

IN THE HIGH COURT OF KENYA AT NAIROBI
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION
PETITION NUMBER 605 OF 2014

RECEIVED
08 JUL 2015
CONSTITUTIONAL AND HUMAN RIGHTS
DIVISION

**IN THE MATTER OF THE ENFORCEMENT OF THE BILL OF RIGHTS UNDER
ARTICLE 22 (1) OF THE CONSTITUTION OF KENYA, 2010**

AND

**IN THE MATTER OF ALLEGED CONTRAVENTION OF ARTICLES 19, 20, 21, 25,
26, 27, 28, 29, 31, 33, 35, 43, 45 AND 46 OF THE CONSTITUTION OF KENYA**

BETWEEN

SWK.....1ST PETITIONER
PAK.....2ND PETITIONER
GWK.....3RD PETITIONER
AMM.....4TH PETITIONER
KENYA LEGAL AND ETHICAL ISSUES NETWORK ON
HIV & AIDS (KELIN).....5TH PETITIONER

AND

MEDICINS SANS FRONTIERES – FRANCE1ST RESPONDENT
PUMWANI MATERNITY HOSPITAL.....2ND RESPONDENT
MARIES STOPEs INTERNATIONAL.....3RD RESPONDENT
COUNTY EXECUTIVE COMMITTEE MEMBER IN CHARGE OF
HEALTH SERVICES, NAIROBI COUNTY.....4TH RESPONDENT
CABINET SECRETARY, MINISTRY OF HEALTH5TH RESPONDENT

GROUND S OF OPPOSITION

(Application dated 15th May, 2015)

The 1st respondent will oppose the application dated 27th June, 2014 on the following grounds:

1. The application has been brought under wrong provisions of the law.

2. The application has not been made timeously. The petition having been filed last year and directions on the hearing given early this year, it is inordinately late for the proposed interested party to make the application.
3. The applicant has not shown that the submissions it intends to advance will give such assistance to the court as would otherwise not have been enjoyed by the court.
4. The applicant has not demonstrated that it will introduce new arguments different from those advanced by the parties. In particular, the parties have addressed the court in detail on the international standards and principles and it is not necessary to join the proposed interested party for that purpose.
5. The issues raised in the petition and the responses thereto are principally evidentiary and not concerned with the interpretations of international standards, policies and recommendations regarding HIV/ AIDS.
6. The application raises a perception of bias or partisanship in the petition.
7. The application is bad in law and an abuse of Court process.

More grounds to be adduced at the hearing.

Dated at Nairobi this 9th day of July 2015

HAMILTON HARRISON & MATHEWS
ADVOCATES FOR THE 1ST RESPONDENT

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NAIROBI Ref: **22/M0287/79**

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NAIROBI

5. County Executive Committee

Member in charge of Health Services
Nairobi County Government

NAIROBI