



J.W. & Frank Advocates LLP v Monarch Insurance Company Ltd (Miscellaneous Application E195 of 2023) [2025] KEHC 10683 (KLR) (18 July 2025) (Ruling)

Neutral citation: [2025] KEHC 10683 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
MISCELLANEOUS APPLICATION E195 OF 2023**

A MSHILA, J

JULY 18, 2025

BETWEEN

J.W. & FRANK ADVOCATES LLP APPLICANT

AND

MONARCH INSURANCE COMPANY LTD RESPONDENT

RULING

Background

1. Before court is the Notice of Motion dated 19/02/2025 brought under Section 1A, 1B and 3A of the *Civil Procedure Act*; Order 51 Rule 1 of the Civil Procedure Rules, Section 51 of the *Advocates Act* (CAP 16) and Paragraph 7 of the Advocates (Remuneration) Order (As amended in 2014); The Applicant sought for the following orders:-
 - a. Spent
 - b. That pending the hearing and determination of this application inter-parties, this Honourable Court be pleased to issue an order of Consolidation of the instant Miscellaneous Application with Kiambu HC. Miscellaneous Civil Applications No.E196, E197 and E198 which involve a common subject matter for determination and between similar parties (J.W. & Frank Advocates LLP Vs Monarch Insurance Company Limited).
 - c. That pending the hearing and determination of this application inter-parties, this Honourable Court be pleased to issue an order directing that the court files for Kiambu HC. Miscellaneous Civil Applications No.E196, E197 and E198 of 2023 be heard together with this instant Miscellaneous Application.



- d. That this Honorable Court be pleased to enter judgment for the Certification of Taxation in all foresaid Miscellaneous Applications inclusive of the present matter, for the total sum of Ksh. 659,492/=
 - e. That pursuant to Order 7 of the Advocates Remuneration Order (as amended in 2014) this Honorable Court be pleased to order Interest payable at the rate of 14% per annum on the taxed amount from 9th July, 2025 until payment in full.
2. The application is premised on the grounds on the face of the application and the Supporting Affidavit of Joshua Mbugua Loshorua dated 19/02/2025 made in support of the application.
 3. The Respondent failed to pay the legal fees thereby necessitating the filing of the Bill of Costs in Kiambu Hc. Miscellaneous Civil Applications No. E195, E196, E197 AND E198 OF 2023 which were all taxed on 31st May, 2024 for a total sum of Kshs. 659,492/=.
 4. The Applicant wishes to proceed and realize the costs awarded in the taxation because the matters herein are similar and involve the same parties hence the need for consolidation so as to save on judicial time.
 5. The Applicant thus urges that the judgment entered upon the sums certified in the Certificates of Taxation do attract interest at the rate of 14% per annum from 9th July, 2024, the date of the issuance of the Certificate of Taxation.
 6. The retainer is not in dispute and the Certificates of Taxation have not been challenged hence this is a proper case for entering judgment.

Issues For Determination

7. Having read the application and the supporting affidavit the issues framed for determination are;
 1. Whether to consolidate the four Certificates of Taxation.
 2. Whether to adopt the Certificate of Taxation and enter judgment in the total sum of Kenya Shillings of six hundred fifty-nine thousand, four hundred ninety-two shillings (KSH.659,492)
 3. Whether the sums certified in the Certificates of Taxation attracts interest at the rate of 14% per annum from the date of issuance of the Certificates.

Analysis

Whether to consolidate the four Certificates of Taxation.

8. On Consolidation of the instant Miscellaneous Application with Kiambu HC. Miscellaneous Civil Applications No.E196, E197 and E198 the Applicant seeks that same be allowed as provided under Order 11 Rule 3 (1)(H) of the Civil Procedure Rules as the matters herein are similar and involve common questions of law, a common subject matter for determination as between similar parties (J.W. & Frank Advocates LLP Vs Monarch Insurance Company Limited); the reliefs sought are similar and hence the need for consolidation so as to save on judicial time and to also expedite the process .
9. This Court is satisfied that the application for consolidation of the instant Miscellaneous Application with Kiambu HC. Miscellaneous Civil Applications No.E196, E197 and E198 has merit and it is hereby allowed.



Whether to adopt the Certificate of Taxation and enter judgment

8. 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 recovered thereby; and the court may make such orders in relation thereto as it thinks fit, including where the retainer is not disputed an order that judgment be entered for the sum of certified to be due with costs.”

8. The wordings of the above section empower the court to enter judgment on the taxed amount if the same is uncontested.

9. In determining whether the court should adopt the amount on the Certificate of Taxation as the judgment of the court it should be satisfied that the Certificate of Taxation has not been set aside.

10. Reference is made to the case of *Lubulellah & Associates Advocates Vs N. K. Brothers Limited* (2014) eKLR where the court observed that:-

“The law is very clear that once a taxing master has taxed the costs, issued a Certificate of Costs and there is no reference against his ruling or there has been a ruling and a determination made and not set aside and/or altered, no other action would be required from the court save to enter judgment. An applicant is not required to file suit for the recovery of costs. The certificate of costs is final as to the amounts of the costs and the court would be quite in order to enter judgment in favour of the Applicant against the Respondent herein for the taxed sum indicated in the Certificate of Taxation that was issued on 25th November 2012.”

15. From perusal of the court record this Court is satisfied that the Ruling is uncontested as the Respondent has not moved any court by way of filing a Reference against the ruling nor has the Ruling been set aside, altered, varied and / or reviewed, nor has any appeal been filed.

16. Therefore, no other action is required from this court save to enter judgment as prayed against the Respondent.

Whether the sums certified in the Certificates of Taxation attract interest at the rate of 14% per annum

15. Rule 7 of the Advocates Remuneration Order provides that:

“An advocate may charge interests at 14% per annum on his disbursement and costs whether by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, such claim for interests is raised before the amount of the bill has been paid or tendered in full.”

15. The above rule stipulates that such claim for interest must be raised for it to start to accrue after the expiration of one month from the delivery of the bill to the client.

16. In the case of *Kerongo & Company Advocates Vs Africa Assurance Merchant Co. Limited* [2019] eKLR the court held;

‘An advocate who does not provide proof that he had raised the issue of interest before the amount in the Bill of Costs has been paid or tendered in full will not be paid the interest chargeable under Rule 7 of the Advocates Remuneration Order. As the advocates herein



had not demonstrated that they had raised the issue of interest as aforesaid, they could not therefore be awarded interest at fourteen (14%) per cent per annum.’

15. After careful perusal of the court record this court notes that the Applicant did not annex any copy of a Demand Letter 07/2024 to the application, that it had sent to the Respondent; it can therefore be safely concluded that there is no evidence that a demand letter with a claim for interest was served to that effect.
16. Therefore, in line with Rule 7, the Applicant is found to have failed to furnish proof that it had raised the claim for interest with the Respondent; the prayer for interest to start accruing on the taxed costs from 9/07/2025 is found to be devoid of merit and is therefore disallowed.

Findings & Determination

15. For the forgoing reasons this court makes the following findings and determinations:-
 - i. This Court finds the application to be meritorious and it is hereby allowed;
 - ii. The application to Consolidate MISC.E195/2023 with MISC.E196/2023 and MISC.E197/2023 and MISC.E198/2023 is found to have merit and it is hereby allowed.
 - iii. The Certificates of Taxation issued on 09/07/2024 for Kiambu Misc. Application No.E195 of 2023 in the sum of Ksh.117,136/=, Kiambu Misc. Application No.E196 of 2023 in the sum of Ksh.252,904/=, Kiambu Misc. Application No.E197 of 2023 in the sum of Ksh. 172,316/= and Kiambu Misc. Application No. E198 of 2023 in the sum of Ksh. 117,136/= are hereby adopted as Judgments of this court.
 - iv. The prayer for Interest is found to be devoid of merit and it is hereby disallowed
 - v. There shall be no order as to costs

Orders Accordingly

DATED SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 18TH DAY OF JULY, 2025

A.MSHILA

JUDGE

In the presence of;

Sanja – Court Assistant

Mbugua - for the Applicant

N/A - for the Respondent

