



**Aloo Romanus & Company Advocates v Simiyu (Miscellaneous Application E024 of 2024) [2025] KEELRC 2710 (KLR) (3 October 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2710 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT ELDORET  
MISCELLANEOUS APPLICATION E024 OF 2024**

**MA ONYANGO, J**

**OCTOBER 3, 2025**

**IN THE MATTER OF ORDER 5 RULE 1 AND 52 OF THE CIVIL PROCEDURE RULES AND IN THE MATTER OF SECTION 48 AND 51 OF THE ADVOCATES ACT (CAP 16 LAWS OF KENYA) AND THE ADVOCATES REMUNERATION (AMENDMENT) ORDER 2014 AND IN THE MATTER OF THE ADVOCATES/CLIENT BILL OF COST AND IN THE MATTER OF ELDORET MAGISTRATES COURT ELRC NO. E048 OF 2021,  
BOAZ MULONGO SIMIYU VS= SAMARITANS PURSE INTERNATIONAL.**

**BETWEEN**

**ALOO ROMANUS & COMPANY ADVOCATES ..... APPLICANT**

**AND**

**BOAZ MULONGO SIMIYU ..... RESPONDENT**

**RULING**

1. The application dated 16<sup>th</sup> September 2024 seeks that The Advocate-client bill of costs as between the Applicant and the Respondent be taxed and allowed by the taxing master of this court with respect to Eldoret Magistrates Court Elrc No. Eo48 Of 2021, Boaz Mulongo Simiyu Vs= Samaritans Purse International.
2. The applicant's grounds are that it lodged and handled proceedings in the above-mentioned matter on behalf of the Respondent after receiving instructions from him. The applicant asserts that the Respondent has neglected, refused and /or ignored to pay the Applicant's legal fees in full and disbursements, despite demands being made.
3. In opposition to that application, the Respondent filed a Replying Affidavit sworn on 3<sup>rd</sup> February 2025 contending that he withdrew his instructions from the Applicant and that they had a mutual agreement that he would pay the Applicant a standard figure of Kshs. 50,000 in case he withdrew instructions.



4. The Respondent has thus opposed the taxation of the Bill of costs arguing that the case has not been concluded and instructions fees cannot be determined.
5. The Respondent further deposes that he was unfairly terminated and has been unemployed and that he is banking on the employment cause to be determined so that he can be able to pay the Applicant.
6. The application was disposed of by way of written submissions. The Applicant's submissions are dated 28<sup>th</sup> February 2025 while the Respondent's submissions are dated 10<sup>th</sup> April 2025.
7. I have considered the application, the Replying Affidavit and the submissions of both parties.
8. It is not in dispute that the Advocate was duly instructed by the Respondent to act for him in the matter and he indeed rendered legal services before instructions were withdrawn.
9. Pursuant to Section 45 of the Advocates Act, agreements for payment of legal fees is governed under certain parameters. Section 45 provides:
  - (1) Subject to Section 46 and whether or not an order is in force under Section 44, an advocate and his client may:
    - a. before, after or in the course of any contentious business, make an agreement fixing the amount of the advocate's remuneration in respect thereof.
    - b. before, after or in the course of any contentious business, in a civil court, make an agreement in respect thereof or his fees for appearing or both.
    - c. before, after or in the course of any proceedings in a criminal case or a court martial, make an agreement fixing the amount of the advocate's fees for the conduct thereof; and such agreement shall be valid and binding on the parties provided it is in writing and signed by the client or his agent duly authorized in that behalf.
10. The provision above allow an advocate and a client to enter into a binding written agreement with regard to remuneration. Such an agreement is enforceable unless it is shown to be vitiated by fraud, illegality or is manifestly unfair.
11. The document marked "BMS1" annexed to the Respondent's Replying Affidavit and titled "Unfair termination instruction form", states that in the event of withdrawal of instructions, the Respondent would pay the Applicant a standard figure of Kshs 50,000.
12. The Applicant has not placed before this court any material to suggest that the instruction form/ agreement was illegal, unreasonable or otherwise unenforceable.
13. In the circumstances, I find that the Applicant's recourse lies in enforcing the said agreement and not in taxation of a Bill of Costs as sought.
14. Consequently, the application dated 16<sup>th</sup> September 2024 is dismissed.
15. There shall be no orders as to costs.

**DATED, DELIVERED AND SIGNED THIS 3<sup>RD</sup> DAY OF OCTOBER, 2025.**

**M. ONYANGO**

**JUDGE**

