



**Weda & Company Advocates v Mwomore (Commercial Miscellaneous Application E891 of 2024) [2025] KEHC 9766 (KLR) (Commercial and Tax) (3 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 9766 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
COMMERCIAL MISCELLANEOUS APPLICATION E891 OF 2024**

**MA OTIENO, J**

**JULY 3, 2025**

**BETWEEN**

**WEDA & COMPANY ADVOCATES ..... ADVOCATE**

**AND**

**ERICK GEORGE MWOMORE ..... CLIENT**

**RULING**

1. This is a ruling on the Advocate/Applicant's Notice of Motion Application dated 18th October, 2024, brought under Section 51(2) of the *Advocates Act*, and Paragraph 16 of the *Advocates Remuneration Order*, seeking the following orders:
  - a. That this Honorable court be pleased to enter Judgement and Decree to issue in favor of the Applicants against the Respondent for the sum of Kenya Shillings Three Hundred and Eleven Thousand, Eight Hundred and Fifty (Kshs. 311,850.00) as per the Certificate of Taxation of costs together with interest of 14% per annum from 30<sup>th</sup> of September 2024 until payment in full.
  - b. That the costs of the Application be borne by the Respondent
2. The background of the matter is that the Advocate offered professional legal services to the Respondent in the Milimani CMCC No. 2409 of 2019: *William Ojah Adede v Erick George Mwomore & Walter Otieno Onyango*, which culminated in the dismissal of the case against the Respondent.
3. The Advocate subsequently filed an Advocate-Client Bill of Costs, which was 5th September 2024, taxed at Kshs. 311,850.00/- and a Certificate of Taxation issued in that regard.
4. Despite being served, the Respondent has neither entered appearance nor filed any response to the Application. Further, no reference or application for its setting aside has been filed to date.



5. Consequently, the Applicant now prays for the entry of judgment for the taxed sum of Kshs. 311,850.00/-, in accordance with the law.

### **Analysis and Determination**

6. I have carefully considered the instant application and the submissions filed herein. The application raises two central issues:
- i. Whether the Certificate of Taxation dated 30<sup>th</sup> September 2024 ought to be adopted as the judgment of this Court under Section 51(2) of the *Advocates Act*;
  - ii. Whether the Advocate is entitled to interest at the rate of 14% per annum under Rule 7 of the *Advocates Remuneration Order*.

### **On Entry of Judgment under Section 51(2) of the *Advocates Act***

7. Section 51(2) of the *Advocates Act*, Cap. 16 Laws of Kenya provides that the certificate of the taxing officer, unless set aside or altered by the court, shall be final as to the amount of costs covered, and where there is no dispute as to retainer, the court may enter judgment in favour of the Advocate.
8. The Section is clear that: -
- “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.”
9. The principles governing entry of judgment under this provision were articulated in cases such as *Lubulellah & Associates Advocates v N K Brothers Ltd* [2014] eKLR, *Kalonzo Musyoka & Another v Rustam Hira* [2006] eKLR, and *Ndungu Gitbuka & Co. Advocates v Geoffrey Mariaso Ole Mailoy* [2019] eKLR, where courts have consistently held that where the retainer is not contested and no reference is filed, judgment ought to follow as a matter of course.
10. In the present case, the retainer is undisputed, and the Certificate of Taxation remains unchallenged. It is, therefore, conclusive as to the amount owed by the Client to the Advocate.
11. Accordingly, I find merit in the Advocate’s request and hold that judgment should be entered in favour of the Advocate in the sum of Kshs. 311,850.00/-.

### **On Interest under Rule 7 of the *Advocates Remuneration Order***

12. Rule 7 of the *Advocates Remuneration Order* entitles an Advocate to claim interest at 14% per annum on their costs from one month after delivery of the bill, in the following terms: -
- “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.”



13. In the case of *Amondi & Co Advocates v County Government of Kisumu* [2021] eKLR, the Court held as follows:

“In my considered opinion, when the provisions of the *Advocates Act* specify how interest may be awarded on the disbursements and costs, whether by scale or otherwise, it must be deemed that the said provisions oust the more general provisions of the Civil Procedure Act. I so hold because it is a cardinal rule of interpretation that when a statute specifies something as being applicable to matters which the statute applies, the said specification ousts other more generalized statutory provisions. I hold that the provisions of the Civil Procedure Act cannot oust the more specific provisions of the *Advocates Act* which were enacted to address the issues of Advocates’ costs. It therefore follows that under the *Advocates Act*, the Court does not have discretion to award any rate of interest, even if the Court deems such a rate as reasonable in the circumstances. Whilst Section 26 of the Civil Procedure Act authorizes the Court to award any reasonable rate of interest; the *Advocates Act* specifies the rate as 14% per annum. And whilst under the Civil Procedure Act the Court has discretion to award interest at 3 different levels, the Court lacks such discretion under the *Advocates Act*. Under the *Advocates Act*, the interest may be awarded from the expiration of one month from the date when the Bill was delivered by the Advocate to the Client. When the discretion of the Court has already been so constrained, I hold the considered view that it would be unjust to the Advocate to either withhold interest altogether or to reduce it on account of the consideration that the Client was a public entity. However, the Advocate is not entitled to interest from the date when he filed the Bill of Costs in Court. I so hold because the quantum sought in the Bill of Costs was much more than the sum which the learned Taxing Officer finally awarded. In my considered view, the Client became aware of the “Bill” on the date when the Ruling on Taxation was delivered Rule 7 of the Advocates Remuneration Order appears to have been designed to allow a client a period of 30 days from the date when the Advocate delivered his bill. In my considered opinion, justice would be served by allowing the Client 30 days from the date when the Ruling on Taxation was delivered. Accordingly, I order that Judgment be entered in favour of the Advocate/Applicant for the taxed costs, together with interest thereon at 14% per annum, from the expiration of 30 days from the date when the Ruling was delivered.”

14. The record demonstrates that Ruling on the Bill of Costs was delivered 5<sup>th</sup> September, 2024, and a Certificate of Taxation issued on 30<sup>th</sup> September 2024. It is also undisputed that no payment has been made to date. The one-month grace period, therefore, expired on 30<sup>th</sup> October 2024.
15. The case of *D. Njogu & Company Advocates v Kenya National Capital Corporation* [2006] eKLR is clear that where the court found interest should run from the expiration of the one-month period from the date of service.
16. The Court is satisfied that the claim for interest at 14% per annum from 5<sup>th</sup> October, 2024, until payment in full is merited.

### **Disposition**

17. In light of the foregoing, I find that the Advocate/Applicant’s Application dated 18<sup>th</sup> October 2024 is merited and is hereby allowed. Accordingly, I make the following orders:



- i. Judgment is hereby entered in favour of the Advocate/Applicant against the Client/ Respondent in the sum of Kshs. 311,850.00/- being the amount stated in the Certificate of Costs dated 30<sup>th</sup> September, 2024.
- ii. Interest shall accrue on the said sum at the rate of 14% per annum from 30<sup>th</sup> October, 2024 until payment in full.
- iii. The Advocate shall have the costs of this Application, which is hereby assessed at Kshs. 20,000/-.

18. It is so ordered.

**SIGNED DATED and DELIVERED IN VIRTUAL COURT THIS 3<sup>RD</sup> DAY OF JULY 2025**

**ADO MOSES**

**JUDGE**

In the presence of: -

C/A – Moses

..... for Advocate/Applicant

..... for Respondent

