

6/12/2024, taxed on 3/04/2025, and a Certificate of Taxation issued for Kshs. 606,825/=.

5. Upon consideration of both applications, I find it fit to determine the Chamber Summons dated 29/09/2025 first as its determination may dispose of the motion dated 3/9/2025 in one way or the other.

Chamber summons dated 29/09/2025

6. The motion is premised upon **Rule 11(2)** of the **Advocates Remuneration Order, 2014 (ARO)** and supporting affidavit of Peter Waweru, and Legal Officer of the Client/Respondent. The Applicant seeks leave to file reference in objection to the Taxing Officer's ruling delivered on 3/04/2025 in which the Advocates were awarded Kshs. 606,925/- as taxed costs arising from the Advocate-Client Bill of Costs dated 6/12/2024.
7. The deponent, Peter Waweru posits that it did not participate in the taxation proceedings before Taxing Officer due to administrative and structural changes that materially disrupted its internal legal coordination, during which period time for lodging a reference lapsed.
8. It adds that it is desirous of challenging the taxation on weighty issues as shown in the draft reference- annexed marked as **"PW-2"**, arguing that the delay was neither inordinate nor deliberate but beyond its control, that if not

allowed, it will suffer substantial injustice and loss as the award is excessive.

9. The Chamber Summons is objected to by a Replying Affidavit sworn on 3/10/2025 by **Mugo Githinji, Advocate**. His case is that the Respondent did not dispute having been served with notices of taxation, that the proposed draft reference raises an issue of misdirection in principle of the Taxing Officer who fell into error and arrived at a manifestly excessive and unjust figure in the manner stated therein.
10. It is further deponed that the proposed reference does not raise arguable grounds as demonstrated in the several items stated therein and attaching the judgment in the parent suit being Nairobi Hcca. E234 of 2020, therefore in the circumstances, the Applicant having not met the conditions for extension of time, it ought to be dismissed for what it states to be “administrative and structural changes” is a tactic to delay to settle the Advocates legal fees.
- 11.** The issue that concerns determination in my view is **whether the Applicant Monarch Insurance Co. Ltd has met the threshold for grant of leave to file reference out of time.**
12. Statutory timelines for filing objecting to a Taxing Officers decision in taxation matters is set out in paragraph **11 of the ARO** as follows:

1) *Should any party object to the decision of the Taxing Officer, he may within fourteen days after the decision give notice in writing to the Taxing Officer of the items of taxation to which he objects*

2)

3)

4) *The High Court shall have powers in its discretion by order to enlarge the time fixed by subparagraph (1) or sub paragraph (2) for the taking any step; application for such an order may be made by chamber summons upon giving every other interested party not less than three clear days' notice in writing or as the court may direct and may be so made notwithstanding that the time sought to be enlarged may have already expired".*

13. The court must therefore satisfy itself as to the reasons for not participating in the taxation as advanced.

The only reason advanced is administrative and structural changes that materially disrupted its internal coordination.

14. I agree with the Respondent that is but an afterthought and a delay tactic to deny settlement of its legal fees as no definition or substantiation of the alleged administrative challenges have been provided.

15. However, further scrutiny of the draft reference "exhibit "PW-2" shows that the main reason (Probably so) is what it terms as an excessive award.

16. In the case **Evans Thiga Gaturu Advocate v. Kenya Commercial Bank Ltd [2012] eKEH 4274 (KLR)** the court held that “Where there are reasons on the face of the decision, it would be futile to furnish further reasons. The sufficiency or otherwise more adherence to the procedure may lead to absurd results if the advocate was to continue waiting for reasons as it happened.
17. See also **Njeru Nyaga & Advocates v. Anne Wambui Muiruri & James Njoroge Kariuki [2025] eKLR** to the same finding.
18. There is strictly no good reason as to why the Applicant by its Legal Department failed to participate in the taxation proceedings; allowed the taxation to proceed unopposed, ruling delivered, then just when execution proceedings were put into motion, remembered that they had not paid or settled the award to the Respondent!.
19. **Section 11(4) of the ARO** grants the court power to enlarge time fixed at 14 days.
20. **Section 3A of the Civil Procedure Act** recognizes the inherent jurisdiction of the court to make such orders as may be necessary for ends of justice to be met.
21. The **Supreme Court of Kenya in Nicholas Kiptoo Arap Salat v. IEBC** and the **Boundaries Commission & 7 Others [2014] eKLR** observed that:-

“A party may however encounter some delay and the time within which he was to perform an act lapses..... if one showed that he had a bona fide cause of action and time had lapsed, but was constrained to pursue within time that cause because of some compelling reasons, the court of the Chancery Division could intervene and indulge such a person if established that he was not at fault..... Presently, extension of time has now been given statutory backing with various legislations providing courts with the power to extend time”

22. Upon the above, this court is persuaded, for the ends of justice to be met, and upon exercise of its discretion, to enlarge time for filing a reference in terms of prayers No. 1 and 2 of the motion.

23. Having determined as hereinabove, the Advocates Motion dated 3/06/2025 is moot.

24. However, the Client- Monarch Insurance Co. Ltd shall not be let free. It is condemned to pay to the Advocate throwaway costs assessed at Kshs. 20,000/= to be paid within 15 days of this ruling.

25. Consequential to the above, parties shall attend to the DR of this court; Hon. Njue for mention to take a taxation date for the Advocate-Client Bill of Costs dated 6/12/2024 on 21/04/2026.

Costs of the Application shall abide outcome of the suit.

Orders accordingly.

**Delivered Dated and Signed at Nairobi this 12th March,
2026.**

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JANET MULWA.

JUDGE

ORIGINAL