



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KISUMU**

**(CORAM: CHERERE-J)**

**MISC. CIVIL APPLICATION NO 90 OF 2019**

**BETWEEN**

**OTIENO, RAGOT & COMPANY ADVOCATES.....APPLICANT/ADVOCATE**

**AND**

**BRITAM INSURANCE COMPANY LIMITED.....RESPONDENT/CLIENT**

**RULING**

1. By a Notice of Motion dated 11<sup>th</sup> July, 2019 and filed on 17<sup>th</sup> July, 2019, brought under the provisions of Section 51 (2) of the Advocates Act, the Applicant/Advocate seeks the following orders:

**1) That the certificate of costs issued herein in respect of taxation order made on 31.05.19 for the sum of Kshs. 128,904.80 (one hundred twenty-eight thousand, nine hundred four and eighty cents) be adopted as judgment and decree of this Honourable Court together with interest at 14% p.a from 07.12.17 until payment in full**

**2) That costs of this application be borne by the Client/Respondent**

2. The Respondent though served neither opposed the application nor sent representation when the matter came up for hearing on 01.10.19.

3. I have considered the Application in the light of the supporting affidavit and annexures thereto. The bill of costs was taxed at Kshs. 128,904.80 and a certificate in respect thereof dated 10<sup>th</sup> July, 2019 was issued on 12<sup>th</sup> July, 2019.

4. The bill arose out of **Kisumu CMCC NO. 405 OF 2012 Fredrick Omondi Akura v Jeconiah Vincent Onyango**. The Respondent has not denied retaining the Advocate to act for its insured defendant and the Advocate/Applicant is therefore entitled to its costs.

5. The Bill of costs was served on the Respondent/Client on 10<sup>th</sup> June, 2019. I have considered the provisions of Rule 7 of the Advocates Remuneration Order and I find that interest from 10<sup>th</sup> July, 2019 until payment in full.

6. The upshot of this is that Notice of Motion dated 11<sup>th</sup> July, 2019 and filed on 17<sup>th</sup> July, 2019, succeeds and is allowed in the following terms:

**a) Judgment is hereby entered for the Advocate/Applicant against the Respondent/Client for Kshs. 128,904.80 (one hundred twenty-eight thousand, nine hundred four and eighty cents)**

**b) Interest shall be paid at 14% from 10<sup>th</sup> July, 2019 till payment in full**

**c) The Advocate will also have the costs of this application.**

**DATED, DELIVERED AND SIGNED ON THIS 14<sup>th</sup> DAY OF November, 2019**

**T.W. CHERERE**

**JUDGE**

**Read in open court in the presence of-**

Court Assistant - Amondi/Okodoi

For Applicant/Advocate - Ms. Sijenje hb Ms. Onsongo

For Respondent/Client - N/A