

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CIVIL DIVISION**  
**MISC. CIVIL APPLICATION NO. E1080 OF 2024**

ERIC NTABO & CO. ADVOCATE..... APPLICANT

-VERSUS-

TRIDENT INSURANCE CO. LTD.....RESPONDENT

(As consolidated with)

MISC. CIVIL APPLICATION NO. E1073 OF 2024

ERIC NTABO & CO. ADVOCATE..... APPLICANT

-VERSUS-

TRIDENT INSURANCE CO. LTD.....RESPONDENT

MISC. CIVIL APPLICATION NO. E1076 OF 2024

ERIC NTABO & CO. ADVOCATE..... APPLICANT

-VERSUS-

TRIDENT INSURANCE CO. LTD.....RESPONDENT

MISC. CIVIL APPLICATION NO. E1077 OF 2024

ERIC NTABO & CO. ADVOCATE..... APPLICANT

-VERSUS-

TRIDENT INSURANCE CO. LTD.....RESPONDENT

MISC. CIVIL APPLICATION NO. E1078 OF 2024

ERIC NTABO & CO. ADVOCATE..... APPLICANT

-VERSUS-

TRIDENT INSURANCE CO. LTD.....RESPONDENT

MISC. CIVIL APPLICATION NO. E1079 OF 2024

ERIC NTABO & CO. ADVOCATE..... APPLICANT

-VERSUS-

TRIDENT INSURANCE CO. LTD.....RESPONDENT  
MISC. CIVIL APPLICATION NO. E1081 OF 2024  
ERIC NTABO & CO. ADVOCATE..... APPLICANT

-VERSUS-

TRIDENT INSURANCE CO. LTD.....RESPONDENT  
MISC. CIVIL APPLICATION NO. E1082 OF 2024  
ERIC NTABO & CO. ADVOCATE..... APPLICANT

-VERSUS-

TRIDENT INSURANCE CO. LTD.....RESPONDENT  
  
MISC. CIVIL APPLICATION NO. E1083 OF 2024  
ERIC NTABO & CO. ADVOCATE..... APPLICANT

-VERSUS-

TRIDENT INSURANCE CO. LTD.....RESPONDENT  
MISC. CIVIL APPLICATION NO. E1084 OF 2024  
ERIC NTABO & CO. ADVOCATE..... APPLICANT

-VERSUS-

TRIDENT INSURANCE CO. LTD.....RESPONDENT  
MISC. CIVIL APPLICATION NO. E1085 OF 2024  
ERIC NTABO & CO. ADVOCATE..... APPLICANT

-VERSUS-

TRIDENT INSURANCE CO. LTD.....RESPONDENT  
MISC. CIVIL APPLICATION NO. E1086 OF 2024  
ERIC NTABO & CO. ADVOCATE..... APPLICANT

-VERSUS-

TRIDENT INSURANCE CO. LTD.....RESPONDENT  
MISC. CIVIL APPLICATION NO. E1087 OF 2024  
ERIC NTABO & CO. ADVOCATE..... APPLICANT

-VERSUS-

TRIDENT INSURANCE CO. LTD.....RESPONDENT  
MISC. CIVIL APPLICATION NO. E1089 OF 2024  
ERIC NTABO & CO. ADVOCATE..... APPLICANT

-VERSUS-

TRIDENT INSURANCE CO. LTD.....RESPONDENT

**RULING**

1. Before the Court for determination are fourteen (14) matters being Nairobi **HC Misc. Civil Application No. E1073, E1076, E1077, E1078, E1079, E1080, E1081, E1082, E1083, E1084, E1085, E1086, E1087 & E1089 of 2024** filed by Eric Ntabo & Co. Advocates (hereafter the Advocate/Applicant) as against **Trident Insurance Co. Ltd** (hereafter the Client/Respondent).
2. Vide directions issued by this Court on 22/09/2025, the above matters were consolidated with Nairobi **HC Misc. Civil Application No. E1080 of 2024** being selected as the lead file.
3. That said, the Applicant filed motions dated 19/06/2025 in all fourteen (14) matters brought pursuant to **Section 51(2) of the Advocates Act and Paragraph 4 & 7 of the Advocates Remuneration Order** seeking inter alia:

*a. That the Court be pleased to order that the certificate of taxations issued to the Applicant as against the Respondent be converted into a judgment and decree of the Court and consequently, judgment be entered for the Applicant against the Respondent in-;*

*HC Misc. Civil Application No. E1076 of 2024 - Kshs. 397,257/-*

*HC Misc. Civil Application No. E1073 of 2024 - Kshs. 178,260/-*

*HC Misc. Civil Application No. E1077 of 2024 - Kshs. 156,210/-*

*HC Misc. Civil Application No. E1078 of 2024 - Kshs. 293,310/-*

*HC Misc. Civil Application No. E1079 of 2024 - Kshs. 222,600/-*

*HC Misc. Civil Application No. E1080 of 2024 - Kshs. 458,060/-*

*HC Misc. Civil Application No. E1081 of 2024 - Kshs. 214,643/-*

*HC Misc. Civil Application No. E1082 of 2024 - Kshs. 397,643/-*

*HC Misc. Civil Application No. E1083 of 2024 - Kshs. 133,320/-*

*HC Misc. Civil Application No. E1084 of 2024 - Kshs. 2,074,804/-*

*HC Misc. Civil Application No. E1085 of 2024 - Kshs. 368,468/-*

*HC Misc. Civil Application No. E1086 of 2024 - Kshs. 357,982/-*

*HC Misc. Civil Application No. E1087 of 2024 - Kshs. 300,637/-*

*HC Misc. Civil Application No. E1089 of 2024 - Kshs. 457,650/-*

*a) That the interest does accrue on the above sums at the rate of 14% per annum with effect from 02/12/2024 until payment shall be made in full as prescribed in **Paragraph 7 of the Advocates Remuneration Order.***

*b) That the costs of each application be awarded to the Applicant in the sum of Kshs. 50,000/-*

4. Each of the **fourteen (14) motions** are premised on grounds amplified in the supporting affidavits sworn **by Eric Nyarandi** Ntabo, on even date. The gist of his deposition is the said affidavits, is that, the Respondent retained his law firm to act for it and defend its interest, as such, there is no dispute on the issue of an advocate-client relationship. That he prepared, filed and served bill of costs and the respective taxation notices in the matters however the Respondent failed to respond to them, to wit, the respective bills were taxed unopposed on 15/05/2025.

5. That subsequent to taxation of the various bills, certificates of taxation were issued and thereafter served upon the Respondent. That he is satisfied with the conditions of taxation whereas the various certificates of costs have not been appealed, set aside, varied or altered. He goes on to depose that the Respondent has in the meantime refused, failed and or neglected to settle the taxed costs despite notice and reminders. He concludes that the Court ought to enter judgment against the Respondent in terms of the taxed amounts in the said certificates of costs whereas interest on the said amounts ought to accrue at 14% per annum with effect from the date of filing the bills of costs until payment shall be made in full.
6. Despite service, the Respondent failed and or opted not to offer any response or opposition to the respective applications.
7. Having considered the Applicant's affidavits, it follows that the issue(s) for **determination concern: -**
  - a) *Whether the Court ought to enter judgment in Nairobi HC Misc. Civil Application No. E1073, E1076, E1077, E1078, E1079, E1080, E1081, E1082, E1083, E1084, E1085, E1086, E1087 & E1089 of 2024 in favour of the Advocate as against the Respondent in respect of taxed sums?*
  - b) *Whether the Advocate is entitled to interest at 14% in respect of the taxed costs in Nairobi HC Misc.*

*Civil Application No. E1073, E1076, E1077, E1078, E1079, E1080, E1081, E1082, E10*

*c) 83, E1084, E1085, E1086, E1087 & E1089 of 2024?*

*d) Who ought to bear the costs of the respective motions?*

***Whether the Court ought to enter judgment in Nairobi HC Misc. Civil Application No. E1073, E1076, E1077, E1078, E1079, E1080, E1081, E1082, E1083, E1084, E1085, E1086, E1087 & E1089 of 2024 in favour of the Advocate as against the Respondent in respect of taxed sums?***

8. As rightly, deposed by the Applicant, upon taxation of the respective matters no reference or other challenge to the taxation proceedings and or certificate of costs has since been mounted by the Respondent as provided for under Rule 11 of the Advocates Remuneration Order<sup>9</sup> (ARO).

9. That said, as earlier noted, the respective motions invoke **Section 51(2) of the Advocates Act**, which provides that:

*The certificate of the taxing officer by whom any bill has been taxed shall, unless it is set aside or altered by the Court, be final as to the amount of the costs covered thereby, and the Court may make such order in relation thereto as it thinks fit, including, in a case where the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs."*

10. Here, the Court's understanding of **Section 51(1) of the Act**, is that the latter is unequivocal as to the finality of a certificate of costs. See-: **Kenya Airports Authority v Otieno Ragot and Company Advocates [2024] KESC 44 (KLR)** and whether judgment may be entered in respect of a certificate of costs.
11. It is trite that an advocate who has dutifully rendered legal services is entitled to compensation for work lawfully done. In satisfaction of the above, an advocate can opt to avail himself of either the provisions of **Section 48 or 51** of the Advocates Act however it bears importance to state that proceedings brought pursuant to the latter provision of the Act, enhances expediency in the resolution of claims arising from an Advocate-Client taxed bill of costs in consonance with **Article 159(2)(b) of the Constitution and Section 1A & 1B of the Civil Procedure Act (CPA)**.
12. In **Otieno, Ragot & Company Advocates v Kenya Airports Authority [2021] KECA 587 (KLR)**, Murgor JA, cited with approval the decision in Lubulellah & Associates Advocates v N.K. Brothers Limited [2014] eKLR where it was held that-:

*“The law is very clear that once a taxing master has taxed the costs, issued a Certificate of costs and there is no reference against his ruling or there has been a ruling and a determination made and not set aside and/or altered, no other action would be required from*

*the court save to enter judgment. An applicant is not required to file suit for the recovery of costs.”*

- 13.** The above position was further fortified, in the emanating appeal, from the Supreme Court in **Kenya Airports Authority [2024] KESC 44 (KLR) (supra)**. Here, the Respondent offered no opposition to the respective applications. Therefore, applying my mind to the provision of **Section 51(2) of the Advocates Act** and cited authorities, the Applicant is entitled to judgment in respect of the taxed costs in **Nairobi HC Misc. Civil** Application No. E1073, E1076, E1077, E1078, E1079, E1080, E1081, E1082, E1083, E1084, E1085, E1086, E1087 & E1089 of 2024.

***Whether the Advocate is entitled to interest at 14% per annum in respect of the taxed costs in Nairobi HC Misc. Civil Application No. E1073, E1076, E1077, E1078, E1079, E1080, E1081, E1082, E1083, E1084, E1085, E1086, E1087 & E1089 of 2024?***

- 14.** By the respective motions, the Applicant has sought that interest to be awarded at 14% per annum on the taxed sums in Nairobi HC Misc. Civil Application No. E1073, E1076, E1077, E1078, E1079, E1080, E1081, E1082, E1083, E1084, E1085, E1086, E1087 & E1089 of 2024 with effect from 02/12/2024 until payment is made in full.
- 15.** The question of interest on taxed costs is hinged on Paragraph 7 of the Advocates Remuneration Order, which provides that: -

*“An advocate may charge interest at 14 per cent per annum on his disbursements and costs, whether by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, provided that such claim for interest is raised before the amount of the bill shall have been paid or tendered in full”*

16. The Applicant lodged his various bill of costs between 14/10/2024 and 22/10/2024 and pursuant to the above provision, the Applicant is entitled to levy interest after the expiry of one month from the date of delivery of his bill. It is not in dispute that the Applicant served his bill on or about 04/12/2024 going by the return of service in each matter. And premised on the latter provision, the Applicant asserts that he is entitled to charge interest on taxed costs, upon the expiration of a month from when the bill was served. Therefore, interest on the amount taxed would be chargeable from 04/01/2025 until payment in full.
17. Recently, **Ngugi JA, in Otieno, Ragot & Company Advocates v Kenindia Assurance Co. Ltd [2023] KECA 1398 (KLR)** while addressing himself on the application of Paragraph 7 of the Advocates Remuneration Order succinctly put it that-;

*30.The crux of the matter is that the appellant/advocate did not, in its Bill of Costs drawn and served on the client/respondent, include the potentially allowable interest of 14% p.a. The advocate*

*only claimed the interest, for the first time, in the adoption proceedings under section 51(2) of the Advocates Act. The appellant insists that he was allowed to do so and that, conversely, the Court was obligated to award them the interest.*

*31.As should be obvious from the unbundling of rule 7 of the Advocates Remuneration Order and section 51(2) of the Advocates Act above, it was not open to the appellant to claim the potentially permissible interest rate of 14% for the first time during adoption proceedings under section 51(2). This is because it was incumbent upon the advocate to put the client on notice that he intended to claim the interest at the point at which he drew the Bill of Costs. He did not. If an advocate is interested in claiming the potentially allowable interest at 14% p.a., he must make the claim in the Bill of Costs.*

*32.Once the advocate includes the claim of interest, it must be litigated before the Taxing Master in the taxation proceedings. If it is awarded by the Taxing Master, it would be well and good for the advocate. However, if it is not awarded in the taxation proceedings and included in the Certificate of Costs, the advocate must challenge the omission in a reference to the court under rule 11 of the Advocates Remuneration Order. It is not open to the advocate to spring the claim*

*of interest for the first time at the enforcement proceedings under section 51 of the Advocates Act.*

*33.To reiterate, the policy rationale for this interpretation is that the advocate should put the client on notice about the totality of the claim he has against the client at the earliest instance. There is a policy preference against an advocate making piecemeal claims against the client. Requiring an advocate to raise the claim for interest at the earliest instance gives the client an opportunity to object to any delays by the advocate in raising the Bill of Costs. This, in turn, acts as a disincentive for advocates to needlessly delay raising a Bill of Costs with the sole objective of increasing the amounts due through the allowable interests under rule 7 of the Advocates Remuneration Order. Conversely, it incentivizes clients to promptly pay the amounts due to the advocate as claimed in the Bill of Rights or raise an objection promptly.*

*34.In the present case, the appellant neither claimed the interest at 14% p.a. in his Bill of Costs nor filed a reference under rule 11 of the Advocates Remuneration Order. Consequently, it was improper for the appellant to raise the claim for the first time in the section 51(2) proceedings. It follows that the learned judge did not misapprehend the law or abuse his discretion in disallowing the claim.*

*35.The upshot is that the appeal lacks merit. I propose that it be dismissed. Noting some of the conflicting High Court decisions on the topic, however, I would propose that each party bears its own costs.*

18. However, earlier, the same **Court in Otieno, Ragot & Company Advocates v Kenya Airport Authority [2021] KECA 587 (KLR)** highlighted the discretionary nature of an award on interest. Ouko JA (as he then was) concurring with Murgor, JA. stated that-;

*“Finally, regarding computation of interest, while I agree with Murgor, JA’s conclusion, that the award of interest is a discretionary matter, I wish only to emphasize, as Onguto, J. did in Mercy Nduta Mwangi t/a Mwangi Keng’ara & Company Advocates vs. Invesco Assurance Company Limited [2017] eKLR, that, that discretion comes with the power to reduce the period for which interest is payable. It extends to altering the rate at which interest is payable and even to withholding the entire interest payable in the interest of justice.”*

19. While an award of interest is discretionary, Ouko, JA (as he then was), in the majority decision of the Court in **Otieno, Ragot & Company Advocates v Kenya Airport Authority [2021] KECA 587 (KLR)**, qualified his reasoning as to why the Court invoked its discretion to decline an award of interest in the matter. In the emanating appeal,

**Kenya Airports Authority v Otieno Ragot and Company Advocates [2024] KESC 44 (KLR)**, the apex Court declined to pronounce itself as to when time begins to run concerning the award on interest. However, it would seem that the same had since been settled by the Court of Appeal.

20. Applying my mind to the above dicta, a cursory perusal of the respective bills of costs, a claim on interest at 14% per annum from the expiry of 30 days from the date of service of the bill of costs upon the client until payment in full was not made. The exhortation of **Ngugi JA, in Otieno, Ragot & Company Advocates v Kenindia Assurance Co. Ltd [2023] KECA 1398 (KLR)** dissuades parties from claim interest for the first-time during adoption proceedings under **Section 51(2) of the Advocates Act.**

21. **Ngugi JA**, in his subsequent rendition in **Otieno, Ragot & Company Advocates v Kenindia Assurance Co. Ltd [2023] KECA 1443 (KLR)** pithily settled the question of interest with respect to taxed costs as follows-;

*24. I believe that this decision and its companion one in Kisumu Civil Appeal No. 129 of 2018 will remove the cobwebs of confusion reigning in this area. It comes down to a salutary advice for advocates: if one hopes to claim the 14% p.a. interest under Rule 7 of the Advocates Remuneration Order on a fee note or Bill of Costs, one must make the claim in the fee note and/or*

*Bill of Costs. If the interest is not claimed in the fee note or Bill of Costs, an advocate loses his right to claim for it subsequently. Similarly, if the interest of 14% under Rule 7 of the Advocates Remuneration Order is not specifically awarded during the taxation proceedings, the advocate must invoke Rule 11 of the Advocates Remuneration Order and file a reference to protest the omission. The advocate cannot wait to introduce the interest during enforcement proceedings under section 51(2) of the Advocates Act. If the advocate demands interest at that late stage, he will likely suffer two potential perils: the court can only award interest at earliest from the date of lodging the Bill of Costs; and the interest is at the discretion of the court. However, where the interest of 14% p.a. under Rule 7 of the Advocates Remuneration Order is specifically claimed in the Bill of Costs and awarded during the taxation proceedings, the interest will apply to the taxed amount until it is fully paid. An application under 51(2) of the Advocates Act will not act to reduce the interest rate or otherwise create a reservoir of discretion for the judge to change the interest rate. [emphasis mine]*

22. Therefore, the Applicant is only entitled to a claim on interest at 14% per annum from the date of filing of the respective bill of costs until payment in full.

**Who ought to bear the costs of the motion?**

23. On costs of the respective applications, the Court draws guidance from Schedule 6 Paragraph 1 sub-paragraph (c) (viii) of the Advocates Remuneration Order which reserves that-; to present or oppose any other application not otherwise provided for—where the application is unopposed 3,000; where the application is opposed, such sum as may be reasonable but not less than 5,000. Given the forestated and without encumbering parties with further litigation on costs of the respective motions, the Court will cap costs of each motion at Kshs. 3,000/-, in favour of the Applicant..
24. Consequently, judgment is hereby entered in favour of the Applicant as against the Respondent in terms of the decision of the taxing officer and resultant certificate of taxations issued to the Applicant as hereunder-;

***HC Misc. Civil Application No. E1076 of 2024 - Kshs. 397,257/- with interest on the amount at 14% per annum from 14/10/2024 until payment in full.***

***HC Misc. Civil Application No. E1073 of 2024 - Kshs. 178,260/- with interest on the amount at 14% per annum from 14/10/2024 until payment in full.***

***HC Misc. Civil Application No. E1077 of 2024 - Kshs. 156,210/- with interest on the amount at 14% per annum from 14/10/2024 until payment in full.***

**HC Misc. Civil Application No. E1078 of 2024 - Kshs. 293,310/- with interest on the amount at 14% per annum from 14/10/2024 until payment in full.**

**HC Misc. Civil Application No. E1079 of 2024 - Kshs. 222,600/- with interest on the amount at 14% per annum from 14/10/2024 until payment in full.**

**HC Misc. Civil Application No. E1080 of 2024 - Kshs. 458,060/- with interest on the amount at 14% per annum from 14/10/2024 until payment in full.**

**HC Misc. Civil Application No. E1081 of 2024 - Kshs. 214,643/- with interest on the amount at 14% per annum from 18/10/2024 until payment in full.**

**HC Misc. Civil Application No. E1082 of 2024 - Kshs. 397,643/- with interest on the amount at 14% per annum from 18/10/2024 until payment in full.**

**HC Misc. Civil Application No. E1083 of 2024 - Kshs. 133,320/- with interest on the amount at 14% per annum from 14/10/2024 until payment in full.**

**HC Misc. Civil Application No. E1084 of 2024 - Kshs. 2,074,804/- with interest on the amount at**

**14% per annum from 14/10/2024 until payment in full.**

**HC Misc. Civil Application No. E1085 of 2024 - Kshs. 368,468/- with interest on the amount at 14% per annum from 22/10/2024 until payment in full.**

**HC Misc. Civil Application No. E1086 of 2024 - Kshs. 357, 982/- with interest on the amount at 14% per annum from 18/10/2024 until payment in full.**

**HC Misc. Civil Application No. E1087 of 2024 - Kshs. 300,637/- with interest on the amount at 14% per annum from 14/10/2024 until payment in full.**

**HC Misc. Civil Application No. E1089 of 2024 - Kshs. 457,650/- with interest on the amount at 14% per annum from 18/10/2024 until payment in full.**

**25. Costs of each of the motions in Nairobi HC Misc. Civil Application No. E1073, E1076, E1077, E1078, E1079, E1080, E1081, E1082, E1083, E1084, E1085, E1086, E1087 & E1089 of 2024 the Applicants are awarded Kshs. 3,000/-**

**Orders accordingly.**

**Delivered Dated and Signed at Nairobi this 19<sup>th</sup> March, 2026.**

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**JANET MULWA.**

**JUDGE**

ORIGINAL