



**Ooko v Kevin & Associates Llp (Civil Case E937 of 2024)  
[2026] KEHC 67 (KLR) (Civ) (15 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 67 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CIVIL**

**CIVIL CASE E937 OF 2024**

**SIFUNA NIXON, J**

**JANUARY 15, 2026**

**BETWEEN**

**DOMINIC OTIENO OOKO ..... PLAINTIFF**

**AND**

**KEVIN & ASSOCIATES LLP ..... DEFENDANT**

**RULING**

1. The Defendant Kevin & Associates LLP, is a law firm based in Nairobi. The Plaintiff has been at all material times a Client of the said law firm. The Plaintiff filed in this Court, an Originating Summons dated 27<sup>th</sup> August 2024. By which he is among other prayers, seeking orders compelling the said law firm, to release to him a sum of Ksh 3,180,675= which was received by it on his behalf and is being withheld by it on an alleged fee balance. It is also seeking an order directing the law firm to file its Bill of Costs, for taxation.
2. The Client also filed a Notice to Produce. The same is dated 26<sup>th</sup> April 2025. By it, he is seeking an order requiring the Defendant to produce any Retainer Agreement and any documents that it has in its custody, relating to the matters in which it has represented him.
3. The Notice which is stated to have been filed/issued pursuant to Section 69 of the *Evidence Act* (Cap 80 Laws of Kenya) and Section 22 of the *Civil Procedure Act* (Cap 21 Laws of Kenya), was accompanied with a Supporting Affidavit sworn by him on 16<sup>th</sup> April 2025.
4. The said Notice to Produce, has been opposed through a Replying Affidavit sworn by Kevin Mwalo who is an Advocate and a partner in the Defendant law firm.
5. In the said Replying Affidavit, the Defendant through the said deponent, admits representing the Plaintiff, but is evasive and has avoided commenting on the said sum of Ksh 3,180,675= the subject



of this suit. Specifically as to whether it received the money and whether it is withholding it, or it has already released it all to him.

6. As to the records of retainer, the said deponent has deponed that the Defendant law firm has changed to an electronic filing system, by which some old documents cannot be traced. Further that the Advocate-Client relationship lasted from January 2017 to December 2021.

### **Analysis and Determination**

7. What is before me for determination, is the Plaintiff's said Notice to Produce. I have distilled the Notice, as well as the Response to it, and the Originating Summons (together with its Supporting Affidavit).
8. I am also alive to the provisions of Sections 45 to 47 of the [Advocates Act](#) (Cap 16 Laws of Kenya) and the principles including the principles of equity.
9. As to the law applicable to a Notice to Produce, Section 69 of the [Evidence Act](#) is instructive. The Notice was never meant to just cause an adversary to produce records or documents. It is to enable a party produce secondary evidence if the original is in the custody of his adversary.
10. Therefore, the Notice filed in this suit by the Plaintiff, is misconceived. As the provisions for an Advocate to deliver up to his client, monies received, documents and files relating to matters he has handled for him, are in the [Advocates Act](#).
11. For that reason, this Notice as framed, fails, and is hereby struck out. In the interest of substantive justice and equity, however, the Defendant Kevin & Associates LLP is hereby ordered to, pending the hearing and determination of this suit, deposit in this Court within 30 days from the date of this ruling, the said sum of Ksh 3,180,675= that is the subject of this Originating Summons (suit). This is meant to preserve this money, and ensure it is available, in the event the suit succeeds.
12. The Defendant shall also within those 30 days from the date of this ruling file and serve its Advocate-Client Bill of Costs relating to representation in the subject suit(s).

**DATED AND DELIVERED AT NAIROBI ON THIS 15<sup>TH</sup> DAY OF JANUARY 2026.**

**PROF (DR) NIXON SIFUNA**

**JUDGE**

