

**REPUBLIC OF
KENYA IN THE COURT
OF APPEAL
AT NAIROBI
(CORAM: P. NYAMWEYA,
J.A.)**

**CIVIL APPEAL (APPLICATION) NO. E849 OF
2023 BETWEEN
GIDEON MWANGI KABARU**

.....
**APPELLANT
AND
CRAFT SILICON LIMITED**

.....
RESPONDENT

***(An application by the Appellant’s Advocates for leave to cease
acting for the Appellant in Civil Appeal No. E849 of 2023)***

RULING OF THE COURT

1. The firm of Muri Mwaniki Thige & Kageni LLP Advocates (hereinafter “the Applicant”), has filed an application by way of a Notice of Motion dated 28th October 2025, in which it seeks leave to cease acting for the appellant herein. The application is supported by an affidavit sworn on even date by Eric Thige Muchiri, a partner in the said firm of advocates. The main ground for the application is that after receiving instructions to file the appeal, the Applicant has made several attempts to contact the appellant who has been unresponsive. Therefore, having not received instructions, the Applicant is therefore unable

to continue prosecuting the appeal.

2. This ground was reiterated in written submissions dated 9th February 2026 that were filed by the Applicant in support of the application. The Applicant submitted that they had complied with Rule 23(2) of the Court of Appeal Rules, 2022 and had affected service of the application upon the appellant. The decision in **Commissioner of Insurance vs Kensilver Express Limited & 192 others (2025) KECA 94 (KLR)** was cited in this respect.
3. There was no response to the application. I note that two affidavits of service, both sworn by Waweru Mwangi on 20th November 2025 and 3rd February 2026 were filed by the Applicant, and it is indicated therein that the application was served on the appellant on 5th November 2025 as was the hearing notice on 2nd February 2026.
4. I heard the application in chambers in the absence of the parties on 16th February 2026, and have considered the reasons put forth by the Applicant. Rule 23 (2) of this Court's Rules provides as follows in this regard:

“An advocate who desires to cease acting for any party in a civil appeal or application, may apply by notice of motion before a single Judge for leave to so cease acting, and such advocate shall be deemed to have ceased to act for such party upon service on the party of a certified copy of the order of the judge.”

The requirements to be met under this Rule were explained by **Nambuye JA** as follows in the case of **Kenya Tea Agency & Another vs. Samuel W'njuguna & 115 Others [2021] eKLR**:

“The Rule is permissive. All that an advocate needs to do under the above Rule to earn the courts intervention is for such an advocate to express the desire to cease acting and then cause the desire to cease acting to be brought to the attention of his client.”

5. The applicant has placed before the Court evidence of service of the application on the appellant and has therefore complied with the requirements of this rule. It is thus my finding that the application dated 28th October 2025 is merited, and the firm of Muri Mwaniki Thige & Kageni LLP Advocates is hereby granted leave to cease acting for the appellant in this appeal. There shall be no order as regards the costs of the application.
6. Orders accordingly.

Dated and delivered at Nairobi this 27th day of February, 2026.

P. NYAMWEYA

.....
..... **JUDGE**
OF APPEAL

I certify that this is
a true copy of the original

Signed

DEPUTY REGISTRAR.