



REPUBLIC OF KENYA



Kinyanjui Njuguna & Company Advocates v Board of Trustees (National Social Security Fund) (Environment and Land Miscellaneous Case E028 of 2023) [2025] KEELC 5052 (KLR) (8 July 2025) (Ruling)

Neutral citation: [2025] KEELC 5052 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND MISCELLANEOUS CASE E028 OF 2023**

CG MBOGO, J

JULY 8, 2025

BETWEEN

KINYANJUI NJUGUNA & COMPANY ADVOCATES ADVOCATE

AND

BOARD OF TRUSTEES (NATIONAL SOCIAL SECURITY FUND) CLIENT

RULING

1. Before me is the notice of motion dated 22nd April, 2024 filed by the advocate/ applicant, and it is expressed to be brought under Order 51 Rule 1 of the *Civil Procedure Rules*, Sections 48 and 52 of the *Advocates Act*, and Rule 7 of the *Advocates (Remuneration) Order*, 2014 seeking the following orders:-
 1. That judgment/decree be entered for Kshs. 504,216/- as per the certificate of taxation herein.
 2. That interest be provided for at 14% per annum from 11/2/2019 until payment in full as provided under the Rule 7 of *Advocate Remuneration Order*, 2014.
 3. That the cost of the application be awarded to the application.
2. The application is premised on the grounds on its face. The application is supported by the affidavit of Kinyanjui Theuri, the learned counsel for the advocate/applicant sworn on even date. The advocate/applicant deposed that the certificate of taxation has been drawn, signed and issued. However, the client/respondent has continually failed to pay legal fees duly earned despite demand and notice. Further, it was deposed that an advocate is entitled to fees duly earned in the course of service in line with the *Advocates Remuneration Order*.
3. The advocate/applicant deposed that the taxed fees are not disputed, and that it is entitled to the judgment and interest thereof at 14% per annum.



4. The client/respondent filed its grounds of opposition dated 25th February, 2025 challenging the application on the following grounds:-
 1. The prayer for interest is unsupported and contrary to law.
 2. The annexures referred in the applicant's supporting affidavit are not annexed and therefore the application is unsupported.
 3. The application is misconceived, bad in law and has no merit.
5. The application was canvassed by way of written submissions. The advocate/applicant filed its written submissions dated 30th May, 2025 where they raised two issues for determination as follows: -
 - a. Whether this honourable court should enter judgment/decree in favour of the applicant for Kshs. 504,216/-.
 - b. Whether the applicant herein is entitled to interest on the sum so awarded in the judgment/decree.
6. On the first issue, it was submitted that the certificate of taxation has never been set aside and the same is valid, and unchallenged. Reliance was placed in the case of *Amondi & Co. Advocates v County Government of Kisumu* [2021] eKLR.
7. On the second issue, the advocate/applicant submitted that it is entitled to interest on the award of the taxing master at 14% per annum as provided under Rule 7 of the *Advocates Remuneration Order*, and that the same should not necessarily be expressly stated in the certificate of taxation. The advocate/applicant submitted that the interest rates became payable 30 days from the date upon which the bill was served. In support thereof, the advocate/applicant relied on the case of *Okong'o Wandago & Company Advocates v County Government of Migori* [2021] eKLR.
8. The client/respondent filed its written submissions dated 27th June, 2025. The client/respondent submitted that the prayer for interests and costs were not raised before filing the Bill of Costs, and that there is no evidence to show when the Bill of Costs was served. They submitted that the claim for interest is unsupported and not merited. The client/respondent relied on the cases of *B McRonald & Associates Advocates v FCC* [2021] eKLR, *Machira & Co. Advocates v Arthur K. Magugu & Another* [2019] eKLR, *Sophie Chirchir T/A Cheronno Chirchir & Co. Advocates v Africa Merchant Assurance Co. Ltd* Misc. Application No. 227 of 2019, and *Kinyanjui Njuguna & Co. Advocates v Board of Trustees National Social Security Fund* (Miscellaneous Application E438 of 2022) [2024] KEHC 7847 (KLR) (Commercial and Tax) (24 June 2024) (Ruling).
9. I have considered the application, the grounds of opposition, and the written submissions filed. It is not in dispute that the certificate of taxation issued on 30th January, 2024 is final, and the disputed issue arises out of the interests claimed by the advocate/applicant.
10. Rule 7 of the *Advocates Remuneration Order* provides:-

“ An advocate may charge interest at 14% per annum on his disbursements and costs, whether by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, providing such claim for interest is raised before the amount of the bill has been paid or tendered in full.”
11. From the above, it is clear that interest can be charged by an advocate of its claim for disbursements and costs from the expiration of one month from the date of his delivery of its bill to its client. This



interest is distinguishable from the interest that this court can award. In support thereof, the advocate/ applicant annexed a copy of the certificate of taxation, and the fee note dated 14th February, 2019. The fee note raised and sent to the client/respondent did not demand for interest thereon. Having not raised this claim, the advocate/applicant forfeited his interest to claim thereafter interest pursuant to Rule 7. This court cannot thus award interest at 14% per annum.

12. Having said the above, I find merit in the notice of motion dated 22nd April, 2024 and I proceed to grant the following orders:-
- i. That judgment/decree is hereby entered for Kshs. 504,216/- as per the certificate of taxation issued on 30th January, 2024.
 - ii. The advocate/ applicant is awarded costs of this application.

Orders accordingly.

DATED, SIGNED & DELIVERED VIRTUALLY THIS 8TH DAY OF JULY, 2025.

HON. MBOGO C.G.

JUDGE

08/07/2025.

In the presence of:

Mr. Benson Agunga - Court assistant

Ms. Nafula for the Advocate/Applicant

Mr. Muuo for the Respondent/Client

