



14. However, the main ground advanced by the Claimant in seeking to introduce further documents was that it was as a result of the filing by the 2<sup>nd</sup> Respondent of a Counterclaim and a witness statement on 4 February 2019.

15. In opposition to the application, the Executive Director of the 2<sup>nd</sup> Respondent filed a replying affidavit deposing that a *Response and Counterclaim* had been served upon the Claimant on 18 March 2015.

16. The 2<sup>nd</sup> Respondent's *Response and Counterclaim* were filed and served upon the Claimant in 2015. She did not deny the assertion.

17. Although not denying that the *Response and Counterclaim* were served in 2015, the Claimant did not disclose to the Court the time that she came across the documents she had intended/attempted to introduce, some 4 years later, through the review application.

18. In the circumstances, the principal reason advanced by the Claimant cannot be valid or genuine.

19. If the reason was genuine, the Claimant should have disclosed when she came upon the documents and also explained why she did not take advantage of the window opened to her on 15 April 2018 to file and serve further documents on or before 18 May 2018.

20. In the view of the Court, the Claimant has failed to satisfy the threshold for review and/or setting aside the order of 6 February 2019.

21. The Court also notes that the Cause has been pending for about 10 years, a regrettable situation.

22. The application filed on 8 April 2019 by the Claimant is dismissed with costs to the Respondents.

**Delivered, dated and signed in Nairobi on this 20<sup>th</sup> day of September 2019.**

**Radido Stephen**

**Judge**

**Appearances**

For Claimant Mr. Kihara instructed by C.N. Kihara & Co. Advocates

For Respondents Ms. Akuno, State Counsel, Office of the Attorney General

Court Assistant Lindsey