

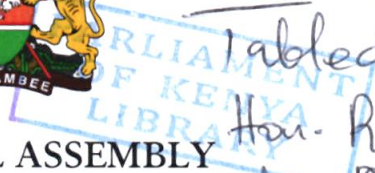
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PARLIAMENT OF KENYA

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11/12/14



NATIONAL ASSEMBLY



Tabled by the
Hon. Rachel Nyamwayi
Mp. Chairperson
Departmental Committee

ELEVENTH PARLIAMENT - SECOND SESSION (2014) on Lunch

DIRECTORATE OF COMMITTEE SERVICES (NA) 11/12/14

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REPORT OF THE DEPARTMENTAL COMMITTEE ON HEALTH

ON

PETITION BY MR. BARNABAS BARGORIA ON COMPLACENCY BY
THE CHIEF PHARMACIST/SECRETARY TO THE PHARMACY AND
POISONS BOARD

CLERKS' CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

DECEMBER 2014

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PREFACE

The Departmental Committee on Health is established pursuant to the provisions of Standing Order No. 216(5) of the Kenya National Assembly and in line with Article 124 of the Constitution (2010) which provides for the establishment of Committees by Parliament. The Committee is thus mandated to:-

- i)* Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- ii)* Study the programme and policy objectives of the Ministries and departments and the effectiveness of the implementation;
- iii)* Study and review all legislation referred to it;
- iv)* Study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with its stated objectives;
- v)* Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
- vi)* Vet and report on all appointments where the constitution or any law requires the National Assembly to approve, except those under Standing Order 204; and
- vii)* Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The Committee Membership is as follows:-

- 1) **The Hon. Dr. Rachael Nyamai, M.P.** - **Chairperson**
- 2) **The Hon. Dr. Robert Pukose, MP** - **Vice Chairperson**
- 3) The Hon. Alfred Agoi, M.P.
- 4) The Hon. Christopher Nakuleu, M.P.
- 5) The Hon. David Karithi, M.P.

- 6) The Hon. Dr. Dahir Duale Mohamed, M.P.
- 7) The Hon. Dr. David Eseli, M.P.
- 8) The Hon. Dr. Enoch W. Kibunguchy, M.P.
- 9) The Hon. Dr. James Murgor, M.P.
- 10) The Hon. Dr. James Nyikal, M.P.
- 11) The Hon. Dr. James O. Gesami, M.P.
- 12) The Hon. Dr. Naomi Shaban, M.P.
- 13) The Hon. Dr. Patrick Musimba, M.P.
- 14) The Hon. Dr. Stephen Wachira, M.P.
- 15) The Hon. Dr. Susan Musyoka, M.P.
- 16) The Hon. Eng. Stephen Mutinda Mule, M.P.
- 17) The Hon. Fred Outa, M.P.
- 18) The Hon. Hassan Aden Osman, M.P.
- 19) The Hon. James Gakuya, M.P.
- 20) The Hon. John Nyaga Muchiri, M.P.
- 21) The Hon. Joseph O. Magwanga, M.P.
- 22) The Hon. Kamande Mwangi, M.P.
- 23) The Hon. Leonard Sang, M.P.
- 24) The Hon. Masoud Mwachima, M.P.
- 25) The Hon. Michael Onyura, M.P.
- 26) The Hon. Mwinga Gunga, M.P.
- 27) The Hon. Paul Koinange, MP
- 28) The Hon. Raphael Milkau Otaalo, M.P.
- 29) The Hon. Zipporah Jesang, M.P.

Standing Order No. 216 of the National Assembly assigns the Committee the mandate to *“investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House.* It is pursuant to this

function, and also Standing Order No. 227 that the Petition by Hon. Hellen Chepkwony, Member of Parliament for Kericho County on behalf of Mr. Barnabas Bargarora was committed to the Committee on 1st July, 2014.

In considering the Report, the Committee held a meeting with the Petitioner and the Pharmacy and Poisons Board. The outcome of the deliberations and the evidence submitted informed the Committee's decision on the matter.

In appreciation, the Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. I also wish to express my appreciation to the Honourable Members of the Committee who sacrificed their time to participate in preparation of this Report.

On behalf of the Committee on Health, it is my pleasure to present this Report for noting pursuant to Standing Order 216.

SIGNED.....

HON. DR. RACHAEL NYAMAI, M.P
CHAIRPERSON

DATE: 4/12/2014.....

REPORT OF THE DEPARTMENTAL COMMITTEE ON HEALTH ON THE PETITION TO PARLIAMENT IN REGARD TO THE PHARMACY AND POISONS (AMENDMENT) BILL OF 2014

Introduction

- 1) The Petition by Mr. Barnabas Bargoria was presented to the House on 1st July, 2014 on behalf of the Petitioner by the Hon. Hellen Chepkwony, Member of Parliament for Kericho County. Subsequently, the Report was committed to the Departmental Committee on Health pursuant to Standing Order No. 227.

Contents of the Petition

In the Petition, the Petitioner raised the following issues:-

- 2) **THAT** one of the key functions of the Chief Pharmacist of the Pharmacy and Poisons Board is to regulate the quality of drugs and ensure that imported drugs conform to the prescribed standards of quality, safety and efficacy for human consumptions;
- 3) **THAT** the laxity and gross conduct by the Chief Pharmacists threatens the lives of many Kenyans who unsuspectingly purchase and consume drugs that do not conform to the prescribed standards of quality, safety and efficacy;
- 4) **THAT** on 28th May, 2009, the Petitioner, a diabetic patient purchased insulin drugs namely Humulin 70/30 from Eldochem Ltd. in Eldoret town and that the drug had been imported by Statim Pharmaceuticals Limited;
- 5) **THAT** after using the drug, the Petitioner suffered near fatal injury and had to obtain emergency treatment at the Moi Teaching & Referral Hospital;
- 6) **THAT** the drug was subsequently tested by the National Quality Control Laboratory and was found to be harmful since it did not conform to the prescribed quality, safety and efficacy standards;

- 7) **THAT** this contravenes Article 43(1)(a) of the Constitution which provides that every person is entitled to the highest attainable standard of health including the right to health care service
- 8) **THAT** the Chief Pharmacist lodged a case against employees of the dispensing chemist as the Resident Magistrate's Court in Eldoret vide Case No. 4663 of 2009: Republic versus Nawaz Gulam and William Chumba;
- 9) **THAT** the recurrent failure by the Chief Pharmacist to avail witnesses and exhibits led to constant deferral of hearing of the case and subsequent discharge of the accused persons by the court on 25 May, 2010;
- 10) **THAT** termination of the Case denied his right to compensation for injury or loss arising from defects in goods or services as provided for under Article 46(1)(d) of the Constitution;
- 11) **THAT** the matter in respect of the Petition is not pending before a court of law.
- 12) With the foregoing, the Petitioner's prayer was that the Departmental Committee on Health:
 - i. Intervenes to ensure that the Petitioner's plight is addressed and urgent measures instituted to protect Kenyans who are unknowingly purchasing and consuming drugs that do not conform to the prescribed standards of quality, safety and efficacy; and
 - ii. Recommends that the Ministry of Health urgently puts in place measure that will guard against the manufacture or importation of drugs that do not conform to the prescribed standards of quality, safety and efficacy.

Committee Findings

Having formally received the Petition, the Committee invited the Petitioner and the Chief Pharmacist, Pharmacy and Poisons Board to a meeting on 26th August, 2014. During the meeting, the Committee learnt that the subject of the Petition could be a matter before the

court of law. The Committee therefore sought to establish the facts of the Petition and Civil Case No. 309 of 2010. Below is a summary of its findings: -

- 13) With regard to Criminal Case No. 4663 of 2009 - Republic Vs. Nawaz Gulam and William Chumba, the Committee heard that the case was dismissed on 24th August, 2014, not as a result of the Chief Pharmacist's failure to avail key witnesses or exhibits to the Court, rather, that the case collapsed as a result of some of the witnesses, the Petitioner himself, included, failing to appear before the Court to give evidence.

The Board informed the Committee that it availed a witness, one Mr. James Kingo'ri. Mr. Barnabas Bargarora himself failed to present himself to court and also give evidence despite being the complainant.

The Director, National Control and Quality Laboratory Board, also listed as one of the witnesses, failed to present exhibits in the form of certificate of analysis of the said sub-standard drugs. The case was thus dismissed on 24th August, 2010.

- 14) Following the dismissal of Criminal Case No. 4663 of 2009, the Petitioner filed a Civil Case No. 309 of 2010 on 16th June, 2011 against Eldochem Limited (First Defendant), Statim Pharmaceuticals Limited (Second Defendant) and the Pharmacy and Poisons Board (Third Defendant).

In the Suit, he claims the following against the Pharmacy and Poisons Board;

THAT

- a) The Board licensed and authorised Statim Pharmaceuticals Ltd. to source and supply pharmaceutically unfit *Humulin 70/30* for application by persons in Kenya including the plaintiff.
- b) The Board being the authority established by law to regulate and control importation, circulation and manufacture of drugs and storage thereof,

permitted Statim Pharmaceuticals to source harmful *Humulin 70/30* and supply it for the application of the Plaintiff;

- c) The Board being the authority established by law to regulate and control importation, circulation and manufacture of harmful *Humulin 70/30* to the plaintiff in the instant and for the period that the Plaintiff has had it prescribed to him and applied by him much to the Plaintiff's detriment;
- d) And the Plaintiff will to the extent necessary rely on the principle of *res ipsa loquitur*.

And the Defendants each of them by the acts aforesaid, breach the duty of care owed to the Plaintiff and as a result of the matters aforesaid, the Plaintiff suffered great pain, sustained gross loss and damage.

- 15) The Case came up for hearing on 23rd September, 2014 before Justice Sergon but the hearing did not proceed because Justice Sergon's Court was not sitting and matters before it could not proceed and were ordered that new dates be taken at the Registry for hearing.

Committee Observations

- 16) Having scrutinised the contents of the Petition vis-à-vis Case No. 309 of 2010, the Committee observed that indeed, the subject matter of the Petition is similar to that of Criminal Case No. 309 of 2010 and the matter therefore is deemed *sub judice* pursuant to Standing Order No. 89.

Committee Recommendation

- 17) The Departmental Committee on Health therefore recommends to the House that the Petition by Mr. Barnabas Bargoria on complacency by the Chief Pharmacist/Secretary to the Pharmacy and Poisons Board, be withdrawn until Civil Case No. 309 of 2010 is concluded and determined.

MINUTES OF THE 94TH SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON 9TH FLOOR HARAMBE PLAZA PARLIAMENT BUILDINGS, ON THURSDAY, 25TH NOVEMBER, 2014 AT 10.30A.M.

PRESENT

1. **The Hon. Dr. Robert Pukose, M.P- V. Chairperson (Chaired Meeting)**
2. The Hon. David Karithi, M.P.
3. The Hon. Dr. David Eseli, M.P.
4. The Hon. Dr. Enoch Kibunguchy, M.P.
5. The Hon. Dr. James Murgor, M.P
6. The Hon. Dr. James Nyikal, M.P.
7. The Hon. Dr. James Gesami, M.P
8. The Hon. Dr. Stephen Wachira, M.P
9. The Hon. Hassan Osman, M.P.
10. The Hon. James Gakuya, M.P.
11. The Hon. Joseph Magwanga, M.P.
12. The Hon. Leonard Sang, M.P.
13. The Hon. MwingaGunga, M.P
14. The Hon. Raphael Otaalo, M.P.
15. The Hon. Eng. Stephen Mule, M.P.

ABSENT WITH APOLOGY

16. **The Hon. Dr. Rachel Nyamai, MP - Chairperson**
17. The Hon. Dr. Patrick Musimba, M.P
18. The Hon. Paul Koinange, M.P.
19. The Hon. Alfred Agoi, M.P.
20. The Hon. Dr. Susan Musyoka, M.P
21. The Hon. John NyagaMuchiri, M.P.
22. The Hon. Dr. Naomi Shaban, M.P.
23. The Hon. Dr. Dahir Mohamed, M.P.
24. The Hon. Kamande Mwangi, M.P
25. The Hon. Michael Onyura, M.P
26. The Hon. Mwahima Masoud, M.P.
27. The Hon. ZipporahJesang, M.P.
28. The Hon. Christopher Nakuleu, M.P.
29. The Hon. Fred Outa, M.P.

In Attendance

National Assembly Secretariat

Mr. Nebert Ikai

- Third Clerk Assistant.

MIN. NO DCH 428/2014:

PRELIMINARIES

The meeting was called to order at 10.30am. Thereafter the Chairperson welcomed Members to the meeting and thereafter he prayed.

MIN. NO DCH 429 /2014:

CONFIRMATION OF MINUTES

Minutes of 84th Sitting were confirmed as a true record of the proceedings having been Proposed by Hon. James Murgor, MP and seconded by Hon. Dr. Robert Pukose MP.

Minutes of 85th Sittings were confirmed as true record of the proceeding having been proposed by Hon. Dr. James Nyikal MP and Seconded by Hon David Karithi, MP.

Minutes of 86th Sitting were confirmed as a true record of the proceedings having been proposed by Hon. Dr. Robert Pukose MP and seconded by Hon. Raphael Otaalo MP.

Minutes of 87th Sitting were confirmed as a true record of the proceedings having been proposed by Hon. Dr. Enoch Kibunguchy, M.P and seconded by Hon David Karithi MP.

Minutes of 91st Sitting were confirmed as a true record of the proceedings having been proposed by Hon. Raphael Otaalo, MP and Seconded by Hon David Karithi, MP.

MIN. NO DCH 430 /2014: MATTERS ARISING

On Min. No. DCH 387/2014 on Ebola crisis, the Committee resolved to visit JKIA, Namanga, Busia and Malaba border to oversight over the installation of thermo-scanners at the border points, temporally holding room and passengers screening at JKIA among other interventions put in place by the Government.

The following Members were nominated for **Namanga** visit:

- i. Hon. Dr. Robert Pukose, M.P
- ii. Hon. Dr. James Nyikal, M.P
- iii. Hon. Hassan Osman, M.P
- iv. Hon. Dr. Stephen Wachira, M.P
- v. Hon. Joseph Magwanga, M.P
- vi. Hon. Dr. Naomi Shaban, M.P
- vii. Hon. David Karithi, MP

The Following members were nominated for **Busia and Malaba:-**

- i. Hon. Dr. Enoch Kibunguchy, M.P
- ii. Hon. Dr. James Murgor, M.P
- iii. Hon. Michael Onyura, M.P
- iv. Hon. Leonard Sang, M.P
- v. Hon. Zipporah Jesang, M.P.

On Min. No. DCH 398/ 2014 on the petition by the Kenya Association of Private Hospitals, the Committee resolved to invite the NHIF management on 9th December 2014 to respond to the issues raised during the meeting with KAPH.

**MIN. NO DCH 431 /2014: CONSIDERATION OF THE REPORT ON
INSPECTION VISIT TO HEALTH FACILITIES
IN WAJIR HELD ON 21ST NOVEMBER 2014**

The Chairperson took Members through the draft Report and invited Members to give their comments on the said Report.

Members observed that the Ministry ought to give policy guidelines on the required number of personnel needed at each level of health care delivery.

Members further resolved to schedule a meeting on 2nd December 2014 with the Cabinet Secretary National Treasury; Cabinet Secretary Ministry of Health accompanied by the Director of Medical Services, Chief Health Administrator/Coordinator of the Project (Mr. Peter Gachenge), and Cabinet Secretary, Ministry of Lands, Housing and Urban Development.

**MIN. NO DCH 432 /2014 ADOPTION OF REPORT ON PETITION BY
MR. BARNABAS BARGORIA ON
COMPLACENCY BY THE CHIEF
PHARMACIST/SECRETARY TO THE
PHARMACY AND POISONS BOARD**

The Report was unanimously adopted having been proposed by Hon. (Dr.) David Eseli and Seconded by the Hon. (Dr.) Enoch Kibunguchy, M.P.

MIN.NO. DCH 433/2014 ANY OTHER BUSINESS

With regards to Managed Equipment Service, the Committee resolved to visit the National Health Service of United Kingdom in February 2015.

MIN.NO. DCH 434/2014 ADJOURNMENT

There being no other business the meeting was adjourned at 12.10 pm.

SIGNED.....

**HON (DR.) ROBERT PUKOSE, M.P
VICE-CHAIRPERSON**

DATE:.....
4/12/2014



MIN. NO. DCH 387/2014: DELIBERATION ON EBOLA CRISIS

The Committee deliberated at length on the Ebola crisis and made the following observations:- THAT

- i. Kenya should lobby the World Health Organisation and the international community for a proposal to have JKIA designated Africa's Certified Quarantine Centre for Ebola. The direct benefit of doing so will boost Kenya's economy and also safeguard the country against Ebola threat by ensuring that Kenya remains Ebola-free because of the enhanced surveillance system;
- ii. The Committee observed that Kenya ought to take the Ebola threat more seriously and that the Committee should visit various border/entry points eg JKIA, Namanga, Busia, Malaba etc to inspect Kenya's preparedness in screening and tackling the diseases in any eventuality;
- iii. The Committee resolved to request for utilization of funds allocated to manage Ebola;
- iv. Hon. Daniel Maanzo informed the Committee that a Kenyan national from Makueni County working in Seychelles died while undergoing treatment in Seychelles and the authorities quickly poured acid on his corpse because of the fear that he may have died of Ebola. The deceased had just returned from a holiday in Kenya. Efforts to repatriate the body for burial in Kenya have not borne fruit because the Seychelles authorities have ruled it dangerous for transportation. Hon Maanzo and Hon Musimba asked for the Committee's support should their efforts to have the body transported to Kenya for burial fail to bear fruit. They were assured of the support.

Way Forward

1. The Committee resolved to write to the CS Health requesting for the information below:-
 - i. The Committee also resolved to request the Cabinet Secretary, Ministry of Health to submit to the Committee weekly review status of preparedness and challenges encountered in the fight against the Ebola threat in Kenya.
 - ii. Breakdown of utilization of funds allocated to ensure the country is safeguarded against Ebola;
2. On the issue of repatriating the body of the Kenyan patient stuck in Seychelles, the Committee advised the two Hon Members (Hon Maanzo and Hon Musimba) to liaise with the Ministry of Health and W.H.O. Country Office with the aim of establishing the actual cause of death to facilitate release of the body to the relatives.

MINUTES OF THE 85TH SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD IN COMMITTEE ROOM ON 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS ON THURSDAY, 16TH OCTOBER, 2014, AT 10.00 AM.

PRESENT:

1. **The Hon. Dr. Rachel Nyamai, MP (Chairperson)**
2. The Hon. Raphael Otaalo, M.P.
3. The Hon. Christopher Nakuleu, M.P.
13. The Hon. Eng. Stephen Mule, M.P.
4. The Hon. David Karithi, M.P.
14. The Hon. Fred Outa, M.P.
5. The Hon. Dr. Dahir Mohamed, M.P.
15. The Hon. Hassan Osman, M.P.
6. The Hon. Dr. David Eseli, M.P.
16. The Hon. James Gakuya, M.P.
7. The Hon. Dr. James Gesami, M.P.
17. The Hon. John Nyagah Muchiri, M.P.
8. The Hon. Dr. James Murgor, M.P.
18. The Hon. Michael Onyura, M.P.
9. The Hon. Dr. James Nyikal, M.P.
19. The Hon. Mwahima Masoud, M.P.
10. The Hon. Dr. Patrick Musimba, M.P.
20. The Hon. Mwinga Gunga, M.P.
11. The Hon. Dr. Stephen Wachira, M.P.
21. The Hon. Paul Koinange, M.P.
12. The Hon. Dr. Susan Musyoka, M.P.

ABSENT WITH APOLOGY:

22. **The Hon. Dr. Robert Pukose, M.P (V. Chairperson)**
26. The Hon. Kamande Mwangi, M.P.
23. The Hon. Joseph Magwanga, M.P.
27. The Hon. Zipporah Jesang, M.P.
24. The Hon. Dr. Enoch Kibunguchy, M.P.
28. The Hon. Leonard Sang, M.P.
25. The Hon. Dr. Naomi Shaban, M.P.
29. The Hon. Alfred Agoi, M.P.

In Attendance

The Hon. Daniel Maanzo, M.P - Member, Makueni Constituency

National Assembly Secretariat

1. Susan Maritim - Clerk Assistant I
2. Hassan Arale - Clerk Assistant III
3. Peter Mwaura - Legal Counsel I
4. Mercy Wanyonyi - Legal Counsel II

MIN. NO. DCH 385/2014: PRELIMINARIES

The Chairperson called the meeting to order at order at 10:21am and the prayer said by Hon. Christopher Nakuleu.

MIN. NO. DCH 386/2014: CONFIRMATION OF MINUTES

Confirmation of Minutes was deferred to the next Sitting.

**MIN. NO. DCH 388/2014: PETITION BY MR BARNABAS BARGORIA
ON IMPORTATION OF SUB-STANDARD
DRUGS**

The Legal Counsel informed the Committee that on scrutiny of documents submitted by the Pharmacy and Poisons Board and the Petitioner, it is evident that the subject matter of the Petition is indeed sub-judice. He further reported that the case was due for hearing on 23rd September 2014 and that he was awaiting the outcome of the proceedings for further scrutiny.

The Committee resolved to finalize its report on the matter for submission to the House.

**MIN. NO. DCH 389/2014: CONSIDERATION OF THE TRADITIONAL
HEALTH PRACTITIONERS BILL, 2014**

The Committee deferred consideration of the Bill to allow for further consultation with the relevant stakeholders (MOH and the traditional/herbal medicines practitioners).

Regarding the proposed amendments by the Ministry, the Committee noted that the Ministry did not involve the Committee during its meeting with stakeholders and further that the proposed amendments lack justification/rationale.

Way Forward

The Committee resolved to request the Ministry to sponsor a retreat that would bring together the Committee, the Ministry and select stakeholders.

The secretariat was also instructed to harmonize the Ministry's proposals and the published Bill.

MIN. NO. DCH 390/2014 ANY OTHER BUSINESS

1. Committee Study Visit to Cuba

The Committee resolved to conduct the study visit from committee members agreed that Cuba trip to be conducted from 22nd -30th November, 2014.

The proposed delegation is as follows:-

- i. Chair or Vice-Chair
- ii. Hon. Alfred Agoi, MP
- iii. Hon. Dr. Enoch Kibunguchy, MP
- iv. Hon. Dr. Naomi Shaban, MP
- v. Hon. James Gakuya, MP
- vi. Hon. Joseph Magwanga, MP
- vii. Hon. Masoud Mwahima, MP

It was further resolved that its important to include doctors in delegations to conferences for more effective participation.

2. Shortage of essential drugs in Kenya

The Committee discussed the shortage of TB drugs in the country and information that MoH recently borrowed the drugs from Uganda.

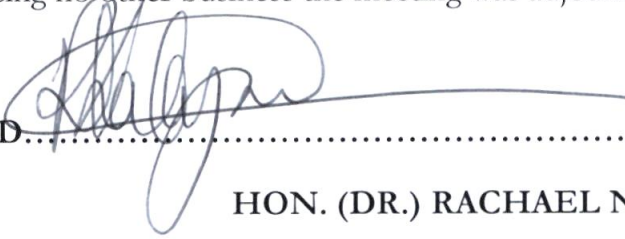
3. The delegation to the 45th Lung Conference will travel to Barcelona Spain on 25th October, 2014 as scheduled.
4. Hon. Dr. Susan Musyoka informed the Committee that the Kenya Women Medical Association had invited her to give a talk to health workers on Saturday, 25 October in Hotel Kempinski. She was asked to present the Committee's position on devolution of health services.
5. The Chair informed the Committee that she would be traveling with Hon. Hassan Osman to Project Cure headquarters, USA from 20 – 24 October, 2014.

MIN. NO. DCH 391/2014

ADJOURNMENT

There being no other business the meeting was adjourned at 12.25pm.

SIGNED.....



HON. (DR.) RACHAEL NYAMAI, M.P

CHAIRPERSON

DATE:.....

20/11/2014

MINUTES OF THE 74TH SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD IN HARAMBEE HOUSE 9th FLOOR, PARLIAMENT BUILDINGS ON THURSDAY, 28TH AUGUST 2014 AT 10.00AM.

PRESENT:

- | | |
|--|--|
| 1. The Hon. Dr. Rachael Nyamai, MP
(Chairperson) | 10. The Hon. Dr. David Eseli, M.P. |
| 2. The Hon. Dr. Robert Pukose, M.P
(Vice Chairperson) | 11. The Hon. Dr. Enoch Kibunguchy, M.P |
| 3. The Hon. James Gakuya, M.P.
(Chaired Meeting) | 12. The Hon. Dr. James Gesami, M.P |
| 4. The Hon Dr. Susan Musyoka, M.P. | 13. The Hon. Dr. James Murgor, M.P |
| 5. The Hon Eng. Stephen Mule, M.P | 14. The Hon. Dr. Stephen Wachira, M.P. |
| 6. The Hon Mwinga Gunga, M.P. | 15. The Hon. John Nyaga Muchiri, M.P. |
| 7. The Hon. Alfred Agoi, M.P. | 16. The Hon. Kamande Mwangi, M.P. |
| 8. The Hon. David Karithi, M.P | 17. The Hon. Leonard Sang, M.P. |
| 9. The Hon. Dr. Dahir D Mohamed, M.P | 18. The Hon. Michael Onyura, M.P |
| | 19. The Hon. Paul Koinange, M.P. |
| | 20. The Hon. Raphael Otaalo, M.P. |
| | 21. The Hon. Zipporah Jesang, M.P |

ABSENT WITH APOLOGY:

- | | |
|---------------------------------------|---------------------------------------|
| 22. The Hon Joseph Magwanga, M.P | 26. The Hon. Dr. Patrick Musimba, M.P |
| 23. The Hon. Christopher Nakuleu, MP. | 27. The Hon. Fred Outa, M.P. |
| 24. The Hon. Dr. James Nyikal, M.P . | 28. The Hon. Hassan Osman, M.P |
| 25. The Hon. Dr. Naomi Shaban, M.P. | 29. The Hon. Mwahima Masoud, M.P. |

Other MPs

Hon. Millie Odhiambo – Sponsor, In-vitro Fertilization Bill

National Assembly Secretariat

- | | | |
|------------------|---|-----------------------|
| 1. Susan Maritim | - | First Clerk Assistant |
| 2. Nebert Ikai | - | Third Clerk Assistant |
| 3. Hassan Arale | - | Third Clerk Assistant |
| 4. Marale Sande | - | Senior Researcher |
| 5. Peter Mwaura | - | Legal Counsel I |

MIN. NO DCH 331/2014: PRELIMINARIES

The meeting was called to order at 9.00 am followed by a word of prayer said by the Hon James Gakuya MP.

MIN NO DCH 332/2014: LEGISLATIVE BUSINESS BEFORE THE COMMITTEE

The Committee deliberated on the following legislative business before the health committee as at 28th August 2014: -

S/No	Business	Committal Date	Timeline	Due Date	Status
	Pending Statements				
180	Statement by Hon. Priscilla Nyokabi regarding non-payment of medical expenses in regard to orthopedic appliances by the NHIF	25.06.2014	2 weeks	9.07.2014	Awaiting response from MOH
228	Statement by Hon. Joseph Lekuton on the current alarming maternal deaths in the country and specifically in slum areas	30.07.2014	2 weeks	13.08.2014	Awaiting response from MOH
232	Statement regarding the adherence to the National Infection Prevention and Control Guidelines for Healthcare	05.08.2014	2 weeks	19.08.2014	Awaiting response from MOH
249	Statement by Hon. Francis Mwangangi regarding the status of health workers in the health sector	13.08.2014	2 weeks	27.08.2014	Awaiting response from MOH
267	Statement by Hon. Robert Mutemi regarding release of orthopedic materials and equipment donated to the Association for the Physically Disabled of Kenya by a Dutch Organization	20.08.2014	2 weeks	03.09.2014	Awaiting response from MOH
	PENDING BILLS				
1.	Pharmacy & Poisons (Amendment Bill), 2014 (Hon Dr. R. Pukose)	12.3.2014	21 days	01.04.2014	Report adopted on 28.08.2014
2.	Mental Health Bill, 2014	3.6.2014	21 days	24.06.2014	Under consideration by the Committee
3.	Traditional Practitioners Health Bill, 2014 (Hon. R. Nyamai)	3.6.2014	21 days	24.06.2014	Under consideration by the Committee
4.	Diabetes Management Bill, 2014 (Hon. R. Nyamai)	3.6.2014	21 days	24.06.2014	Under consideration by the Committee
	Pre-Publication Scrutiny of Bills				

S/No	Business	Committal Date	Timeline	Due Date	Status
1.	Malaria Prevention Bill, 2014 (Hon. Diriye)	04.06.2014	14 days	18.06.2014	Awaiting Committee Report on the matter
2.	In-Vitro Fertilization Bill, 2014 (Hon Millie Odhiambo)	17.06.2014	14 days	01.07.2014	Awaiting Committee Report on the matter
	Petitions				
1.	Petition by Members of Kenya Medical Laboratory Technicians and Technologists Board regarding the Pharmacy and Poisons (Amendment) Bill, 2014 (Request presented by Speaker)	3.06.2014	60 days	03.08.2014	Report adopted on Thursday, 28 August, 2014
2.	Petition on behalf of Barnabas Bargoria on importation of substandard drugs (Hon. Hellen Chepkwony)	1.07.2014	60 days	01.09.2014	Under consideration by the Committee
3.	Petition by the Union of Clinical Officers interns (conveyed by the Hon. Deputy Speaker of the National Assembly)	24.07.2014	60 days	24.09.2014	Awaiting consideration by the Committee

Way forward

1. Secretariat was tasked to write to the Cabinet Secretary ministry of health informing him of delays by his Ministry in responding to Statements before the Committee.
2. Secretariat to plan for conclusion of consideration of the Bills during the recess.

MIN.NO.DCH 333/2014:

ADOPTION OF REPORT ON PETITION BY THE KENYA MEDICAL LABORATORY TECNHNOLOGISTS AND TECHNICIANS BOARD IN REGARD TO THE PHARMACY AND POISONS (AMENDMENTS) BILL, 2014.

Report on the Petition by the Kenya Medical Laboratory Technologists and Technicians Board in regard to the Pharmacy and Poisons (Amendments) Bill, 2014 was unanimously adopted having been proposed by Hon Dr. James Murgor MP and seconded by Hon Zipporah Kering MP.

It was further reported that Hon Dr. Robert Pukose, MP, will sponsor the Pharmacy Practice Bill as a Committee Bill.

The Senior Researcher took the Committee through analysis of the In-vitro Fertilization Bill (copy attached).

Hon Millie Odhiambo's Presentation

Hon Millie Odhiambo, sponsor of the Bill was present during the deliberations and informed the Committee as follows:

- i. That the Bill was introduced in the 10th Parliament but was not passed before the House was dissolved. The Bill intends to create a legal and regulatory framework for the practice of In-vitro fertilization.
- ii. Currently, Kenya lacks legal framework on In-vitro fertilization thereby creating legal hurdles for women/couples intending to undertake the procedure. It is also a very expensive procedure.
- iii. That Budget & Appropriations Committee approved the Bill for publishing as a money bill albeit with recommendations that the sponsor considers working with the Kenya Medical Practitioners and Dentists Board or Kenyatta University, a public institution to host the IVF public clinic and secretariat as opposed to creating a new authority that will occasion additional spending from the exchequer. The Member indicated that she is willing to work with an already existing public institution to host IVF secretariat.

Plenary on the Bill

The Committee made the following observations and comments on the Bill:

1. That In-vitro fertilization is a small aspect of maternal health and does not necessarily need its own regulatory body. The Committee was opposed to the creation of a new authority to oversee operations of IVF if passed into law. The sponsor was implored upon to consider working with already existing public institutions to host IVF activities.
2. That the issues of In-vitro fertilization are well captured in the Clause 69 of the proposed Health Bill. This will however not adequately address the larger issues of maternal and child health. The Committee therefore proposes to introduce a Maternal and Child Health Bill to address maternal of reproductive health amongst other issues affecting mothers and children.

WAYFORWARD.

Hon Millie Odhiambo agreed to consult further (including looking at provisions of the Health Bill) during recess and report back to the Committee on her decision on whether to proceed with the Bill or not.

MIN.NO.DCH335/2014: ANY OTHER BUSINESS

Visit to Athi River Mining Company & Bamburi Co. Ltd on health impact of cement mining operations on the local community:

As resolved during the meeting in Mombasa, the Committee will proceed to Athi River Mining Company (Kilifi Plant) and Bamburi Company (Mombasa Plant) on 3rd& 4thSeptember, 2014.

The following delegation will represent the Committee during the visit:-

1. Hon. Dr. Robert Pukose, MP
2. Hon. David Karithi, MP
3. Hon. Dr. Eseli Simiyu, MP
4. Hon. Dr. Stephen Wachira, MP
5. Hon. James Gakuya, MP
6. Hon. Mwinga Gunga, MP
7. Hon. Nyaga Muchiri, MP
8. Hon. Stephen Mule, MP

Petition by Mr Barbanas Bargarioria

On the Petition by Barnabas Bargarioria, the Secretariat was tasked to establish details of the court case with the view of determining whether the matter is sub-judice or not. The Legal Counsel informed the Committee that he is analyzing the written submission by Mr. Bargarioria and will report to the Committee in the coming week.

Leasing of medical equipment

Members reiterated its position to divide into three groups to undertake fact-finding visits to countries both developed and developing countries, which have leased medical equipment. The secretariat was tasked to coordinate the activity.

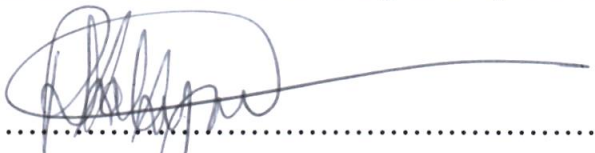
Foreign Travel

It was confirmed that Hon. Christopher Nakuleu MP is listed as part of the delegation traveling to New York for UN General Assembly scheduled for September, 2014. Hon Pukose was requested to step down for Hon Nakuleu should the Speaker/Clerk not approve delegation list of 8 MPs.

MIN. NO. DCH 336/2014

ADJOURNMENT

There being no other business the meeting was adjourned at 1.10 pm.

SIGNED.....

HON (DR.) RACHAEL NYAMAI, M.P
CHAIRPERSON

DATE:.....21/10/2014.....

MINUTES OF THE 73RD SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON 4TH FLOOR, CONTINENTAL HOUSE, ON TUESDAY, 26TH AUGUST 2014 AT 9.00AM.

PRESENT:

- | | |
|--------------------------------------|-------------------------------------|
| 1. The Hon. Dr. Rachael Nyamai, MP | -Chairperson. |
| 2. The Hon. Dr. Robert Pukose, M.P | -V.Chairperson. |
| 3. The Hon. David Karithi, M.P | 10. The Hon. Leonard Sang, M.P |
| 4. The Hon. Dr. Dahir D Mohamed, M.P | 11. The Hon. Michael Onyura, M.P |
| 5. The Hon. Dr. James Murgor, M.P | 12. The Hon. Eng. Stephen Mule, M.P |
| 6. The Hon. Dr. James Gesami, M.P | 13. The Hon. Kamande Mwangi, M.P. |
| 7. The Hon Joseph Magwanga, M.P | 14. The Hon. Hassan Osman, M.P |
| 8. The Hon Mwinga Gunga, M.P. | 15. The Hon. Zipporah Jesang, M.P. |
| 9. The Hon. James Gakuya, M.P. | |

ABSENT WITH APOLOGY:

- | | |
|---|--|
| 16. The Hon Dr. Susan Musyoka, M.P. | 23. The Hon. Dr. Patrick Musimba, M.P |
| 17. The Hon. Alfred Agoi, M.P. | 24. The Hon. Dr. Stephen Wachira, M.P. |
| 18. The Hon. Christopher Nakuleu, MP. | 25. The Hon. Fred Outa, M.P. |
| 19. The Hon. Dr. David Eseli, M.P. | 26. The Hon. John Nyaga Muchiri, M.P. |
| 20. The Hon. Dr. Enoch Kibunguchy, M.P. | 27. The Hon. Mwahima Masoud, M.P. |
| 21. The Hon. Dr. James Nyikal, M.P. | 28. The Hon. Paul Koinange, M.P. |
| 22. The Hon. Dr. Naomi Shaban, M.P. | 29. The Hon. Raphael Otaalo, M.P. |

National Assembly Secretariat

- | | | |
|---------------------|---|-----------------------|
| 1. Mr. Nebert Ikai | - | Third Clerk Assistant |
| 2. Mr. Hassan Arale | - | Third Clerk Assistant |
| 3. Ms. Marale Sande | - | Senior Researcher |
| 4. Mr. Peter Mwaura | - | Legal Counsel |

Pharmacy & Poison Board

- | | |
|---------------------------|--|
| 1. Dr. Kipkerich Koskei | - Registrar, Pharmacy and Poisons Board |
| 2. Dr. Ahmed Ibrahim | - Director, Inspectorate, Surveillance and Enforcement |
| 3. Dr. Bibiana Njue | - Director, Product Evaluation and Registration |
| 4. Dr. Steven Kimathi | - Head, Trade Affairs |
| 5. Dr. Edward Abwao | - Head, Clinical Trials |
| 6. Dr. Shaban Sifuma | - Head, Good Manufacturing Practice |
| 7. Mr. Dennis Odero | - Head, Drug Crime Investigation and Enforcement |
| 8. Ms. Gladwell Cheruiyot | - Inspector, In-charge of Eldoret International Airport |
| 9. Mr. Patrick Kibiego | - Laboratory Liaison officer, Pharmacy and Poisons Board |
| 10. Monica Mbithi | - Secretary to the Registrar |

Petitioner

- | | |
|------------------------|--------------|
| Mr. Barnabas Bargarora | - Petitioner |
|------------------------|--------------|

MIN. NO DCH 327/2014: PRELIMINARIES

The meeting was called to order at 9.00 am followed by a word of prayer said by the Hon Dr. Robert Pukose, MP who also proposed the day's agenda and seconded by the Hon Zipporah Kering, MP.

MIN NO DCH 328/2014: MEETING TO CONSIDER THE PETITION BY MR. BARNABS BARGORIA ON IMPORTATION OF SUB-STANDARD DRUGS

The meeting started with introductions. Thereafter, Mr. Bargoria was given an opportunity to present his submission:-

Mr. Bargoria's Submission

He informed the Committee as follows:

THAT

- i. He was diagnosed with diabetes in 1983 and was immediately given insulin prescription, which he used until 1990 with no problem.
- ii. However, in May 2009, he purchased insulin drug namely *humulin* 70/30 from Eldochem Limited in Eldoret town. Statim Pharmaceuticals Limited imported the drug.
- iii. After using the drug, the petitioner suffered a near fatal injury and had to obtain emergency treatment at the Moi Teaching and Referral Hospital and that the drug was subsequently tested by the National Quality Control Laboratory and was found to be harmful since it did not confirm to the prescribed quality, safety and efficacy standards and that the laxity and gross failure by the Chief Pharmacist threatens the lives of many Kenyans who unsuspectingly purchase and consume drugs.

Way Forward

During the meeting, it came to the attention of the Committee that the subject matter of the Petition could be a matter before the Judiciary (Court) and as such it was resolved that until the matter is determined as not *sub-judice*, further consideration of the matter would be suspended.

Parliamentary Legal Counsel was tasked to analyze the documents presented to the Committee and report back to the Committee. Further, the Petitioner and the Board were asked to submit more detailed information on the court case.

MIN. NO. DCH 329/2014

ANY OTHER BUSINESS:

The Committee nominated the following delegation to participate in the technical exchange meeting to be held in Burundi, Uganda & Kenya as per the M.O.H & EAC invitation:

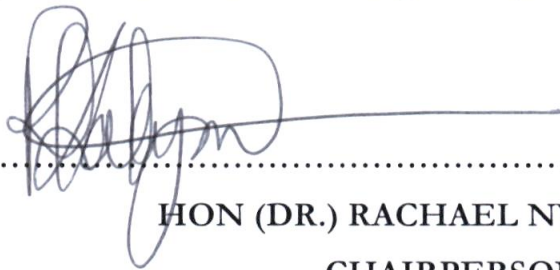
- i. Hon Mohamed Dahir, MP
- ii. Hon David Karithi, MP
- iii. Hon James Gakuya, MP
- iv. Hon Michael Onyura, MP
- v. Hon Hassan Osman, MP

MIN. NO. DCH 330/2014

ADJOURNMENT

There being no other business the meeting was adjourned at 10.30am.

SIGNED.....



HON (DR.) RACHAEL NYAMAI, M.P
CHAIRPERSON

DATE:.....

21/10/2014

MINUTES OF THE 55TH SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS ON WEDNESDAY, 9TH JULY, 2014 AT 10.00AM.

PRESENT

- 1. The Hon. Dr. Rachael Nyamai, MP -Chairperson**
- 2. The Hon. Dr. Robert Pukose M.P -V. Chairperson**
3. The Hon. Fred Outa, M.P.
4. The Hon Kamande Mwangi, M.P.
5. The Hon Alfred Agoi, M.P.
6. The Hon Dr. Stephen Mule, M.P
7. The Hon Hassan Osman, M.P
13. The Hon. James Gakuya, M.P.
8. The Hon Joseph Magwanga, M.P
9. The Hon. David Karithi, M.P
10. The Hon. Dr. David Eseli, M.P
11. The Hon. Dr. James Gesami, M.P
12. The Hon. Dr. James Murgor, M.P

ABSENT WITH APOLOGY:

14. The Hon. Michael Onyura, M.P
15. The Hon. Dr. Dahir D Mohamed, M.P
16. The Hon Dr. Susan Musyoka, M.P.
17. The Hon Mwahima Masoud, M.P.
18. The Hon Mwinga Gunga, M.p
19. The Hon Zipporah Jesang, M.P.
20. The Hon. Christopher Nakuleu, MP
21. The Hon. Dr. Enoch Kibunguchy, M.P.
22. The Hon. Dr. James Nyikal, M.P
23. The Hon. Dr. Naomi Shaban, M.P
24. The Hon. Dr. Patrick Musimba, M.P
25. The Hon. Dr. Stephen Wachira, M.P
26. The Hon. John Nyaga Muchiri, M.P
27. The Hon. Leonard Sang, M.P
28. The Hon. Paul Koinange, M.P
29. The Hon. Raphael Milkau Otaalo, M.P

IN ATTENDANCE:

National Assembly Secretariat

1. Susan Maritim - First Clerk Assistant
2. Nebert Ikai - Third Clerk Assistant
3. Hassan Arale - Third Clerk Assistant
4. Peter Mwaura - Legal Counsel

MIN. NO DCH 246/2014: PRELIMINARIES

The meeting was called to order at 10.00 am with a word of prayer by the Chairperson, Hon. Rachael Nyamai, MP.

MIN. NO DCH 247/2014: CONFIRMATION OF PREVIOUS MINUTES

Confirmation of previous minutes was deferred to the next Sitting.

MIN NO DCH 248/2014 BUSINESS BEFORE THE COMMITTEE

The Committee considered business before it as per the **attached schedule** and recommended as follows:

MIN NO DCH 249/2014 STATEMENTS

Statements:

6 Statements are pending before the Committee out of which 2 Responses have been received from Ministry of Health and are ready for Response in the House: Hon Mbiuki's & Hon. Jude Njomo's.

Hon Kareke Mbiuki's Statement regarding failure by NHIF to reimburse medical claims submitted by Chogoria Mission Hospital.

The Committee observed that the Response was unsatisfactory and resolved to seek further information from the Ministry as follows:

- *Copy of Request Letter from the Hospital as indicated in Paragraph 1 to justify change of contract from B to C.*
- *Copy of NHIF Claims and Benefits Regulations of 2003;*
- *On paragraph 2, the Ministry ought to submit evidence of payment eg. Cheque number or EFT bank details;*
- *Reasons for delay of payment;*
- *The claims were to be paid at the end of June while the letter is dated 2nd July, have the claims been paid?*

It was also not clear when the Executive would start responding to the Statements in the House. It was therefore resolved that further clarifications will be sought during Response to the Statement on the floor of the House.

MIN NO DCH. 250/2014 PETITIONS

The Committee was resolved to invite the Petitioners Kenya Medical Laboratory Technologists Board to appear before the Committee on Thursday, 17th July, 2014.

Hon. Hellen Chepkwony's Petition on behalf of Mr. Barnabas Bargoria on complacency by the Chief Pharmacist/Secretary to the Pharmacy and Poisons Board will be considered at a later date within 60 days as required by the Standing Orders.

MIN.NO DCH. 251/2014 ANY OTHER BUSINESS

Kenya Medical Training College Admissions 2014/15: The Committee resolved to invite the Director, KMTC to appear before the Committee on Tuesday, 15th July, 2014 to brief the Committee on the admissions process for KMTC courses especially in regards to discrimination of applicants in the admissions process currently being undertaken by the Kenya Universities and Colleges Central Placement Services (KUCCPS) as provided for in the Universities Act, 2012.

The Committee will also meet with the Departmental Committee on Education and KUCCPS to deliberate further on the matter.

The legal counsel was tasked to look into future amendment of the Universities Act to exempt KMTC admissions from the Service mentioned above.

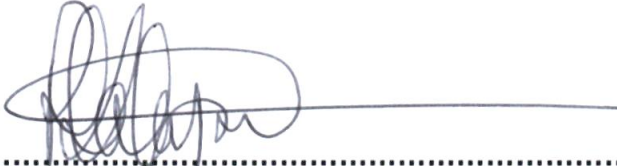
Kenyatta National Hospital: The Committee concurred with the National Treasury's position that exemption in respect of donations is not provided for in law. The CEO was

therefore advised to look for funds to clear the goods and in future, make budgetary provision for the same.

MIN. NO DCH 252/2014

ADJOURNMENT

There being no other business the meeting was adjourned at 11.54am until 3.00pm the same day.



SIGNED.....

HON (DR.) RACHEL NYAMAI, M.P
CHAIRPERSON

SIGNED..... 24/7/14

PUBLIC PETITION

BY BARNABAS BARGORIA ON COMPLACENCY BY THE CHIEF
PHARMACIST/SECRETARY TO THE PHARMACY AND POISONS BOARD

I, the undersigned, on behalf of Barnabas Bargoria, a citizen of Kenya and resident of Eldoret,

DRAW the attention of the House to the following;

THAT aware that one of the key functions of the Chief Pharmacist of the Pharmacy and Poisons Board is to regulate the quality and ensure that drugs imported conform to the prescribed standards of quality, safety and efficacy for human consumption;

THAT laxity and gross failure by the Chief Pharmacist threatens lives of many Kenyans who unsuspectingly purchase and consume drugs that do not conform to the prescribed standards of quality, safety and efficacy;

NOTING THAT on 28th May 2009, the petitioner, diabetic patient, purchased insulin drugs namely *Humulin 70/30* from Eldochem Limited in Eldoret town and that the drug had been imported by Statim Pharmaceuticals Limited;

THAT after using the drug, the petitioner suffered near fatal injury and had to obtain emergency treatment at the Moi Teaching and Referral Hospital;

THAT the drug was subsequently tested by the National Quality Control Laboratory and was found to be harmful since it did not conform to the prescribed quality, safety and efficacy standards;

THAT this contravenes Article 43(1) (a) of the Constitution which provides that every person is entitled to the highest attainable standard of health, including right to health care services;

THAT the Chief Pharmacist lodged a case against employees of the dispensing chemist at the Resident Magistrate's Court in Eldoret as *Case No. 4663 of 2009: Republic vs. Nawaz Gulam and William Chumba*;

Approved
Barnabas Bargoria
11/2/10

PUBLIC PETITION

BY BARNABAS BARGORIA ON IMPORTATION OF DRUGS THAT DO NOT CONFORM TO PRESCRIBED STANDARDS OF QUALITY, SAFETY AND EFFICACY

THAT the recurrent failure by the Chief Pharmacist to avail witnesses and exhibits led to constant deferral of hearing of the case and subsequent discharge of the accused persons by the Court on 25th May 2010;

THAT termination of the case denied the petitioner his right to compensation for injury or loss arising from defects in goods or services as provided for under Article 46 (1) (d) of the Constitution.

THAT the matter in respect of which this petition is made is not pending before a Court of Law.

THEREFORE your humble petitioner prays that the National Assembly through the Departmental Committee of Health:-

- i) Intervenes to ensure that the petitioner's plight is addressed and urgent measures instituted to protect Kenyans who are unknowingly purchasing and consuming drugs that do not conform to the prescribed standards of quality, safety and efficacy; and
- ii) Recommends that the Ministry of Health urgently puts in place measures that will guard against the manufacture or importation of drugs that do not conform to the prescribed standards of quality, safety and efficacy.

And your **PETITIONER** will ever pray.

PRESENTED BY,


HON. HELLEN CHEPKWONY, MP
KERICHO COUNTY



DATE: 11/7/2014.....

PUBLIC PETITION

AGAINST IMPORTATION OF DRUGS THAT DO NOT MEET PRESCRIBED
STANDARDS OF QUALITY, SAFETY AND EFFICACY

NO	NAME	ID NUMBER	ADDRESS/CONTACT	SIGNATURE
1.	BARNABAS T. BARGORIA	7650871	PO BOX 2944 3010	

National Quality Control Laboratory

Hospital Road, KNH Complex, P.O. Box 29726, 00202 Nairobi, Kenya
 Telephone: 2726963, +254 - 020 - 3544525/30 • Fax: 2718073
 Email: info@nqcl.go.ke Website: www.nqcl.go.ke



CERTIFICATE OF ANALYSIS

CERTIFICATE No: CAN/2009/250

PRODUCT:

HUMULIN® 100 IU/mL 70/30

REF. NO.: NDQA200906447

DATE RECEIVED:

LABEL CLAIM:

100 IU/mL: 70% Human Insulin Isophane Suspension and 30% Human Insulin Injection (rDNA).

09/06/2009

BATCH NO:

PRESENTATION:

Cloudy solution for sub-cutaneous use, contained in a clear colourless 10 mL glass vial.

GHM439

MFG. DATE:

MANUFACTURER:

LILLY EGYPT

Jan 2009

EXP. DATE:

ADDRESS:

6 October City,
 2nd Industrial Zone, Plot No.
 Giza, EGYPT.

Dec 2010

CLIENT REF. NO:

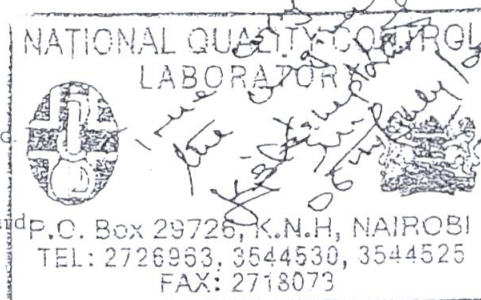
CLIENT:

Pharmacy and Poisons Board
 P.O. Box 27663, NAIROBI

COM/2009/01A

TEST(S) REQUESTED:

Assay



RESULTS

TEST	METHOD	COMPENDIA	SPECIFICATIONS	DETERMINED	REMARKS
Assay	HPLC	U.S.P 31 N.F 26 Page 2405	95% - 105%	93.5% (n=12; RSD=2.4%)	DOES NOT COMPLY

CONCLUSION: The product fails to comply with the specifications for the test performed.

ANALYST: MR. N. BIRGEN

DATE: 06/07/2009

ANALYST: DR. M. KWENA

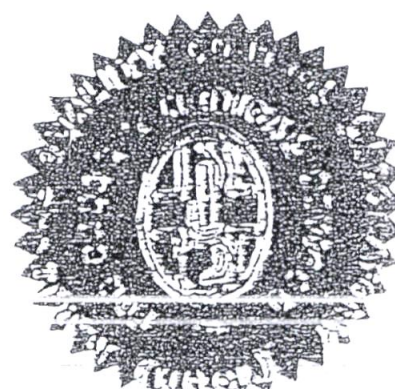
DATE: 06/07/2009

ANALYST: DR. G. WANG'ANG'A

DATE: 06/07/2009

DIRECTOR: DR. H. K. CHEPKWONY

DATE: 06/07/2009



National Quality Control Laboratory

Hospital Road, KNH Complex, P.O. Box 29726, 00202 Nairobi, Kenya
 Telephone: 2726963, +254 - 020 - 3544525/30 • Fax: 2718073
 Email: info@nqcl.go.ke Website: www.nqcl.go.ke



CERTIFICATE OF ANALYSIS

CERTIFICATE No: CAN/2009/251

PRODUCT: HUMULIN® 100 IU/mL 70/30 REF. NO: NDOA200906446

DATE RECEIVED

09/06/2009

BATCH NO

HIM439

MFG. DATE

1st 2009

EXP. DATE

1st 2010

CLIENT REF. NO.

COM/2009/01B

LABEL CLAIM:

100 IU/mL 70% Human Insulin Isophane Suspension and 30% human insulin injection (rDNA).

PRESENTATION:

Cloudy solution for sub-cutaneous use, contained in a clear colourless 10 mL glass vial.

MANUFACTURER:

LILLY EGYPT.

ADDRESS:

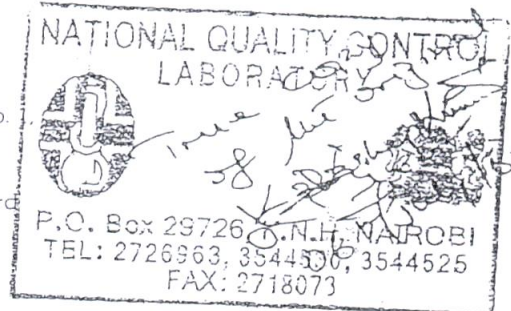
6 October City,
 2nd Industrial Zone, Plot No.
 Giza, EGYPT.

CLIENT:

Pharmacy and Poisons Board
 P.O. Box 27663, NAIROBI.

TEST(S) REQUESTED:

Assay



RESULTS

TEST	METHOD	COMPENDIA	SPECIFICATIONS	DETERMINED	REMARKS
Assay	HPLC	U.S.P 31 N.F 26 page 2405	95% - 105%	FIRST 3 VIALS POOL: 98.4% (n=12; RSD=0.8%)	DOES NOT COMPLY
				SECOND 3 VIALS POOL: 114% (n=12; RSD=1.7%)	

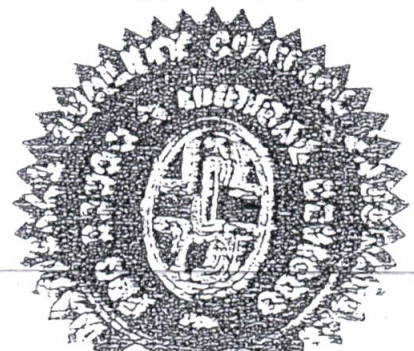
CONCLUSION: The product fails to comply with the specifications for the test performed. Assay values obtained from the two pooled analyses ranged from 96.9% to 118% with a Relative Standard Deviation of 7.7% (n=24). This high RSD indicates the product exhibits inter-batch variation in the test performed. This points to a scenario where patients can encounter samples whose assay content is way below or above the specified limits.

ANALYST: MR. N. BERGEN DATE: 06/07/2009

ANALYST: DR. M. KWENA DATE: 06/07/2009

ANALYST: DR. G. WANG'ANG'A DATE: 06/07/2009

DIRECTOR: DR. H. K. CHEPKWONY DATE: 06/07/2009



3431788

ORIGINAL

REPUBLIC OF KENYA

In the Court

at
Civil

CIVIL

..... CASE No. 1663 OF 2008

CRIMINAL

To
Dimitrios Karamanidis

	Shs.	cts.
Exhibits		
Affidavit	540	
Witness Summons		
.....		
Copying Fees		
.....		
Other Charges		
Application		
Orders		
Service		
TOTAL	540	

Received Payment 20
Cashier Court Clerk


BARNABAS BARGORIA,
P.O BOX 2949,
ELDORET.

08/09/2010.

THE EXECUTIVE OFFICER,
ELDORET LAW COURT.

RE: REQUEST FOR TYPED PROCEEDINGS FOR CRIMINAL CASE NO. 4663/09.

I kindly request for typed proceedings for the above case in which I was complainant when the case was brought to court by Pharmacy and Poisons Board and which was concluded on 22nd August, 2010.


BARNABAS BARGORIA.

REPUBLIC OF KENYA

IN THE CHIEF MAGISTRATE'S COURT AT ELDORET

CRIMINAL CASE NUMBER 4663 OF 2009

REPUBLIC PROSECUTION

VERSUS

NAWAZ GULAM 1ST ACCUSED

WILLIAMSON CHUMBA 2ND ACCUSED

29.7.2009

Coram: N. Shiundu - SRM

Prosecutor: IP Khaemba

Court clerk: Winnie

Interpretation: English/Kiswahili

1st Accused - present

2nd Accused - present

Mr. Nyairo present for the accused person

The substance of the charge(s) and every element thereof has been stated by the Court to the accused person, in the language that he/she understands, who being asked whether he/she admits or denies the truth of the charge(s) replies:

1ST ACCUSED

It is not true.

2ND ACCUSED

It is not true.

MR. NYAIRO

I apply the accused persons be released on bond or cash bail. I also apply the prosecution supplies we with copies of the witness statements and the exhibits.

COURT

Plea of not guilty in respect of both accused persons. Each accused may be released on a bond of Kshs.50,000/- with one surety of a similar amount or cash bail of Kshs.30,000/-. The prosecution to supply the defence with copies of witness statements and the charge sheet. Mention on 13.8.2009. Hearing on 30.9.2009 in court 8.

N. SHIUNDU
SENIOR RESIDENT MAGISTRATE
29.7.2009

30.9.2009

Coram: N. Shiundu – SRM

CP: CPL Alan

Court clerk: Winnie

1st Accused: present

2nd Accused – present

Mr. Nyairo present for the accused persons

PROSECUTOR

I am not ready to proceed. The exhibits are not before court. I apply for summons to issue to the witnesses.

MR. NYAIRO

I know it is the first application. I have no objection. On 29.7.2009, the court ordered the statements to be supplied to us. Some statements were given out but there are two statements we have not received. We pray the statements be served on us within the next one week. I also apply under Section 37 of the Food-Drugs and Chemical Substances Act Cap 254 that a summons do issue for the attendance of the analyst who carried out the tests. They are Mr. N. Birgen, Dr. M. Kwena and Dr. G. Wamalwa.

COURT

The matter is adjourned. Hearing on 18.12.2009. The prosecution to supply the defence with the statements of the remaining witnesses within one week from the date hereof. Summons to issue to the prosecution witnesses and all the analysts who carried out the tests.

N. SHIUNDU
SENIOR RESIDENT MAGISTRATE
30.9.2009

18.12.2009

Coram: N. Shiundu – SRM

CP: IP Khaemba

Court clerk: Paul

1st Accused: present

2nd Accused – present

Mr. Nyairo present for the accused persons

MR. NYAIRO

The matter is for hearing but I am not ready to proceed. On 30.9.2009, an order was made that we be supplied with copies of the witness statements within one week. Despite my request I have not been supplied with the documents which are crucial to the defence case.

PROSECUTOR

The defence has two copies of the witness statements. A follow up was not made in respect of the others but I am ready to supply them.

COURT

The matter is adjourned. The prosecution to supply the defence with all copies of the witness statements today. Hearing on 19.2.2010.

N. SHIUNDU
SENIOR RESIDENT MAGISTRATE
18.12.2009

19.2.2010

Coram: D. K. Kemei – SRM

Prosecutor – IP Ekisa

Court clerk – Kemboi/Winnie

Accused – present while Accused 1 is absent

Language – Kiswahili

COURT

Hearing on 25.5.2010. Warrant of arrest to issue to 1st accused and cash bail of 30,000/- be forfeited. Accused 2 bond extended.

**D. KEMEI
PRINCIPAL MAGISTRATE
19.2.2010**

LATER AT 10.20AM

Coram: D. K. Kemei – SRM

Prosecutor – IP Ekisa

Court clerk – Kemboi

Accused – absent

Language – Kiswahili

NYAIRO

I am for both accused persons. The 1st accused herein is absent as he fell ill yesterdays. He resides in Nairobi but could not travel. I have the medical documents from Aga Khan Hospital. We pray for a lifting of warrant of arrest.

**D. KEMEI
PRINCIPAL MAGISTRATE
19.2.2010**

PROSECUTION

No objection.

D. KEMEI
PRINCIPAL MAGISTRATE
19.2.2010

COURT

Warrant of arrest is lifted. Hearing on 25.5.2010. Bond extended.

D. KEMEI
PRINCIPAL MAGISTRATE
19.2.2010

25.5.2010

Coram: N. Shiundu – SRM

CP: IP Khaemba

Court clerk: Victor

2nd Accused – present

Mr. Nyairo present for the accused persons

PROSECUTOR

I am not ready to proceed. I have one witness from the Poisons Board. However, I do not have the police file and the exhibits are not in court. The investigation officer was moved to Tarakwa Police Station. I pray for another date.

N. SHIUNDU
SENIOR RESIDENT MAGISTRATE
25.5.2010

MR. NYAIRO

I oppose the application for adjournment. Today's date was taken more than 3 months ago. The prosecution has had ample time to prepare. The prosecution is not serious with this matter. It is a third time an adjournment is being sought at their behest for the same reasons. The investigating officer is not in court today nor even the alleged complainant. The prosecutor does not have the police file. The matter was brought to court over a year ago and the accused persons have always been attending court. The delay in prosecution is prejudicial to them. I pray the application for adjournment be refused and the matter to proceed.

COURT

I have considered the application at hand and the submissions made by both sides. The prosecution is granted the last adjournment. Hearing on 24th August, 2010.

N. SHIUNDU
SENIOR RESIDENT MAGISTRATE
25.5.2010

24.8.2010

Coram: N. Shiundu -- SRM

CP: IP Khaemba

Court clerk: Anne

1st Accused: present

2nd Accused -- present

Mr. Nyairo present for the accused persons

PROSECUTOR

There is one witness in the matter. However, I have not received the exhibits to enable me proceed with the matter. The custodians are officers based in Nairobi. None of them has turned up. A signal was sent on 7.8.2010. I produce the copy. Produced to court. In the absence of the exhibits, I pray for another date.

MR. NYAIRO

I object to the application for adjournment. This is the fourth time the prosecution is seeking adjournment. They have never been ready to proceed. On 25.5.2010, the court expressed displeasure and granted the last adjournment. The exhibits have not been produced in court. The prosecution is not interested in concluding the matter. The accused persons have come to court for a very long period. Justice delayed is justice denied. I pray that this matter proceeds for hearing.

COURT

The plea herein was taken on 29.7.2009. Since then no single prosecution witness has ever testified. Numerous adjournments have been sought at the instance of the prosecution and were granted. The prosecution was granted the last adjournment on 25.5.2010. They have had ample time to put their house in order. No valid grounds have been advanced why the exhibits have not been availed in court. Adjournment is not a matter of course. It can only be granted upon valid grounds being advanced. Courts have always been bashed for adjourning cases day in day out. That position must change and blame should fall squarely where it lies. This court is duty bound to hear and determine

cases expeditiously. That is also the public policy. I decline to grant any further adjournment in this matter.

PROSECUTOR

In view of the ruling, and in the absence of the exhibits, I have no evidence to offer and I leave the matter to court.

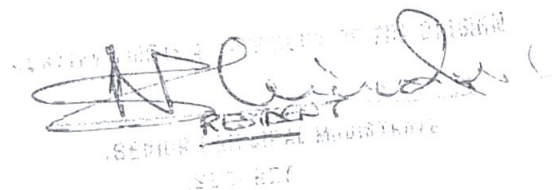
MR. NYAIRO

The prosecution is not ready with any evidence. I pray the accused persons be acquitted under section 202 CPC.

COURT

The prosecution has conceded that they have no evidence to offer. They have left the matter to the court. In the premises, the accused persons are acquitted under section 210 CPC. The cash bail deposited in court to be refunded to the depositor.

N. SHIUNDU
SENIOR RESIDENT MAGISTRATE
25.5.2010



The image shows a handwritten signature in black ink over a circular official stamp. The stamp contains the text 'SENIOR RESIDENT MAGISTRATE' and 'MAGISTRATE' in a circular arrangement. Below the signature, the word 'SECRET' is printed in a bold, sans-serif font.

REPUBLIC OF KENYA

TO: CHAIRMAN, PARLIAMENTARY COMMITTEE ON HEALTH
THE NATIONAL ASSEMBLY
PARLIAMENT BUILDING
PARLIAMENT ROAD
NAIROBI

SUBMISSION ON WHETHER THE MEMORANDUM OF PETITION BY BARNABAS BARGORIA IS SUB JUDICE

1. The Petitioner filed the Memorandum of Petition seeking:
 - a. The National Assembly makes urgent recommendations to the Cabinet Secretary of Health to take urgent appropriate deterrent action against the Chief Pharmacist and officers involved in the circumstances complained of herein;
 - b. The National Assembly makes urgent recommendations to the Cabinet Secretary to the Ministry of Health to ensure sufficient controls are in place to guard against manufacture or importation of non-qualifying drugs.
2. The Petitioner's complaint in the Memorandum of Petition is against the conduct of the Chief Pharmacist who is also the Secretary of the Pharmacist and Poisons Board for :
 - a. Failing to secure and avail witnesses in Eldoret Resident Magistrate's Court Criminal case No. 4663 of 2009 Republic vs. Nawaz Gulam and William Chumba leading to discharge of the case, thereby occasioning injustice to the civic right of the Petitioner particularly and deterrence to any persons dispensing non qualifying drugs;
 - b. For killing the case, for reasons and grounds that were never explained to the Petitioner;
 - c. Failing to incorporate for prosecution the importers of the offending drug Statim Pharmaceuticals Limited and generally protecting parties that offend provisions of the Pharmacy and Poisons Act;
 - d. Having been advised by Eldochem Limited from where the offending drug was sourced from, they deliberately fail to charge the said known supplier with the offence, hence unduly and by collusion shielding the supplier from prosecution;
 - e. Exposing Kenyans including the Petitioner to peril by permitting, by acts of omission, importation of substandard drugs;
 - f. Abusing office.

3. The matter in the Memorandum of Petition does not touch on the civil culpability of the importer or civil culpability of the Poisons Board. The Petitioner filed Nairobi High Court Civil Case No. 309 of 2010 Barnabas Bargarioria vs. EldoChem Limited, Statim Pharmaceuticals Limited and Pharmacy and Poisons Board, seeking redress for civil torts against him, the issues in the matter are not the issues in the Petition.
4. Indeed the Director of Public Prosecutions conducted investigations and found that there was evidence to prosecute and that is why Eldoret Resident Magistrate's Court Criminal case No. 4663 of 2009 Republic vs. Nawaz Gulam and William Chumba was opened and prosecution commenced.
5. The issue is therefore why the Chief Pharmacist and officers failed to take steps to ensure prosecution of the case. The Proceedings evidence that the case was dismissed because of failure of the Chief Pharmacist to produce the exhibits from Nairobi, which were the test results.
6. The individuals in the Criminal case are not parties to the civil case.
7. The Petitioner having the civic right to complain to the Police for atrocities of a criminal nature, is indeed, and legitimately so, aggrieved when the prosecution that was commenced was stifled deliberately by the Chief Pharmacist and his officers.
8. The other issue is the prayer that the National Assembly makes urgent recommendations to the Cabinet Secretary to the Ministry of Health to ensure sufficient controls are in place to guard against manufacture or importation of non-qualifying drugs. This is because persons with diabetes continually need the insulin and if not checked, then prejudice shall be suffered on mass scale.
9. Clearly therefore the issue in the Memorandum of Petition is not the issue in the Civil case. The Sub judice issue does not therefore arise at all.
10. The Sub judice principle is carried at Standing Order No. 89 of the National Assembly Standing Orders 2013. The Order proceeds as follows:

(2) A matter shall be considered to be sub judice when it refers to active criminal or civil proceedings and the discussion of such matters is likely to prejudice its fair determination.
11. As indicated, the issues in the civil case and the Memorandum of Petition are completely different.
12. It is submitted that the Memorandum of Petition does not and is not sub judice, and the Petitioner having the right to petition Parliament under Article 37 and 119 of the Constitution of Kenya & Standing Order No. 219 of the National Assembly Standing Orders, 2013, deserves to be heard and merits the redresses sought.

13. The Petitioner is legitimately apprehensive, if noncomplying insulin is imported, the Petitioner shall egregiously suffer and so shall the public.

DATED at NAIROBI this

27th

day of

August

2014

Barnabas Bargarioria: -
P.O Box 2949
ELDORET

BARNABAS BARGORIA



REPUBLIC OF KENYA
MINISTRY OF HEALTH
PHARMACY AND POISONS BOARD

Telegram: "MINHEALTH" Nairobi
Telephone: 020-2716905/6, 020-3562107
Cellphone: 0733-884411/0720 608811
Fax: 2713409
E-mail: info@pharmacyboardkenya.org
Website: www.pharmacyboardkenya.org

PHARMACY AND POISONS BOARD HOUSE
LENANA ROAD
P.O. Box 27663-00506
NAIROBI

When replying please quote

REF: PPB/PAR/VOL.I/014(001)

24th September 2014

The Clerk of the National Assembly
Clerks Chambers
National Assembly
Parliament Buildings
NAIROBI.



Su Soa Muthi
20/9

Dear Sir,

RE: PETITION TO PARLIAMENT ON IMPORTATION OF SUB-STANDARD DRUGS

Reference is hereby made to your letter Ref. KNA/DCH/CORR/2014(72) dated 19th September, 2014 addressed to me and whose contents I have noted and wish to respond as herein below:

(1) Criminal Case No. 4663 of 2009- Republic vs. Nawaz Gulam and William Chumba.

This criminal case was instituted by the Republic against the persons named above under Food Drugs and Chemical Substances Act Cap. 257 pursuant to a complaint which was lodged to the Police by Mr. Barnabas Bargarora after he alleged that he bought *Humulin 70/30* from Eldochem limited in Eldoret and was owned by the two persons who were charged in the above criminal case.

This case commenced on the 29th July 2009, when the accused took their pleas. Mr. Barnabas Bargarora and an officer from the Pharmacy and Poisons Board were among the persons who were lined up for hearing. **The accused persons were charged for importing and selling sub-standard drug namely *Humulin 70/30* contrary to the provisions of the Law.**

This case was dismissed on the 24th August, 2010 because the prosecution was not able to bring the exhibits which were with the officers who were based in Nairobi at NQCL despite signal having been sent to them. The exhibits were a certificate of analysis which was in the possession and custody of the Director NQCL, Mr. Hezekiah Chepkwony who was also listed as a witness in the said criminal case No. 4663 of 2009.

These exhibits (certificate of analysis) were the basis for the charges before court which read "Selling of Drug which is not the Quality Contrary to section 11 as read with section 36(1) (a) of the Food and Drugs and chemical substance Act, Cap. 254 Laws of Kenya". The particulars of the offence were:

(i) Nawaz Gulam (ii) William Chumba;

On the 28th day of April, 2009, at Eldochem Limited in Eldoret town within Uasin Gishu District of Rift Valley Province jointly sold to wit insulin vials (*Humilin 70/30* batch No. HIM 439), which does not meet the prescribed quality standards to Mr. Barnabas Bargarioria **(See attached charge sheet in the said criminal case).**

Sir, from the said proceedings, you will take note that Pharmacy and Poisons Board availed an officer on the 25th May 2010, but the prosecutor was not ready to proceed as he informed the Court that he did not have the Court file neither the exhibits **(See page 6 of the Court proceedings attached to the Petition).**

In light of the above and Court proceedings attached to the Petition by the Petitioner, it is clear that Pharmacy and Poisons Board availed a witness namely Mr. James King'ori and who was listed as a witness, while Mr. Barnabas Bargarioria never presented himself to Court neither did he give evidence despite being the complainant therein **(see page 7 of the court proceedings submission of Mr. Nyairo for accused persons attached on the petition).**

(2) Civil Case No. 309 of 2010- Barnabas Bargarioria vs. Eldochem Limited, Statim Pharmaceuticals Limited and Pharmacy and Poisons Board.

This civil suit was filed by Barnabas Bargarioria on the 16th June 2011, after the criminal case had been dismissed. The said suit he claims the following against Pharmacy and Poisons Board that;

- (a) The 3rd Defendant licensed and authorized the second Defendant to source and supply pharmaceutically unfit *Humulin 70/30* for application by persons in Kenya including the Plaintiff.
- (b) The 3rd Defendant being the Authority established by Law to regulate and control importation, circulation and Manufacture of drugs and storage thereof permitted the second Defendant to source harmful *Humulin 70/30* and supply it for the application of the Plaintiff.
- (c) The 3rd Defendant being the Authority established by Law to regulate and control importation, circulation and manufacture of harmful *Humulin 70/30* to the Plaintiff in the instant and for the period that the Plaintiff has had it prescribed to him and applied by him much to the Plaintiff's detriment;
- (d) And the Plaintiff will extent necessary rely on the principle of *res ipsa Loquitor*;

And the Defendant and each of them by the acts aforesaid breached the duty of care owed to the Plaintiff **(See the plaint dated 25th May 2010 attached)**. This civil suit came for hearing on 23rd September, 2014 before Justice Sergon **(see page 3 of cause list attached)**.

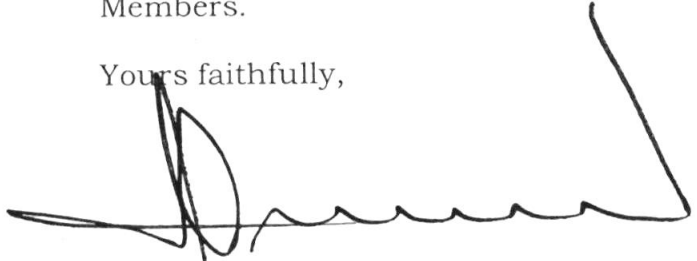
The hearing did not proceed as Justice Sergon Court was not sitting and matters before it could not proceed and were ordered that new dates be taken at the registry for hearing.

We have already applied for the proceedings in the criminal case that was dismissed and shall be furnishing you with the same upon receipt from the Eldoret Law Courts **(See attached a letter requesting for proceedings from the said court)**.

Finally Sir, it is clear that the two cases above are all similar to the Petition that has been placed before Parliament by Barnabas Bargarora and the prayers are all similar.

The Petitioner is on a fishing expedition and he is not honest and the Petition is ill intended as not any other user of the said *Humulin 70/30* in that batch made any complaint and has failed to disclose material facts to the Hon. Members.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Dr. Kipkerich C. Koskei'. The signature is written over a horizontal line and includes a large, stylized initial 'K'.

Dr. Kipkerich C. Koskei, *OGW*

REGISTRAR

THE KENYA POLICE

POLICE CASE PCR 1507-1698/09

DATE TO COURT 22/07/09

COURT FILE NO. 2802/08



4663/09

OB 82/23/7/09

CHRISTIAN NAMES IN FULL OR NAME. 1. NAWAZ 2. WILLIAMSON	SURNAME GULAM CHUMBA	Identify Cert. N/A	SEX MALE	NATIONALITY	Apprent. ADULT	ADDRESS (INCLUDE)DISTRICT AND LOCATION WHERE APPLICABLE) C/O ELDORET TOWN
---	----------------------------	-----------------------	-------------	-------------	-------------------	---

CHARGE: SELLING OF DRUG WHICH IS NOT OF THE QUALITY CONTRARY TO SECTION 11 AS READ WITH SECTION 36(1)(a) OF THE FOOD ,DRUGS AND CHEMICAL SUBSTANCES ACT, CAP 254 LAWS OF KENYA.

PARTICULARS OF OFFENCE
(See Second Schedule of C.P.C)
1. NAWAZ GULAM (2) WILLIAMSON CHUMBA ;On the 28th day of April 2009,at Eldochem limited in Eldoret town within Uasin Gishu District of Rift Valley Province, jointly sold drug to wit insulin vials(Humulin 70\30 batch number HIM 439) which does not meet the prescribed quality standards to Mr. Bernabas Borgoria.

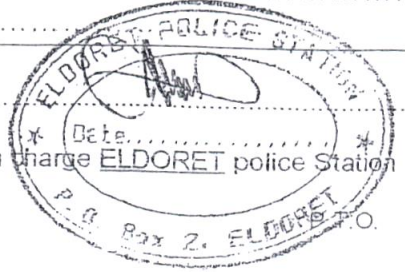
If. Accused Arrested	Date of Arrest	Without or With Warrant	Date Apprehension Report to Court	Bond or Bail and Amount	Is Application made for Summons to Issue
YES	23/7/09	W/O	29/7/09	CASH BAIL KSH. 5000/=	NIL

Remanded or Adjourned to
Complainant And Address
REPUBLIC THRO' PHARMACY AND POISONS BOARD

Witnesses- 1 BARNABAS BORGORIA 2 GLADWELL CHERIYOT 3 JAMES KINGORI 4 DR. HEZEKIAH CHEPKWONY 5 OTHERS TO BE STATED	7. 8. 9. 10.
---	-----------------------

Sentence
Court and date
.....
If fine paid.....

Waw
27/7
PROSECUTION
ELDORET
GRANT



Officer in charge ELDORET police Station

IN THE CHIEF MAGISTRATE'S COURT AT ELDORET

CRIMINAL CASE NUMBER 4663 OF 2009

REPUBLIC PROSECUTION

VERSUS

NAWAZ GULAM 1ST ACCUSED

WILLIAMSON CHUMBA 2ND ACCUSED

29.7.2009

Coram: N. Shiundu - SRM

Prosecutor: IP Khaemba

Court clerk: Winnie

Interpretation: English/Kiswahili

1st Accused - present

2nd Accused - present

Mr. Nyairo present for the accused person

The substance of the charge(s) and every element thereof has been stated by the Court to the accused person, in the language that he/she understands, who being asked whether he/she admits or denies the truth of the charge(s) replies:

1ST ACCUSED

It is not true.

2ND ACCUSED

It is not true.

MR. NYAIRO

I apply the accused persons be released on bond or cash bail. I also apply the prosecution supplies we with copies of the witness statements and the exhibits.

COURT

Plea of not guilty in respect of both accused persons. Each accused may be released on a bond of Kshs.50,000/- with one surety of a similar amount or cash bail of Kshs.30,000/-. The prosecution to supply the defence with copies of witness statements and the charge sheet. Mention on 13.8.2009. Hearing on 30.9.2009 in court 8.

N. SHIUNDU
SENIOR RESIDENT MAGISTRATE
29.7.2009

30.9.2009

Coram: N. Shiundu – SRM

CP: CPL Alan

Court clerk: Winnie

1st Accused: present

2nd Accused – present

Mr. Nyairo present for the accused persons

PROSECUTOR

I am not ready to proceed. The exhibits are not before court. I apply for summons to issue to the witnesses.

MR. NYAIRO

I know it is the first application. I have no objection. On 29.7.2009, the court ordered the statements to be supplied to us. Some statements were given out but there are two statements we have not received. We pray the statements be served on us within the next one week. I also apply under Section 37 of the ~~Food Drugs and Chemical Substances Act~~ Cap 254 that a summons do issue for the attendance of the analyst who carried out the tests. They are Mr. N. Birgen, Dr. M. Kwena and Dr. G. Wamalwa.

COURT

The matter is adjourned. Hearing on 18.12.2009. The prosecution to supply the defence with the statements of the remaining witnesses within one week from the date hereof. Summons to issue to the prosecution witnesses and all the analysts who carried out the tests.

N. SHIUNDU
SENIOR RESIDENT MAGISTRATE
30.9.2009

18.12.2009

Coram: N. Shiundu – SRM

CP: IP Khaemba

Court clerk: Paul

1st Accused: present

2nd Accused – present

Mr. Nyairo present for the accused persons

MR. NYAIRO

The matter is for hearing but I am not ready to proceed. On 30.9.2009, an order was made that we be supplied with copies of the witness statements within one week. Despite my request I have not been supplied with the documents which are crucial to the defence case.

PROSECUTOR

The defence has two copies of the witness statements. A follow up was not made in respect of the others but I am ready to supply them.

COURT

The matter is adjourned. The prosecution to supply the defence with all copies of the witness statements today. Hearing on 19.2.2010.

N. SHIUNDU
SENIOR RESIDENT MAGISTRATE
18.12.2009

19.2.2010

Coram: D. K. Kemei – SRM

Prosecutor – IP Ekisa

Court clerk – Kemboi/Winnie

Accused – present while Accused 1 is absent

Language – Kiswahili

COURT

Hearing on 25.5.2010. Warrant of arrest to issue to 1st accused and cash bail of 30,000/- be forfeited. Accused 2 bond extended.

D. KEMEI
PRINCIPAL MAGISTRATE
19.2.2010

LATER AT 10.20AM

Coram: D. K. Kemei – SRM

Prosecutor – IP Ekisa

Court clerk – Kemboi

Accused – absent

Language – Kiswahili

NYAIRO

I am for both accused persons. The 1st accused herein is absent as he fell ill yesterdays. He resides in Nairobi but could not travel. I have the medical documents from Aga Khan Hospital. We pray for a lifting of warrant of arrest.

D. KEMEI
PRINCIPAL MAGISTRATE
19.2.2010

PROSECUTION

No objection.

D. KEMEI
PRINCIPAL MAGISTRATE
19.2.2010

COURT

Warrant of arrest is lifted. Hearing on 25.5.2010. Bond extended.

D. KEMEI
PRINCIPAL MAGISTRATE
19.2.2010

25.5.2010

Coram: N. Shiundu -- SRM

CP: IP Khaemba

Court clerk: Victor

2nd Accused – present

Mr. Nyairo present for the accused persons

PROSECUTOR

I am not ready to proceed. I have one witness from the Poisons Board. However, I do not have the police file and the exhibits are not in court. The investigation officer was moved to Tarakwa Police Station. I pray for another date.

N. SHIUNDU
SENIOR RESIDENT MAGISTRATE
25.5.2010

MR. NYAIRO

I oppose the application for adjournment. Today's date was taken more than 3 months ago. The prosecution has had ample time to prepare. The prosecution is not serious with this matter. It is a third time an adjournment is being sought at their behest for the same reasons. The investigating officer is not in court today nor even the alleged complainant. The prosecutor does not have the police file. The matter was brought to court over a year ago and the accused persons have always been attending court. The delay in prosecution is prejudicial to them. I pray the application for adjournment be refused and the matter to proceed...

COURT

I have considered the application at hand and the submissions made by both sides. The prosecution is granted the last adjournment. Hearing on 24th August, 2010.

N. SHIUNDU
SENIOR RESIDENT MAGISTRATE
25.5.2010

24.8.2010

Coram: N. Shiundu -- SRM

CP: IP Khaemba

Court clerk: Anne

1st Accused: present

2nd Accused – present

Mr. Nyairo present for the accused persons

PROSECUTOR

There is one witness in the matter. However, I have not received the exhibits to enable me proceed with the matter. The custodians are officers based in Nairobi. None of them has turned up. A signal was sent on 7.8.2010. I produce the copy. Produced to court. In the absence of the exhibits, I pray for another date.

MR. NYAIRO

I object to the application for adjournment. This is the fourth time the prosecution is seeking adjournment. ~~They have never been~~ ready to proceed. On 25.5.2010, the court expressed displeasure and granted the last adjournment. The exhibits have not been produced in court. The prosecution is not interested in concluding the matter. The accused persons have come to court for a very long period. Justice delayed is justice denied. I pray that this matter proceeds for hearing.

COURT

The plea herein was taken on 29.7.2009. Since then no single prosecution witness has ever testified. Numerous adjournments have been sought at the instance of the prosecution and were granted. The prosecution was granted the last adjournment on 25.5.2010. They have had ample time to put their house in order. No valid grounds have been advanced why the exhibits have not been availed in court. Adjournment is not a matter of course. It can only be granted upon valid grounds being advanced. Courts have always been bashed for adjourning cases day in day out. That position must change and blame should fall squarely where it lies. This court is duty bound to hear and determine

cases expeditiously. That is also the public policy. I decline to grant any further adjournment in this matter.

PROSECUTOR

In view of the ruling, and in the absence of the exhibits, I have no evidence to offer and I leave the matter to court.


MR. NYAIRO

The prosecution is not ready with any evidence. I pray the accused persons be acquitted under section 202 CPC.

COURT

The prosecution has conceded that they have no evidence to offer. They have left the matter to the court. In the premises, the accused persons are acquitted under section 210 CPC. The cash bail deposited in court to be refunded to the depositor.

N. SHIUNDU
SENIOR RESIDENT MAGISTRATE
25.5.2010

IDENTITY CARD NO. OF CLERK OF THE DISTRICT

RESIDENT
SENIOR RESIDENT MAGISTRATE
SECRET

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
HIGH COURT -CENTRAL REGISTRY
CIVIL CASE NO. 309 OF 2010

HIGH COURT
CENTRAL REGISTRY
16 JUN 2010
CIVIL SIDE
NAIROBI

BARNABAS BARGORIA..... PLAINTIFF

-VERSUS-

ELDOCHEM LIMITED.....FIRST DEFENDANT
STATIM PHARMACEUTICALS LIMITED.....SECOND DEFENDANT
PHARMACY AND POISONS BOARD.....THIRD DEFENDANT

PLAINT

1. The Plaintiff is a male adult residing and working for gain in Nairobi & Eldoret within the Republic of Kenya. The Plaintiff's address for service for purposes of the suit is care of Ochieng', Onyango, Kibet & Ohaga Advocates, ACK Garden House, 5th Floor Wing C, First Ngong Avenue Off, Bishops Road, P.O. Box 43170-00100, Nairobi.
2. The First Defendant is a Limited liability company incorporated in the Republic of Kenya under provisions of the Companies Act (Chapter 486 of the laws of Kenya) and trades at Eldoret, within the Republic of Kenya. (*Service of summons shall be served through the Plaintiff's advocates offices*).
3. The Second Defendant is a Limited liability company incorporated in the Republic of Kenya under provisions of the Companies Act (Chapter 486 of the laws of Kenya) and carries on business in Nairobi, within the Republic of Kenya. (*Service of summons shall be served through the Plaintiff's advocates offices*).
4. The Third Defendant is a public corporation established under section 5 of the Pharmacy and Poisons Act (Chapter 244 of the laws of Kenya) and has its principal office in Nairobi, within the Republic of Kenya. (*Service of summons shall be served through the Plaintiff's advocates offices*).
5. The First Defendant *inter alia* operates a dispensing chemist outlet in Eldoret, within the Republic of Kenya.
6. The Second Defendant *inter alia* carries on the business of sourcing of pharmaceutical drugs from abroad and sells or supplies the drugs in Kenya.
7. The Third Defendant is the regulatory Authority that licenses importation of pharmaceutical drugs into Kenya for purposes of supply and or sale to the general public and has the statutory obligation of ensuring the drugs so imported/sourced are fit for human prescription and safe.
8. The Plaintiff is a diabetic and has been Insulin dependent for the past twenty (20) years and which condition he has managed by taking prescribed Insulin namely Humulin 70/30
9. On or about the 28th May 2009, the Plaintiff bought Insulin namely Humulin 70/30 (hereinafter '*the drug*') from the First Defendant's dispensing chemist.



10. The said *drug* had been sourced by the Second Defendant from Egypt and had been so sourced with the license and authority of the Third Defendant.
11. The Plaintiff applied the drug as prescribed, and after application suffered extreme injury that was near fatal. The Plaintiff had to undergo emergency treatment at the Moi Teaching & Referral Hospital Eldoret.
12. The Plaintiff subsequently had the drug tested by the National Quality Control Laboratory; a statutory body established by section 35D of the Pharmacy and Poisons Act (Chapter 244 of the Laws of Kenya).
13. The said drug was found to be harmful and non-responsive to pharmaceutical standards.
14. The Plaintiff states that the Defendants each and all of them owed him a duty of care by ensuring that the drugs that are sourced, prescribed and sold to him were safe for application and adhered to pharmaceutical standards.
15. The Plaintiff further states that long application of *Humulin 70/30* licensed, sourced and prescribed in the manner aforesaid has over time led to immense injury to him by exacerbating his health and leading to visual impairment.
16. The Plaintiff states that the Defendants and each of them breached the duty of care owed to him.

Particulars of the First Defendant's negligence

- (a) The First Defendant prescribed to the Plaintiff *Humulin 70/30* that did not meet pharmaceutical standards;
- (b) The First Defendant failed and or neglected to check and or ascertain the pharmaceutical fitness of the drug before prescribing and selling it to the Plaintiff;
- (c) The First Defendant failed to advise the Plaintiff that the said *Humulin 70/30* was pharmaceutically unfit for application;
- (d) The First Defendant being a dispensing chemist urged the Plaintiff to consume *Humulin 70/30* while knowing or having reason or being obligated to ascertain that the drug was harmful to his health and pharmaceutically unfit for human utilization;
- (e) And the Plaintiff will to the extent necessary rely on the principle of *res ipsa Loquitur*

Particulars of the Second Defendant's negligence

- (a) The Second Defendant sourced pharmaceutically unfit *Humulin 70/30* for commercial purposes, for human utilization in Kenya;
- (b) The Second Defendant failed and or neglected to ascertain first the pharmaceutical fitness of the *Humulin 70/30* before sourcing it in Kenya for human application;

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- (c) The Second Defendant sourced and supplied the unfit *Humulin* 70/30 which was later on applied by the Plaintiff;
- (d) The Second Defendant has over time been sourcing and supplying *Humulin* 70/30 that does not meet pharmaceutical standards and much to the detriment of the Plaintiff;
- (e) And the Plaintiff will to the extent necessary rely on the principle of *res ipsa Loquitor*

Particulars of the Third Defendant's negligence

- (a) The Third Defendant licensed and authorised the Second Defendant to source and supply pharmaceutically unfit *Humulin* 70/30 for application by persons in Kenya including the Plaintiff;
- (b) The Third Defendant being the Authority established by law to regulate and control importation, circulation and manufacture of drugs and storage thereof permitted the Second Defendant to source harmful *Humulin* 70/30 and to supply it for the application of the Plaintiff;
- (c) The Third Defendant being the Authority established by law to regulate and control importation, circulation and manufacture of drugs and storage thereof failed to control importation and supply of harmful *Humulin* 70/30 to the Plaintiff in the instant and for the period that the Plaintiff has had it prescribed to him and applied by him much to the Plaintiff's detriment;
- (d) And the Plaintiff will to the extent necessary rely on the principle of *res ipsa Loquitor*

And the Defendants and each of them by the acts aforesaid breached the duty of care owed to the Plaintiff.

- 17. As a result of the matters aforesaid, the Plaintiff suffered great pain, sustained gross loss and damage.
- 18. The Plaintiff is the Managing Director of Tarita Development Limited and as a consequence of injury suffered by him by reason of utilization of the *Humulin* 70/30 herein, has been unable to execute the offices of Managing Director of the said Tarita Development Limited thereby occasioning astronomical losses to the business and loss of income to the Plaintiff.

Particulars of loss and injury

- a. Failing eye sight;
- b. Reduced life expectancy;
- c. Memory lapses;
- d. Weakening of kidneys exposing them to malfunctioning any time;
- e. Emotional distress ;

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- f. Severe trauma;
- g. Emotional pain;
- h. Occasional sweating and trembling;
- i. Persistent severe headaches;
- j. Pain and suffering leading to urgent hospitalization to mitigate the near fatal state of the Plaintiff;
- k. Loss of capacity to earn a living due to failing eye sight.

And the Plaintiff claims damages.

- 19. Subsequent to the loss and injury caused by the Defendants' negligence aforesaid, the Plaintiff has been compelled to seek further and constant medical attention and has been advised that he will have to continue on such treatment for the rest of his life, further that it is only a matter of time for his kidneys to completely fail and which occasion will necessitate possible transplants and other mitigative treatment.
- 20. The Plaintiff claims for the cost of treatment incurred as a result of application of the Humulin 70/30 and cost for future treatment to be ascertained in course of trial.

Particulars of special damages

- (a) Cost of treatment at the Moi Teaching & Referral Hospital Eldoret Kshs. 17, 272 .00
- (b) Costs of future treatment (To be ascertained in course of trial)

Total

Kshs 17, 272. 00

- 21. Notice of intention to sue was duly given.
- 22. There is no other suit pending and there have been no previous proceedings in any Court between the Plaintiff and the Defendants over the same subject matter in this suit. *Eldoret case*
- 23. The Honourable Court has jurisdiction.


REASONS WHEREOF the Plaintiff prays for Judgment jointly and severally against the Defendants for:-

- (a) General damages;
- (b) Special damages;
- (c) Punitive damages;
- (d) Costs;

(e) Interest on (a), (b), (c) & (d);

(f) Such further or other relief this Honourable Court deem fit to grant.

DATED at NAIROBI this 25th day of May : 2010


OCHIENG' ONYANGO, KIBET & OHAGA
Advocates for the Plaintiff

Drawn & Filed By: -

Ochieng', Onyango, Kibet & Ohaga,
Advocates,
ACK Garden House, 5th Floor, Block C,
1st Ngong Avenue, Off Bishops Road,
P O Box 43170,00100
NAIROBI. Ref: 10/2184/001

To Be Served Upon: -

Eldochem Limited
P.O Box 417
ELDORET (Service of Summons through the Plaintiff's advocates Chambers)

Statim Pharmaceuticals Limited
Dubois Road, Off Latema Road
P.O Box 4155-00100
NAIROBI (Service of Summons through the Plaintiff's advocates Chambers)

Pharmacy and Poisons Board
NAIROBI (Service of Summons through the Plaintiff's advocates Chambers)





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Parliament (index.php?id=852) Cause List (index.php?id=4685) Kenya Gazette (index.php?id=1211)
Publications (index.php?id=1884) Community (index.php?id=1944) Election Petitions (index.php?id=3479)

Milimani Law Courts



You are Here : Home Page (index.php?id=81) / Cause List (index.php?id=4685) / High Court of Kenya (index.php?id=2037) / Milimani Law Courts (index.php?id=2037)

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SEPTEMBER
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High Court of
Kenya
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Milimani Law
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Milimani
Commercial
Courts
Commercial and
Tax Division
(index.php?id=1592)

Bungoma

23 September 2014

THE JUDICIARY
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
DAILY CAUSE LIST TUESDAY 23RD SEPTEMBER, 2014

CIVIL DIVISION

NOTICE

SUGGESTIONS ON COURT RULES AND PROCEDURES, WRITE TO US ON THE FOLLOWING ADDRESS:-

Rules Committee,
Milimani Commercial Court,
Rules Committee,
5th Floor,
P. O. Box 30420
NAIROBI

2ND NOTICE

SUGGESTIONS ON STREAMLINING PROCESS SERVICE – WRITE TO
Process Servers Committee,
High Court of Kenya,
P.O Box 30041 – 00100,
NAIROBI

CIVIL DIVISION

COURT 22 (1ST FLOOR)

WAWERU J
AT 9.00 A.M.
MENTION

1. CC.539/11 George Njguna Kariuki & others Vs. Dr. Fredrick O. Remullo & ano.
2. CC.2047/97 Alexander Nyaga Mwake Vs. Obadiah Ileri Makenge
3. CC.28/09 Barnabas Muli Mulungye Vs. Associated Construction Co. Ltd. & ano.
4. CC.1268/04 Beatrice Everlyn Atieno Abong'o Vs. National Oil Corporation
5. CC.71/12 Elvis Mutahi Githinji Vs. James Mutitu Mworira & others

Busia (index.php?id=1589)	7. CC.1867/01 Winnie Wanjiku Mwai VS. Attorney General & others 8. CC.145/04 Thomas O. Owiti Vs. Kenya Pipeline Co. Ltd.
Eldoret (index.php?id=1588)	9. CC.546/02 Martin O. Oluoch & others Vs. Kenyatta National Hospital & ano. 10. CC.9/14 Mercy Nduta Mwangi Vs. Joseph Gitau Mburu 11. CC.118/13 Zachary Mumbo Mosoti VS. Aga Khan University Hospital Nairobi 12. CC.220/14 Elle-ti SRL Vs. Christopher N. Mutuku
Embu (index.php?id=1587)	13. CC.76/96 William Wairagu Mungai Vs. Teachers Service Commission 14. CC.1287/06 Gladys Mumbua Mboya Vs. John Munyue Kibwuthu 15. CC.731/06 Charles Munge Vs.. J. Habber 16. CA.1025/07 Onesmus Mwanza Mutua Vs. Jeniffer Syomenze Kaloki
Garissa (index.php?id=1586)	
HomaBay (index.php?id=1585)	DIRECTION 17. CA.539/10 Bata Shoe Co. (K) Ltd. Vs. Felix John Bota Motonu
Kakamega (index.php?id=1584)	NOTICE OF MOTION 18. MISC.145/12 Wachira Nderitu, Ngugi & Co. Advocates Vs. City Council of Nairobi 19. CA.622/07 Celina Wanjiru Kimwene Vs. Attorney General
Kericho (index.php?id=1583)	HEARING PART HEARD 20. CC.382/04 Hon Jakokyo Midiwo Vs. K.T.N. Baraza Ltd.
Kerugoya (index.php?id=1582)	CIVIL DIVISION
Kisii (index.php?id=1581)	COURT 30 (1ST FLOOR) ONYANCHA J AT 9.00 A.M. RULING/JUDGMENT 1. CA.414 B/11 Town Clerk City Council of Nairobi Vs. Peter Njuguna Kuria & others 2. MISC.678/12 Daniel Karuru Mwaura Vs. John Mwangi Kanyi 3. MISC.600/12 Jeremiah Kalachi Ole Lenyi Vs. William Ngotiek
Kisumu (index.php?id=1580)	
Kitale (index.php?id=1579)	MENTION 4. CC.318/10 Bonaventure Andrew Omose Vs. Dr. Dan Kiage & ano. 5. CC.274/14 Shadrack Mwangi Chege Vs. Kiambu County Government & ano. 6. CC.273/14 Regina Wanjiku Munjogu Vs. Kiambu County Government & ano. 7. CC.272/14 Jimmy Mwenja Komo Vs. Kiambu County Government 8. CA.181/14 Anwarali & Brothers Ltd. & ano. Vs. Peter Gikandi Githinji 9. CA.492/01 Wainaina Waweru Vs. Wainaina Kamau & others 10. CA.401/14 Sophie Wairimu Vs. Joseph Kamau Kamau & ano.
Kitui (index.php?id=4819)	
Lowdar (index.php?id=4416)	PRETRIAL CONFERENCE 11. CC.426/13 George Kuria Mwaura Vs. Alphonse Mungahu & ano.
Machakos (index.php?id=1578)	SUBMISSION 12. CA.75/08 Nixon Bugo & ano. Vs. Southern Credit Banking Corporation Ltd. 13. CA.58/14 Tribe Hotel Ltd. Vs. Sospeter Lo,amo Mkprpge 14. CA.178/13 K.P.L.C. Vs. Jumbi Road Resident Association
Malindi (index.php?id=1577)	
Meru (index.php?id=1576)	HEARING PART HEARD 15. CC.248/06 Chevron Kenya Ltd. VS. Muvir Holdings Ltd.
Migori (index.php?id=4659)	HEARING 16. CC.443/10 Ibrahim Ndirangu Ndungu Vs. Nation Media Group Ltd. & ano. 17. CC.622/06 Manish Kumar Shah Vs. Telkom Kenya Ltd. & ano.
Mombasa (index.php?id=1575)	CIVIL DIVISION
Murang'a (index.php?id=1574)	COURT 23 (1ST FLOOR) OUGO J AT 9.00 A.M. MENTION 1. CA.247/03 John Gitau Kihara Vs. Simon Wahome
Nakuru (index.php?id=1573)	SUBMISSION 2. CC.457/06 Shadrack Oltetia Ole Tome & ano. Vs. Hon. Attorney General & others
Nyeri (index.php?id=1572)	AT 10.00 A.M.
Industrial Court of Kenya	

3. CC.1090/05 Daniel Maanzo Vs. Monarch Insurance Co. Ltd.

Chief

AT 2.30 P.M.

Magistrates

JUDGMENT

Court

(index.php?id=1648)

4. CC.477/08 Charles Mwapagha Vs. Kenya Airways Ltd. & ano.

COURT 18 (4TH FLOOR)

Licensed

MWONGO J

process

AT 9.00 A.M.

servers

(index.php?id=4748)

RULING

1. EP.15/13 Celement Kungu Waibara Vs. Hon. Francis Kigo & ano.

2. CC.642/98 Kamlesh Patni Vs. Central Bank of Kenya

CIVIL DIVISION

COURT 26 (1ST FLOOR)

SERGON J AT 9.00 A.M.

MENTION

1. CA.940/07 Christalina Abayo Vs. Peter Kimari Kihara & ano.

2. CC.285/14 Board of Trustees of African Independent Pentecostal Church of Africa Vs. Peter Mungai Kimani & others

3. CA.406/14 Broadways Bakery Ltd. Vs. Matheka Ndunda

DIRECTIONS

4. CA.666/06 Peter Muchiri Vs. Celinico Flowers Ltd.

NOTICE OF MOTION

5. CA.236/14 Lalji Meghji Patel Co. Ltd. Vs. Fredrick Kamau Kiarie

6. MISC.478/14 Philip Ayaya Aluchio Vs. Paul Owuor Obado

7. CC.309/10 Barnabas Bargoria Vs. Eldochem Ltd. & others

8. MISC.998/13 Richard Maina Vs. Githinji Ngugi

9. CC.609/09 Phinehas Nyagah Vs. Isaac Ongiri & ano.

10. MISC.260/11 Kwengu & Co. Advocates Vs. Hiten Kumar Raja

HEARING

11. CC.342/11 Peter Gitonga Mashira Vs. Joseph Ngemu Mbita & ano.

12. CA.972/04 Bawan Ltd. Vs. Mend-A-Baih International (K) & others

COURT 28 (1ST FLOOR)

ABURILI J AT 9.00 A.M.

MENTION

1. CA.604/13 Kenya Bankers Association Vs. Maurice Peter Oduor

2. CA.444/11 Francis Muiruri Mwangi Vs. John Ngugi

3. MISC.616/14 Antony Maina Munyi & ano. Vs. Gerald Njuguni Mbugua

4. CA.124/14 Corporate Insurance Co. Ltd. Vs. Emmy Cheptoo Letting

5. CC.584/07 Richard Maore Moeke Vs. The Standard Group Ltd.

6. CA.408/02 Gichuki Kimunya Vs. Co-operative Bank (K) Ltd.

7. CA.502/11 Kenya Power & Lighting Co. Ltd. Vs. Muhia Mutega

NOTICE OF MOTION

8. MISC.451/11 Mwangangi & Co. Advocates Vs. City Council of Nairobi

9. CC.438/13 Shobnaben Pankajkumar Patani Vs. Pradeep Harakchand Patani & others

10. CC.210/10 Kamslesh Mansukhlal Damji Patni Vs. Nation Media Group Ltd.

11. CC.2457/96 Voi Estate Ltd. Vs. The Attorney General

12. CC.337/13 Raphael Kitur Vs. Radio Africa t/a The Star

HEARING

13. CC.255/12 Caroline Kendele Vs. Naomi Njoroge

14. CA.27/10 Peter Rimbera Angaine Vs. Douglas Karani Marete

AT 12.00 NOON

JUDGMENT

14. CA.574/11 Sammy Ngugi Mugo Vs. Mombasa Salt Works Ltd.

CHAMBER 097 (GROUND FLOOR)

A.K. NDUNGU DR.

MENTION

1. MISC.554/13 K.O. Obae & Co. Advocates Vs. Nancy Nyawira Njagi
2. MISC.1060/13 Akide & Co. Advocates Vs. Kenindia Assurance Co. Ltd.
3. MISC.122/07 Muriu Mungai & Co. Advocates Vs. New Kenya Co-operative Creameries Ltd.

CHAMBER SUMMONS

4. CC.462/07 Peter O. Bala Vs. Gitari T. Njeru

NOTICE TO SHOW CAUSE

5. CC.259/03 Sankale Ole Kantai Vs. Nyamodi Ocheing Nyamodi

TAXATION

6. MISC.1066/13 Akide & Co. Advocates Vs. Kenindia Assurance Co. Ltd.
7. MISC.409/14 Murimi & Co. Advocates Vs. John Kahigu & ano.
8. MISC.1108/13 Okundi & Co. Vs. Kenindia Assurance Co. Ltd.

NOTICE

TAKE NOTICE THAT THE FOLLOWING MATTER HAS BEEN TAKEN OUT FOR WANT OF PRETRIAL DIRECTIONS. FRESH DATES BE FIXED AT THE REGISTRY UPON COMPLIANCE.

1. CC.541/09 David Nzioka Nthenge Vs. De La Rue Currency & Security Print Ltd.

2ND NOTICE

DEPUTY REGISTRAR MATTERS

TAKE NOTICE THAT THE FOLLOWING CASES HAVE BEEN TAKEN OUT DUE TO SHORTAGE OF DEPUTY REGISTRARS

1. MISC.450/14 Ruth Karago Ndung'u Vs. Seri Graphics Co.
2. MISC.451/14 Ruth Karago Ndung'u Vs. University of Nairobi
3. MISC.176/10 Patrick Kimathi Muchena Vs. Michael Mwasa Kilonzo
4. CC.465/07 Board of Governors Upper Hill School Vs. Dr. Sam Nthenya & others
5. MISC.20/13 Maina & Maina Advocates Vs. Edward Mwaniki Macharia
6. CC.1106/04 Prof. Dr. Aminmohamed A.H. Mohammed Vs. Magan Chandaria Charitable Trust & others
7. MISC.1106/13 Abuodha & Omimo Advocates Vs. Constituency Development Fund
8. MISC.911/13 Muema Kitulu & Co. Advocates Vs. Gateway Insurance Co. Ltd.

CRIMINAL DIVISION

CAUSE LIST FOR TUESDAY 23RD SEPTEMBER 2014

CRIMINAL DIVISION

COURT NO. 1 (Ground Floor)

OMBIJA J

AT 9.00 AM

MENTION

1. HCCRC.87/09 Rep-vs-John Kioko Musembi
2. HCCRC.21/10 Rep-Vs- Samuel Ndichu Macharia
3. HCCRC.23/10 Rep-vs-Teresia Nyambura Kiambo
4. HCCRC.6/11 Rep-vs-David Gatembo Mbeti
5. HCCRC.45/11 Rep-vs-Felix Munyao Makenzi

CAUSE LIST FOR TUESDAY 23RD SEPTEMBER 2014

CRIMINAL DIVISION

COURT NO. 31 (2nd Floor)

OCHIENG J

AT 9.00 AM

SUBMISSIONS

1. HCCRC.31/09 Rep-vs-Joseph Kuria Mwangi

HEARING

2. HCRC.84/09 Rep-vs-Elenah Nyambura & 3 Others

CRIMINAL DIVISION

COURT NO. 2 (Ground Floor)

R.KORIR J

AT 9.00 AM

PLEA

1. HCCRC 84/14 Rep vs. Dedan mburu Njoroge & another

MENTION

2. HCCRC.42/12 Rep-vs- Nelson Wafula Mukhwana
3. HCCRC.69/12 Rep-vs- Samuel Ochieng Daddy & 3 Others
4. HCCRC.89/13 Rep-vs- Francis Mbogo Wambugu
5. HCCRC.35/14 Rep-vs-Grace Wanjiku Makumi
6. HCCRC.57/14 Rep-vs-Benigno Kubasu Angasa
7. HCCRC.75/14 Rep-vs-Stephen Mbugua Njambi
8. Misc. 262/14 Frida Kamau vs. Inspector General of Police & another

HEARING

9. HCCRC 8/14 Rep vs. Paul Wainaina & 5 others

CAUSE LIST FOR TUESDAY 23RD SEPTEMBER 2014

CRIMINAL DIVISION

COURT NO. 4 (Ground Floor)

D.A.OKUNDI (SPDR)

AT 9.00 AM

MENTION

1. HCCRC.70/11 Rep-vs-Allan Aseka Ambongo
2. HCCRC.91/11 Rep-vs- Musili Dewrock Kithome & Another
3. HCCRC.98/12 Rep-vs-Gerishon Mukuma Mugesha
4. HCCRC.107/13 Rep-vs- Joseph Kamau Bangua
5. HCCRC.46/14 Rep-vs-Benard Wainaina Mwangi
6. HCCRC.47/14 Rep-vs- Florence Wambui Nguri Alias Ndunge Wa Kochi
7. Misc. 150/13 Peter Kariuki Muibau vs. Rep
8. Misc. 24/14 James Mwangi Njoroge vs. Rep
9. Misc. 52/14 Joseph Ngunguru Wanjohi vs. Rep
10. Rev. 52/14 Samuel Elima Sabuni vs. Rep
11. Misc. 155/14 Heinz Andreas Scheller vs. Rep
12. Misc. 252/14 Hong Cong Thanh vs. Rep
13. Misc. 253/14 Nguyen Nanhai vs. Rep
14. Misc. 251/14 Ngo Hong Quan vs. Rep
15. CRA 388/08 Sheila K. Maingi vs. Rep
16. Misc. 78/11 Fina Bank Ltd. Vs. Rep
17. CRA 114/09 Peter Mutemi Wanja vs. Rep
18. CRA 307/09 Edward Gathu Njenga vs. Rep
19. CRA 163/10 Charles Njuguna Kimotho vs. Rep
20. CRA 594/10 Peter Gakura Murigi vs. Rep
21. CRA 609/10 Elikana Nyagu Mbogo vs. Rep
22. CRA 69/11 Samuel Ngugi Nganga vs. Rep
23. CRA 102/11 Gerishon Odari Ambetsa vs. Rep
24. CRA 223/11 John Thuo Ngugi vs. Rep
25. CRA 142/11 Justus mbuvi Muli vs. Rep
26. CRA 58/12 Philip Maingi Muella vs. Rep
27. CRA 143/12 Edward Njunge Gacheru vs. Rep
28. CRA 245/12 Gilbert Esuapiwa & others vs. Rep
29. CRA 121/13 Geoffrey Thiongo Mukungu vs. Rep
30. CRA 226/13 Shadrack Maingi Ndungu vs. Rep
31. CT Martial 1/09 John Muchina vs. Rep

CAUSE LIST FOR TUESDAY 23RD SEPTEMBER 2014

CRIMINAL DIVISION

COURT NO. 21(GROUND FLOOR)

RULING

1. HCCRC 63/10 Rep vs. Cosmas Mulwa Kituya
2. HCCRC 55/14 Rep vs. Fredrick Nthiga Mwaniki

FAMILY DIVISION

23RD SEPTEMBER, 2014

COURT 46

MUCHELULE J

MENTION

1. P&A 325/1984 In the matter of the estate of Waingina Icharia
2. P&A 2555/1997 In the matter of the estate of Chege Macharia
3. P&A 932/2000 In the matter of the estate of Gachengechi Muiru
4. P&A 488/2001 In the matter of the estate of Burton Thuri
5. P&A 1127/2002 In the matter of the estate of Maingi Kitaa
6. P&A 3554/2004 In the matter of the estate of Wairimu Ngunjiri
7. P&A 2756/2007 In the matter of the estate of Joseph Leminfo
8. P&A 777/2010 In the matter of the estate of Hellen Wambui
9. P&A 1297/2010 In the matter of the estate of Boniface Okach

DIRECTIONS

10. P&A 2135/1995 In the matter of the estate of Isaac Gathia
11. P&A 3185/2005 In the matter of the estate of Regina Wambui
12. P&A 1905/2012 In the matter of the estate of Njuguna Igwima
13. P&A 792/2014 In the matter of the estate of Josphat Gatia

CONFIRMATIONS

14. P&A 580/2000 In the matter of the estate of Kyengo Makila
15. P&A 2448/2000 In the matter of the estate of Joseph Meleji
16. HCC 3/2008 Motie Ahmed Vs. Nizarali Hussein
17. P&A 846/2009 In the matter of the estate of Charles Omwega
18. P&A 705/2011 In the matter of the estate of Samuel Macharia
19. P&A 1250/2011 In the matter of the estate of Bernard Kamau
20. P&A 426/2012 In the matter of the estate of Joseph Makau
21. P&A 1078/2012 In the matter of the estate of Virginiah Waitheera
22. P&A 2246/2012 In the matter of the estate of Samuel Wanjohi
23. P&A 2494/2012 In the matter of the estate of Evalyne Amanya
24. P&A 125/2013 In the matter of the estate of Joyce Wanjiku
25. P&A 295/2013 In the matter of the estate of Julie Mwiza
26. P&A 811/2013 In the matter of the estate of Robinson Karoni
27. P&A 847/2013 In the matter of the estate of Agnes Wairimu
28. P&A 2173/2013 In the matter of the estate of Beth Njue
29. P&A 2332/2013 In the matter of the estate of Naomi Nyambura

SUMMONS

30. P&A 1557/1994 In the matter of the estate of Francis Kamau
31. P&A 333/1995 In the matter of the estate of Laban Waweru
32. P&A 1898/2003 In the matter of the estate of Kimani Kiyuru
33. P&A 1623/2004 In the matter of the estate of Ephantus Muriu
34. P&A 997/2010 In the matter of the estate of Mbuthia Njau
35. P&A 1632/2010 In the matter of the estate of Margaret Njeri
36. P&A 2676/2013 In the matter of the estate of Michael Kioi
37. P&A 2063/2014 In the matter of the estate of Joseph Kimani

NOTICE OF MOTION

38. P&A 667/1984 In the matter of the estate of Paul Musau
39. HCA 42/2014 Abigael Mwero .Vs. Ahmed Noor

SUBMISSION

40. P&A 693/2009 In the matter of the estate of Khurshid Butt

41. P&A 1787/2001 In the matter of the estate of Alexander Mudhune
42. P&A 1885/2002 In the matter of the estate of Muniu Kihara
43. P&A 3423/2005 In the matter of the estate of James Macharia
44. P&A 1106/2010 In the matter of the estate of Cyrus Githinji
45. P&A 445/2012 In the matter of the estate of Sarah Mumbi

DEPUTY

REGISTRAR

FAMILY DIVISION

23RD SEPTEMBER, 2014

COURT 48

MUSYOKA J

MENTION

1. P&A527/1981 In the matter of the estate of Mbiyu Koinange
2. P&A 816/1994 In the matter of the estate of Josephat Njuguna
3. P&A 2385/1994 In the matter of the estate of Wainaina Waititu
4. P&A 1917/1996 In the matter of the estate of Daniel Macharia
5. P&A 2397/1997 In the matter of the estate of Joseph Muiruri
6. P&A 578/1999 In the matter of the estate of Allan Ngugi
7. P&A 2694/2006 In the matter of the estate of Mwati Kariuki
8. P&A394/2008 In the matter of the estate of Edward Kariuki
9. P&A 2110/2008 In the matter of the estate of Lanet Ole Nkoitiko
10. P&A 2547/2010 In the matter of the estate of Peter Njoroge
11. P&A 1884/2011 In the matter of the estate of Jacinta Njue
12. P&A 1312/2013 In the matter of the estate of John Kungu

DIRECTIONS

13. P&A 869/1989 In the matter of the estate of Rajabali Sayisi
14. P&A 163/2003 In the matter of the estate of Simon Ngure
15. P&A 2350/2011 In the matter of the estate of Regina Wambui
16. P&A 1995/2012 In the matter of the estate of Lyoshi Sayisi
17. P&A 1627/2014 In the matter of the estate of Karanja Makumi

CONFIRMATIONS

18. P&A 2571/1995 In the matter of the estate of Bernard Nyayieka
19. P&A 754/1996 In the matter of the estate of Peter Kihia
20. P&A 1305/2007 In the matter of the estate of Sylvester Omondi
21. P&A 2485/2007 In the matter of the estate of Nicholas Mutiso
22. P&A 1193/2010 In the matter of the estate of Leah Kabue
23. P&A 701/2011 In the matter of the estate of Wangoi Mutonga
24. P&A 298/2012 In the matter of the estate of Joseph Nchege
25. P&A 368/2012 In the matter of the estate of Danson Kinyanjui Kahuho
26. P&A 1736/2012 In the matter of the estate of Pauline Njeri
27. P&A 1861/2012 In the matter of the estate of Amos Kiratu
28. P&A 2842/2012 In the matter of the estate of Hannah Ruguru
29. P&A 21/2013 In the matter of the estate of Vinodkumar Halal
30. P&A 791/2013 In the matter of the estate of Mike Riapan
31. P&A 807/2013 In the matter of the estate of Janet Nthiwa
32. P&A 1902/2013 In the matter of the estate of Joseph Mugo
33. P&A 2159/2013 In the matter of the estate of Job Ojina
34. P&A 428/2014 In the matter of the estate of Charles David
35. P&A 537/2014 In the matter of the estate of Chanrakant Shah

SUMMONS

36. P&A 1940/1996 In the matter of the estate of Fred Kubai
37. P&A 2762/2002 In the matter of the estate of Esther Wangui
38. P&A 899/2008 In the matter of the estate of Shem Maina
39. P&A 516/2010 In the matter of the estate of James Chege
40. P&A 1642/2013 In the matter of the estate of Gilbert Mwangi
41. P&A 1783/2013 In the matter of the estate of Nelson Ndara

NOTICE OF MOTION

43. P&A 2775/2004 In the matter of the estate of Gathuku Mwangi

SUBMISSION

44. P&A 1058/2005 In the matter of the estate of Cecilia Wanjiru

HEARING

- 45. P&A 1933/2001 In the matter of the estate of Hezron Sande
- 46. P&A 2830/2004 In the matter of the estate of Letoya Lolchoki
- 47. P&A 1914/2008 In the matter of the estate of Sylvester Wafula
- 48. P&A 1482/2009 In the matter of the estate of Thuo Gichire
- 49. P&A 2398/2009 In the matter of the estate of Timothy Njonjo

AT 10:30AM

HEARING

- 1. P&A 1805/2008 In the matter of the estate of Stephen Kibera

DEPUTY

REGISTRAR

FAMILY DIVISION

23RD SEPTEMBER, 2014

COURT 49

MUIGAI J

MENTION

- 1. P&A 1726/2012 In the matter of the estate of Jetha Ismail
- 2. MISC 74/2013 Kulsum Virani
- 3. P&A 1717/2013 In the matter of the estate of Wilson Ngugi

DIRECTIONS

- 4. P&A 619/2001 In the matter of the estate of Enoch Magara
- 5. P&A 2014/2007 In the matter of the estate of Caxton Mukiri
- 6. P&A 2523/2013 In the matter of the estate of Kamau Karanja
- 7. P&A 934/2014 In the matter of the estate of Njoki Mundia

CONFIRMATIONS

- 8. P&A 889/2001 In the matter of the estate of Christine Njoki
- 9. P&A 36/2002 In the matter of the estate of Leo Nyaidho
- 10. P&A 1683/2009 In the matter of the estate of Wanyoike Thungu
- 11. P&A 1192/2010 In the matter of the estate of Peter Kabue
- 12. P&A 2566/2011 In the matter of the estate of Mungai Karibe
- 13. P&A 2761/2011 In the matter of the estate of Janerose Wakuloba
- 14. P&A 1308/2012 In the matter of the estate of Robert Muriuki
- 15. P&A 1672/2012 In the matter of the estate of Margaret Muthoni
- 16. P&A 2801/2012 In the matter of the estate of Grace Wangui
- 17. P&A 420/2013 In the matter of the estate of Teresia Nduta
- 18. P&A 688/2013 In the matter of the estate of Pauline Wanjiru
- 19. P&A 906/2013 In the matter of the estate of Richard Mulumba
- 20. P&A 1568/2013 In the matter of the estate of Nahashon Karanja
- 21. P&A 2353/2013 In the matter of the estate of Teresia Mwaura
- 22. P&A 2608/2013 In the matter of the estate of Dick Kioko

SUMMONS

- 23. P&A 1756/1995 In the matter of the estate of Joyce Muthoni
- 24. P&A 2317/1996 In the matter of the estate of Kahuga Burugu
- 25. P&A 580/2005 In the matter of the estate of Rosemary Anyango
- 26. P&A 207/2008 In the matter of the estate of Njau Ngaru
- 27. P&A 1294/2011 In the matter of the estate of Priscilla Abwao
- 28. P&A 1741/2011 In the matter of the estate of Francis Maina
- 29. MISC 58/2014 Margaret Wangui

NOTICE OF MOTION

- 30. P&A 2485/2013 In the matter of the estate of Elijah Omwenga

HEARING

32. P&A 1023/2009 In the matter of the estate of Elizabeth Kimani
33. P&A 928/2011 In the matter of the estate of David Kimani
34. P&A 2524/2011 In the matter of the estate of Samuel Njunge
35. P&A 452/2012 In the matter of the estate of Muthoni Mbua

AT 2:00PM

RULING BEFORE MUIGAI J

36. HCA 370/2009 Anna Wangare Vs. Paul Karungu
37. HCA 448/2005 Samuel Munyi Vs. Harrison Munyi
38. HCA 559/2005 DWA Estate Vs. Daniel Arito
39. HCA 250/2005 Lucy Kimathi Vs. Samuel Muiruri
40. HCA 1050/2007 Christopher Munjile Vs. Alfred Muffat

DEPUTY

REGISTRAR

FAMILY DIVISION

23RD SEPTEMBER, 2014

TAKE NOTICE THAT THE FOLLOWING MATTERS HAVE BEEN TAKEN OUT. FRESH DATES TO BE TAKEN AT THE REGISTRY.

1. P&A 183/2013 In the matter of the estate of Micheal Ng'ang'a
2. P&A 2086/2013 In the matter of the estate of Michael Warui
3. P&A 729/2014 In the matter of the estate of Thiga Munga
4. P&A 2507/2009 In the matter of the estate of Eleshas Muiruri
5. P&A 1045/2012 In the matter of the estate of Mungai Njoroge
6. P&A 1982/2012 In the matter of the estate of Pius Wambua
7. P&A 2319/2009 In the matter of the estate of Pharis Muigai

DEPUTY

REGISTRAR

JUDICIAL REVIEW DIVISION

DAILY CAUSE LIST 23RD SEPTEMBER, 2014

CAUSE LIST FOR JUDICIAL REVIEW DIVISION

23RD SEPTEMBER 2014

ODUNGA J.

COURT NO. 37 (2ND FLOOR)

MENTIONS

1. JR 169/04 Green Hill Investment Vs National Environment Management
2. HCC 730/09 Adventis Limited Vs Superior Homes (K) Ltd & Anor
3. HCCC 779/09 Kenya Planters Co-op Union Vs Kenya Commercial Bank
4. JR ELC 68/10 Megh Singh Kenya & Others Vs City Council of Nairobi
5. JR 127/13 Intersystems Limited Vs Commissioner of Lands & Anor
6. JR361/13 Jackson M. Kyalo & 4 Others Vs Commissioner for Co-op & Anor
7. JR 50/14 Kenote Logistics Limited Vs Commissioner Custom & Services Depart. (KRA) & 3 Others
8. JR 69/14 Water Resources Mngt. Vs Commissioner of Co-op Development
9. JR 280/14 Patrick Kioko Mutua Vs Director of Public Prosecution & 3 Others
10. JR302/14 Sanjay Shah Vs Ethics & Anti-corruption Commission
11. JR 303/14 Kingsway Tyres & Automart Vs Kenya Revenue Authority

HEARINGS

13. JR ELC 31/10 Peter Thiongo Njuguna Vs Senior Resident Magistrate Court Githunguri & 2 Others
14. JR 333/10 Anthony Muthumbi Wachira Vs Kenya Airports Authority & Anor
15. JR 152/11 Patrick Waweru Mwangi Vs Director General Kenya Aviation Authority
16. JR 264/13 Gatetua Macharia Kennedy Vs Kenyatta University
17. JR 126/14 Apex Communication Ltd Vs PS, Ministry of Health & Anor
18. JR 141/14 Soloh Worldwide Inter-Enterprises Vs County Secretary Nairobi County & Anor
19. JR 192/14 Erastus Gatebe Vs Ethics & Anti-Corruption Commission & 2 Others
20. JR 265/14 Amos Kimunya Vs Chief Magistrate Court Nairobi & 3 Others
21. JR 268/14 Bryan Yongo Otumba Vs Attorney General & 3 Others
22. JR 255/14 Midlands Ltd & Anor Vs Director of Public Prosecution & 3 Others

AT 2.30PM

JUDGMENTS

1. HCCC 89/11 Muskari Kombo Vs Royal Media
2. HCCC 85/11 Dorcas Kombo Vs Royal Media
3. JR 416/05 Shem Odongo Ochuodho Vs Minister for Energy & Anor

DEPUTY REGISTRAR

JUDICIAL REVIEW

CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

NOTICE

- a) The following Judgment will be delivered on Notice by Justice Lenaola
 1. Pet. 113/2009 Charles Munga Muriithi vs Hon A.G
- b) The following Judgments will be delivered by Justice Lenaola on the mentioned dates
 1. Pet 418/14 The County Secretary Isiolo & 2 Others vs The Speaker County Assembly Mohammed Tubi for Judgment on 30/9/2014
 2. Pet 248/013 Arnacherry Ltd vs Ag, Judgment on 17/10/14
 3. Pet 308/14 Uniliver Kenya Ltd vs National Biosafety Authority & Another, Judgment on 30/9/14
- c) The following judgment will be delivered by the Hon. Lady Justice Ngugi on behalf of Hon. Justice Majanja on 13/10/2014
 1. Pet 513/2013 Ikon Pilots Media Co. Ltd vs Kenya National Highways Authority & 2 Others
- d) The following judgment will be delivered by the Hon. Justice Lenaola on behalf of Hon. Justice Majanja on 29/9/2014
 1. Pet no 72 /2012 Gabriel Nyabola vs AG & Another
- e) Take Notice that due to the CUC open day on 24th September 2014, matters scheduled for mention/hearings before Hon Lady Justice M. Ngugi will be mentioned on 1st October 2014.

COURT NO 2 (3rd FLOOR)

M. NGUGI J

MENTIONS/DIRECTIONS

1. Pet 386/14 Dynaplas Ltd & others vs The Nairobi city County Government & others
2. Pet 464/12 Rev Ndoria Stephen vs the Minister for Education & Others
3. Pet 510/12 Reuben Gitari Muriuki vs Hon AG & Another
4. Pet 433/14 Hillary Mulialia & Another vs Mutea Iringo & Others
5. Pet 319*B/14 Tabitha Wagithi Maina & Others vs Clay Works Ltd
6. Pet 402/14 The National Land Commission vs the Cabinet Secretary Ministry of Land Housing & Urban Develop & Another

8. Pet 514/13 Stephen Githo Njihia & Others vs Hon AG
9. Pet 212/14 Karim Lalani vs Interpol & Another
10. Pet 372/14 Helpage International vs Commissioner of Domestic Taxes
11. Pet 387/14 Dynaplas Ltd & Others vs the Kiambu County Government

APPLICATIONS

12. Pet 383/14 Laban Gathogo Mwangi & Another vs Minister for Environment & Forestry County of Nairobi & Another
13. Pet 397/14 Kenya Reinsurance Corporation Ltd vs Commissioner of Domestic Taxes Ltd

AT 11.30 A.M

14. Pet 465/14 HCIG Energy Investment Company Ltd & Another vs The Ministry of Energy & Petroleum & Others

HEARINGS

15. Pet 374/12 Lucy Muthoni vs Hon AG
16. Pet 235/12 Tornado Carriers Ltd vs Kenya Revenue Authority & Others
17. Pet 410/13 Wilfrida Anodah Itoland vs Board of Trustees of Kenyatta University Staff Retirement Benefits Scheme.
18. Pet 450/14 Jacklynne Kamau vs Hon AG & Others

CHAMBER NO 174 (1ST FLOOR)

ONGERI (D.R) (MRS)

MENTIONS

1. Pet 398/13 Jilam Sabila Lalo vs Hon AG
2. Pet 426/13 Noah Kibet Sigalal vs The Hon AG.
3. Misc. 23/14 Thomas K' Bahati vs Kenya Union of Commercial Food & Allied Workers
4. JR 398/12 David Peter Ndambuki vs City Council of Nairobi

ENVIRONMENT AND LAND COURT

COURT 33 (2ND FLOOR)

NYAMWEYA, J

AT. 9.00 A.M.

HEARING

1. ELC. 450/12 Falcon Properties Ltd Vs. Tom Chore & others.

MENTION

2. ELC. 239/13 Acupen Properties Ltd Vs. Mwerere Women Group.
3. ELC. 90/04 Eric Kibiworr Vs. Chief Land Registrar.
4. ELC. 85/13 Bistar Kenya Ltd Vs. Kings Developer Ltd.
5. ELC. 1333/13 Samabhai Patel Vs. Rapid Communication Ltd.
6. MISC. 77/09 Grace Wambui Vs. Pholomana Wambu.
7. CC. 5261/88 Ruwinda Rurinja Vs. Ndumberi Farmers.
8. ELC. 1165/14
9. ELC. 620/13 Babubhai M. Mistry Vs. Joreth Limited.
10. ELC. 430/14 Minne Nguhi Vs. Prof. Kabiru Kinyanjui.
11. ELC. 1553/13 Francis Kiongo Vs. Hitesh Morjaria & another.
12. ELC. 375/14 Samuel Mwangi Vs. Salute Holdings Ltd.
13. ELC. 409/14 Bepco Parts (K) Ltd VS. Dunga properties
14. ELC. 414/13 Esther Wakarura Vs. Teresiah Wagathoni.
15. ELC. 1138/14 Raphael Dennis Vs. Juliah Wangari.

NOTICE OF MOTION

16. ELC. 1202/14 Kamahuha Ltd Vs. Winnie Kariuki.
17. ELC. 1180/13 Kiyonga & Co. Ltd Vs. Peter Nguere.

AT. 2.30 P.M.

RULING

18. ELC. 1247/03 Peter Kungu Vs. Boniface Mayabi.
19. ELC. 126/09 Jane Wambui Vs. timothy Karimi.
20. ELC. 472/14 Pyramid Bundles Vs. Top Security.

ENVIRONMENT AND LAND COURT

MUTUNGI, J

AT. 9.00 A.M

HEARING

1. ELC.436/09 Sammy Asande Vs. Nuria Abdi & others.

MENTION

2. ELC. 670/14 Kingsbond Investment Vs. Cecilia Murigo.
3. ELC. 1495/13 Kamunyo Karechio Trust Vs. Samwel Gichuhi.
4. MISC. 20/14 Cecity Muvingo Vs. Joseph Matheka.
5. ELC. 528/11 John Njuguna Vs. Dinna Choka.
6. ELC. 729/14 Emmanuel Kuna Vs. Nairobi City County & others.
7. ELC. 489/13 Lazarus Kibui Vs. Labure Okello.
8. ELC. 1415/13 Uchumi Supermarket Vs. Kenya Bowling Centre.
9. ELC. 601/14 Isaac Kamau Vs. Oscar Sims & antoehr.
10. ELC. 565/14 Michaelina Yohannis Vs. James Gathunduati.
11. ELC. 5/14 Moses Mbugua Vs. KCB
12. ELC. 920/14 Ayub Karisa Vs. Hercules Mills Ltd.
13. ELC. 892/14 p.c.e.A Vs. Water Resources Management.
14. ELC. 855/14 Hercules Mills Ltd Vs. Miriam Mwikali.

PRE-TRIAL CONFERENCE

15. ELC. 784/12 John Mwaniki Vs. John Kingare & another.
16. ELC. 769/13 Atif Mohamed Vs. Marcela Omwenga & another.

SUBMISSION

17. ELC. 1106/05 Zebak Ltd Vs. Nadem Enterprises Ltd.
18. ELC. 71/14 Stephen Kamunge Vs. County Government of Nairobi.
19. ELC. 308/11 Rahab Kageni Vs. Roselyne Ouko.

NOTICE OF MOTION

20. ELC. 906/12 Samson Munikali Vs. Heri Development Ltd.
21. ELC. 981/14 Joseph Kamau Vs. Ernest Njenga & others.
22. CC. 58/11 Emily Mwikali Vs. Emma Waiyua & others.
23. ELC. 268/97 Geoffrey Ndenge Vs. Joseph Mbugua.
24. ELC. 727/14 Mary Karindu Vs. Sila Wambua & others.

AT. 10.30 A.M.

HEARING

25. ELC. 1720/07 M.A. Koinange Vs. Joyce Gachuka & others.

ENVIRONMENT AND LAND COURT

COURT 27 (1ST FLOOR)

GACHERU, J

AT. 9.00 A.M.

HEARING

1. ELC. 1357/04 Joyce Gathoni Vs. Naomi Kaboro.
2. ELC. 1452/05 Robert Gikuna Vs. Samuel Ndungu.

MENTION

3. ELC. 280/09 Masaai General Agencies Vs. Kenya Airport Authority.
4. ELC. 983/13 Kyalo Mbinda Vs. Anne Wanjiru.
5. ELC. 661/11 Feisal Mohamed Vs. Kirima Eng Services Ltd.
6. ELC. 816/14 Daniel Muchiri Vs. Nairobi City Commission.
7. ELC. 1043/12 Esther Njeri Vs. Consolidated Bank Ltd.
8. ELC. 465/11 Nils Bernard Vs. Danson Karu & others.
9. ELC. 622/12 Joyce Njeri Vs. Joreth Ltd & others.
10. ELC. 491/14 Parselelo kantai Vs. Leonard mutual.
11. ELC. 1413/13 Alfa Motors Ltd Vs. Motor Express & others.
12. ELC.MISC.102/14 Philomon Murungi Vs. Neno Courier Serviced.
13. ELC. 1501/12 Inderjit Kaur Vs. Mary Wanjiru & others.
14. ELC. 740/13 James Njehuri Vs. Ericsson Kenya Ltd.

NOTICE OF MOTION

15. ELC. 850/14 Paul Ndungu Vs. Lawrence Kimondo.

AT. 2.30 P.M.

MENTION

17. ELC. 92/14 Charity Mwikali Vs. amos Mwangi.

RULING

18. ELC. 382/08 Njohahu Njoroge Ltd Vs. Samwel Ngige.

19. ELC. 630/12 Reuben Muhavi Vs. Urutangwa.

20. ELC. 1149/13 Joseph Maina Vs. Kiganjo Location.

ENVIRONMENT AND LAND COURT

COURT 24 (1ST FLOOR)

GITUMBI, J

AT. 9.00 A.M.

HEARING

1. ELC. 602/94 Dormel Gowns Ltd Vs. Peter Kimani.

FORMAL PROOF

2. ELC. 250/11 George Mbugua Vs. World Outreach.

MENTION

3. ELC. 396/08 Martha Wangari Vs. Salome Wambui.

4. ELC. 1522/13 Daniel Otieno Vs. Kasarani Mall Ltd.

5. ELC. 116/12 Peter Ndukuthyo Vs. Peter Mwaura.

6. ELC. 708/14 Peter Ndukuthya Vs. Indiah Wangonde.

7. ELC. 1318/13

PRE-TRIAL CONFERENCE

8. ELC. 158/09 Nicholas Ragae Vs. Dominic Njau.

SUBMISSION

9. ELC.198/12 Veronicah Wanjiru Vs. Reah Marie & others.

10. ELC. 571/13 Josiah Mucheru Vs. Ellen Wambui.

11. ELC. 600/14 Beatrice Wambui Vs. Nyawira Wangechi.

NOTICE OF MOTION

12. ELC. 795/14 Peter Kanini Vs. Daniel Wambua.

13. ELC. 333/14 Julia Wanjiku Vs. Patrick Kimani & another.

ENVIRONMENT AND LAND COURT

COURT 34 (2ND FLOOR)

ONGUTO, J

AT. 9.00 A.M.

HEARING

1. ELC. 537/09 William Thitai Vs. Joshua Katua.

2. ELC. 170/12 Rosemary Nyangao Vs. S.D.A Church Nairobi.

PRE-TRIAL CONFERENCE

3. ELC. 27/08 John Kamande Vs. Silvescrest Investments.

4. ELC. 101/01 Raphael Warari Vs. OleKejuado County Council.

5. ELC. 568/11 Loise Wanjiru vs. Patrick Mwaura.

6. ELC. 300/12 flex Construction Solutions Vs. Verandel Court

7. ELC. 469/11 Mary Wairimu Vs. John Wakibi.

NOTICE OF MOTION

8. ELC. 792/14 David Kingoo Vs. Peter Ndingu & others.

CHAMBERS 129 (1ST FLOOR)

WACHIRA, DR

AT. 9.00 A.M.

MENTION

1. ELC. 526/12 Family of Late K. Thuku Vs. Solomon Gichinga.

NOTICE OF MOTION

2. ELC. 663/09 Ibrahim Said Vs. Ibrahim Abdiile.

ENVIRONMENT AND LAND COURT

NOTICE

TAKE NOTICE THAT HON. LADY JUSTICE NYAMWEYA AND HON. L. WACHIRA – DEPUTY REGISTRAR WILL NOT BE SITTING BETWEEN 24TH – 30TH SEPTEMBER, 2014.

MATTERS COMING UP BEFORE HON. LADY JUSTICE NYAMWEYA WILL BE MENTIONED BEFORE THE HON. MR. JUSTICE ONGUTO FOR DIRECTIONS AND SETTING OF NEW DATES.

MATTERS COMING UP BEFORE THE DEPUTY REGISTRAR WITHIN THIS PERIOD OF TIME ARE TAKEN OUT AND FRESH DATES BE FIXED AT THE REGISTRY.

THE FOLLOWING RULINGS AND JUDGMENTS THAT WERE TO BE DELIVERED BETWEEN 24TH AND 30TH SEPTEMBER, 2014 SHALL BE DELIVERED ON LATER DATES AS FOLLOWS: -

1. THE RULINGS IN THE CASES LISTED HEREIN BELOW THAT WERE DUE TO BE DELIVERED ON 24TH SEPTEMBER, 2014 SHALL NOW BE DELIVERED ON 1ST OCTOBER, 2014.

- (a) ELC. 256 OF 2014 Steven Muturi Vs. Patrick Mutuku.
- (b) ELC. 1116 OF 2013 Teresia Mwangi Vs. Kiraton Investment.

2. THE RULING IN ELC 597 OF 2014 THAT WAS TO BE DELIVERED ON 25TH SEPTEMBER, 2014 SHALL NOW BE DELIVERED ON 2ND OCTOBER, 2014.

3. THE JUDGMENT AND RULING THAT WERE TO BE DELIVERED ON THE CASES LISTED HEREIN BELOW ON 29TH SEPTEMBER, 2014 SHALL NOW BE DELIVERED ON 6TH OCTOBER, 2014

- (a) ELC 591 OF 2013 Robert Mbogo Vs. Njeri Kamonde
- (b) ELC. 149 OF 2007 Esther Nyambura Vs. Harbans Bindu.

4. THE RULINGS THAT WERE TO BE DELIVERED IN THE CASES LISTED HEREIN BELOW ON 30TH SEPTEMBER, 2014 SHALL NOW BE DELIVERED ON 9TH OCTOBER, 2014.

- (a) ELC. 537 OF 2010 Mwala Court Vs. National Highways Authority
- (b) ELC. 1050 OF 2013 Daykio Plantations Vs. John Ayawo
- (c) ELC. 688 OF 2011 Sahihi Estate Vs. Hon. Waititu.

NOTICE

TAKE NOTICE THAT THE BELOW LISTED CASES WHICH HAD BEEN TRANSFERRED FROM MACHAKOS HIGH COURT TO NAIROBI ENVIRONMENT AND LAND COURT, HAVE NOW BEEN TRANSFERRED TO THE ENVIRONMENT AND LAND COURT AT MACHAKOS.

FOR THOSE CASES WITHOUT DATES, PARTIES ARE ADVISED TO TAKE DATES AT THE MACHAKOS ENVIRONMENT AND LAND COURT REGISTRY.

THE CASES WITH DATES AS SHOWN HEREIN BELOW WILL MAINTAIN THE SAME DATES AND PARTIES TO APPEAR BEFORE THE PRESIDING JUDGE OF THE ENVIRONMENT AND LAND COURT AT MACHAKOS ON THE RESPECTIVE DATES.

FOR THOSE CASES THAT WERE FILED IN NAIROBI BUT WHICH NOW FALL UNDER THE JURISDICTION OF ENVIRONMENT AND LAND COURT AT MACHAKOS, PARTIES ARE ADVISED TO APPLY FOR TRANSFER AND THE ELC COURTS AT NAIROBI WILL ALSO BE TRANSFERRING THE SAID MATTERS SUO MOTO ON A CASE –BY-CASE BASIS.

FILES TRANSFERRED TO ENVIRONMENT AND LAND COURT MACHAKOS COURT WITH NO DATES

CASE No. PARTIES

- 1. ELC 1117/2014 Milio Ole Nkare songoi vs. Commissioner of Lands & 3 others
- 2. ELC 1036/2014 Nirish Chandulal Shah vs. Kitengela Ltd
- 3. ELC 966/2014 Mavoko Land Development & Co. Ltd vs. Timothy Kioko Ngui
- 4. ELC 932/2014 Numerical Machining Complex Ltd vs. Athi

5. ELC 858/2014 Kongoacheke Enterprises Ltd vs. The Attorney General & 2 others
6. ELC 735/2014 Harwa Much Maangi vs. Kimwele Kithoka & 26 Others
7. ELC 488/2014 Francis Mlieka Kimuyu vs. Malili Ranch Ltd
8. ELC 372/2014 Mary Anna Kivuitu vs. Municipal Council of Machakos
9. ELC 223/2014 Esther Kamene Kimantheni and another vs. Chrispus Makau Kiamba
10. ELC 115/2014 C-Eleven Limited vs. Francis Mureithi
11. ELC 1398/2013 Philip Mutiso Makau vs. Headmaster, Tuta Primary School & another
12. ELC 1396/2013 Prof. Julius Wanjohi Mwangi & another vs. Notu Parmereta & Sadima Parmereta
13. ELC 1381/2013 Moses Ndungu Mungai vs. Mutie Willy & Another
14. ELC 1380/2013 Josephine Wambua Githinji vs. Peter Gachenga Kimuhu
15. ELC 1142/2013 Joseph Wambua Mulusya vs. David Kitu aka David Nzioka & Another
16. ELC 719/2013 Peter Kikoo Kimeu & others vs. Joseph Macharia Mwnagi & Another
17. ELC 718/2013 Swift Services Ltd vs. Paragon Property Consultant Ltd & 5 others
18. ELC 53/13 Peter Kitivi Malind vs. Francis Kimeu Mbulu
19. ELC 52/13 Pius Muia Musyoka vs. Mumo Mwanyhi
20. ELC 51/13 Cleophas Omariba Oyaro & 4 others vs. Peter Njabi Njoroge
21. ELC 49/13 Kyalo Munyao & 7 other vs. Boniface Makau Muia & 3 others
22. ELC 48/13 Ulbanus Kinitha Maingi & 3 others vs. Daniel Musembi Matata & Another
23. ELC 44/13 Serah Muthio Mula vs. John Mwau & 2 other
24. ELC 43/13 Abitare Ltd vs. Sebastian Paul Muinde Kathilu & another
25. ELC 39/13 Stephen M. Musumbi vs. Mutunge Musyoki Nzuma & Another
26. ELC 38/13 Michael Nzivu Kioko & Another (Both suing as the Administrators of the Estate of the Late Solomon Kioko) vs. Musau Munyao & 5 others
27. ELC 36/13 Peninah Njeri Muchai vs. James Kitangie Muna & 3 others
28. ELC 37/13 Thomas M. Mulwa vs. Janet N. Mulwa (Both Suing as the Administrators of the Estate of the Late Peter Mulwa Kithusi)
29. ELC 35/13 Paul Mutua Mutwiwa vs. Kimeu Khumbau & 2 others
30. ELC 34/13 Rose M. Muhindi vs. Ester M. Kyalo
31. ELC 41/13 Jimiya Suleiman vs. Mbukoni Holdings Ltd
32. ELC 27/13 Michael Timothy Kilili vs. Kariuki Mburu
33. ELC 23/13 Lerionka Ole Mammai vs. Daniel Lepilal Mamaai
34. ELC 24/13 Itingu Mwania & another vs. County Council of Kitui & another
35. ELC 25/13 Mary Theresa Olepere & another vs. Pama

- Estate Ltd & another
36. ELC 28/13 Jonah Malika Mueke vs. Cooperative Bank of Kenya Co. Ltd and another
37. ELC 21/13 Joseph Kilonzo Mutua vs. Mr. Raphael Maingi & another
38. ELC 33/13 Francis M. Mutuku vs. Damaris M. Mutyetumo
39. ELC 32/13 Kipentes Ole Orkonee vs. Benson S. Kerina t/a Kerina & Co. Advocates
40. ELC 26/13 Grace Kathesya Mutilu (Sing as the administrator of the Estate of James Mutilu Mulwa) vs. Wambua Musau Kanyange & another
41. ELC 17/13 Mary Njoki Mungai & Another vs. Stavroula Rousal
42. ELC 16/13 Hannah Njambi Kibunyi vs. Dorcas Mumbi
43. ELC 15/13 Philip Nyamasyo Karisi vs. Secretary of the P.T.A Athi Kamunyuni Primary School
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54. ELC 4/13 Pricilla Mutuku & another vs. Francis Thobora Mungai
55. ELC APPEAL 1/13 Shampole Ground Ranch vs. Maa 'O' Leng Ltd
56. ELC 157/11 Fred J. Muzungyo vs. Kenya Railways Corporation
57. ELC 680/11 Komarock Buildings Developments Ltd & 16 others vs. Ministry of Public works & 3 others
58. ELC 37/12 Peter Ndegwa Rutere & another vs. Koteyo Ene Ole Mwiroti & 5 others
59. ELC 1021/12 Peter Muasya Kiiti vs. Aida Muthambi Ndonye & another
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66. ELC 1054/12 Mary Njiri Mukai vs. Suze Co. Ltd
67. ELC CA28/14 Formerly 1056/12 David Mwaniki Kasimu vs. John Muthangya Kasimu and another
68. ELC 1058/12 Abdillahi Kihyungi Ndunga vs. Mutemi Ngonyi Munyoki
69. ELC 1059/12 Francis Gichuri Kinuthis vs. Peter Njoroge Kinuthia

70. ELC 1060/12 Nthenya Muia Mutio vs. John Ndeto Kyalo
71. ELC 1117/2014 Miliio Ole Nkare songoi vs. Commissioner of Lands & 3 others
72. ELC 1036/2014 Nirish Chandulal Shah vs. Kitengela Ltd
73. ELC 966/2014 Mavoko Land Development & Co. Ltd vs. Timothy Kioko Ngui
74. ELC 932/2014 Numerical Machining Complex Ltd vs. Athi Mlolongo Development Co. Ltd
75. ELC 858/2014 Kongoacheke Enterprises Ltd vs. The Attorney General & 2 others
76. ELC 735/2014 Harwa Much Maangi vs. Kimwele Kithoka & 26 Others
77. ELC 488/2014 Francis Mlieka Kimuyu vs. Malili Ranch Ltd
78. ELC 372/2014 Mary Anna Kivuitu vs. Municipal Council of Machakos
79. ELC 223/2014 Esther Kamene Kimantheni and another vs. Chrispus Makau Kiamba
80. ELC 115/2014 C-Eleven Limited vs. Francis Mureithi
81. ELC 1398/2013 Philip Mutiso Makau vs. Headmaster, Tuta Primary School & another
82. ELC 1396/2013 Prof. Julius Wanjohi Mwangi & another vs. Notu Parmereta & Sadima Parmereta
83. ELC 1381/2013 Moses Ndungu Mungai vs. Mutie Willy & Another
84. ELC 1380/2013 Josephine Wambua Githinji vs. Peter Gachenga Kimuhu
85. ELC 1142/2013 Joseph Wambua Mulusya vs. David Kitu aka David Nzioka & Another
86. ELC 719/2013 Peter Kioko Kimeu & others vs. Joseph Macharia Mwnagi & Another
87. ELC 718/2013 Swift Services Ltd vs. Paragon Property Consultant Ltd & 5 others.
88. ELC 53/13 Peter Kitivi Malind vs. Francis Kimeu Mbulu
89. ELC 52/13 Pius Muia Musyoka vs. Mumo Mwanyhi.
90. ELC 51/13 Cleophas Omariba Oyaro & 4 others vs. Peter Njabi Njoroge
91. ELC 49/13 Kyalo Munyao & 7 other vs. Boniface Makau Muia & 3 others.
92. ELC 48/13 Ulbanus Kinyitha Maingi & 3 others vs. Daniel Musembi Matata & Another.
93. ELC 44/13 Serah Muthio Mula vs. John Mwau & 2 other
94. ELC 43/13 Abitare Ltd vs. Sebastian Paul Muinde Kathilu & another
95. ELC 39/13 Stephen M. Musumbi vs. Mutunge Musyoki Nzuma & Another
96. ELC 38/13 Michael Nzivu Kioko & Another (Both suing as the Administrators of the Estate of the Late Solomon Kioko) vs. Musau

97. ELC 36/13 Peninah Njeri Muchai vs. James Kitangie Muna

& 3 others

98. ELC 37/13 Thomas M. Mulwa vs. Janet N. Mulwa (Both

Suing as the Administrators of the Estate of the Late Peter Mulwa Kithusi)

99. ELC 35/13 Paul Mutua Mutwiwa vs. Kimeu Khumbau & 2

others

100. ELC 34/13 Rose M. Muhindi vs. Ester M. Kyalo

101. ELC 41/13 Jimiya Suleiman vs. Mbukoni Holdings Ltd

102. ELC 27/13 Michael Timothy Kilili vs. Kariuki Mburu

103. ELC 23/13 Lerionka Ole Mammai vs. Daniel Lepilal Mamaai

104. ELC 24/13 Itingu Mwania & another vs. County Council of
Kitui & another

105. ELC 25/13 Mary Theresa Olepere & another vs. Pama
Estate Ltd & another

106. ELC 28/13 Jonah Malika Mueke vs. Cooperative Bank of
Kenya Co. Ltd and another

107. ELC 21/13 Joseph Kilonzo Mutua vs. Mr. Raphael Maingi &
another

108. ELC 33/13 Francis M. Mutuku vs. Damaris M. Mutyetumo

109. ELC 32/13 Kipentes Ole Orkonee vs. Benson S. Kerina t/a
Kerina & Co. Advocates

110. ELC 26/13 Grace Kathesya Mutilu (Sing as the
administrator of the Estate of James Mutilu Mulwa) vs. Wambua Musau Kanyange & another

111. ELC 17/13 Mary Njoki Mungai & Another vs. Stavroula
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137. ELC 1060/12 Nthenya Muia Mutio vs. John Ndeto Kyalo

138. ELC 1036/12 Peter Kamau Mutia vs. Komarock Building Development Co. & another

ELC FILES TRANSFERRED TO ENVIRONMENT AND LAND COURT MACHAKOS WITH DATES

ELC Case No. Parties

1. 93/14 Josephine Lunde Matheka (Suit Through her Attorney Mondesater Kemuma Maina vs. Katelembo Athiani Muruti Farming & Ranching Society Ltd and another (Hearing 24th November, 2014)
2. 293/14 Peter Wanjohi Muthee & 3 others vs. Mailua Group Ranch & 3 others (Hearing 23rd September, 2014)
3. 300/14 Gatei Wa Nganda vs. Kaiti Farmers Co. Ltd (Mention 23rd September, 2014)
4. 356/14 Kanko Ole Kelele vs. Karandu Ole Mutunkei (Hearing 5th November, 2014)
5. 579/14 Christopher Lesire Mutunkei vs. Paul Sane Nanapu & 2 others (Mention on 16th September, 2014)
6. 611/14 Anab Mohammed Ali vs. John Njoroge Kimata (Hearing on 4th November, 2014)
7. 617/14 Funguo Enterprises Ltd vs. Kawangware Cinema Ltd (Mention on 23rd September, 2014)
8. 825/14 Wanza Tuta vs. Titus Wambua Ngoloma & 2 others (Mention on 22nd September, 2014)
9. 861/14 Jeremia Karori Ntetuka & 2 others vs. Simon Kungwa Mworira & 4 others (Mention on 29th October, 2014)
10. 167/14 Mailua Estates Ltd vs. Pushan Miato & 5 others (Hearing on 9th December, 2014)
11. 908/14 Presbyterian Foundation Trustees & another vs. Export processing Zone Authority (EPZA) (Mention on 11th November, 2014)
12. 161/14 Patrick Daudi Kimuli vs. Kaelembo Athiani Farmers & Ranching Co. & 4 others (mention on 30th September, 2014)
13. 190/14 The Board of Directors ACK Good Shepherd Academy vs. Simon Joseph Ole Karasha (Hearing on 12th November, 2014)
14. 261/14 Gabriel Njogu & 61 others vs. Serah Katumbi Mulwa & 4 others (Mention on 22nd October, 2014)

15. 292/14 Rotino Farmer Ltd & 4 Others vs. Ezekiel Linaija
(Hearing 25th September, 2014)

16. 956/13 Kamiti Ole Nkangi vs. David Mutuku Kilonzi
(Mention 5th November, 2014)

17. 1074/13 Simon Kalele Nguku vs. Peter Maina Ndegwa &
20 Others (Hearing on 17th September, 2014)

18. 1223/13 Joseph Mosasi & 2 others vs. Kajiado Central
Land Dispute Tribunal & 2 others (Mention on
5th November, 2014)

19. 1328/13 Benso Njeru Muriria vs. Syokimau Farm Ltd
Gilbert Mogera Noru (hearing on 30th October,
2014)

20. 1397/13 Utisi Ltd vs. Helen Kili & 2 others (Mention on
22nd September, 2014)

21. 1395/13 Diesel Car Ltd vs. Megrel Cartons Ltd & 2 others
(Mention on 17th September, 2014)

22. 1399/13 Kayyatta Farmers Co-operation Ltd vs. Dorcas
Muindi & 46 others (Mention on 29th September,
2014)

23. 1379/13 Gibson Ngundu & 3 others vs. Alexander
Mutinda Mwinyi & 2 others (Mention on 14th
October, 2014)

24. 1460/13 Peter Njoroge Nganga vs. Kenya Reinsurance
Corporation Ltd & another (Mention on 21st
October, 2014)

25. 599/13 Robert uli Mayolo vs. Director of Land
adjudication & 4 others (Hearing on 30th
October, 2014)

26. ELC 1436/2013 Charles Makulo Osallo vs. Barclays Bank
of Kenya

27. ELC 47/13 Beatrice Mbwese Mutiso vs. Mata
Wangene Mutiso (16th September, 2014)

28. ELC 46/13 Hon. Johnson Muthama vs. Nicholas
Ngoma Wambua & 6 others (23rd October, 2014)

29. ELC 40/13 Astoral Enterprises Ltd vs. Hassan Abdul
Ramah & another (13th October, 2014)

30. ELC 30/13 Stephen Kyalo Mbuti vs. Charles Makau
& Nzinga Muoki (8th October, 2014)

31. ELC 22/13 Halima Wairimu Ali & Olkejuado County
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65. ELC. APP. NO. 27/14 Daniel Mutegi Vs. Joseph Mugao. (16th September, 2014)

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REPUBLIC OF KENYA
MINISTRY OF HEALTH
PHARMACY AND POISONS BOARD

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PHARMACY AND POISONS BOARD
LENANA ROAD
P.O. Box 27663-00506
NAIROBI

When replying please quote

PPB/LEG/VOL.II/014/(065)

18th August 2014

The Executive Officer
Chief Magistrates Court
Eldoret Law Courts
ELDORET

Dear Sir's

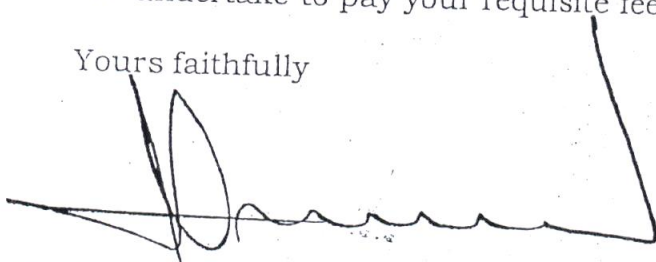
**RE: REPUBLIC Vs NAWAZ GHULAM AND ANOTHER, COURT CASE
NO. 4663 OF 2009**

I refer to the above matter which was conducted on 28th August 2010.

Kindly but urgently favour us with certified copies of the proceedings and the ruling delivered on the 28th August 2010 by Senior Resident Magistrate N. Shiundu.

We undertake to pay your requisite fees (if any).

Yours faithfully


Dr. Kipkerich C. Koskei, OGW
REGISTRAR

MINISTRY OF HEALTH

"MINIHEALTH", Nairobi
Telephone Nairobi 0202717077
Email: psph@health.go.ke
When replying please quote
Ref. No. PPB/PAR/VOL.1/014

AFYA HOUSE
CATHEDRAL ROAD
P O Box 30016
NAIROBI
Date: 21st August, 2014.

The Clerk,
National Assembly,
Parliament Buildings
P.O. Box 41842-00 100,
NAIROBI.

**RE: PETITION TO NATIONAL ASSEMBLY ON IMPORTATION OF SUB-STANDARD
DRUGS**

Reference is hereby made to a letter from National Assembly - Ref. KNA/DCH/CORR/2014(65) dated 13th August, 2014 addressed to the Registrar, Pharmacy and Poison Board on the above matter.

Attached hereby, please find responses on the matter for your perusal and necessary action.



MUSYIMI F. K. CBS

FOR: PRINCIPAL SECRETARY

RESPONSES TO ISSUES RAISED BY THE PARLIAMENTARY HEALTH COMMITTEE IN THEIR LETTER DATED 13TH AUGUST 2014

1.1 Mandate of Pharmacy and Poisons Board.

The Pharmacy and Poisons Act, Cap 244 is an Act of Parliament to make better provision for the Control of the Profession of Pharmacy and trade in drugs and poisons.

The Pharmacy and Poisons Board is established as a body corporate, under the Pharmacy and Poisons Act, Cap 244 Laws of Kenya. The PPB is a pharmaceutical regulatory body within the Ministry of Health.

1.2 Services

The Board offers the following services:

1. Product Evaluation and Registration
2. Evaluation of Applications for Advertisements of Medicines and Medical Devices
3. Ensuring Good Manufacturing Practice (GMP)
4. Registration of Pharmacists
5. Enrolment of Pharmaceutical Technologists
6. Issuance of Annual Practice Licenses
7. Issuance of Annual Permits for Pharmaceutical Representatives
8. Approval of Institutions Offering Pharmacy Training Programmes
9. Approval of Pharmaceutical Imports and Exports
10. Registration of Pharmaceutical Premises/Outlets
11. Pharmacovigilance and Post-Market Surveillance
12. Documentation and Information Services on Medicines and Pharmacy Practice
13. Public relations services for the pharmaceutical sector
14. Inspections, surveillance and enforcement

1.3 Clients

1. Pharmaceutical Manufacturing Companies
2. Pharmaceutical Importers, Exporters, Distributors, Wholesalers, and Retailers
3. Hospitals and Healthcare Providers
4. Researchers
5. Pharmacy Practitioners
6. Universities and Colleges Offering Pharmacy Training
7. Consumers/ the public

1.4 Membership of the Pharmacy and Poisons Board

The Board Members consists of the following:

- (a) Chairman - Director of Medical Services
- (b) Registrar - Chief Pharmacist
- (c) Director of Veterinary Services or Veterinary Surgeon nominated by him.
- (d) Four Pharmacists nominated by the Pharmaceutical Society of Kenya of whom
 - One shall be from the Civil Service
 - One shall be from Community Pharmacy
 - One shall be from the Pharmaceutical Industry
 - One shall be from Hospital Practice
- (e) A representative from the Faculty of Pharmacy University of Nairobi.
- (f) A Pharmaceutical Technologist.

2.0 RESPONSE TO THE PETITION TO PARLIAMENT BY HON. HELLEN CHEPKWONY M.P ON BEHALF OF MR. BARNABAS BARGORIA.

I the Cabinet Secretary, Ministry of Health has read and understood the petition lodged by Hon. Hellen Chepkwony on behalf of Mr. Barnabas Bargoria and wish to state as follows;

THAT the Mandate of the Pharmacy and Poisons Board is to make better provision for the control of the profession of pharmacy and the trade in drugs and poisons as prescribed in the Laws of Kenya, The Pharmacy and Poisons Board Act Cap 244.

THAT I wish to state that there has never been laxity on the part of the Board to perform its legal duty or legal mandate and obligations as mandated by Cap 244 by the Laws of Kenya.

THAT all medicines or pharmaceuticals products manufactured locally or imported into the country must conform to internationally prescribed standards of quality, safety and efficacy for human consumption.

THAT on 2nd June 2009, Mr. Barnabas Bargoria contacted the Board verbally complaining about insulin (*Humulin 70/30*) he purportedly bought in a Eldochem as not being potent. He further claimed that the said drug nearly caused him fatal injury that landed him in hospital. As a result of this complain an investigation was initiated (**Annex 1**).

THAT 1600 vials of Humulin 70/30 batch No. HIM 439 manufactured by ELI LILLY – Switzerland was imported into the country by Statim Pharmaceutical company Nairobi. No other such complains was received in Kenya or around the world.

THAT after his complains the Board took the medicine from him and Eldochem and sent it to the National Control Laboratory for analysis and asked him to come back after 30 days for the results **(Annex 2)**. The medicine was not maintained in cold chain when it was handed over to the officers of the Board by the complainant.

THAT the samples submitted for analysis to NQCL did not comply with the pharmacopeia parameters for assay of Insulin **(Annex 3)**.

THAT the petitioner did not come back to the Board as advised but instead obtained the results from the Laboratory un-procedurally and started engaging directly with Eldochem Pharmacy and Statim Pharmaceutical Company without the knowledge of the Board **(Annex 4)**.

THAT on 10th July 2009, the Board wrote to Statim Pharmaceuticals to recall Humulin 70/30 of the affected batch **(Annex 5)**.

THAT after getting the results from NQCL we understood that the petitioner went to the police and filed a complaint against the purported owners of the chemist.

THAT the Board collected more samples from the quarantined product in the distribution chain, then took them to another WHO prequalified laboratory for analysis. This was to ensure the lives of the unsuspecting Kenyans was not threatened as alleged by the petitioner. The samples collected from quarantined product and distribution chain passed the analysis **(Annex 6)**.

In addition, a certificate of analysis of the same batch No. KIM439 was obtained from the innovator company indicating compliance with the specifications **(Annex 7)**.

This same product has been in the market and is still in the market to date and we have not received any other complaints **(Annex 8)**.

THAT the manufacturing site was further inspected for complies with current PPB and WHO Good Manufacturing Practice requirement (**Annex 9**).

THAT we later received summons to appear in court and the Board sent two officers who appeared three different times but the matter could not proceed as the complainant had not appeared to testify all those times to lay his case to enable other witnesses to testify. The court asked our officers to stay away until further advised.

THAT if the case was ever terminated as alleged by the petitioner we assume it was on the part of the complainant who failed to appear in court whenever our witnesses were present.

THAT further, the allegation by the petitioner that the criminal case filed by the Republic on his behalf was dismissed on 25th May 2010 due to the lack of witnesses from the Board is not correct as the same day an officer from the Board was present in the court to take the witness stand as indicated in the proceedings laid before this Hon. House by the petitioner and could not proceed at the request of the prosecutor for reasons stated in the pleading. The matter was dismissed on the 24th August, 2010 and not as indicated by the petitioner who never attended court all times.

THAT the allegation by the petitioner that there is **no case pending before court**, which is subject matter of petition **is incorrect** as the petitioner filed case No. 309 of 2010 on 6th June 2010 in the High Court of Kenya and served the Board with the pleadings. The Board has since instructed its advocates to respond and the matter is coming for hearing on 23rd September, 2014 (**Annex 10**).

THAT in light of the above explanation, it's clear that the petitioner is not acting in good faith and has failed to give material facts to this Honorable House.

We pray to the Hon. Members to dismiss this petition as we await courts hearing and judgment.

3.0 Preventive Strategies Employed by the Board.

The Board has put in place several measures that are employed to mitigate against the risk of infiltration of substandard, spurious, falsified, falsely labeled, and suspected counterfeit (SSFFC) medicines in the country.

The measures that have been taken included but not limited to:

(a) Ensuring Compliance to Good Manufacturing Practices

This helps to ensure that companies marketing their products in Kenya meet the minimum good manufacturing standards to safe guard the patients. GMP was started in 2010 for all local and foreign manufacturers.

The Good Manufacturing Practices (*GMP*) guidelines are a series of general principles that must be observed during manufacturing. When a manufacturing company is setting up its quality program and manufacturing process, there may be many ways it can fulfill GMP requirements. It is the company's responsibility to determine the most effective and efficient quality process.

During the period July 2013 to 30th June 2014 the Board has done the following GMP inspections:

1. Local Manufacturing companies – a total of 22 companies have been inspected.
2. Foreign Manufacturing companies – a total of 153 companies have been inspected

(b) Development of New Regulation to Align them with the International Best Practices

The Board has revised the application form for the registration of drugs (*Form 1 of Drug Registration rules CAP 244*) and the guidelines, so as to align them with the international trends. The Board has adopted the CTD format for the registration of drugs and applications are done online.

This has helped the Board to better control the quality of drugs being allowed into the country and also to capture all the necessary information for given drugs.

Use of CTD has enabled the Board get access to more information (Post Marketing Surveillance) for use in the tracking of medicines safety in the market.

The Board is an active member and collaborates with the EAC partner states to harmonize drug registration requirements in the region.

The draft repeal of CAP 244 (for products and practice) is currently before the house. The repeal was necessitated by the new health policy, health bill, EAC harmonization and the various conflicting acts in the regulation of medicines and allied products to increase effectiveness and efficiency.

(c) Strengthening Post Marketing Surveillance

1. Training of Health Workers – 10,000 health workers trained.
2. Regular Post Marketing Surveillance – 9 PMS activities conducted since 2010 for Anti-Malarials, ARV, Anti-TBs, Reproductive health products, Cough Syrups, Herbal Reproductive Health products.
3. Cohort Events Monitoring – One for AL (Artemether Lumefantrine)
4. Online Reporting System (PV) – has been running for two years.
5. Electronic E-Shot System – Rapid communication to health care workers across the country.

6. WHO Rapid Alert System – Method of sharing information by WHO to member states on emerging health care issues worldwide.
7. Use of minilabs at ports of entry and regions. Currently there are twelve across country and the Board is targeting 47 counties in the next five years.

(d) Rapid Sequestration, Quarantine and Destruction of Expired and SSFFC Medical Products

1. Officers have been assigned to coordinate sequestrations, quarantine and destructions.
2. Logistical support provided; Vehicle, Driver.
3. Total of 397964Kg products have been destroyed and 148 certificates issued.

(e) Enhance Capacity of Inspectorate

1. 10 regional offices are operational.
2. Adequate staffing - Currently there are sixty (60) inspectors and a request for the redeployment of more inspectors is ongoing in order to increase coverage to all counties.
3. Increasing more ports of entry - The Board has eleven ports of entry that are manned by the inspectors and the Board is planning to increase the five more border points namely:
 - i. Taveta
 - ii. Moyale
 - iii. Mandera
 - iv. Kisumu Airport
 - v. Lokichogio

(f) Use of Electronic Systems

The Board has implemented or enhanced the following systems:

1. Online Retention of medicines for use in Kenya - All medicines from 2014 have been electronically submitted and evaluated for retention.
2. Kenya Electronic Single Window System - Online application of imports and exports of pharmaceutical products from 2014. This is part of the Government effort promote ease of doing business in Kenya.
3. GPS mapping of registered Premises.



Mr. James Macharia
CABINET SECRETARY

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