

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MOMBASA**  
**COMMERCIAL & ADMIRALTY DIVISION**  
**COMMERCIAL CASE NO E068 OF 2022**

EVANS MURUMBA WEKESA.....APPLICANT/ INTENDED INTRESTED PARTY  
VERSUS  
NEW MEGA AFRICA LTD.....PLAINTIFF/APPLICANT  
VERSUS  
ABSA BANK KENYA PLC.....DEFENDANT/RESPONDENT

**CERTIFICATE OF URGENCY**

I **EUGENE WANGILA**, an Advocate of the High Court of Kenya practicing as such in the name and style of Wangila & Wangila Advocates and having the conduct of this matter on behalf of the Applicant do hereby certify this application as extremely urgent for reasons that there exists real danger that the matter is scheduled for further hearing on 17<sup>th</sup> January, 2023. There is inherent risk that the court may proceed with the suit without the Applicant/ Intended interested party being heard despite being mentioned adversely in the main suit. Nonetheless the applicant intends to come on record as an interested party so as to set aside the aspersions and allegations that have been insinuated upon the Applicant whose business/political image stands to be tainted by virtue of these proceedings. Should he not be enjoined as an interested party to clear his name, the same shall have an effect in his civic and political life which will eventually taint his reputation. It is therefore in the interest of justice that this application be allowed.

DATED at Mombasa this.....6<sup>th</sup>.....day of.....December.....2023



WANGILA & WANGILA ADVOCATES  
**ADVOCATES FOR THE APPLICANT/INTENDED INTERESTED PARTY**

**DRAWN & FILED BY:-**

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**NOTICE OF MOTION**

**(Under order 1 Rule 10 of the Civil Procedure Rules, Article 49 and 50 of the Constitution and all other enabling provisions of the Law)**

TAKE NOTICE that this Honorable Court will be moved on the.....day of .....2023 at 9.00 o'clock in the forenoon or so soon thereafter so as the Counsel for the Plaintiff/Applicant may be heard on an application for **ORDERS THAT:**

1. **THAT** This Application be certified as urgent and the same be fixed for hearing on priority basis.
2. **THAT** this Honorable Court grant leave to the Applicant /intended interested party herein Mr. Evans Murumba Wekesa to be enjoined as an interested party to this suit.
3. **THAT** upon being enjoined leave be granted to the applicant/intended interested party herein to file any pleadings and submissions in this matter.
4. **THAT** costs of this application be provided for.

**WHICH APPLICATION** is based on the grounds **THAT:**

1. The intended interested party (hereinafter the applicant) was an employee of the Defendant holding the capacity of Sector head in charge of Business Banking Coast Region Absa Bank PLC from 2019 to 2022.
2. He resigned from his employment to pursue his political aspirations in Bungoma County.

3. The plaintiff filed an application seeking for remedies before this Honourable Court by virtue of the defendant's breaching the client confidentiality principle hence incapacitating his business greatly.
4. The Plaintiff in his application has made grievous allegations that are all over social media and the same has been published.
5. The same allegations have been brought to court vide the supporting affidavit of the plaintiffs application
6. The matter has been fixed for further hearing on 17<sup>th</sup> January, 2023. There is therefore inherent risk that the court may proceed with the suit without the Applicant/ Intended interested party being heard despite being mentioned adversely in the main suit.
7. The Applicant intends to come on record as an interested party so as to set aside the aspersions and allegations that have been insinuated upon him whose business/political image stands to be tainted by virtue of these proceedings.
8. Should he not be enjoined as an interested party to clear his name, the same shall have an effect in his civic and political life which will eventually taint his reputation. It is therefore in the interest of justice that this application be allowed.
9. Therefore, it is prudent for this Honourable court to enjoin the Intended Interested party so as to shed light in the proceedings and ultimately clear his name before the court retiring to proceed with the suit.
10. The interested party has been actively involved in the preparation of several documents that are meant to be used as the Plaintiff and Defendant's list of documents and therefore prudent to be enjoined to verify the veracity of the documents and statements.
11. It is in the interest of justice that this honorable court allows this application as prayed.

DATED at Mombasa this.....6<sup>th</sup>.....day of.....December.....2023



**WANGILA & WANGILA ADVOCATES**

**ADVOCATES FOR THE APPLICANT/INTENDED INTERESTED PARTY.**

**DRAWN & FILED BY:-**

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YUSUF ALI MANSION 1<sup>ST</sup> FLOOR,  
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**Note: "If any party served does not appear at the time and place above mentioned, such orders will be made and proceedings taken as the Court may think just and expedient."**

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**VERSUS**

**NEW MEGA AFRICA LTD.....PLAINTIFF/APPLICANT**

**VERSUS**

**ABSA BANK PLC..... DEFENDANT/RESPONDENT**

**SUPPORTING AFFIDAVIT**

I, **EVANS MURUMBA WEKESA**, residing at Mombasa and Post Office Box Number 95475-80106, Mombasa hereby make oath and state as follows:)

1. **THAT** I was an employee of the Defendant holding the capacity of Sector head in charge of Business Banking Coast Region Absa Bank PLC.
2. **THAT** I resigned from employment to pursue political aspirations in Bungoma County.
3. **THAT** I am aware that the plaintiff filed an application seeking for remedies before this Honourable Court by virtue of the defendant's breaching the client confidentiality principle hence incapacitating his business greatly.
4. **THAT** I am also aware that the Plaintiff in his application has made grievous allegations against me that are all over social media and the same has been published. **(See annexure marked EMW-1)**
5. **THAT** the same allegations have been brought to court vide the supporting affidavit of the plaintiff's witness statement dated 28<sup>th</sup> July, 2023.
6. **THAT** the Plaintiff's suit has been fixed for further hearing on 17<sup>th</sup> January, 2023. There is therefore inherent risk that the court may proceed with the suit without being heard despite being mentioned adversely in the main suit.

7. **THAT** I intend to come on record as an interested party so as to rebutt the aspersions and allegations that have been insinuated upon me since my business/political image stands to be tainted by virtue of these proceedings.
8. **THAT** I have prepared a draft replying affidavit to reply to the said defamatory allegations. *(See Annexure marked EWM-2)*
9. **THAT** in the event I am not be enjoined as an interested party to clear my name, the same shall have an effect in my civic and political life which will eventually taint my reputation.
10. **THAT** it is therefore prudent that this Honourable court enjoins me as an interested party so as to shed light in the proceedings and ultimately clear my name before the court retiring to proceed with the suit.
11. **THAT** I have been actively involved in the preparation of several documents that are meant to be used as the Plaintiff and Defendant's list of documents and therefore prudent to be enjoined to verify the veracity of the documents and statements.
12. **THAT** is in the interest of justice that this honorable court allows this application as prayed.
13. **THAT** what is deponed to hereinabove is true to the best of my knowledge save to matters deponed to on information sources whereof have been disclosed and matters deponed to on belief, whereupon the grounds have been given.

SWORN at MOMBASA by the said  
EVANS MURUMBA WEKESA  
This 6<sup>th</sup> day of December 2023

BEFORE ME:

R. LUGHANJE ADVOCATE  
& Commissioner for Oaths  
P.O. Box 2311-80100  
MOMBASA

COMMISSIONER FOR OATHS



DEPONENT

NEWS

# Absa Bank employees accused of Manipulation, Extortion, and Blackmail against New Mega Africa Boss David Abai

3 months ago Zowan Fayzan

Court records presented to the High Court have brought to light how **David Abai**, the head of **New Mega Africa Limited**, was subjected to frustration and coerced into paying money.

These revelations depict a scenario wherein **Absa Bank** Mombasa employees pushed Mr. Abai to his limits while he was grappling with rescuing his business from financial distress caused by the bank's management.



Absa Bank Mombasa Branch: A den of crime

This is the exhibit marked **EKM-1**  
 Referred to in the Annexed Affidavit Statutory  
 Declaration of **Evans Wekeru Mwendu**  
 Sworn Declared before me at Mombasa  
 this **6<sup>th</sup>** Day of **Dec** 20 **23**  
 Commissioner for Courts

The court document reveals that New Mega Africa Limited, a prominent transport company in the East African Region, found itself in dire straits due to financial constraints caused by the actions of Absa Bank.

According to court documents filed in July by Mr. Abai's legal representative, Kirui Kamwibua, a sequence of events unfolds from the moment of Abai's initial interaction with the bank, detailing the deterioration of relations between the two parties.

Startling revelations have emerged involving transactions via M-PESA, some directed to bank staff and even their family members.

These transactions were termed as 'facilitation' fees, requested by Abai when seeking assistance for loan restructuring and other interventions crucial to salvaging his business.

The bank's association with New Mega Africa began on a positive note, during a period when the transport firm was financially sound, had a good history of servicing facilities with other banks, and maintained a positive credit score with the CRB.

Abai affirms that the turning point came when his primary contacts at the bank, Wycliffe Makori, the Relationship Manager, and Evans Murumba, the Head of Commercial for the Coast region, began exhibiting peculiar behavior and engaging in psychological tactics when he sought access to an invoice discounting facility

... YOU'RE REQUESTING THE DISBURSEMENT OF THE FACILITY IN THE JOURNAL INDICATED IN THE CHECK BELOW, BUT THE BANK STAFF THOUGHT THEY SHOULD INCLUDE THE BANK MEMBERSHIP, AS

described the situation.

Various excuses were offered, citing absent approvers, technical glitches, and lengthy queues.

However, Abai was unaware that this marked the beginning of a prolonged ordeal of extortion, manipulation, and deceit, eventually leading to legal proceedings.

The invoice discounting facility was designed to provide funds for fuel and operating expenses during a time when many businesses faced challenges.

During this phase, the company encountered missed schedules and contract cancellations due to delivery delays, further exacerbating its difficulties.

Simultaneously, Absa staff members devised strategies to corner Abai, coercing him into offering requested sums if he sought their assistance.

Documents obtained reveal a series of M-PESA transactions and bank transfers occurring whenever Abai attempted to withdraw funds, with certain amounts also paid in cash.

In instances when Abai could not immediately fulfill their demands, the bank would credit his account but withhold access until he complied with their kickback requests.

Abai's complaints to higher bank authorities often went unanswered.

#### Contents [hide]

[1 READ ALSO: Absa Kenya officials want me Dead! — New Mega Africa Director David Abai Reveals](#)

[2 READ ALSO: Mysterious Deaths, Money Laundering, Sex Scandals: The Intriguing Saga of Absa Kenya's Demise](#)

[3 Share this:](#)

### **READ ALSO: Absa Kenya officials want me Dead! — New Mega Africa Director David Abai Reveals**

Before disbursing loans to New Mega Africa or its clients, they compelled Abai to pay Absa staff members varying amounts, ranging from Ksh 2,000 to 500,000, depending on the circumstances.

The staff even boldly demanded that Abai contribute to an insurance jointly registered under the bank's and an employee's name.

They also insisted he transfer money to Makori's wife.

Efforts to seek help from Regional Manager Doufold Odanga and Branch Manager Mwangi Macharia proved futile.

These payments were supposedly connected to loan disbursement facilitation:

- Makori's wife, Evelyn Essendi, reportedly received Ksh 100,000 via MPESA on April 24, 2020, to facilitate a Sh3 million disbursement.
- Makori received Ksh 40,000 on November 27, 2022, for the release of Ksh 5,550,555.
- Murumba received Ksh 100,000 on November 13, 2020, for the release of Ksh 5,376,147.
- Murumba's wife received Ksh 500,000 for the release of Ksh 36 million.

As the situation unfolded, Abai's company faced further distress as confidential information was shared with third parties and customers, who subsequently furnished him with incriminating emails detailing his company's compromised financial state.

Despite reporting the matter to Evans Murumba and Sophie Omondi, no resolution was achieved.

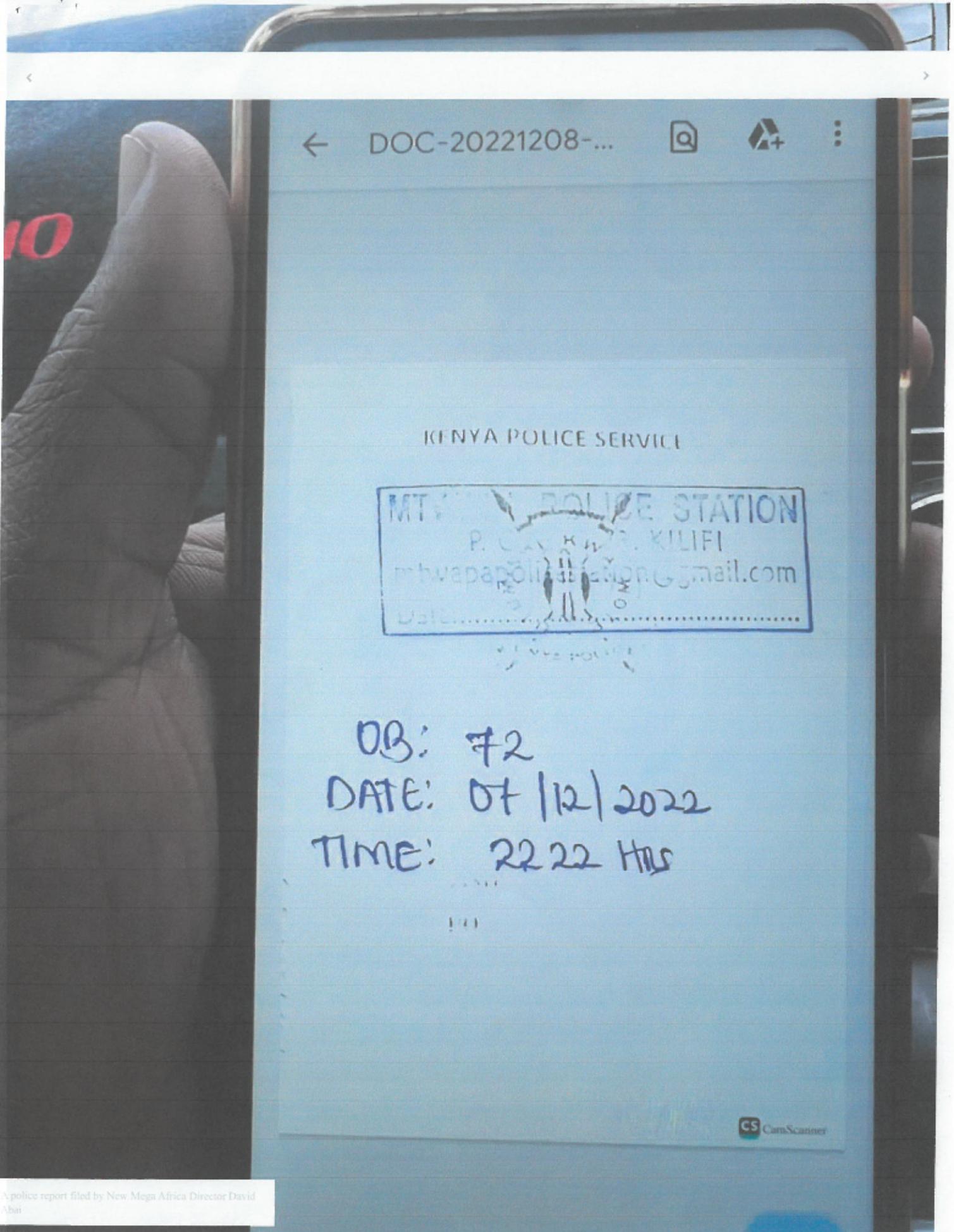
An email apology from Sophie offered little solace, as the implicated employee had surprisingly been promoted.

**READ ALSO: Mysterious Deaths, Money Laundering, Sex Scandals: The Intriguing Saga of Absa Kenya's Demise**



Macharia, have been dismissed due to the ongoing New Mega Africa controversy.

As the legal proceedings continue, it remains to be seen how the court will interpret the evidence and deliver its verdict on the matter.



← DOC-20221208-...

KENYA POLICE SERVICE

MTWAPA POLICE STATION  
P. O. BOX 113, KILIFI  
mbwapapoli@kenya.gov.ke  
Date: .....

OB: 72  
DATE: 07/12/2022  
TIME: 22:22 Hrs

CS CamScanner

A police report filed by New Mega Africa Director David Abai

The case highlights the importance of ethical conduct within the banking sector and the need for mechanisms to address such issues transparently and effectively.

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**NEW MEGA AFRICA LIMITED.....PLAINTIFF**

**=VERSUS=**

**ABSA BANK KENYA PLC.....DEFENDANT**

**PLAINTIFF'S FURTHER WITNESS STATEMENT**

My name is David Omusala  
Page 1 / 5  
further statement.

rein and wish to make this

Tags Absa Bank Absa Bank Employees Absa Bank Mombasa David Abai New Mega Africa Wycliffe Makori

About the author



**Zowan Fayzan**

Zowan Fayzan is a seasoned blogger specializing in news, entertainment, and celebrity biographies. With an informative and engaging writing style, he offers readers an inside look at the lives of the rich and famous.

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**ABSA BANK PLC.....DEFENDANT/RESPONDENT**

**DRAFT REPLYING AFFIDAVIT**

I, Evans Murumba, of P.O.BOX 83821-80100 Mombasa, ID no. 11656639 a male adult Kenyan of sound mind residing and **engaging in** business for gain within the Republic of Kenya, and a former employee of the Defendant **do hereby** make a solemn oath and state as follows;

1. **THAT** I am a former employee of the defendant having had an employment contract with them between April 2019 to June 2022 when I tendered my resignation to venture into political interests. While in the course of my employment at the Defendant, my duties included but were not limited to overseeing the Bank / Client relationship with clients and as such I have had several engagements with the Plaintiff as the Defendant's Sector Head, Coast Region. I am therefore competent to swear this affidavit by virtue of the said relationship.
2. **THAT** I am conversant with the contents of the of the Plaintiff's suit against the Defendant in which I have been widely mentioned and which has greatly impacted my image in the outside realm.
3. **THAT** I am aggrieved by the malicious allegations made in the suit gravely casting aspersions on my character, integrity and professionalism.

This is the exhibit marked\* EMW-2  
Referred to in the Annexed Affidavit Statutory  
Declaration of Evans Wokers Murumba  
Sworn, Declared before me at Mombasa  
this 6<sup>th</sup> Day of Dec 2022  
.....  
Commissioner For Oath

4. **THAT** I was employed by the Defendant on the 1<sup>st</sup> April, 2019 as Sector Head, Business Banking and part of my job was to seek new bank clients while also managing existing ones through a team of bankers directly reporting to me.
5. **THAT** in the course of my duty, I sought to convince the Plaintiff to commence a banking relationship with the Defendant, during which various credit facilities amounting to Kshs. 72,000,000/= which was advanced to the Plaintiff based on my recommendation.
6. **THAT** prior to being employed the Defendant, I had known the Plaintiff from my previous employment with Stanbic Bank where the Plaintiff was a very good customer. The Director, Mr. David Abai is also well known to me owing to the extensive relationship that existed between the Plaintiff and Stanbic Bank.
7. **THAT** during my tenure in employment with the Defendant, the Plaintiff operated its credit facilities very well to the satisfaction that on various dates, additional credit facilities were recommended and offered.
8. **THAT** at the height of Covid 19, in January – February 2020, the Plaintiff was having a lot of transportation work of clinker to Tororo cement Uganda for Mombasa Cement sister company Tororo who had contracted the client and even gave him 11trucks on a lease to own basis. Upon the increase of the fleet, the plaintiff wrote to the Defendant informing him of the extra need and how they were planning to handle the new growth in business. This was well within the collateral provided since it was more than adequate to accommodate the facility.
9. **THAT** at this time the plaintiff had a bank guarantee line in favour of Premium energy for KES 5Million. Unfortunately, he had been able to draw down the guarantee since there had been a change in payment period by Tororo cement from 7-14 to 45-60 days which premium energy was not agreeable to. He returned the guarantee to the bank.
10. **THAT** the Defendant gave him a temporal overdraft line as he looked for a suitable supplier who will not only take the guarantee on the new terms but also give him an extra limit of 5Million to caution him in the short-run.
11. **THAT** I remember vividly well receiving a call from the Coast Regional head of Retail Banking who confirmed to have talked to the owner of premium energy who he confirmed had agreed to the new terms of the client and even willing and ready to extend the extra KES5million limit to the client. He advised the client to reprocess the guarantee

in favour of Premium energy, which the client obliged with a commitment of having a meeting between the client, supplier and us.

12. **THAT** on the date of said meeting, the client came to the defendants Nyali office where I was and we called the Regional Retail manager who never answered and thus the meeting failed leaving the client exposed.
13. **THAT** at this point, the client requested for the extension of his temporal overdraft line for a further 90days to enable him stabilize the business and resolve the deficit, this request was differed as per the email written to the client by Wycliffe Makori-Credit admin in early August 2021.
14. **THAT** out this frustration the client wrote to the defendant to consolidate all his facility to one term loan aligning to the one with the longest remaining repayment period.
15. **THAT** I requested the Defendant's Credit Manager, Wycliffe Makori to prepare a Credit proposal seeking for the restructure and submit it for approval. In the meantime, I requested the Plaintiff to liaise with Wycliffe and furnish him with all the information required.
16. **THAT** in one of the meetings we had at the Plaintiff's office seeking to address the delays in getting the restructure approved, a meeting attended by Myself, Wycliffe and the Relationship Manager, whereby we discussed a variety of issues affecting the business with the Plaintiff emphasizing on the urgency to get approval to avert further impact on its business. We committed and agreed to get the approvals done by the next 7 days.
17. **THAT** about one hour after ending our meeting, Mr. David Abai called informing me that a gentleman by the name Jared Makori who was then known to him and was the Regional Manager KENHA had called him with some astonishing news informing him of an unsolicited telephone call by Mr. Wycliffe Makori which was made to him informing him of the financial despair that the Plaintiff had gotten into and that the Bank was considering calling up all the facilities and auctioning the securities. The purpose of the call was to warn him against any potential financial dealings with the Plaintiff or its Director Mr. Abai. Wycliffe further advised Jared to inform all other friends or businesses who would potentially enter into any financial dealings with the Plaintiff to exercise extreme caution.

18. **THAT** the said actions by Mr. Wycliffe Makori were actuated with malice, in utter breach of the data confidentiality principle and violation of the data protection laws which was mainly done with the intention of scaring away the Plaintiff's investors and suppliers.
19. **THAT** upon receiving the information of the alleged telephone conversation between Wycliffe and Jared, I summoned Wycliffe to my office and asked him whether he had such a conversation with Jared and if at all, he knew of the consequences of breach of customer information confidentiality. Wycliffe confessed to have called Jared 5 minutes after our meeting with the Plaintiff that morning informing him of the financial predicaments of the Plaintiff. On querying further, Wycliffe informed me that Mr. Jared Makori was the beneficial owner of the Plaintiff and that one Mr. Abai has always been a proxy and he felt the need of informing Jared the actual truth since Mr. Abai was running down the business.
20. **THAT** upon further asking Wycliffe how he got to know that Mr. Jared was the beneficial owner of the Plaintiff and why he had not offered such critical information to the Bank, he sounded remorseful but informed me that it is Mr. Jared who had actually informed him that he owned the Company but had incorporated Mr. David just as a proxy owing to the potential conflict interest as a senior civil servant.
21. **THAT** I am aware that the bank has trained its staff through internal mechanism on the legal repercussions and/or implications of failing to protect its clients with relation to data protection and client confidentiality.
22. **THAT** I took exception of Mr. Wycliffe's admission and conduct and escalated the matter to the respective persons and departments within the Defendant for further investigation and disciplinary action for disclosing potential material information about the Plaintiff to the Defendant and secondly for breach of customer information confidentiality. I also issued him with a verbal warning for undue delays with regard to finalizing the credit application for the restructure of the facility which now running into months.
23. **THAT** upon following up with the management and investigating departments of the Defendant of the findings of the alleged conduct of Wycliffe, I was informed that while Wycliffe had indeed admitted to disclosing confidential customer information to a third

party, it was in the Defendant's assessment that there was no material risk of abuse of information by the third parties and as such no further action was recommended. They also cautioned me about admitting such an allegation to the Plaintiff or even taking disciplinary action against Wycliffe Makori would be tantamount to the Defendant accepting liability. I protested this outcome and decision but I decided to forego it because of the backlash that I got from the Defendant.

24. **THAT** owing to the verbal warning I gave to Wycliffe and my considered dissatisfaction with the Defendant's decision of not upholding customer interests and carrying out shoddy investigations that did not even culminate in calling Mr. Abai to establish the real facts, I started to experience frustration with approval of the loan facilities' restructure request. The Defendant officials with Credit approval frustrated the Plaintiff by virtue of the alleged ownership of the Plaintiff as earlier hinted by Wycliffe, further stating that the Plaintiff was a high-risk customer who should be exited due to him being a mere proxy and not the actual owner of the Plaintiff.
25. **THAT** I disagreed with the officers of the Defendant who were opposed to supporting the Plaintiff's request ostensibly on the grounds of an opaque ownership structure and suspicion of the company being a conduit for money laundering and bribery. All these discussions took place during various telephone meetings. I requested the Defendant on numerous occasions to formally decline the facilities' restructure request so that I could write a decline letter to the Plaintiff but again this request was not honored apparently on the grounds that the reasons for decline were not verifiable and as such could not be documented on the decline letter. All these times running into months, I watched the Plaintiff's business crumble due to its inability to execute the existing contracts. The most painful one was the repossession of 11 brand new trucks that had been leased to it by Mombasa Cement.
26. **THAT** 7 months later, the Plaintiff informed me that he was running out of patience and needed to know the final verdict considering that the Defendant had registered an exclusive legal charge over all its assets hence not able to seek for a loan facility anywhere else. I further requested the approving authorities at the Defendant to provide a response stating that withholding a response from the Plaintiff for over 7 months was unethical business practice. During this time, the Plaintiff also did an appeal letter to the

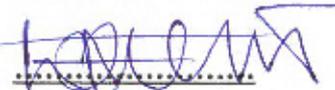
Director, Business Banking. It is only when the Director, Business Banking read a riot act to the approving authorities demanding for explanations that the request was approved in a record of 2 days.

27. **THAT** all the allegations associating me in the subject suit with the sabotage or delays in responding to the requests of the Plaintiff are false and misplaced and should be directed at the Defendant. The allegations should be unreservedly expunged from the suit.
28. **THAT** all the insinuations of financial solicitations are false and vexatious. All, if any, of the financial transactions between Myself and Plaintiff were friendly loans which have all been paid off.
29. **THAT** I later resigned from the Defendant on 6<sup>th</sup> June, 2023 to pursue my political aspirations.
30. **THAT** I swear this affidavit to confirm that the Plaintiff has been wronged by the Defendant and has had to undergo untold constraints by virtue of the Defendant's action of leaking confidential information.
31. **THAT** what is deponed hereinabove is true to the best of my knowledge, information and belief.

SWORN at MOMBASA by the said )

EVANS MURUMBA )

This 6<sup>th</sup> day of December 2023 )



DEPONENT

BEFORE ME: - )

K. LUGHANU - ADVOCATE )

& Commissioner For Oaths )

COMMISSIONER FOR OATHS: - )

P.O. BOX 2841 - 80100  
MOMBASA