



**Muri Mwaniki & Wamiti Advocates v Kenya Orient Insurance
Company Limited (Miscellaneous Application E718 of 2021)
[2023] KEHC 22290 (KLR) (Commercial and Tax) (20 September 2023) (Ruling)**

Neutral citation: [2023] KEHC 22290 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
MISCELLANEOUS APPLICATION E718 OF 2021**

**A MABEYA, J
SEPTEMBER 20, 2023**

BETWEEN

MURI MWANIKI & WAMITI ADVOCATES ADVOCATE

AND

KENYA ORIENT INSURANCE COMPANY LIMITED CLIENT

RULING

1. Rule 7 of the *Advocates (Remuneration) Order* provides that:-

“an advocate may charge interest at 14% per annum or his disbursements 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 interest is raised before the amount of the bill has been tendered in full.”
2. In *D. Njogu & Co. Advocates v Kenya National Capital Corporation* [2006] eKLR, it was held that interest ought to run from the date the correct fee note was set to the client irrespective of whether the bill of costs was subsequently reduced on taxation. The correct fee note means a bill that is in accordance with the terms upon which the advocate had contracted with the client, or the bill which the client had not disputed, or a bill which is in accordance with the sums awarded by the taxing officer.
3. In the present case, the advocate prepared a bill of costs dated 28/9/2021. He served the same upon the client on 6/11/2021. The same was for Kshs. 144,835/64. The same was later taxed at Kshs. 122,372/40 and a Certificate of Costs issued on 7/2/2023.
4. Vide a Motion on Notice dated 19/4/2023 the advocate sought that judgment be entered on his behalf in terms of the Certificate of Costs dated 7/2/2023. The advocate also sought interest thereon at 14%



per annum. The certificate had been forwarded to the client on 23/3/2023. Before the Motion could be heard, the client paid the entire amount of costs certified without paying the interest thereon.

5. Ms. Wamaitha Learned Counsel for the Advocate has urged that an order for interest on the costs be made. Mr. Kiplangat for the client opposes the application on the grounds that interest was neither in the bill of costs nor in the Certificate of taxation.
6. From the reading of Rule 7 of the *Advocates (Remuneration) Order*, it is clear that an advocate is entitled to interest of 14% p.a on his costs. That interest is payable from 30 days after the bill has been served. However, that interest must be demanded before the amount of the costs are paid in full.
7. In *Amondi & Co Advocates v County Government of Kisumu* [2021] eKLR, the court held: -

“Going further, interest does not become automatically chargeable after the lapse of the one month from the date on which the bill was served. Rule 7 of the Advocates Remuneration Rules provides that interest is only chargeable provided that such claim for interest was raised before the amount of the bill was tendered in full.”
8. In the present case, there was evidence that the advocate made a demand for the settlement of the certified costs on 28/2/2023. In that letter, interest was not demanded. When the costs were not settled, the advocate filed the Notice of Motion wherein he demanded judgment for the Certified Costs together with interest. It is after that that the client paid the costs.
9. In this regard, since the interest was demanded before settlement of the costs. I hold that the advocate is entitled to costs together with interest as prayed. Let the Deputy Registrar assess the interest payable and the same be paid forthwith.

It is so ordered.

DATED and **DELIVERED** at Nairobi this 20th day of **September**, 2023.

A. MABEYA, FCIArb

JUDGE

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