



Mbugwa, Atudo & Macharia Advocates v Kenya Alliance Insurance Co. Ltd (Civil Miscellaneous Application E189 of 2022) [2025] KEHC 6436 (KLR) (23 May 2025) (Judgment)

Neutral citation: [2025] KEHC 6436 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CIVIL MISCELLANEOUS APPLICATION E189 OF 2022**

A MABEYA, J

MAY 23, 2025

**IN THE MATTER OF THE ADVOCATES ACT CAP 16 OF THE LAWS OF KENYA
AND
IN THE MATTER OF THE TAXATION OF ADVOCATE-CLIENT BILL OF COSTS**

BETWEEN

MBUGWA, ATUDO & MACHARIA ADVOCATES APPLICANT

AND

KENYA ALLIANCE INSURANCE CO. LTD RESPONDENT

JUDGMENT

1. By a Motion on Notice dated 31/5/2024 the Advocate applied for Judgment for Kshs. 281,050/- against the respondent. The Motion was brought under section 51(2) of the *Advocates Act*, Cap 16 Laws of Kenya.
2. The basis for seeking judgment was that it was in terms of a Certificate of Costs dated 26/6/2023. The Advocate also sought interest at the rate of 14% per annum from 8/10/2020 until payment in full.
3. In the Supporting affidavit sworn by Pinto Nelson Atudo on 31/5/2024, it was contended that the Advocates fees became due on 8/10/2020 when judgment was delivered. That on the same day, the Advocates served the respondent with a Notice of Election under paragraph 22 of the *Advocates Remuneration Order* together with an Advocate-Client Bill of Costs dated 15/2/2022.
4. The said bill of costs was taxed on 24/5/2023 and a Certificate of Costs for Kshs.281,050/- was issued on 26/6/2024. That it was imperative that judgment be entered in terms thereof to enable the Advocate recover its costs.
5. I have considered the record. I have also considered the oral submissions of Ms. Kosgei. I have seen a copy of the Certificate of Costs dated 26/5/2024. It is for Kshs.281,050/.



6. Section 51(2) of the *Advocates Act* provides: -

The certificate of the taxing officer by whom any bill has been taxed shall, unless it is set aside or altered by the Court, be final as to the amount of the costs covered thereby, and the Court may make such order in relation thereto as it thinks fit, including, in a case where the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs.”

7. From the foregoing, it is clear that an Advocate is entitled to judgment on the amount certified after a taxation of an advocate-client bill of costs. That certificate must not have been varied or set aside. Although there was no averment in the supporting affidavit that the Certificate of Costs dated 26/6/2024 had not been varied or set aside, the Court will presume that fact as the respondent did not respond to the application.

8. On the 14% interests, this is awardable from 30 days after service of a fee note by an advocate upon his client. In this case, there was no evidence that such a fee note was served and not paid. However, there is evidence that the Notice of Election under paragraph 22 of the *Advocates Remuneration Order* and Bill of Costs were served upon the respondent on 8/10/2020. The Court will presume that to be the date when the costs of the Advocate were demanded.

9. In this regard, the time for interest will run 30 days from that date, to wit 9/11/2020.

10. Accordingly, I allow the application. Judgment is entered for the applicant/advocate against the respondent/client for Kshs.281,050/- together with interest at 14% p.a from 9/11/2020 until payment in full.

It is so ordered.

DATED AND DELIVERED AT KISUMU THIS 23RD DAY OF MAY, 2025.

A. MABEYA, FCI Arb

JUDGE

