

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT
NAIROBI
MISC. APPLICATION NO. E117 OF 2025

NJERI NGUNJIRI ADVOCATES.....ADVOCATE/APPLICANT

VERSUS

PETER

MUIMI

YANINGA.....CLIENT/RESPONDENT

RULING

1. By way of a Notice of Motion dated 29th July 2025, the Advocate/Applicant herein seeks the following orders:

- a) *Spent.*
- b) *THAT the Honorable Court be pleased to enter Judgment against the Respondent in favour of the applicant for a sum of Kshs. 279,420/= as more particularly ascertained by the Taxing Officer of this Court and contained in the certificate of taxation dated 23rd July 2025.*
- c) *THAT the Honorable Court be pleased to grant interest at court rates from the date of this judgment to the applicant.*
- d) *THAT the costs of the application be awarded to the Applicant.*

2. The Motion is premised on the grounds set out therein and, on the depositions, contained in the Supporting Affidavit sworn by **Njeri Ngunjiri** on 29th July 2025.
3. Grounds in support of the Motion are that the Applicant filed a Bill of Costs dated 30th April 2025, which was subsequently taxed by the Taxing Officer at Kshs. 279,420/- on 23rd July 2025. That the Court issued the Applicant with a Certificate of Taxation, and the Respondent was served with the same on 24th July 2025. However, the Respondent did not file any reference within the prescribed period.
4. The Client/Respondent, **Peter Muimi Yanninga**, filed a Replying Affidavit on 10th October 2025 opposing the Notice of Motion. Mr. Yanninga avers that he and the Applicant had agreed that she would represent him at the Public Service Commission for an all-inclusive fee of Kshs. 150,000/-. He paid Kshs. 70,000/- as a deposit, with the balance of Kshs. 80,000/- to be paid in agreed installments. Mr. Yanninga adds that he is making arrangements to settle this outstanding amount.

5. Mr. Yaninga further avers that he did not instruct the Applicant to appeal the decision of the Public Service Commission to court, and therefore, he should not be held liable for fees for services rendered without his instruction.
6. Mr. Yaninga also contends that he was not served with the Certificate of Costs in the matter and, as a result, did not file a reference within the prescribed time.
7. In his view, the Motion constitutes an abuse of the Court process and should accordingly be dismissed with costs.

Submissions

8. The Motion was canvassed by way of written submissions. The Applicant urged the Court to disregard the grounds advanced by the Respondent, further submitting that the issues raised in his Affidavit should have been addressed by way of a reference seeking to set aside the decision of the Taxing Officer.
9. The Respondent did not file written submissions as the same were not traceable on the Court's physical record and the online portal.

Analysis and Determination

10. Having considered the Motion alongside the Respondent's Replying Affidavit, the Court finds that the issue for determination is whether the Court should

enter judgment against the Respondent in terms of the Certificate of Taxation dated 24th July 2025.

11. From the record, the Advocate-Client Bill of Costs was filed on 1st May 2025 and subsequently taxed at Kshs. 279,420/- in favour of the Applicant. Consequently, a Certificate of Taxation was issued on 24th July 2025. Notably, the Respondent did not seek to have the Certificate of Taxation set aside or varied prior to the filing of the instant Motion.

12. In opposing the Motion, the Respondent contends that there was an agreement whereby he was to pay the Applicant Kshs. 150,000/- as an all-inclusive fee for representation at the Public Service Commission. He denies having instructed the Applicant to appeal the Commission's decision and therefore claims he is not liable for services rendered without his instructions. Respectfully, these are issues the Respondent ought to have raised by way of a reference as per Rule 11 of the Advocates Remuneration Order.

13. Section 51(2) of the Advocates Act is explicit that a Certificate of Taxation, once issued by the Taxing Officer, is final unless it is set aside or varied by the Court.

14. In the present case, the Bill of Costs was taxed on 23rd July 2025 and, having not been challenged by the Respondent through the proper procedural channels, the Court finds that the amount determined by the Taxing Officer is due to the Applicant.

15. It is noteworthy that on 14th October 2025, the Court entered a partial consent judgment against the Respondent in the sum of Kshs. 80,000/-. Accordingly, the balance due to the Applicant amounts to Kshs. 199,420/-.

16. In sum, the Notice of Motion dated 29th July 2025 is hereby allowed as follows;

- a) Judgment is hereby entered against the Client/Respondent in favour of the Advocate/Applicant for the sum of Kshs. 199,420.00.**
- b) Interest at court rates from the date of this Ruling until payment in full.**

DATED, SIGNED and DELIVERED at NAIROBI this 23rd day of January 2026.

.....

STELLA RUTTO

JUDGE

In the presence of:

Ms. Wangare instructed by Ms. Njeri Nginjiri	for the Advocate/Applicant
No appearance	for the Respondent/Client
Catherine	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 15th March 2020 and subsequent directions of 21st 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

ORIGINAL