

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI COMMERCIAL AND TAX DIVISION
MISC APPLICATION NO. E753 OF 2024

KINYANJUI NJUGUNA & CO. ADVOCATES.....ADVOCATE/APPLICANT

-VERSUS-

CORPORATE INSURANCE CO. LTD.....CLIENT/RESPONDENT

RULING

1. The Applicant, **Kinyanjui Njuguna & Co. Advocates**, moved this Court by way of a Notice of Motion dated 22nd April 2025 seeking, inter alia, consolidation of this matter with **Miscellaneous Applications Nos. E741, E767, E748, E749, E744 and E746 of 2024**, entry of judgment for a total of Kshs.2,033,001/= being taxed costs in the respective matters, interest at 14% per annum from 9th October 2019 until payment in full, and costs of the application.
2. The application is premised on certificates of taxation issued by the taxing officer on 5th December 2024 in respect of the Bill of Costs dated 10th September 2024. The Applicant contends that the certificates of taxation have not been set aside or altered, and therefore judgment ought to be entered in its favour pursuant to Section 51(2) of the Advocates Act.
3. The Applicant further invokes Rule 7 of the Advocates Remuneration Order to justify the claim for interest at 14% per annum.

4. In opposition, the Respondent, **Corporate Insurance Co. Ltd**, filed a Replying Affidavit sworn on 16th June 2025 by its Legal Manager, Anne Odongo. The Respondent objects to consolidation on the ground that the applications arise from distinct transactions requiring separate accounting. It further avers that it was never served with the certificates of taxation and only became aware of the applications through the Judiciary portal. On that basis, the Respondent argues that entry of judgment and imposition of interest would be premature and unjust.
5. The Respondent also disputes the Applicant's allegation that it is facing liquidity crisis, terming it defamatory and unsubstantiated. Without prejudice, the Respondent prays that the Court exercise discretion to allow settlement of any decretal sum by monthly installments of between Kshs. 50,000/= and 100,000 until payment in full.
6. The matter was canvassed through written submissions filed by the Applicant, who relied on authorities including *Amondi & Co. Advocates v County Government of Kisumu [2021] eKLR* and *Okong'o Wandago & Co. Advocates v County Government of Migori [2021] eKLR*, to support the position that certified costs are payable once issued and that interest at 14% per annum accrues thirty days after service of the bill of costs.

Analysis and Determination

7. Having considered the application, the response thereto and the submissions filed by the Applicant, I find that the following as requiring the Court's determination:
 - i. Whether judgment should be entered in favour of the Applicant for Kshs.2,033,001/=

- ii. Whether the Applicant is entitled to interest at 14% per annum
- iii. Whether the matters should be consolidated.
- iv. Whether the Respondent should be allowed to liquidate the decretal sum by installments.

Whether judgment should be entered in favour of the Applicant

8. The Applicant relies on Section 51(2) of the Advocates Act, which makes the certificate of taxation final as to the amount of costs unless set aside or altered. The Applicant has exhibited certificates of taxation issued on 5th December 2024, none of which have been challenged by way of reference under Paragraph 11 of the Advocates Remuneration Order.
9. The Respondent argues that it was not served with the certificates of taxation and only became aware of the applications through the Judiciary portal. While service is an important procedural safeguard, the Respondent does not deny that the bills of costs were filed, taxed, and certificates issued. The taxing officer's jurisdiction is not in dispute, nor has the Respondent demonstrated prejudice arising from alleged non-service.
10. In **Lubulellah & Associates Advocates v N.K. Brothers Ltd [2014] eKLR**, the Court of Appeal held that once a certificate of costs is issued and not set aside, the Court's role is to enter judgment. Similarly, in **Otieno Ragot & Co. Advocates v Kenya Airports Authority [2021] eKLR**, the Court emphasized that no further suit is required for recovery of costs once a certificate is issued.
11. Accordingly, I find that the Applicant has satisfied the statutory threshold. The Respondent's objections, while raising procedural

concerns, do not displace the finality of the certificates of taxation. Judgment must therefore be entered for the certified sum.

Whether the Applicant is entitled to interest at 14% per annum

12. Rule 7 of the Advocates Remuneration Order provides that an advocate may charge interest at 14% per annum from one month after delivery of the bill to the client, provided the claim for interest is raised before payment. The Applicant has expressly prayed for interest in its application.
13. The Respondent contends that interest would be unjust absent proof of service, and further argues that Rule 7 is discretionary, not mandatory. Indeed, courts have recognized that the word “may” in Rule 7 confers discretion. In **Mercy Mwangi t/a Mwangi Kingera & Co. Advocates v Invesco Assurance Co. Ltd [2017] eKLR**, the Court held that discretion may be exercised to reduce, alter, or even withhold interest in the interests of justice.
14. However, where service is demonstrated and the bill remains unpaid, courts have consistently awarded interest. In **Okong’o Wandago & Co. Advocates v County Government of Migori [2021] eKLR**, the Court held that interest accrues thirty days after service of the bill of costs. In **Amondi & Co. Advocates v County Government of Kisumu [2021] eKLR**, the Court affirmed that once the claim for interest is raised and certified costs remain unsettled, interest is payable.

“This court took respectful view that Rule 7 of the Advocates Remuneration Rules is clear that interest is chargeable at fourteen (14%) per cent per annum, from the expiration of one month from the delivery of the bill to the client. There was

therefore a reference point, from when interest would be calculable. It could not accrue before one month had expired, from the time when the bill was delivered to the client.

Going further, interest does not become automatically chargeable after the lapse of the one month from the date when the bill was served. Rule 7 of the Advocates Remuneration Rules provides that interest is only chargeable provided that such claim for interest was raised before the amount of the bill was tendered in full.”

15. Here, the Respondent has not denied liability for the taxed costs, nor has it demonstrated payment. I am therefore persuaded that interest at 14% per annum is payable, calculable thirty days from the date of service of the Bill of Costs until payment in full.

Whether the matters should be consolidated

16. The Applicant seeks consolidation of seven miscellaneous applications, arguing that they involve common questions of law and fact. Consolidation is a discretionary remedy intended to promote efficiency and avoid multiplicity of proceedings. However, it is not automatic.

17. The Respondent objects to consolidation on the ground that each matter arises from distinct transactions requiring separate accounting. Consolidation, in its view, would complicate requisitions and settlement of taxed costs. This concern is legitimate. While the legal principles governing taxation and entry of judgment are common, the factual matrix of each matter is distinct.

18. In **Nyati Security Guards & Services Ltd v Municipal Council of Mombasa [2004] eKLR**, the Court held that consolidation

is appropriate where common questions of law or fact arise, but should not be ordered where it may cause prejudice or confusion. The Court stated that:

“The circumstances in which suits can be consolidated are broadly similar to those in which parties may be joined in one action. Accordingly, actions relating to the same subject matter between the same plaintiff and the same defendant, or between the same plaintiff and the same defendant, or between the same plaintiff and different defendants or between different plaintiffs and the same defendants may be consolidated.

There are however situations where consolidation is undesirable like where in two action a plaintiff in one is a defendant in the other unless the claim in one is to be treated as a counterclaim in the other. The other situation where consolidation is undesirable is where the plaintiffs in two or more actions are represented by different advocates. In such situation the hearing will be longer than take long and the purpose of saving time will be defeated.”

19. Applying that principle, I find that in the present case, consolidation would risk obscuring the separate transactional bases of each claim. I therefore decline to order consolidation. Each matter shall proceed on its own footing. Ruling herein will only cover the sum certified in this cause, being **Miscellaneous Application No. E753 of 2024.**

Whether the Respondent should be allowed to liquidate the decretal sum by installments

20. The Respondent prays to liquidate the decretal sum in monthly installments of between Kshs. 50,000/= and 100,000. Section 38 of the

Civil Procedure Act empowers the Court to order payment by installments where circumstances justify. The discretion must be exercised judiciously, balancing the creditor's right to prompt payment with the debtor's capacity to pay.

21. The Applicant has not demonstrated prejudice that would outweigh the Respondent's request. The decretal sum is substantial, and the Respondent has expressed willingness to pay. Allowing installments would facilitate compliance while avoiding undue hardship. However, the Court must impose strict timelines to prevent abuse.

22. In **Hilton Walter v Kenya Commercial Bank Ltd [2003] eKLR**, the Court held that installment orders are appropriate where the debtor demonstrates good faith and capacity to pay. I am satisfied that the Respondent has shown willingness to settle, and that installments will balance the equities.

23. I therefore allow settlement by monthly installments of Kshs. 200,000. In default of any one instalment, the whole of the decretal sum shall become immediately due and payable, with the Applicant having the liberty to execute for the balance.

Disposition

24. The upshot of the foregoing is that the Court finds the Applicant's Notice of Motion dated 22nd April 2025 partly merited. Accordingly, the Court makes the following orders:

- i. Judgment is hereby entered in favour of the Applicant/Advocate against the Respondent/Client in the sum of Kenya Shillings Nine Hundred and Twenty-Seven Thousand Four Hundred and Thirty-

Two (Kshs. 927,432/=) being taxed costs in **Miscellaneous Application No. E753 of 2024.**

- ii. Interest shall accrue on the said sum at the rate of **14% per annum**, calculable thirty (30) days from the date of service of the Bill of Costs upon the Respondent until payment in full.
 - iii. The prayer for the consolidation of Miscellaneous Applications Nos. E753, E741, E767, E748, E749, E744, and E746 of 2024 is hereby declined; each matter to proceed on its own footing.
 - iv. The Respondent is granted leave to liquidate the decretal sum by monthly installments of Kshs. 200,000/=, the first installment to be paid within thirty (30) days from the date hereof, and subsequent installments on or before the 5th day of each succeeding month until payment in full.
 - v. In default of any installment, the entire balance shall become immediately due and payable, and the Applicant shall be at liberty to execute for the full amount outstanding.
 - vi. The costs of this application, which is assessed at Kshs.50,000/= is hereby awarded to the Applicant.
25. It is so ordered.

SIGNED, DATED, and DELIVERED IN VIRTUAL COURT THIS

15TH JANUARY 2026



**ADO MOSES
JUDGE**

In the presence of: -

C/A - Moses

Nafula.....for the Applicant/Advocate.

N/A..... for the Respondent/Client.

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