



O.V.r.1

REPUBLIC OF KENYA

IN THE CHIEF MAGISTRATE'S COURT AT KISUMU  
DIVORCE CAUSE CIVIL SUIT NO: 31 OF 2013

VALERY JIMOI KHAZALWA } Plaintiff  
Against  
RUDOLF GEORG MARQUARDT } Defendant  
TO RUDOLF GEORG MARQUARDT

WHEREAS the above-named Plaintiff has instituted a suit against you upon the claim, the particulars of which are set out in the copy of plaint with annexures attached hereto,

YOU ARE HEREBY REQUIRED within 15 DAYS from the date of service hereof, to enter an appearance in the said suit.

Should you fail to enter an appearance within the time mentioned above, the Plaintiff may proceed with the suit and judgment may be given in your absence.

Given and issued under my hand and the Seal of Court this 10th day of September 2013

Magistrate/Executive Officer,  
Or Officer appointed under O.I.V., rule 3(2)

IMPORTANT NOTICE

1. You may appear in this suit by entering an appearance either personally, or by duly appointed advocate at  
Appearance can be entered by filing with the Court a Memo. Of Appearance (forms are obtained from Court at 30 cents each) in duplicate, showing the defendant's address of service. A copy of Memo of Appearance should also be sent to the Plaintiff or his advocate, if any.

You may enter an appearance through the Post by sending the following to the.....  
..... (Civil), P. O BOX.....

- (i) Memorandum of Appearance and a copy.
- (ii) Notice of Appearance and a copy.
- (iii) Two envelopes each sufficiently stamped; one addressed to the Plaintiff or his advocate at the address for service and the other addressed to yourself.

2. If you admit the claim, the total sum now due is:  
Sum claimed in plaint ..... Sh. ....  
Advocate's costs ..... Sh. ....  
Court fees ..... Sh. ....  
Court collection fee ..... Sh. ....  
Total ..... Sh. ....

SEE PLAINT

3. If payment is made direct to the Plaintiff, no Court Collection fee is payable. Cheques cannot be accepted.

REPUBLIC OF KENYA  
IN THE CHIEF MAGISTRATE'S COURT AT KISUMU  
DIVORCE CAUSE NO                      OF 2013



VALERY JIMOI KHAZALWA \_\_\_\_\_

-VRS-

RUDOLF GEORG MARQUARDT \_\_\_\_\_ DEFENDANT

## CERTIFICATE OF URGENCY

I, Joseph N. Musomba, an advocate of the High Court of Kenya do hereby certify that this application is extremely urgent on the following grounds;

- 1) THAT this matter be certified as urgent in the first instance.
- 2) THAT the Defendant has verbally threatened and vowed to kill the Plaintiff.
- 3) THAT Plaintiff is extremely fearful for her life.
- 4) THAT there is real and present danger to the Plaintiff.
- 5) THAT the Plaintiff's business has already been under threat from strangers acting upon the Defendant's instructions.

I further certify that the same is fit to be heard ex-parte in the first instance and orders sought therein granted forthwith.

DATED at KISUMU this 19<sup>th</sup> day of September 2013.

✗ \_\_\_\_\_  
Joseph N. Musomba, Advocate,  
For Kulecho, Musomba & Company,  
ADVOCATES FOR THE PLAINTIFF /APPLICANT.

DRAWN AND FILED BY:

Kulecho, Musomba & Company Advocates,  
Chambers Plaza, House No. 2,  
Off Winam Court Road,  
Adjacent to Star Hospital,  
P.O. Box, 1361,  
KISUMU – 40100.

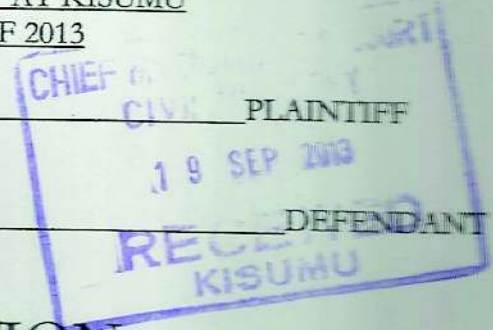


REPUBLIC OF KENYA  
IN THE CHIEF MAGISTRATE'S COURT AT KISUMU  
DIVORCE CAUSE NO \_\_\_\_\_ OF 2013

VALERY JIMOI KHAZALWA \_\_\_\_\_

-VRS-

RUDOLF GEORG MARQUARDT \_\_\_\_\_



**NOTICE OF MOTION**

(Under the Children Act and the Civil Procedure Act  
Order 40 and all enabling provisions of the law)

TAKE NOTICE THAT this Honourable Court will be moved on the \_\_\_\_\_ day of \_\_\_\_\_ 2013 at 9.00 am in the forenoon or so soon thereafter as the Advocate for The Plaintiff may be heard, for ORDERS;

- 1) THAT pending the hearing and determination of this <sup>application</sup> ~~case~~ the defendant, his agents, servants or any other person acting upon the defendant's instructions be restrained from interfering with the peaceful occupation and possession or plaintiff's residence.
- 2) THAT pending the hearing and determination of this <sup>application</sup> ~~case~~, the Defendant, his agents, servants or any other person acting upon the defendant's instructions be restrained from interfering with the business, management or any of the movable assets therein of the business known as Morning Blue along Odera Street, Kisumu.
- 3) THAT pending the hearing and determination of this <sup>application</sup> ~~case~~, the defendant be restrained in any way from intentionally coming into physical contact with the Plaintiff.

WHICH APPLICATION is grounded upon the affidavit of VALERY JIMOI KHAZALWA and upon such other grounds, reasons and/or arguments as shall be adduced at the hearing hereof and on the following grounds;

- 1) THAT the marriage has irretrievably broken.
- 2) THAT The defendant is a well connected man who is lethal, brutal and deadly.
- 3) THAT the plaintiff has no other income or means of support apart from the said Morning Blue Restaurant.
- 4) THAT the defendant is scheduled to return to Kenya end of this month and has threatened to kill the Plaintiff and forcefully take over her business.
- 5) THAT the defendant has previously unlawfully and brutally attempted to evict the plaintiff from her home and business.
- 6) THAT the defendant has previously and violently attacked the Plaintiff at her business place in front of customers.
- 7) THAT the defendant has a history of being a violent and temperamental man.

DATED at KISUMU this 19<sup>th</sup> day of September 2013.

---

Joseph N. Musomba, Advocate,  
For KULECHO, MUSOMBA & COMPANY  
ADVOCATES FOR THE PLAINTIFF

DRAWN & FILED BY:

Kulecho, Musomba & Company Advocates,  
Chambers House,  
House No. 2, off Winam Court Road,  
Adjacent to Star Hospital,  
P.O. Box, 1361,  
KISUMU – 40100.      Email; [kulechomusomba@gmail.com](mailto:kulechomusomba@gmail.com)

TO BE SERVED UPON:

Rudolf Georg Marquardt  
KISUMU.      Email; [rudi@rm-electronic.de](mailto:rudi@rm-electronic.de)



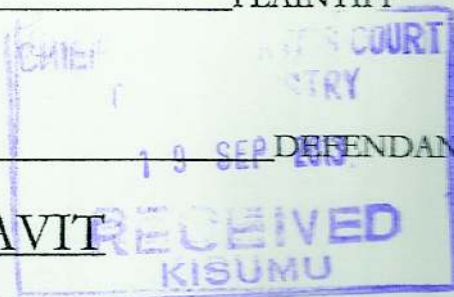
REPUBLIC OF KENYA  
IN THE SENIOR RESIDENT MAGISTRATE'S COURT AT WINAM  
CIVIL SUIT NO                      OF 2013

VALERY JIMOI KHAZALWA \_\_\_\_\_ PLAINTIFF

-VRS-

RUDOLF GEORG MARQUARDT \_\_\_\_\_ DEFENDANT

SUPPORTING AFFIDAVIT



I, VALERY JIMOI KHAZALWA, care of P. O. Box, 1361, KISUMU within the Republic of Kenya do hereby make oath and states as follows;

1. THAT I am an adult of sound mind, the plaintiff herein and therefore competent to swear this affidavit.
2. THAT I was born on 4.3.1987.
3. THAT I know Rudolf Georg Marquardt.
4. THAT I met him in Kisumu in 2009 and we cohabited together as husband and wife at 10 houses estate in Kisumu together with my son Abraham Bonventure and stayed continuously until July 2013 when he left for Germany.
5. THAT during our cohabitation Rudolf bought a house for me and registered it in my name (see title deeds Numbers KISUMU/KONYA/5087 and 4794).
6. THAT I am the one who looked for the house and identified it.
7. THAT he severally visited my father and mother and introduced himself as my husband and that they discussed traditional marriage terms with my father towards which Rudolf was looking forward to fulfill.
8. THAT we cohabited peacefully for 5 years and I dedicated myself fully and committed my five years to our marriage.
9. THAT the business of Morning Blue was opened and registered in my name. (see certificate by Municipal Council).
10. THAT we even opened a soft ware company together that used my phone as contacts called Kenitsol Ltd. (see Brochure for the same).
11. THAT in July 2013, he left for Germany about which time he got himself a girl friend and became rude and violent towards me.

12. THAT Rudolf has fraudulently and illegally removed me as a shareholder from our company.
13. THAT our marriage has irretrievably broken and Rudolf, a violent and rough man has threatened me that he will kill me.
14. THAT he sent a strange man to my premises on 17.8. 2013 whose intentions were unknown and who only came to leave when I threatened to call the police.
15. THAT I am apprehensive that upon his return, Rudolf will harm me.
16. THAT I have even reported to the police the fear for my life and the threat by Rudolf.
17. THAT what is deponed herein is true to the best of my knowledge, and based on advice of my advocate on record herein.

SWORN at KISUMU by the said: )

VALERY JIMOI KHAZALWA, )

This 19<sup>th</sup> day of Sept. 2013 )



Deponent

Before Me  
**ODHIAMBO BENJAMIN F. O.**  
**ADVOCATE & COMMISSIONER FOR OATHS**  
**P. O. BOX 2430 - 40100**  
**KISUMU**  
COMMISSIONER FOR OATHS/MAGISTRATE

DRAWN BY:

Kulecho, Musomba & Company Advocates,  
 Chambers Plaza, House No. 2,  
 Off Winam Court Road,  
 Adjacent to Star Hospital,  
 P.O. Box, 1361,  
KISUMU - 40100.



REPUBLIC OF KENYA  
IN THE CHIEF MAGISTRATE'S COURT AT KISUMU  
CIVIL SUIT NO                      OF 2013

VALERY JIMOI KHAZALWA \_\_\_\_\_

-VRS-

RUDOLF GEORG MARQUARDT \_\_\_\_\_

'FAST TRACK'



PLAINT

1. The Plaintiff is a female adult of sound mind residing and working for gain at Kisumu within the Republic of Kenya and whose address of service for purposes of this suit only shall be C/O Kulecho, Musomba & Company Advocates, Chamber House, House No. 2, off Winam Court Road, Adjacent to Star Hospital, P.O. Box 1361, Kisumu.
2. The Defendant is a male adult of sound mind residing and working for gain in Kenya and Germany. (Service of process to be effected through the law offices of Kulecho, Musomba & Company Advocates.)
3. On or about July 2009, the Plaintiff met the Defendant and together cohabited as man and wife for 5 years until July 2013.
4. The Plaintiff was then a single mother to one Abraham Bonventure and together with the Defendant cohabited at 10 houses estate in Kisumu.
5. During the period of cohabitation as man and wife the Defendant opened a business for the Plaintiff trading as Morning Blue Restaurant along Oginga Odinga Street in Kisumu.
6. The Defendant further instructed the Plaintiff to look for a property to purchase which she did and the same was bought and registered in the names of the Plaintiff by the Defendant in consideration for the love and affection. (KISUMU/KONYA/5087 and 4794).
7. The cohabitation was loving and peaceful until June – July 2013 when the Plaintiff found himself a girl friend and became cruel, hostile, rude and violent to the Plaintiff.
8. In addition the Plaintiff and the Defendant registered a joint company by the name Kenitsol Ltd as joint Directors.
9. Unlawfully, illegally and fraudulently by uttering forged documents the Defendant caused the Plaintiff's shares of Kenistol to be removed and transferred to a girlfriend of his.
10. By reason of his actions aforestated the Plaintiff has reasons to believe the Defendant is an international criminal and a dangerous man who may cause grievous harm to her, (which fact she has already reported to the Central Police station at Kisumu VIDE OB Report /03/11/9/13.)



11. Since July 2013, when the Defendant deserted the matrimonial home and left for Germany, the Defendant has failed, neglected and/or refused to provide for the Plaintiff together with the issue that were still dependent on him.
12. The Plaintiff further contends that the Defendant has been cruel to her and on various occasions, the Defendant has neglected and/or grossly mistreated the Plaintiff.

#### PARTICULARS OF CRUELTY

- a) Deserting the Matrimonial home.
  - b) Out rightly refusing to provide for the Plaintiff together with her child that was still dependent on him.
  - c) Threatening to harm and/or kill the Plaintiff.
  - d) Exposing and subjecting the Plaintiff to a life of misery both emotionally and psychologically whenever the Plaintiff resides with him.
  - e) Constantly using derogatory terms and/or words against the Plaintiff.
  - f) Assaulting the Plaintiff at her place of work in a primitive attempt at forceful eviction.
  - g) Sending strangers at her business premises with a view to harass, intimidate and/or harm the Plaintiff.
  - h) Hurling shameful and racial epithets against the Plaintiff such as "Nigger" and "Prostitute."
13. The Plaintiff further avers that she has not in anyway connived and/or colluded with defendant to bring up this suit.
  14. The Plaintiff avers that there are no pending proceeding(s) between herself and the Defendant and neither have there been any previous proceedings between her (Plaintiff) and the Defendant in any other court concerning the same subject matter.
  15. The cause for action arose within the Jurisdiction of this Honourable court.

#### REASONS WHEREFORE the plaintiff prays for judgment to be entered against the Defendant for;

- 1) A Declaration that the presumed marriage between the Plaintiff and the Defendant stands dissolved.
- 2) That pending the hearing and determination of this suit the Defendant, his agents, servants or any other person acting upon the defendant's instructions be restrained temporarily/permanently from interfering with the occupation, possession or ownership of the matrimonial home by the plaintiff.
- 3) That pending the hearing and determination of this suit, the Defendant, his agents, servants or any other person acting upon the defendant's instructions be restrained temporarily/permanently from interfering with the business, management or any business known as Morning Blue along Odera Street, Kisumu.
- 4) That pending the hearing and determination of this case, the Defendant be restrained in any way from intentionally coming into physical contact with the Plaintiff.
- 5) That the Defendant be investigated and arrested by the C.I.D and charged with the offence of fraudulently and illegally transferring or stealing shares of Kenitsol owned by the Plaintiff.



- 6) That the Defendant do deposit his passport in Court as security that he will not escape the court's jurisdiction.
- 7) That the Defendant do bear costs of this suit.

DATED at KISUMU this 19<sup>th</sup> day of September 2013.

Joseph N. Musomba, Advocate,  
For KULECHO, MUSOMBA & COMPANY  
ADVOCATES FOR THE PLAINTIFF

DRAWN & FILED BY:

Kulecho, Musomba & Company Advocates,  
Chambers House,  
House No. 2, off Winam Court Road,  
Adjacent to Star Hospital,  
P.O. Box, 1361,  
KISUMU - 40100.  
Email; [kulechomusomba@gmail.com](mailto:kulechomusomba@gmail.com)

TO BE SERVED UPON:

Rudolf Georg Marquardt  
KISUMU.  
Email; [rudi@rm-electronic.de](mailto:rudi@rm-electronic.de)

REPUBLIC OF KENYA  
IN THE CHIEF MAGISTRATE'S COURT AT KISUMU  
DIVORCE CAUSE NO \_\_\_\_\_ OF 2013

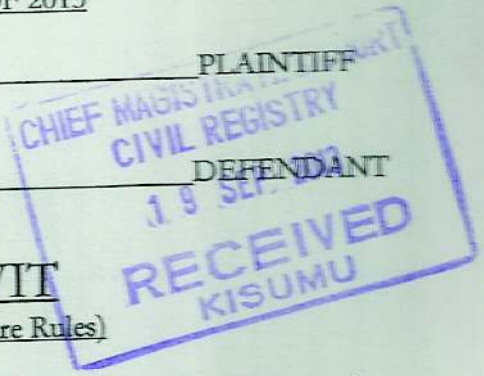
VALERY JIMOI KHAZALWA \_\_\_\_\_

PLAINTIFF

-VRS-

RUDOLF GEORG MARQUARDT \_\_\_\_\_

DEFENDANT



**VERIFYING AFFIDAVIT**  
(Under Order 4 rule 1(2) of the civil Procedure Rules)

1, VALERY JIMOI KHAZALWA a resident of Kisumu District within the Republic of Kenya of P.O. Box, 1361 - 40100, Kisumu, do hereby make oath and state as follows;

1. THAT I am an adult of sound mind, hence competent to swear this affidavit.
2. THAT I verify the correctness of the averment contained in the Plaintiff that there is no other suit pending and that there have been no previous proceedings, in any Court between the Plaintiff and the Defendant over the same subject matter and that the cause of action relates to the Plaintiff named in the Defence.
3. THAT what is deponed herein is true to the best of my knowledge, information and belief.

SWORN at KISUMU by the said:

Valery Jimoi Khazalwa

Deponent

This 19<sup>th</sup> day of Sept. 2013

**ODHIAMBO BENJAMIN F. O.**  
ADVOCATE & COMMISSIONER FOR OATHS  
P O BOX 2430 - 40100  
KISUMU

COMMISSIONER FOR OATHS

DRAWN & FILED BY:

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P.O Box, 1361  
KISUMU - 40100.



REPUBLIC OF KENYA  
IN THE CHIEF MAGISTRATE'S COURT AT KISUMU  
DIVORCE CAUSE NO \_\_\_\_\_ OF 2013

VALERY JIMOI KHAZALWA \_\_\_\_\_

-VRS-

RUDOLF GEORG MARQUARDT \_\_\_\_\_

PLAINTIFF  
DEFENDANT

CHIEF MAGISTRATES COURT  
CIVIL REGISTRY  
20 SEP 2013  
REC'D

CERTIFICATE OF URGENCY

I, Joseph N. Musomba, an advocate of the High Court of Kenya do hereby certify that this application is extremely urgent on the following grounds;

- 1) THAT the substantive prayers were inadvertently omitted in the application dated 19.9.2013
- 2) THAT it is only fair to include these prayers as they are related to those sought in the Plaint.
- 3) THAT the two applications compliment each other.

I further certify that the same is fit to be heard ex-parte in the first instance and orders sought therein granted forthwith.

DATED at KISUMU this 20<sup>th</sup> day of September 2013.

→ \_\_\_\_\_  
Joseph N. Musomba, Advocate,  
For Kulecho, Musomba & Company,  
ADVOCATES FOR THE PLAINTIFF /APPLICANT.

DRAWN AND FILED BY;

Kulecho, Musomba & Company Advocates,  
Chambers Plaza, House No. 2,  
Off Winam Court Road,  
Adjacent to Star Hospital,  
P.O. Box, 1361,  
KISUMU – 40100.

REPUBLIC OF KENYA  
IN THE CHIEF MAGISTRATE'S COURT AT KISUMU  
DIVORCE CAUSE NO \_\_\_\_\_ OF 2013

CHIEF MAGISTRATE'S COURT  
KISUMU  
RECEIVED  
14 SEP 2013

VALERY JIMOI KHAZALWA \_\_\_\_\_ PLAINTIFF

-VRS-

RUDOLF GEORG MARQUARDT \_\_\_\_\_ DEFENDANT

**NOTICE OF MOTION**

(Under the Children Act and the Civil Procedure Act  
Order 40 and all enabling provisions of the law)

TAKE NOTICE THAT this Honourable Court will be moved on the 4th day of Oct 2013 at 9.00 am in the forenoon or so soon thereafter as the Advocate for The Plaintiff may be heard, for ORDERS;

- 1) THAT pending the hearing and determination of this suit the defendant, his agents, servants or any other person acting upon the defendant's instructions be restrained from interfering with the peaceful occupation and possession or plaintiff's residence.
- 2) THAT pending the hearing and determination of this suit, the Defendant, his agents, servants or any other person acting upon the defendant's instructions be restrained from interfering with the business, management or any of the movable assets therein of the business known as Morning Blue along Odera Street, Kisumu.
- 3) THAT pending the hearing and determination of this case, the defendant be restrained in any way from intentionally coming into physical contact with the Plaintiff.
- 4) THAT costs of this application be borne by the Defendant

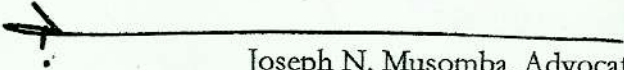
WHICH APPLICATION is grounded upon the affidavit of VALERY JIMOI KHAZALWA and upon such other grounds, reasons and/or arguments as shall be adduced at the hearing hereof and on the following grounds;

- 1) THAT the marriage has irretrievably broken.
- 2) THAT The defendant is a well connected man who is lethal, brutal and deadly.
- 3) THAT the plaintiff has no other income or means of support apart from the said Morning Blue Restaurant.
- 4) THAT the defendant is scheduled to return to Kenya end of this month and has threatened to kill the Plaintiff and forcefully take over her business.
- 5) THAT the defendant has previously unlawfully and brutally attempted to evict the plaintiff from her home and business.
- 6) THAT the defendant has previously and violently attacked the Plaintiff at her business place in front of customers.



7) THAT the defendant has a history of being a violent and temperamental man.

DATED at KISUMU this 20<sup>th</sup> day of September 2013.

  
Joseph N. Musomba, Advocate,  
For KULECHO, MUSOMBA & COMPANY  
ADVOCATES FOR THE PLAINTIFF

DRAWN & FILED BY:

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