

REPUBLIC OF KENYA

IN THE HIGH COURT AT VIHIGA

CIVIL MISC. APPLICATION NO. E052 OF 2025

**IN THE MATTER OF THE ADVOCATES ACT AND RULE 13 OF THE
ADVOCATES REMUNERATION ORDER**

I. ONYINKWA & D. ONYINKWA T/A ONYINKWA

& CO. ADVOCATES

ADVOCATE

VERSUS

MONARCH INSURANCE COMPANY LIMITED

CLIENT

Coram: Justice R. Nyakundi

M/S Onyinkwa & Co. Advocates

RULING

- 1.** In their Notice of Motion dated 13th April 2026 and filed on 15th April 2026, the Advocates herein sought for orders that this court be pleased to order that the Certificate of Costs issued to them as against the Client be converted and/or adopted as the Judgment and Decree of this court and consequently a Judgment be entered for the Advocates against the Client for Kshs 138,916/=.
- 2.** They also sought for an order that interest does accrue on the sum of Kshs 138,916/= at the rate of 14% per annum with effect from 8th August 2025 (the dated of filing the Advocates-Client Bill of Costs) until payment in full as prescribed under paragraph 7 of the Advocates Remuneration Order.
- 3.** Dennis Onyinkwa, an Advocate of the High Court practising in the firm of Onyinkwa & Company Advocates swore an affidavit in

support of the said application. He averred that the Client appointed their firm to act on its behalf in **Vihiga SPMCC No 46 of 2022 Alex Begsen Ingale vs Xavier Bwire Orotu.**

4. He stated that they filed the necessary pleadings and proceeded with the said matter until conclusion and upon conclusion they prepared and forwarded a final fee note in respect of professional fees and disbursements to the Client for settlement. He asserted that the Client failed to settle the same necessitating them to file an Advocate-Client Bill of Costs dated 8th August 2025.
5. He pointed out that the aforesaid Bill of Costs was taxed on 31st March 2026 at the sum of Kshs 138,916/=. He added that the Client had failed to settle the taxed costs despite being served with the Certificate of Costs. He argued that the taxed costs had accrued interest and/or continued to accrue interest which they were entitled to (interest on costs and disbursements computed in the Bill of Costs) at the rate of 14% per annum from the date of filing the Advocate-Client Bill of Costs dated 8th August 2025 as contemplated in Rule 7 of the Advocates Remuneration Order.
6. He asserted that the said Certificate of Costs had not been altered or set aside by the court and that this court was clothed with unfettered jurisdiction to grant the orders sought. He further contended that no party would be prejudiced if the orders sought are granted and unless the orders sought are granted, they stood to suffer irreparable loss.

ANALYSIS AND DETERMINATION

7. The central issue herein that is up for determination is whether the Certificate of Costs should be adopted as a judgment of this court and whether the Advocates are entitled to the interest sought, this court had due regard to **Section 51(2)** of the Advocates Act which provides as follows:-

“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."

8. Further, **Rule 7** of the Advocates (Remuneration) Order stipulates that:

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"An advocate may charge interests at 14% per annum on his disbursement and costs whether by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, such claim for interests is raised before the amount of the bill has been paid or tendered in full."

- 9.** It is common ground that the Certificate of Costs that was issued by the Taxing Officer has not been set aside and/or altered. Further, the Client did not appear to have filed any Reference under Paragraph 11 of the Advocates Remuneration Order to challenge the decision of the said Taxing Master. In such an instance, it is only proper that the court adopts the Certificate of costs as a judgment.
- 10.** This court is of the view that Rule 7 of the Advocates Remuneration Rules is clear that interest was chargeable at fourteen (14%) per cent per annum from the expiration of one (1) month from the delivery of the bill to the client. There was therefore a reference point, from when interest would be calculable. It could not accrue before one month had expired from the time when the bill was delivered to the client.
- 11.** However, interest did not become automatically chargeable after the lapse of the one (1) month from the date when the bill was served. Rule 7 of the Advocates Remuneration Rules provided that interest was only chargeable provided that such claim for interest was raised before the amount of the bill was tendered in full.
- 12.** Be that as it may, this court noted that the Advocates herein did not show the date when they actually served the Client with the Advocates-Client Bill of Costs. In the absence of any evidence of when the Bill of Costs was first delivered to the Client, this court takes the

firm view that the Client was certainly aware of the Advocate-Client Bill of Costs as at 7th October 2025 when the matter came up in court and there was representation of the Client in court.

- 13.** Bearing in mind Rule 7, this court has come to the firm conclusion that the one (1) month envisaged in the said Rule 7 of the Advocates Remuneration Order lapsed on 7th November 2025. Interest would thus accrue on the certified costs from 8th November 2025. The certified costs became payable as the certificate of costs was not altered or set aside. The claim for payment of fourteen (14%) per cent per annum was raised in the present application and the same was payable.
- 14.** In the upshot, the Advocate's Notice of Motion application dated 13th April 2026 is partially merited and the same be and is hereby allowed in the following terms: -
 - a. Judgment be and is hereby entered in favour of the Advocates in the sum of Kenya Shillings One hundred and thirty-eight thousand, nine hundred and sixteen (Kshs 138,916/=) together with interest thereon at fourteen (14%) per cent per annum calculable from 8th November 2025.*
 - b. Costs of this application be awarded to the Advocates.*
- 15.** It is so ordered.

**DATED AND DELIVERED VIA CTS AND EMAIL AT VIHIGA THIS
6TH DAY OF MAY 2026**

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R. NYAKUNDI
JUDGE