment years, affidavit dates and monetary figures; use the certified file.

[2026] KEHC 4854 (KLR) - 15 April 2026. Source decision: https://new.kenyalaw.org/akn/ke/judgment/kehc/2026/4854/eng@2026-04-15

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/luchivya-v-mwenesi-another-2026-kehc-4854-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.