



Anthony Thuo Kanai Advocates v Cannon Assurance Ltd (Miscellaneous Application 326 of 2013) [2025] KEHC 9018 (KLR) (Commercial and Tax) (26 June 2025) (Ruling)

Neutral citation: [2025] KEHC 9018 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
COMMERCIAL AND TAX
MISCELLANEOUS APPLICATION 326 OF 2013**

H NAMISI, J

JUNE 26, 2025

BETWEEN

ANTHONY THUO KANAI ADVOCATES APPLICANT

AND

CANNON ASSURANCE LTD RESPONDENT

RULING

1. By Notice of Motion dated 6 October 2021, the Advocate/Applicant seeks the following orders:
 - i. That the Honourable Court be pleased to enter judgement for the sum of Kshs.50,723/= in costs as Certified by the Deputy Registrar on the 8th July 2021;
 - ii. That this Honourable Court be pleased to award interest on the said sum of Kshs.50,723/= at the rate of 14% per annum from 14th February 2013 being one month after service of the fee note on the Respondent/Client specifying that interest will be charged on costs until payment of costs, pursuant to Rule 7 of the Advocates (Remuneration) Order, 2009;
 - iii. That the costs of this application be provided for.
2. The Application is supported by an Affidavit sworn by A. Kanai, Advocate in which he depones that he was instructed by the Client/Respondent to represent it in Nairobi CMCC No. 5445 of 2010, the primary suit the subject matter of the Bill of Costs that precipitated the present Application. The Advocate forwarded his fee note to the Respondent on 14 January 2013 requesting payment of his legal fees. The fee note also specifically advised that in default of payment, the fees would attract interest at the rate of 14% per annum in accordance with the provisions of the *Advocates Remuneration Order*.
3. Despite acknowledgement of receipt, the Bill remained unsettled. Consequently, the Advocate/Applicant filed a Bill of Costs dated 31 July 2013. After a period of contention, this Bill of Costs was



finally taxed at the sum of Kshs 50,723/= on 5 May 2021. To date, the Certificate of Costs has not been set aside or altered.

4. The Client/Respondent filed a Replying Affidavit in which they confirm the taxed amount. Further, they aver that the Advocate/Applicant has not formally demanded for payment of the taxed amount or served the Certificate of taxed costs on the Respondent as required by Rule 7 of the Advocates Remuneration Order, 2014, with a notice that interest would accrue on the amount at 14% per annum if not settled within 30 days of receipt of the Certificate. Further, the Client/Respondent avers that the taxed amount has since been settled in full vide cheque no. 083563 which was forwarded to the Advocate/Applicant on 5 July 2024.
5. I have read the Application, Affidavits and submissions filed by the respective parties. Since the taxed amount has been fully settled, the only issue pending for determination is that of interest.
6. The Advocate/Applicant argues that the interest is chargeable from 14 February 2013, one month after the Bill of Costs was delivered to the Client/Respondent. the fundamental aspect of the Applicant's claim for interest is the explicit notification contained in the Fee Note dated 14 January 2013. This Fee Note, which was served upon the Respondent on the same day, clearly advised the Respondent that the fees would attract interest at 14% per annum in the event of default, in strict compliance with Rule 7 of the Advocates (Remuneration) Order, 2009. The Applicant relied on several cases including Majune Kraido t/a Kraido & Co. Advocates -vs- Faulu Micro Finance Bank Ltd, Misc Civil Applic No 10 of 2017 [2024] KEHC 2421 KLR; Kitibi & Company Advocates -vs- Menengai Downs Ltd [2015] eKLR and Otieno, Ragot and Company Advocates -vs- Kenya Airports Authority [2021]
7. On its part, the Respondent asserts that the Applicant failed to comply with the procedural requirements of Rule 7 of the Advocates Remuneration Order, 2014. Specifically, the Respondent contends that the Applicant did not formally demand payment of the taxed amount or serve the Certificate of Taxed costs with a notice of interest accrual as required by the Rule. The Respondent disputes the Applicant's claim for interest from 14 February 2013, arguing that such a claim is premature, especially since the Bill was taxed much later on 8 July 2021. The Respondent submitted that if any interest is to be awarded, it should only accrue from 30 days after the amount was definitively ascertained by the Certificate of Taxation.
8. The Bill of Costs having been filed in July 2013, the applicable law would be the Advocates Remuneration Order, 2009. Rule 7 thereof provides as follows:

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. The Applicant's Fee Note dated 14 January 2013 explicitly stated that the fees would attract 14 % interest per annum in default of payment. The Respondent did not deny receiving this Fee Note with the interest notification. The Applicant admitted that the principal sum was paid on 10 July 2024. This sequence of events indicates that the Applicant satisfied the condition of raising the claim of interest before the principal sum was paid.
10. The Respondent's argument is that interest should accrue 30 days after the amount is ascertained by the Certificate of Taxation or the Ruling on taxation. The Respondent relied on the case of D. Njogu & Company Advocates -vs- Kenya National Capital Corporation [2006] eKLR in which the Court suggested that interest should run from the correct fee note to incentivize accurate initial billing. The



Respondent also relied on the case of *Otieno Ragot & Co. Advocates -vs- Kenindia Assurance Company Ltd* [2020] eKLR.

11. However, the Court of Appeal's decision in *Otieno, Ragot & Company Ltd -vs- Kenya Airports Authority* provides a strong, binding interpretation of Rule 7's plain language.
12. In the premise, and noting that the principal sum has already been settled in full, I allow the Application and grant the following orders:
 - i. Interest is awarded on the sum of Kshs 50,723/= at the rate of 14% per annum from 14 February 2013 until 10 July 2024;
 - ii. The Applicant is awarded costs.

DATED AND DELIVERED AT NAIROBI THIS 26 DAY OF JUNE 2025

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on virtual platform in the presence of:

For Advocate/ Applicant: Mr. Thuo

For Client/Respondent: Wangechi Mwangi

Libertine Achieng Court Assistant

