

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**COMMERCIAL & ADMIRALTY DIVISION**

**MISC. APPLICATION NO. E439 OF 2019**

**IN THE MATTER OF THE ADVOCATES ACT, CAP 16**

**AND**

**IN THE MATTER OF TAXATION**

**BETWEEN**

**OMBUNA ONGERI & COMPANY**

**ADVOCATES.....ADVOCATES/APPLICANT**

**VERSUS**

**TRIDENT INSURANCE COMPANY**

**LIMITED.....CLIENT/RESPONDENT**

**RULING**

1. The Court is called upon to determine the Advocate's application dated **4th September 2024**, brought under **Section 51(2) of the Advocates Act** and **Rule 7 of the Advocates Remuneration Order**.
2. The Applicant seeks the following orders:
  - i. That judgment be entered for the Applicant against the Respondent for **Kshs. 94,213/=** being the taxed costs in Nairobi Misc. Application No. E439 of 2019.
  - ii. Interest on the sum awarded at the rate of 14% from 9th November 2019 until payment in full.

- iii. That the costs of the application be awarded to the Applicant.
3. The application is supported by the affidavit sworn on 4<sup>th</sup> September 2026 by **Robert Onger** - Advocate, which adopts the grounds set out in the application.
  4. The background of the matter is that the Applicant filed an Advocate-Client Bill of Costs against the Respondent, which was subsequently taxed. The record shows that the Bill of Costs was taxed on 12th February 2021, and a Certificate of Taxation was issued for the sum of **Kshs. 94,213/=** by the Deputy Registrar of this Court certifying the amount payable by the Respondent to the Applicant.
  5. The Applicant states that the Bill of Costs had earlier been served upon the Respondent on 9th October 2019, and that the Respondent has failed to settle the taxed costs despite service of the Certificate of Taxation.
  6. The application was also served upon the Respondent's advocates on record. However, no replying affidavit or grounds of opposition were filed to contest the application.
  7. The record indicates that the Respondent's Advocate, then on record, ceased acting for the Respondents pursuant to an application dated 23 June 2025, which was allowed by this Court. Subsequent service upon the Respondent in person of the present application also yielded no response.
  8. The matter proceeded by way of written submissions. The Advocate's submissions are dated 20 June 2025. No submissions were filed by or on behalf of the Respondent/Client.

## Analysis and Determination

9. Having carefully considered the application and the submissions filed by the Applicant, I find that the sole issue for determination is whether judgment should be entered for the Applicant on the basis of the Certificate of Taxation.

10. The law governing entry of judgment on a taxed bill is **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 an order that judgment be entered for the sum certified to be due.”

11. The legal position emerging from this provision is settled. Once a **Certificate of Taxation** has been issued and **has not been set aside or varied**, the Court may enter judgment for the amount certified, provided the retainer is not disputed.

12. The Court of Appeal in **Lubulellah & Associates Advocates v N K Brothers Limited [2014] eKLR** affirmed that where the retainer is not disputed, and the certificate of taxation has not been set aside, the Court is entitled to enter judgment for the sum certified. The Court clarified 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. The certificate of costs is final as to the amounts of the costs and the court would be quite in order to enter judgment in favour of the Applicant against the Respondent herein for the taxed sum indicated in the Certificate of Taxation.”

13. In the present matter, a Certificate of Taxation dated 12th February 2021 exists confirming the amount due as **Kshs. 94,213/=**. There is no evidence that the certificate has been set aside or varied. The Respondent has not challenged the retainer nor opposed the application.
14. In those circumstances, the Certificate of Taxation remains final and binding as to the quantum of costs.
15. On interest, the Applicant has also sought interest at 14% per annum from 9th November 2019, being 30 days after service of the Bill of Costs.
16. 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, provided such claim for interest is raised before payment.
17. The material before the Court indicates that the bill was served on **9th October 2019**, and therefore the claim for interest from **9th November 2019** is consistent with Rule 7, and is therefore justified.
18. Accordingly, the Court finds the application meritorious and makes the following orders:

- i. Judgment is hereby entered for the Applicant against the Respondent in the sum of Kshs. 94,213/=, being the taxed Advocate-Client costs.
- ii. The said sum shall attract interest at the rate of 14% per annum from 9th November 2019 until payment in full.
- iii. The Applicant shall have the costs of this application, which is hereby assessed at Kshs. 50,000/=

19. is so ordered.

**SIGNED, DATED, and DELIVERED IN VIRTUAL COURT THIS**

**12<sup>TH</sup> DAY OF MARCH, 2026**



**ADO MOSES**

**JUDGE**

**In the presence of:**

*Ms. Oganga... .....for Applicant/Advocate*

*N/A .....for Respondent/Client*

*Moses.....C/A*