

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL DIVISION

HIGH COURT CIVIL MISC APPL. NO. 378 OF 2017

WAIGANJO WACHIRA & CO ADVOCATES.....APPLICANT

VERSUS

PACIS INSURANCE COMPANY LIMITED.....RESPONDENT

R U L I N G

1. The application dated 19th February, 2019 seeks orders that judgment be entered for the taxed Advocate/Client costs of Ksh.91,724/= contained in the certificate of taxation dated 14th February, 2019 with interest thereon at the rate of 14% per annum with effect from 12th September, 2017 until payment in full.
2. The application is premised on the grounds stated on its face and the affidavit in support. The gist of the application is that the Advocate/Client Bill of Costs was taxed at Ksh.91,724/= on 18th October, 2018 and a certificate of taxation issued.
3. The application is opposed as per the grounds of opposition dated 2nd December, 2019 as follows:
 - “a). That the Bill of costs dated 1st September, 2017 is a nullity in law as it violates the provisions of Order 62A rules 3 of the Advocates Remuneration Order.**
 - b). That interest ought to be charged from the date of entry of judgment on taxed amount and not from the date of filing the Bill of Cost as sought in the instant application; noting that the taxed amount was an unliquidated sum which was not certain at the onset..”**
4. I have considered the application and the response to the same.
5. On the question of interest, the Advocates (Remuneration Orders) Rule (7) states as follows.

“An advocate may charge interest at 14 per cent per annum on his disbursements and costs, whether by scale or otherwise, from expiration of one month from the delivery of the bill to the client, providing such claim for interest is raised before the amount of the bill has been paid or tendered in full.”
6. The taxed costs therefore attract interest at 14% per annum with effect from 30 days after the service of the bill. Evidence of service must be availed (See example **Kithi & Co. Advocates v Menengai Downs Ltd Nbi Misc. Appl. No. 1069 of 2013** and **Kantai & Co. Advocates v Kenya Bus Services Ltd [2006] eKLR.**)
7. The ground that the Bill of costs violets Order 62A rule 3 of the Advocates Remuneration Order is misplaced. The said provision relates to a bill of costs wherein there has been a change of Advocates, which is not the case herein.
8. In the case at hand, the interest is claimed from 12th September, 2017. However, the Taxation Notice and the Bill of Costs were served on 4th October, 2017 according to the affidavit of service herein filed on 12th October, 2017. The interest of 14% per annum therefore ought to accrue with effect from 3rd November, 2017.
9. The application is allowed save that the interest will accrue from 4th November, 2018. Costs to the Advocate/Applicant.

Dated, signed and delivered at Nairobi this 6th day of May, 2020

B.THURANIRA JADEN

JUDGE