



B.Mbai & Co. Associates v Invesco Assurance Company Ltd (Civil Application E012 of 2021) [2023] KEHC 18178 (KLR) (6 June 2023) (Ruling)

Neutral citation: [2023] KEHC 18178 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MAKUENI
CIVIL APPLICATION E012 OF 2021
GMA DULU, J
JUNE 6, 2023**

BETWEEN

B.MBAI & CO. ASSOCIATES APPLICANT

AND

INVESCO ASSURANCE COMPANY LTD RESPONDENT

RULING

1. Before me is a Notice of Motion dated March 21, 2022 filed by the applicant (advocate) under Section 51 (2) of the Advocates Act (Cap16), Rule 7 of the Advocates (Remuneration) Order and Order 51 Rule 1 of the Civil Procedure Rules.
2. The application which relates to advocates fees seeks the following orders:-
 1. That judgment be and is hereby entered for the applicant advocate as against the respondent for the sum of Kshs. 85,833/= being the taxed costs in this matter.
 2. That the costs do attract interest at the rate of 14% per annum from December 20, 2021 until payment in full.
 3. That the costs of this application be borne by the respondent.
3. The application has grounds on the face of the Notice of Motion that the costs had already been taxed and a certificate of taxation issued by the court; that there is no dispute as to instructions; and that no dispute or objection to the taxed costs has been raised.
4. The application was filed with a supporting affidavit sworn by Karim Timothy Waweru Advocate on March 21, 2022 in which it was deponed, inter alia, that the applicant had been retained by the respondent to represent the insured in Tawa SRMCC No 174 of 2010 – Julius Munyao Philip v Jessikay Enterprises & Another and that the costs were taxed on December 20, 2021. Annexed to the affidavit



are several documents, including the Certificate of Taxation signed by the taxing officer on February 10, 2022.

5. Though the application was served and an affidavit of service filed on May 10, 2022 by Moses Balusi a court process server, no response has been filed.
6. The applicant filed written submissions to the application, but the respondent did not file any submissions.
7. This application not being opposed or contested, and pursuant to the provisions of the *Advocates Act* (Cap 16) and the *Civil Procedure Act* (Cap 21), as this is an uncontested claim for a liquidated sum, I have to allow the application and grant the orders sought.
8. Consequently, I allow the application herein and order as follows:-
 1. Judgment be and is hereby entered for the applicant advocate as against the respondent for the sum of Kshs. 85,833/= being the taxed costs in this matter.
 2. The taxed costs herein do attract interest at the rate of 14% per annum from December 20, 2021 until payment in full.
 3. The costs of this application will be borne by the respondent.
9. It is so ordered.

Dated, signed and delivered this 6th day of June, 2023 virtually from Voi.

GEORGE DULU

JUDGE

In the presence of:-

Mr. Kamau for the applicant

Ms. Mary court assistant

No appearance for respondent

