

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION
PETITION NO. 249 OF 2016

IN THE MATTER OF ARTICLE 22 (1) OF THE CONSTITUTION

-AND-

IN THE MATTER OF THE CONTRAVENTION OF FUNDAMENTAL RIGHTS AND
FREEDOMS UNDER ARTICLE 2, 3, 10, 19, 22, 24, 27, 36, 40, 46 AND 159 OF THE
CONSTITUTION

BETWEEN

BIA TOSHA DISTRIBUTORS LIMITED.....PETITIONER

-VERSUS-

KENYA BREWERIES LIMITED.....1ST RESPONDENT/CONTEMNOR

UDV (KENYA) LIMITED.....2ND RESPONDENT/CONTEMNOR

EAST AFRICAN BREWERIES LIMITED.....3RD RESPONDENT

DIAGEO PLC.....4TH RESPONDENT

-AND-

ANDREW COWAN.....1ST CONTEMNOR/APPLICANT

JANE KARUKU.....2ND CONTEMNOR/APPLICANT

ANDREW KILONZO.....3RD CONTEMNOR/APPLICANT

-AND-

COGNO VENTURES LIMITED.....INTERESTED PARTY

CERTIFICATE OF URGENCY

I, NJOROGE REGERU an Advocate of the High Court of Kenya practising as such as Senior Partner in the firm of NJOROGE REGERU AND COMPANY ADVOCATES which has the conduct of this matter on behalf of the alleged 1st, 2nd and 3rd Contemnors (“the Applicants”) do hereby certify that the Application filed herewith (“the Application”) is extremely urgent meriting to be placed before the Honourable Duty Judge at the earliest possible moment for the following reasons:

1. The Petitioner herein has filed the following Pleadings and/or Documents as against the Applicants and the 1st & Respondents (“the Petitioner’s Applications”): -

- a) Summons to attend Court for Contempt Punishment dated 11th April, 2023; and
 - b) Notice of Motion dated 11th April, 2023 seeking, *inter alia*, contempt damages of Kshs. 1.073 billion to be paid to the Petitioner and further seeking that the Applicants and all the Respondents be denied audience before this Honourable Court.
2. The Petitioner's Applications seek, *inter alia*, to commit the Applicants herein to civil jail for six (6) months for allegedly disobeying Court Orders.
 3. There is a real risk that the Petitioner's Applications may be fixed for hearing any time from now.
 4. On 27th February, 2023, the Applicants herein filed **Nairobi Supreme Court Application Number E006 of 2023 Andrew Kilonzo & 2 others -vs- Bia Tosha Distributors Limited & others ("the Review Application")** seeking, *inter alia*, review of the Supreme Court Judgment delivered on 17th February, 2023 in **Petition 15 of 2020** so that the finding of contempt on the part of the Applicants could be set aside. The Review Application is premised mainly on the ground that the Petitioner herein deliberately concealed material facts from the Supreme Court and misrepresented material facts, thereby misleading the Supreme Court to make a finding of contempt without according the Applicants the opportunity to be heard.
 5. It is the Applicants' case in the Review Application that their inalienable right to be heard as guaranteed under the Constitution of Kenya, 2010 was breached and that the strict legal requirements that must be met before a party could be convicted of contempt of Court were not in fact met in this instance.
 6. All the parties to the Review Application, including the Petitioner, duly responded to the Review Application and as the Petitioner herein admits, what is awaited now is the Supreme Court's decision on the Review Application.
 7. Notably, the Review Application seeks, among other things, an Order staying the very contempt proceedings that the Petitioner has improperly brought before this Honourable Court. This is therefore one of the issues that the Supreme Court has to rule on.

8. Some of the issues which await determination in the Supreme Court are as follows: -
- a) Whether the Supreme Court was misled in making the findings it made on the issue of contempt of Court?
 - b) Whether the Applicants herein were convicted or properly convicted of contempt of Court?
 - c) Whether the Applicants herein were served with the subject Contempt Applications and the Orders they are alleged to have disobeyed?
 - d) Whether contempt proceedings in this High Court Petition ought to be stayed?
 - e) Whether the Applicants ought to be excluded from any findings of contempt of Court as may have been made by the Supreme Court?
9. It would be improper to hear and determine the Petitioner's Applications whilst the issues referred to in paragraphs 8 (a), (b), (c), (d) and (e) above are pending before the Supreme Court.
10. In view of the foregoing, it is clear that the Petitioner's Applications are intended to pre-empt the outcome of the Review Application pending before the Supreme Court and to defeat any decision that the Supreme Court might make pursuant to the said Application.
11. The Petitioner's Applications seek Orders that are both draconian and unwarranted. If granted, such Orders would result in, among other things, the possible loss of personal liberty. If those orders are granted and executed the same cannot be reversed even if the Applicants succeed in the Supreme Court. In contrast, the Petitioner can still prosecute its applications if it succeeds in the Supreme Court, meaning that it will not suffer any prejudice if the orders sought herein are granted. The balance of justice therefore tilts in favour of granting the orders sought.
12. It is manifest therefore that the Petitioner's Applications pending herein have been instituted in bad faith and amount to an abuse of the process of the Court.
13. This Petition is scheduled for mention on **26th April, 2023** for directions on several outstanding matters and it would be critical that directions on this Application be given urgently and before the aforesaid mention date.

14. There is a real and imminent danger of the Applicants being condemned unheard since the Petitioner is pressing on with contempt proceedings, and imprisonment of the Applicants, notwithstanding the pendency of the Supreme Court decision on the Review Application.
15. Unless the Application herein is certified urgent and heard on priority basis, the Application herein will be rendered nugatory and great prejudice thereby occasioned to the Applicants.
16. It is just and proper and in the interest of justice that the Application filed herewith be certified urgent for hearing on priority basis.

DATED at Nairobi this 25th day of April, 2023.

NJOROGE REGERU & COMPANY
ADVOCATES FOR THE 1ST, 2ND & 3RD ALLEGED CONTEMNORS/APPLICANTS

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DIAGEO PLC.....4TH RESPONDENT

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ANDREW COWAN.....1ST CONTEMNOR/APPLICANT

JANE KARUKU.....2ND CONTEMNOR/APPLICANT

ANDREW KILONZO.....3RD CONTEMNOR/APPLICANT

-AND-

COGNO VENTURES LIMITED.....INTERESTED PARTY

NOTICE OF MOTION

(Under Articles 50 and 159 of the Constitution of Kenya 2010, Rule 19 of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013, the Inherent Jurisdiction of the Court and all Enabling provisions of the Law)

TAKE NOTICE that this Honourable Court shall be moved on the day of 2023 at 9.00 O'clock in the forenoon or soon thereafter as Counsel for the 1st, 2nd & 3rd alleged Contemnors ("the Applicants") may be heard on an Application **FOR ORDERS THAT:-**

1. **THAT** on the grounds more specifically set out in the Certificate of Urgency filed herewith, this Application be certified urgent for hearing on priority basis and service thereof be dispensed with in the first instance.
2. **THAT** this Application be heard first and in priority to the Summons to attend Court for Contempt Punishment dated 11th April, 2023 and Notice of Motion dated 11th April, 2023, both filed by the Petitioner herein.
3. **THAT** pending the hearing and determination of this Application *inter partes*, this Honourable Court be pleased to grant a stay of proceedings in respect of the Summons to attend Court for Contempt Punishment dated 11th April, 2023 and Notice of Motion dated 11th April, 2023, both filed by the Petitioner herein.
4. **THAT** pending hearing and determination of **Nairobi Supreme Court Application Number E006 of 2023 Andrew Kilonzo & 2 others -vs- Bia Tosha Distributors Limited & others** filed by the Applicants herein, this Honourable Court be pleased to grant stay of proceedings in respect of the Summons to attend Court for Contempt Punishment dated 11th April, 2023 and Notice of Motion dated 11th April, 2023, both filed by the Petitioner herein.
5. **THAT** the Court make such further and/or alternative Orders/Directions as necessary to not only meet the ends of justice but to safeguard the subject matter of this Application and also of **Nairobi Supreme Court Application Number E006 of 2023**.
6. **THAT** the costs of this Application be awarded to the Applicants against the Petitioner.

WHICH APPLICATION is based on the following **GROUND**S: -

- a) The Petitioner herein has filed the following Pleadings and/or Documents as against the Applicants and the 1st and 2nd Respondents ("**the Petitioner's Applications**"):-
 - i) Summons to attend Court for Contempt Punishment dated 11th April, 2023; and
 - ii) Notice of Motion dated 11th April, 2023.

- b) The Petitioner's Applications seek, *inter alia*, to commit the Applicants herein to civil jail for six (6) months for allegedly disobeying Court Orders. The said Applications **may be fixed for hearing any time from now.**
- c) On 27th February, 2023, the Applicants herein filed **Nairobi Supreme Court Application Number E006 of 2023 Andrew Kilonzo & 2 others -vs- Bia Tosha Distributors Limited & others ("the Review Application")** seeking, *inter alia*, review of the Supreme Court Judgment delivered on 17th February, 2023 in **Petition 15 of 2020** so that the finding of contempt on the part of the Applicants could be set aside. The Review Application is premised mainly on the ground that the Petitioner herein deliberately concealed material facts from the Supreme Court and misrepresented material facts, thereby misleading the Supreme Court to make a finding of contempt without according the Applicants the opportunity to be heard.
- d) It is the Applicants' case in the Review Application that their inalienable right to be heard as guaranteed under the Constitution of Kenya, 2010 was breached and that the strict legal requirements that must be met before a party could be convicted of contempt of Court were not in fact met in this instance.
- e) All the parties to the Review Application, including the Petitioner, duly responded to the Review Application and as the Petitioner herein admits, what is awaited now is the Supreme Court's decision on the Review Application.
- f) Notably, one of the Orders sought by the Applicants in the Review Application is stay of the very contempt proceedings before this Honourable Court. This is therefore one of the issues that the Supreme Court has to rule on.
- g) Some of the issues which await determination in the Supreme Court are as follows: -
- i) Whether the Supreme Court was misled in making the findings it made on the issue of contempt of Court?
 - ii) Whether the Applicants herein were convicted or properly convicted of contempt of Court?

- iii) Whether the Applicants herein were served with the subject Contempt Applications and the Orders they are alleged to have disobeyed?
 - iv) Whether contempt proceedings in this High Court Petition ought to be stayed?
 - v) Whether the Applicants ought to be excluded from any findings of contempt of Court as may have been made by the Supreme Court?
- h) It would be improper to hear and determine the Petitioner's Applications whilst the issues referred to in paragraphs g(i), (ii), (iii), (iv) and (v) above are pending before the Supreme Court.
- i) In view of the foregoing, it is clear that the Petitioner's Applications referred to in (a) (i) and (ii) above are intended to pre-empt the outcome of the Review Application pending before the Supreme Court and to possibly defeat any decision that the Supreme Court might make pursuant to the said Application.
- j) It is manifest therefore that the Application pending herein brought by the Petitioner have been instituted in bad faith and amount to an abuse of the process of the Court.
- k) This Petition is scheduled for mention on 26th April, 2023 for directions on several outstanding matters and it would be critical that directions on this Application be given urgently and before the aforesaid mention date.
- l) There is a real and imminent danger of the Applicants being condemned unheard since the Petitioner is pressing on with contempt proceedings, and imprisonment of the Applicants, notwithstanding the pendency of the Supreme Court decision on the Review Application.
- m) Unless the Application herein is certified urgent and heard on priority basis, the Application herein will be rendered nugatory and great prejudice thereby occasioned to the Applicants.
- n) It is just and proper and in the interest of justice that the Application filed herewith be certified urgent for hearing on priority basis.
- o) The Petitioner is abusing the Court process by using the threat of contempt of Court to harass, vex, intimidate and extort the Applicants.

- p) Granting the orders sought in this Application will not prejudice the Petitioners in any way.
- q) Granting this Application will enable the Court to meet its overriding objective of doing justice fairly, affordably and expeditiously.

AND WHICH APPLICATION is supported by the Supporting Affidavit of **ANDREW KILONZO** attached hereto and on such further grounds, reasons and arguments as shall be adduced at the hearing hereof.

DATED at Nairobi this 25th day of April, 2023.

NJOROGE REGERU & COMPANY
ADVOCATES FOR THE 1ST, 2ND & 3RD ALLEGED CONTEMNORS/APPLICANTS

DRAWN & FILED BY: -

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ANDREW KILONZO.....3RD CONTEMNOR/APPLICANT

-AND-

COGNO VENTURES LIMITED..... INTERESTED PARTY

SUPPORTING AFFIDAVIT

I, **ANDREW KILONZO**, a resident of Uganda and of Post Office Box Number 7130, Plot 3-17

Port Bell Luzira, Kampala, Uganda do hereby make oath and state as follows: -

1. **THAT** I am the 3rd alleged Contemnor/Applicant in this matter and I am well versed with the facts arising in the Application herein. Being duly authorized by the 1st and 2nd alleged Contemnors/ Applicants, I am competent to swear this Affidavit on my own behalf and on their behalf.

Attached hereto and marked AK-1 is a bundle of documents which the 1st, 2nd and 3rd alleged Contemnors/Applicants (“the Applicants”) rely on.

The 1st and 2nd Applicants’ respective Authorities to Plead and Swear Affidavit granted to me are at pages 1-2 and 3-4 of annexure “AK-1” hereto

2. **THAT** it has come to my attention and that of the 2nd and 3rd Applicants that the Petitioner herein has filed the following Pleadings and/or Documents as against the Applicants, and the 1st & 2nd Respondents: -

- a) Summons to attend Court for Contempt Punishment dated 11th April, 2023; and
- b) Notice of Motion dated 11th April, 2023.

The said Summons and Notice of Motion are hereinafter collectively referred to as “**the Petitioner’s Applications.**”

3. **THAT** I hasten to add that the Applicants have not been served with the Petitioner’s Applications. In fact, on their face the Petitioner’s Applications do not indicate that they are intended to be served upon the Applicants.
4. **THAT** it is a matter of grave concern that whilst the Petitioner is seeking drastic Orders for imprisonment of the Applicants for a period of six (6) months, the Petitioner’s Applications are not intended to be served upon the Applicants and in fact the same have not been served upon the Applicants to-date.
5. **THAT** upon perusal of some of the pleadings filed in these proceedings, I note that the Petition herein was filed in 2016. However, the same was not served upon the Applicants at that time and has not been so served to date.
6. **THAT** in the same year 2016, the Petitioner filed an Application for contempt of Court before this Court but failed to serve the same upon the Applicants. That failure to serve the Applicants with Applications/Pleadings relating to contempt of Court was repeated in the Court of Appeal and in the Supreme Court.

7. **THAT** to-date the Applicants have not been served with any of the contempt Applications filed in this Honourable Court, in the Court of Appeal and in the Supreme Court, yet the extremely serious charge of contempt of Court is made against the Applicants and orders for their imprisonment sought.
8. **THAT** on 17th February, 2023, the Supreme Court delivered its Judgment in **Petition Number 15 of 2020 Bia Tosha Distributors Limited -vs- Kenya Breweries Limited & 6 others**. Vide the said Judgment, the Supreme Court made the following Orders:-

“UPON CONSIDERING both oral and written submissions by the Counsel for the Appellants and the Respondents;

IT IS HEREBY ORDERED: -

1)THAT the appeal dated 20th August 2020 be and is hereby allowed;

2)THAT the judgment and orders of the Court of Appeal in Civil Appeal No. 163 of 2016 delivered on the 10th July 2020 be and are hereby set aside in entirety;

3) THAT the High Court orders of 29th June, 2016 be and are hereby reinstated and the Court do consider the consequences of any disobedience of those orders;

4)THAT the matter be and is hereby remitted to the High Court for disposal of the Amended Petition dated 20th June 2016 pending before the High Court on priority basis; considering the age of this matter;

5) THAT costs in the Court of Appeal and in this Court are awarded to the appellant as against the 1st and 2nd respondents.”

A copy of the extracted Order of the Supreme Court Judgment issued on 21st March, 2023 is at pages 5-6 of annexure “AK-1” hereto

9. **THAT** in view of the foregoing I am advised by the Applicants’ Advocates on record, which advice I verily believe to be sound, that the Applicants’ inalienable right to be heard as guaranteed under the Constitution of Kenya, 2010 has been breached and continues to be breached and that the strict legal requirements that must be met before a finding of contempt can be made against a party were not in fact met in this instance.

10. **THAT** apprehensive that the Petitioner might seek to summon the three (3) Applicants to the High Court for sentencing in respect of the Contempt of Court, the said Applicants filed an Application for review of the findings in the body of the Judgment of the Supreme Court Judgment, namely, **Nairobi Supreme Court Application Number E006 of 2023 Andrew Kilonzo & 2 others -vs- Bia Tosha Distributors Limited & others (“the Review Application”)**.
11. **THAT** vide the Review Application, the Applicants contended that the Petitioner herein had concealed material facts from the Supreme Court and misrepresented material facts thereby leading the Supreme Court to make a finding of contempt without according the Applicants an opportunity to be heard. In particular, the Petitioner concealed the following: -
- (a) It was not disclosed to the Supreme Court that the Applicants herein have never been served with the Contempt Applications as filed before the High Court and the Court of Appeal;
 - (b) The Orders alleged to have been disobeyed were never served upon the Applicants, a fact which was not disclosed to the Court
 - (c) It was not disclosed to the Court that the Applicants herein were never served with a Notice of Penal Consequences as mandatorily required under the law.
 - (d) Vide the Amended Petition herein, the Petitioner sought to serve two of the Applicants herein by substituted service by advertisement in a daily newspaper. I am advised by the Applicants’ Advocates on record, which advice I verily believe to be sound, that this was an explicit acknowledgment by the Petitioner that there was a strict legal requirement that key personnel of the 1st, 2nd, 3rd and 4th Respondents, including two of the Applicants herein be served with Court process. This buttresses the Applicants’ assertion that they were never served with the orders they were thereafter accused of disobeying. Again, this acknowledgment by the Petitioner was concealed from the Court.
 - (e) Before the High Court the question of non-service of the Applicants had been raised by some parties and had not been responded to by the Petitioner herein, another fact which was concealed from the Supreme Court.

- (f) The Court of Appeal's *status quo* Order has never been served upon the Applicants herein.
- (g) The Contempt of Court Application filed in the Court of Appeal was never served upon the Applicants.
- (h) The Supreme Court Pleadings and Documents, namely, Notice of Appeal, Petition of Appeal, Record of Appeal and Submissions were never served upon the Applicants.
- (i) The Applicants were never served with notice of hearing of the Petition of Appeal before the Supreme Court.

A copy of the Review Application is at pages 7-60 of annexure "AK-1" hereto

12. **THAT** in its response to the Review Application, the Petitioner took the position that the Supreme Court's findings of contempt were not directed against the Applicants herein and that the Applicants' Review Application was unnecessary.

Copies of other Pleadings filed in the Review Application are at pages 61-186 of annexure "AK-1" hereto

A copy of the Replying Affidavit sworn by Ms Anne-Marie Burugu on 5th March, 2023, on behalf of the Petitioner herein, is at pages 116-131 of annexure "AK-1" hereto

13. **THAT** in an apparently dishonest maneuver, the Petitioner has now sought to have the Applicants herein punished personally despite the Petitioner's Submissions before the Supreme Court to the effect that the Applicants herein had not been found guilty of contempt personally.
14. **THAT** in view of the contradicting positions taken by the Petitioner in the Supreme Court and before this Honourable Court it is patently clear that the Petitioner intends to put this Honourable Court in an awkward situation if it proceeds to determine contempt proceedings against the Applicants herein before the Supreme Court has given its decision in the Review Application.
15. **THAT** the Review Application, which was certified as urgent by the Supreme Court has been fully argued through written submissions filed by all the parties. The Supreme Court has already

directed that it will deliver its ruling on notice meaning that the court is in the process of preparing its Ruling which may be delivered any time from now.

A copy of the directions given by the Supreme Court are at pages 187 of annexure AK-1 hereto.

16. **THAT** I am advised by the Applicants' Advocates on record, which advice I verily believe to be sound, that some of the issues which await determination in the Supreme Court are as follows: -
- a) Whether the Supreme Court was misled in making the findings it made on the issue of contempt of Court?
 - b) Whether the Applicants herein were convicted or properly convicted of contempt of Court?
 - c) Whether the Applicants herein were served with the subject Contempt Applications and the Orders they are alleged to have disobeyed?
 - d) Whether contempt proceedings in this High Court Petition ought to be stayed?
 - e) Whether the Applicants ought to be excluded from any findings of contempt of Court as may have been made by the Supreme Court?
17. **THAT** I am further advised by the Applicants' Advocates on record, which advice I verily believe to be sound, that it would be improper to hear and determine the Petitioner's Applications whilst the issues referred to in paragraphs 16 (a), (b), (c), (d) and (e) above are pending before the Supreme Court.
18. **THAT** I am advised by the Applicants' Advocates on record, which advice I verily believe to be sound, that in view of the foregoing paragraph, it is only reasonable that the Court awaits the Ruling of the Supreme Court on the Review Application before this Court considers the Petitioner's Applications.
19. **THAT** I am aware that the Petitioner herein has filed a Contempt of Court Application before the Supreme Court in **Nairobi Supreme Court Application Number E012 of 2023 Bia Tosha Distributors Limited -vs- Kenya Breweries Limited & others ("the Petitioner's Supreme Court Application")** where the Petitioner seeks, *inter alia*, the following orders against the Applicants, all the Respondents and other parties:

- a) Contempt damages of Kenya Shillings 1.073 Billion to be paid to the Petitioner;
- b) That the Applicants and all the Respondents be denied audience before ALL Courts in Kenya.
- c) Imprisonment of the Applicants and officials of all the Respondents for a term not exceeding 6 months.
- d) That the Applicants and all the Respondents be fined over Kenya Shillings 39 Billion.

20. **THAT** I am advised by the Applicants' Advocates on record, which advice I verily believe to be sound, that the issues raised in the Petitioner's Applications before this Court are virtually identical to the issues raised in the Petitioner's Supreme Court Application, hence duplication of proceedings with a view to harassing, vexing, intimidating and extorting the Applicants.

Copies of Pleadings filed by various parties to the Petitioner's Supreme Court Application are at pages 188-433 of annexure "AK-1" hereto

21. **THAT** I am advised by the Applicants' Advocates on record, which advice I verily believe to be sound, that the Petitioner is abusing the Court process by using the threat of contempt of Court to harass, intimidate and extort the Applicants. The multiple proceedings instituted by the Petitioner against the Applicants in different Courts are an affront to the fair, just and orderly administration of justice.

22. **THAT** in view of the foregoing, and considering the Petitioner's admission aforesaid, there is a possibility that the Supreme Court may review its Judgment and rule that its findings of contempt were not directed at the Applicants herein, personally.

23. **THAT** the Applicants herein would be prejudiced immensely if the Contempt Proceedings herein are allowed to proceed and punishment by incarceration possibly meted against the Applicants only for the Supreme Court to exonerate them thereafter. In the event the Applicants would suffer grave and irreversible injustice.

24. THAT in view of the foregoing, it is clear that the Petitioner's Applications are brought in bad faith and are intended to pre-empt the outcome of the Review Application and to possibly defeat any decision that the Supreme Court might make pursuant to the said Review Application.
25. THAT granting the Orders sought in this Application will not prejudice the Petitioners in any way.
26. THAT granting this Application will enable the Court to meet its overriding objective of doing justice fairly, affordably and expeditiously.
27. THAT I now swear this Affidavit in support of the Application filed herewith seeking, principally, stay of contempt of Court proceedings.
28. THAT all that which is stated herein-above is true to the best of my knowledge save as to information sources whereof are disclosed and matters deponed to on belief grounds whereof are given.

Sworn at Kampala, Uganda by the said
ANDREW KILONZO

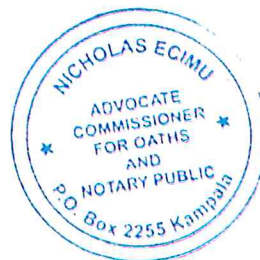
This 25th day of April, 2023

BEFORE ME

COMMISSIONER FOR OATHS/
NOTARY PUBLIC


Deponent





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This is the exhibit marked: AK1
referred to in the annexed affidavit of ANDREW KIHORO
Sworn/declared before me this 25
day of APRIL 2023
at: KAMPALA
COMMISSIONER FOR OATHS / NOTARY PUBLIC



Annexure

AK-1

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-VERSUS-

KENYA BREWERIES LIMITED.....1ST RESPONDENT/CONTEMNOR
UDV (KENYA) LIMITED.....2ND RESPONDENT/CONTEMNOR
EAST AFRICAN BREWERIES LIMITED.....3RD RESPONDENT
DIAGEO PLC.....4TH RESPONDENT

-AND-

ANDREW COWAN.....1ST CONTEMNOR
JANE KARUKU.....2ND CONTEMNOR
ANDREW KILONZO.....3RD CONTEMNOR

-AND-

COGNO VENTURES LIMITED..... INTERESTED PARTY

AUTHORITY TO PLEAD & SWEAR AFFIDAVIT

I, **ANDREW DAVID COWAN** holder of British Passport Number 548498943 and of 16 Great Marlborough Street London W1F 711S the cited 1st Contemnor in the Petitioner's Notice of Motion dated 11th April, 2023 do hereby authorize **MR. ANDREW KILONZO** of Post Office Box Number 7130 Kampala in the Republic of Uganda, to plead, swear Affidavits, sign documents, appear and/ or act on my behalf in respect of any matter in these proceedings as may be necessary.

Sworn and Signed at

20 Corkran Road,

Surbiton KT6 6PN, England

by the said **ANDREW DAVID COWAN**

This 21st day of April 2023

BEFORE ME

KALINA VENTSISLAVOVA MILAKIEVA
Notary Public of London, England



DRAWN & FILED BY:

Njoroge Regent & Company
Advocates

Arbor House Arboretum Drive

P.O Box 46971-00100

Nairobi

Tel: 0722 206 884/0733 608 141

Email: thuo@njorogeregenu.com / info@njorogeregenu.com

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION
PETITION NO. 249 OF 2016

BIA TOSHA DISTRIBUTORS LIMITED.....PETITIONER

-VERSUS-

KENYA BREWERIES LIMITED.....1ST RESPONDENT/CONTEMNOR

UDV (KENYA) LIMITED.....2ND RESPONDENT/CONTEMNOR

EAST AFRICAN BREWERIES LIMITED.....3RD RESPONDENT

DIAGEO PLC.....4TH RESPONDENT

-AND-

ANDREW COWAN.....1ST CONTEMNOR

JANE KARUKU.....2ND CONTEMNOR

ANDREW KILONZO.....3RD CONTEMNOR

-AND-

COGNO VENTURES LIMITEDINTERESTED PARTY

AUTHORITY TO PLEAD AND SWEAR AFFIDAVIT

I, **JANE KARUKU** of Identification Number 3367492 and Post Office Box Number 30161-00100 the cited 2nd Contemnor in the Petitioner's Notice of Motion dated 11th April, 2023 do hereby authorize **MR. ANDREW KILONZO** of Post Office Box Number 7130 Kampala in the Republic of Uganda, to plead, swear Affidavits, sign documents, appear and/ or act on my behalf in respect of any matter in these proceedings as may be necessary.

Signed at Nairobi by the said

JANE KARUKU

This 24th day of April, 2023

BEFORE ME



COMMISSIONER FOR OATHS/

NOTARY PUBLIC

DRAWN & FILED BY:

Njoroge Regevu & Company
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