



Eric Ntabo & Co. Advocates v Trident Insurance Company Limited (Miscellaneous Civil Application E07 of 2024) [2025] KEHC 7183 (KLR) (28 May 2025) (Ruling)

Neutral citation: [2025] KEHC 7183 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
MISCELLANEOUS CIVIL APPLICATION E07 OF 2024**

E OMINDE, J

MAY 28, 2025

BETWEEN

ERIC NTABO & CO. ADVOCATES APPLICANT

AND

TRIDENT INSURANCE COMPANY LIMITED RESPONDENT

RULING

1. What is pending before this court is the Applicants' Notice of motion dated 26/09/2024 seeking the following orders;
 - a. That the court be pleased to order that the Certificate of Taxation issued to the Applicant as against the Respondent be converted into a judgment and a decree of this court am. Consequently, a judgment be entered in favor of the Applicant against the Respondent for the sum of Kenya Shillings Two hundred and Eighty-Two Thousand Two Hundred and Sixty-Three shillings Ks. 208,000/- being the certified costs due to the Applicant as against the Respondent.
 - b. That interest does accrue on the sum of Kshs. 208,000/- at the rate of 14% per annum, with effect from the 1st day of February 2024 until payment shall be made in full, as prescribed in paragraph 7 of the Advocates Remuneration Order.
 - c. That the cost of this application totaling to Kshs. 50,000/= be awarded to the Advocate Applicant and be borne by the Respondent.
2. The Application is expressed to be brought under Section 51(2) of the Advocates Act. Additionally, it is premised on the grounds on the face of it and the contents of the supporting affidavit sworn by Eric Ntabo.



3. The Applicant deponed that the Respondent issued instructions to the firm of Eric Ntabo & Co Advocates, to act for them in Eldoret CMCC No. 45 OF 2020 – Monicah Jepkoech v Trident Insurance and that there is no dispute on the issue of advocate client relationship. That he instructed his Associate to file and serve the Respondent with an Advocate Client Bill of Costs dated 15/01/2024 and the same was fixed for taxation on 24/06/2024. He additionally instructed his clerk to serve the taxation notice in Miscellaneous Application No. E007 of 2024 but being in receipt of the same, the Respondent failed to enter appearance and respond hence the bill was unopposed. He urged that the Bill of Costs was mentioned on 27/05/2024 and 24/06/2024 before the Court rendered its Ruling on 10/07/2024 for Kshs. 282,263/=, on which occasions evidence of service was filed in court. Thereafter, the Respondent failed to pay legal fees, thereby necessitating the filing of a bill of costs herein for taxation and the same was taxed on 10/7/2024 in the sum of Kshs. 208,000/=, and a Certificate of Costs dated 16th August 2024 was issued to that effect. He annexed the Affidavit of Service as ENO-3
4. The Deponent averred that he satisfied the conditions of taxation and that the certificate of costs has not been appealed against, set aside, varied or altered. Further, that the Respondent has refused failed and neglected to settle the taxed costs, despite service and several reminders. He urged that in the circumstances, it is only fair and just that Judgment be entered as prayed for the sum of Kshs. 208,000/=, being the taxed costs against the Respondents together with interests thereof.
5. Counsel for the Respondent indicated to the Court, when the matter came up on 26/03/2025, that they did not object to the Application save for prayers 2 and 3 and that is why they never filed a Response. That additionally, Counsel for the Applicant that both Counsels agreed the same directions given in Eldoret Misc App No. E023 on how to determine the issues raised therein informs the court's decision in this case Eldoret Misc App No. 07 of 2024.
6. Further, that the conversion to judgement is sufficient and that is why they had not put in a response.

Analysis & Determination

7. Section 51 (2) of the *Advocates Act* reads: -

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. Rule 7 of the Advocates (Remuneration) Order provides: -

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.

9. In *D Njogu & Company Advocates v Kenya National Capital Corporation* [2006] eKLR Justice Fred Ochieng (as he then was) held as follows

In my considered view, it would be wrong to calculate interest from the date when the bill was sent to the client, regardless of the fact that such a bill was then watered down through taxation. If clients had to pay interest regardless of subsequent reductions on their bill, advocates would not have the incentive to charge the correct fee notes on the first occasion. It is for that reason that I hold, that the date from when interest should be calculable should be pegged to the date when the advocate sends the correct fee note. And by the "correct fee notes" I mean the bill which is in accordance with the terms upon which the advocate had contracted with the client,



or the bill which the client does not dispute, or the bill which is in accordance with the sums awarded by either the taxing officer or by the deputy registrar in a certificate of costs.

10. Having considered the Application, the submissions the applicable legal provisions as well as case law and given that the Application is not opposed by the Respondents, I find that the same has merit and it is allowed in its entirety with costs to the Applicant

READ DATED AND SIGNED AT ELDORET ON 28TH MAY 2025

E. OMINDE

JUDGE

