**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT GARISSA**

**CIVIL MISC. APPLICATION NO. E010 OF 2025**

**I.ONYINKWA & ONYINKWA T/A ONYINKWA & CO. ADVOCATES……APPLICANT**

**VERSUS**

**MONARCH INSURANCE COMPANY LIMITED…… RESPONDENT**

# JUDGMENT

1. The matter for determination before me is a **Notice of Motion** dated 11-2-2026 seeking orders that:
   i. **spent**
   ii. **that this Honourable Court be pleased to order that the Certificate of Costs issued to the Applicant, as against the Respondent, be converted and or adopted as the judgment and decree of this court and consequently, a judgment be entered for the Applicant against the Respondent, for Kshs. 60,450.**
   iii. **That interest thus accrue on the sum of Kshs. 60,450/= at the rate of 14% per annum, with effect from 8.8.2025 (the date of filing the Advocate - Client Bill of Costs) until payment in full as prescribed under Paragraph 7 of the Advocates Remuneration Order.**
   iv. **That costs of this application be awarded to the Applicant.**

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2. The application is supported by the affidavit of **I. Denis Onyimbo Onyinkwa Advocate** sworn on the 11-2-2026 who deposed that at all material times relevant to this suit, the Respondent instructed the Applicant to act for and on its behalf in defending its interest in **Garissa SPMCC No. E006 of 2020 Swalleh Wanjohi Suleiman (C/O N.M.Kamwendwa & Co. Advocates vs Farhiya Issack Hassan.**

3. That the Applicant filed necessary pleadings and represented the Respondent until conclusion of the case. He averred that despite several demands to settle the requisite legal fee; the Respondent was adamant thus necessitating institution of this suit. That as a consequence, the Applicant filed a Bill of Costs which the court taxed at Kshs 60, 450/= plus interest at court rates on 23-1-2025.

4. That subsequently, a Certificate of Taxation was issued by the Deputy Registrar for the sum aforesaid. That despite several reminders, the Respondent has failed to make good the said amount. This court was therefore urged to allow the motion as prayed.

5. Despite service, the Respondent did not file any response. The application was therefore argued *ex parte*.

6. I have considered the application herein which is not opposed. The only issue for determination is whether the application herein is merited.

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7. The crux of the application herein is the claim that the Applicant was instructed by the Respondent to represent them in the suit aforementioned in respect of which the Respondent failed to settle the requisite legal fees thus necessitating the filing of a Bill of Costs which was subsequently taxed at Kshs. 60,450/= a sum which is outstanding to date thus calling for entry of judgment to pave way for execution process to take place.

8. It is trite that once a Taxing Master has taxed the costs, issued a Certificate of Costs and there is no reference filed 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. 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. [*See* **HC Misc 486 of 2012 E.W. Njeru & Co Advocates vs Zakhem Construction (K) Limited [2013]KECH3376(KLR).**

9. This position is based on the provisions of **Section 51 (2)** of the **Advocates Act Cap 16 (Laws of Kenya)** and **Section 48 (3)** of the **Advocates Act** which provides as follows: -

   **"Notwithstanding any other provision of this Act, a bill of costs between an advocate and a client may be taxed notwithstanding that no suit for recovery of costs had been filed."**

10. Similarly, in **Lubulellah &Associates Advocates v N K Limited brothers (2014) e KLR** the court held that; once a

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Taxing Master has taxed the Bill of Costs and issued a Certificate of Costs and there is no reference against its ruling, no other action would be expected from the court save to enter judgment.

11. In the instant case, the Respondent has not challenged the application. In any event, no reference against the Certificate of Costs has been filed. In the absence of a reference or an order setting aside the taxation order, this court can not interfere with the Taxation Certificate issued directing payment of the amount due.

12. Noting that the Respondent did not file a reference, the Applicant thus ought to enjoy the fruits of its labour.

13. Further, the Applicant sought interest as plainly provided for under **Section 51(2) of the Advocates Act** which empowers this court to make any order that it deems fit. Entry of judgment and award of interest at court rates is within the ambit of what this court can do. The Applicant has claimed for interest on the taxed amount which is Kshs.60, 450/=-. **Rule 7** of the **Advocates Remuneration Order** provides as follows: -

> "**An advocate may charge interest at 14% 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.**"

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14. Additionally, in the case of **HC Misc No 486 and 487 of 2012 E.W. Njeru & Co Advocates** (Supra), it can be easily gleaned that if an advocate files his Bill of Costs without raising the issue of interest, then he forfeits interest as provided for under **Rule 7** of the **Advocates Remuneration Order**. The court can only award the interest at court rates. In this case, the same was properly raised and therefore awarded.

15. Accordingly, the court finds that the application herein is merited and the same is hereby allowed as prayed with costs.
Dated, signed and delivered virtually this **30h** day of **April 2026**.

**.....**
**J. N. ONYIEGO**
**JUDGE**

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