



**Okongo & another (t/a Okong'o Wandago & Co Advocates) v Kamau & 468 others (Miscellaneous Application E103 of 2023) [2025] KEELRC 3532 (KLR) (11 December 2025) (Ruling)**

Neutral citation: [2025] KEELRC 3532 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
MISCELLANEOUS APPLICATION E103 OF 2023  
ON MAKAU, J  
DECEMBER 11, 2025**

**BETWEEN**

**KENNEDY ODHIAMBO OKONGO ..... 1<sup>ST</sup> APPLICANT  
AMOS OGUTU WANDAGO ..... 2<sup>ND</sup> APPLICANT  
T/A OKONG'O WANDAGO & CO ADVOCATES**

**AND**

**JOSEPH KAMAU & 468 OTHERS & 468 OTHERS & 468  
OTHERS ..... RESPONDENT**

**RULING**

1. By chamber summons dated 15<sup>th</sup> July 2024, the Applicant (Advocate) sought the following orders:-
  - a. The Applicant be granted leave to file reference against the decision of the Taxing Master out of time
  - b. The draft Reference annexed to the summons be deemed as duly filed upon payment of the requisite fee.
  - c. Costs of the summons be provided for.
2. The Summons was supported by the Affidavit sworn by Amos Ogutu Wandago on 15<sup>th</sup> July 2024. In brief, the affiant deposed that he filed an Advocate – Client Bill of Costs dated 6<sup>th</sup> February 2024 and the Taxing Officer of the Court awarded him Kshs. 204,414/- in a Ruling delivered on 19<sup>th</sup> April 2024. He further deposed that the said award was inordinately low and unjustified and the Taxing Officer did not observe the applicable scale/provisions of the Advocates (Remuneration) Order 2014.
3. The Respondents were served with the instant summons but they never filed any response. The summons was then disposed of by written submissions by the Applicant.



4. Having considered the Application, the Affidavit and written submissions, the only issue for determination is whether the leave sought should be granted.

### **Analysis**

5. The power to enlarge time to file reference against the decision of Taxing Officer is donated by Rule 11(4) of the Advocates Remuneration Order as follows:-

“The High Court shall have power in its discretion by order to enlarge the time fixed by sub paragraph (1) or sub paragraph (2) for the taking of any step, application for such an order may be made by Chamber Summons upon giving to every other interested party not less than three clear days notice in writing or as the Court may direct, and may be so made notwithstanding that the time sought to be enlarged may have already expired.”

6. The power donated to enlarge time can only be exercised judiciously. In this case, the Applicant was the only party present when the Ruling on the taxation was rendered on 19<sup>th</sup> April 2024. If the Applicant was dissatisfied with the said ruling, the first thing to do was to comply Rule 11(1) of the Advocates Remuneration Order which provides that:-

“Should a party object to the decision of the Taxing Officer, he may within fourteen days after the decision, give notice in writing to the Taxing Officer of the items of taxation to which he objects.”

7. The Applicant never gave any notice of objection within fourteen days as required by the above sub paragraph. Instead he did so on 22<sup>nd</sup> May 2024, about Thirty three days after the delivery of the impugned decision. The Applicant ignored that fatal step and instead sought leave to file a reference under sub rule (2).
8. My understanding of the procedure under Rule 11 of the Advocates Remuneration Order is that leave to file a reference under sub rule (2) cannot be issued unless sub rule (1) is complied with, by giving a valid notice of objection. In this case, there is no valid notice of objection given to the Taxing Officer and therefore I dismiss the Applicants Chamber Summons dated 15<sup>th</sup> July 2024 with no costs.

**DATED, SIGNED AND DELIVERED VIRTUAL IN COURT AT NAIROBI THIS 11<sup>TH</sup> DAY OF DECEMBER, 2025.**

**ONESMUS MAKAU**

**JUDGE**

Appearance:

Mungasia for the Applicant

No appearance for the Respondent

