



**Titus Makhanu & Associates Advocates v Hall Equitorial Limited (Miscellaneous Application E280 of 2023) [2025] KEELRC 2482 (KLR) (19 September 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2482 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
MISCELLANEOUS APPLICATION E280 OF 2023  
SC RUTTO, J  
SEPTEMBER 19, 2025**

**BETWEEN**

**TITUS MAKHANU & ASSOCIATES ADVOCATES ..... ADVOCATE**

**AND**

**HALL EQUITORIAL LIMITED ..... CLIENT**

**RULING**

1. Through a Notice of Motion dated 28<sup>th</sup> January 2025, the Advocate/Applicant herein seeks the following orders:
  1. That this Honourable Court be pleased to enter judgment in favour of the Applicant against the Respondent hereto for the sum of Kenya Shillings Sixty-One Thousand, and Forty-Two and Eight Cents (Kshs. 61,042.80) being the costs taxed by the Taxing Master.
  2. That the taxed costs do attract interest at 14% per annum from the expiration of one month from the date of service of the Bill of Costs being 14<sup>th</sup> July 2024.
  3. That the costs of this Application be provided for.
2. The Application is premised on the grounds set out on the face of the Motion and the Supporting Affidavit sworn on 28<sup>th</sup> January 2025 by Titus Makhanu, Advocate. Mr. Makhanu describes himself as an Advocate of the High Court of Kenya, practicing law as such with Messrs. Titus Makhanu & Associates Advocates, the Applicant herein.
3. Mr. Makhanu deposes that the Applicant firm filed its Bill of Costs dated 6<sup>th</sup> December 2023, served it upon the Respondent on 14<sup>th</sup> June 2024 and on 30<sup>th</sup> October 2024, the Taxing Master issued a Ruling taxing the Bill of Costs at Kshs.61,042.80.
4. He further avers that the Taxing Master issued a Certificate of Taxation for Kshs. 61,042.80 dated 21<sup>st</sup> November 2024 in respect thereof. That the said Certificate of Taxation for the sum of Kshs. 61,042.80



has never been set aside nor altered by a competent court hence, it is final in relation to the Applicant's costs and due for execution.

5. Mr. Makhanu further avers that the Applicant firm is entitled to charge interest at the rate of 14% per annum on the said Kshs. 61,042.80, from the expiration of one month from the date when the Bill of Costs was served upon the Respondent and/or interest at court's rates from the said date of service of the Bill of Costs.
6. That to date, the Respondent has never paid and/or settled the Applicant's costs in spite of being aware and/or capable of doing so.
7. According to Mr. Makhanu the Applicant firm was constrained to file the instant Application as it is only through doing so, that it will be able to enjoy the fruits of its Ruling.
8. Upon being served with the Notice of Motion, the Client/Respondent responded by filing Grounds of Opposition dated 8<sup>th</sup> April 2025, in which it has contended that:
  1. The Applicant did not pray for interest in the Bill of Costs filed.
  2. The Taxing Master did not grant any interest to the Applicant.
  3. The Applicant did not challenge the decision of the Taxing Master.
  4. The Applicant cannot seek interest at the stage the proceedings have reached and/or from this Honourable Court.
  5. The Applicant is not entitled to any interest on the taxed amounts.
9. In rejoinder, the Applicant filed a Supplementary Affidavit sworn on 30<sup>th</sup> May 2025 by Mr. Titus Makhanu.
10. Mr. Makhanu deposes that he is aware that the Applicant is entitled to 14% interest as per Rule 7 of the Advocates (Remuneration) order, 2014, from the expiration of one month from the date of service of the Bill of Costs being 14<sup>th</sup> July 2024, as they have prayed for the same in the application.
11. He is also aware that interest on the Advocates' fees begins to accrue from the expiry of one month from the date of delivery of the Bill of Costs to the Client.
12. According to Mr. Makhanu, Rule 7 of the Advocate (Remuneration) order, 2014, does not specify how and when an Advocate should claim interest on their Bill of Costs.
13. In Mr. Makhanu's view, an Advocate can make claims for interest any time before the amount is paid, as the firm did in the current Application. That consequently, the firm is entitled to seek interest at any stage before the Respondent settles the legal fees.
14. Mr. Makhanu further avers that the Certificate of Taxation issued by the Court has never been altered and/or set aside by this Court or any other Court of competent jurisdiction. That additionally, no reference has been filed against the Taxing Master's decision, therefore, the firm is entitled to interest on the taxed amount as prayed in the application.

### **Submissions**

15. The Application was canvassed by way of written submissions. Both parties filed written submissions, which this Court has duly considered.



## Analysis and Determination

16. Evidently, the singular issue in contention between the parties herein is whether the Applicant is entitled to interest on the taxed costs as sought in the instant Notice of Motion.
17. It is not in dispute that the Applicant's Advocate/Client's Bill of Costs dated 6<sup>th</sup> December 2023 was taxed at Kshs 61,042.08 vide the Certificate of Taxation dated 21<sup>st</sup> November 2024.
18. In the instant Application, the Applicant has asked the Court to award interest on the taxed costs at 14% per annum from the expiration of one month from the date of service of the Bill of Costs being 14<sup>th</sup> July 2024.
19. In support of its claim for interest, the Applicant has sought to rely on Rule 7 of the Advocates (Remuneration) Order, 2014, which provides as follows:

An advocate may charge interest at 14 per cent per annum on his disbursements and costs, whether by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, provided that such claim for interest is raised before the amount of the bill shall have been paid or tendered in full.

20. Opposing the application, the Respondent has contended that the Applicant did not pray for interest in the Bill of Costs filed and that the Taxing Master did not grant any interest. As such, the Respondent contends that the Applicant cannot seek interest at the stage the proceedings have reached and/or from this Honourable Court.
21. It is evident that the Applicant did not include a claim for interest in its bill of costs dated 6<sup>th</sup> December 2023 and that the Taxing Master did not capture the same in his Ruling dated 30<sup>th</sup> October 2024 or vide the Certificate of Taxation dated 21<sup>st</sup> November 2024.
22. Thus, the question that this Court must answer is whether the Applicant is entitled to interest pursuant to Rule 7 aforesaid, having not claimed the same at the time of serving the Bill of Costs upon the Respondent?
23. Addressing this issue, the Court in the case of Lubulellah & Associates Advocates v N K Brothers Limited [2014] eKLR reckoned that if an advocate files his Bill of Costs without raising the issue of interest, then he forfeits interest as provided for under Rule 7 of the Advocates Remuneration Order.
24. Quite recently, the Court of Appeal had the occasion to consider this issue in the case of Otieno, Ragot & Company Advocates v Kenindia Assurance Co Ltd [2023] KECA 1398 (KLR), where it held as follows:-

“The appellant neither claimed the interest at 14% p.a. in his bill of costs nor filed a reference under rule 11 of the Advocates Remuneration Order. Consequently, it was improper for the appellant to raise the claim for the first time in the section 51(2) proceedings...An advocate had the right to claim interest on his disbursements and costs at 14% p.a. under rule 7 of the Advocates Remuneration Order. The interest at that rate became payable from one month after the bill was delivered to the client. In order for the advocate to claim such interest, he needed to have raised it before the amount in the bill had been paid or tendered in full. That much should be clear from the wording of rule 7.”



25. And in a related appeal, *Otieno, Ragot & Company Advocates v Kenindia Assurance Co Ltd* (Civil Appeal 165 of 2019) [2023] KECA 1443 (KLR) (24 November 2023) (Judgment), the Court of Appeal proceeded to shed more light on this issue and stated as follows:-

“I believe that this decision and its companion one in Kisumu Civil Appeal No. 129 of 2018 will remove the cobwebs of confusion reigning in this area. It comes down to a salutary advice for advocates: if one hopes to claim the 14% p.a. interest under Rule 7 of the Advocates Remuneration Order on a fee note or Bill of Costs, one must make the claim in the fee note and/or Bill of Costs. If the interest is not claimed in the fee note or Bill of Costs, an advocate loses his right to claim for it subsequently. Similarly, if the interest of 14% under Rule 7 of the Advocates Remuneration Order is not specifically awarded during the taxation proceedings, the advocate must invoke Rule 11 of the Advocates Remuneration Order and file a reference to protest the omission. The advocate cannot wait to introduce the interest during enforcement proceedings under section 51(2) of the *Advocates Act*. If the advocate demands interest at that late stage, he will likely suffer two potential perils: the court can only award interest at earliest from the date of lodging the Bill of Costs; and the interest is at the discretion of the court. However, where the interest of 14% p.a. under Rule 7 of the Advocates Remuneration Order is specifically claimed in the Bill of Costs and awarded during the taxation proceedings, the interest will apply to the taxed amount until it is fully paid. An application under 51(2) of the *Advocates Act* will not act to reduce the interest rate or otherwise create a reservoir of discretion for the judge to change the interest rate.”

26. Borrowing from the above binding precedents, the Court finds that no interest is payable on the costs herein as the Applicant failed to demand interest at the time of drawing and/or serving the Bill of Costs upon the Respondent. It may very well be said that the claim for interest has been made late in the day, hence is without merit.

27. In conclusion, the Notice of Motion dated 28<sup>th</sup> January 2025 is allowed, in the following specific terms:

- a. Judgment is entered in favour of the Advocate/Applicant against the Client/Respondent for Kshs 61,042.08 in terms of the Certificate of Taxation dated 21<sup>st</sup> November 2024.
- b. Each party to bear their own costs.
- c. The Applicant is at liberty to commence execution for recovery of costs.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 19<sup>TH</sup> DAY OF SEPTEMBER 2025.**

.....

**STELLA RUTTO**

**JUDGE**

In the presence of:

Mr. Letaya instructed by Mr. Makahanu for the Advocate/Applicant

Ms. Muiri instructed by Mr. Wainaina for the Client/Respondent

Millicent Court Assistant

Order



In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15<sup>th</sup> March 2020 and subsequent directions of 21<sup>st</sup> April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court had been guided by Article 159(2)(d) of the Constitution which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the Constitution and the provisions of Section 1B of the Civil Procedure Act (Chapter 21 of the Laws of Kenya) which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

**STELLA RUTTO**

**JUDGE**

