Hospital and Practitioner Defence Distinguishing Surgical Death from Proven Negligence

Educational sample 492 | Kisii

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 CHIEF MAGISTRATES COURT AT KISII

CIVIL SUIT NO [reference]

[CLAIMANT] v [RESPONDENT]

STATEMENT OF DEFENCE

1. The Defendants admit [actual treatment and roles] but answer each pleaded breach and causal allegation specifically. They identify the duty and clinical records without treating the death itself as proof of negligent treatment.

2. The Defendants position is that [actual procedure and anaesthesia] were administered as recorded. The spinal anaesthesia, operative notes and postmortem findings must be assessed by competent evidence; no fictional monitoring chart is supplied.

3. The pleaded missing vital-sign interval is answered with [genuine chart and explanation]. A general assertion that all signs were taken cannot substitute for the contemporaneous record and qualified explanation of the clinical management.

4. The Defendants rely on [actual alternative cause or complication evidence] only within its proved scope. A lung finding, cardiac arrest or inquest outcome does not by itself answer whether negligent management contributed to death.

5. The regulatory inquiry findings and practitioner qualifications are [accurately admitted or disputed]. Licensing and misconduct questions are distinguished from the civil elements of duty, breach and causation. Any limitation issue must address the actual leave order and proper challenge process.

6. The Defendants dispute unproved or unpleaded damages and seek judgment on the admitted evidence, with appropriate costs. The source appellate court ultimately found negligence; this reconstruction of the defence is not presented as a successful exoneration.

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

Answer the actual numbered plaint with precise admissions, denials and material grounds. Check summons, appearance, the applicable response period, court directions and the required witness/document pack. A counterclaim or new affirmative relief requires its own proper pleading, fee and service. Do not treat a disputed factual allegation as a pure preliminary objection.

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 estate representative challenged dismissal of a claim arising from death during caesarean surgery. The regulatory inquiry, operation notes, anaesthetic chart and conflicting medical explanations were examined. The High Court rejected the reversal-of-spinal-anaesthesia explanation but found negligent management of vital signs and hospital responsibility.

The 2022 appeal awarded KES 2,000,000 pleaded general damages for professional negligence and KES 157,000 special damages, with appeal costs and the stated interest dates. Unpleaded Law Reform and Fatal Accidents heads and unrelated legal fees were not awarded. Later rulings granted stay pending Court of Appeal proceedings, required proper post-judgment advocate-change procedure, and in September 2025 rejected the requested review of stay while permitting advocate change.

A regulatory misconduct finding is distinct from civil negligence and causation. This case does not establish that any surgical death or licensing defect automatically proves causation. Historical trial leave on limitation was case-specific. The 2022 merits result is not presented as presently executable or finally resolved in the Court of Appeal; later orders are linked.

[2022] KEHC 2296 (KLR); also reported [2022] eKLR - 10 February 2022. Source decision: https://new.kenyalaw.org/akn/ke/judgment/kehc/2022/2296/eng@2022-02-10

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/dennis-isoe-moruri-suing-for-and-behalf-of-the-estate-of-truphena-abisa-moruri-v-nyangena-hospital-another-2022-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.