REPUBLIC OF KENYA

IN THE MAGISTRATE COURT OF KENYA AT TAITA TAVETA COUNTY

COURT NAME: VOI MAGISTRATE COURT

CASE NUMBER: MCCC/59/2020

VINCENT CHEGE AND ERASMUS MWAMBURI AND 1 OTHERS VS KWAELA NEWS NETWORK AND ROGER NGOO

RULING

BEFORE HON. P. OOKO (MR) CM

REPUBLIC OF KENYA.

IN THE CHIEF MAGISTRATES COURT AT VOI.

CIVIL CASE NO. E059 OF 2020.

VINCENT CHEGE.....1ST PLAINTIFF.

ERASMUS MWAMBURI.....2ND PLAINTIFF.

MATHIAS MADEDA.....3RD PLAINTIFF.

VERSUS.

KWAELA NEWS NETWORK.....1ST DEFENDANT.

RODGER NGOO.....2ND DEFENDANT.

RULING.

1. This is a ruling on the taxation of the Defendant's party and party bill of costs dated 19th day of March, 2026 following the withdrawal of this suit on 9th day of March, 2026 by the Plaintiffs with costs to the Defendants thus necessitating the filing of this bill of costs.

2. On the item number 1 which relates to the instruction fees, I do note that as per the contents of the plaint 17th day of June, 2020, this suit relates to a claim for a permanent injunction restraining the Defendants from publishing an alleged defamatory statement as against the Plaintiffs and the general, exemplary and aggravated damages arising therefrom.

3. However, vide the directions given by this Honourable Court on 1st day of September, 2025, it became apparent that none of the Plaintiffs herein actually testified in this matter. On the other hand, the Defendants testified in this matter without any considerations at all that the Plaintiffs never testified in this matter and even closed their case. This is the anomaly and/or glaring error on the face of the court records/proceedings ultimately culminated to the withdrawal of this suit altogether by the Plaintiffs as against the Defendants.

4. Accordingly, and in view of the aforesaid proceedings as further guided by Schedule VII, paragraph 2 of the Advocates Remuneration Order - 20I4 and upon the exercise of my discretion based on the nature of the pleadings filed herein as well as the complexity of this matter, I hereby do calculate the instruction fees as follows:-

    i. Instructions to defend this suit.....Kshs. 50,000/-.

    ii. Instructions to oppose a notice of motion application dated 17th day of June, 2020 by way of a notice of preliminary objections dated 3rd day of July, 2020 and a replying affidavit sworn on 10th day of July, 2020.....Kshs. 3,000/-.

    Total instructions fees.....**Kshs. 53,000/-.**

5. Item numbers 2, 5, 7, 11, 26 and 60 which relates to filing fees in respect of the memorandum of appearance, a notice of preliminary objections dated 3rd day of July, 2020, grounds of opposition dated 3rd day of July, 2020, a replying affidavit dated 10th day of July, 2020, a statement of defence dated 13th day of October, 2023 and this bill costs all hereby taxed as presented, the same having been drawn to scale.

6. Item numbers 3, 8, 12, 18, 27, 29, 33, 42, 47, 51 and 55 which relate to service of various court documents are all hereby taxed at Kshs. 1,400/- as duly provided for under paragraph 10, Schedule VII of the Advocates Remuneration Order – 2014.

7. Item numbers 4, 6, 17, 32, 41, 46, 50, 54 and 59 which relate to drawings and/or preparation of various court documents are all hereby taxed off. The same are not provided for under Schedule VII of the Advocates Remuneration Order – 2014.

8. Item numbers 9, 10, 13, 19, 28, 30, 34, 43, 48, 52 and 56, all of which relate to drawing and filing of various affidavits of services and/or a replying affidavit are all hereby taxed at Kshs. 1,000/- each, as duly provided for under paragraph 11,

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Schedule VII of the Advocates Remuneration Order – 2014.

9. Item numbers 14, 15, 16, 23, 25, 31, 36, 44, 45, 53 and 58, all of which relate to various court attendances made either for mentions for directions; hearing of an application and/or to take a ruling/judgement date are all hereby taxed as presented i.e., at Kahs. 1,400/- each, the same having been drawn to scale as duly provided for under paragraph 6, Schedule VII of the Advocates Remuneration Order – 2014.

10. Item numbers 20, 21, 22 and 57 which relates to various attendances made at the registry for purposes of fixing a hearing date are all hereby taxed off. The same are not provided under Schedule VII of the Advocates Remuneration Order – 2014.

11. Item numbers 24 and 49 which relate to the attendances made on 15th day of June, 2023 and 14th day of August, 2025 are all hereby taxed off. As per the court records, there were no such attendances/appearances made on behalf of the Defendants.

12. Item numbers 35, 37, 38 and 39 all of which relate to various court attendances made for hearings when the same could not be heard and hence adjourned are all hereby taxed as presented i.e., Kshs. 2,100/- each, as duly provided for under paragraph 8, Schedule VII of the Advocates Remuneration Order – 2014.

13. Item number 40 which relates to the attendance for defence hearing on 8th day of May, 2025 when DW-1 and DW-2 testified is hereby taxed as presented i.e., Kshs. 5,000/-, the same having been drawn to scale as duly provided for under paragraph 7(i), Schedule VII of the Advocates Remuneration Order – 2014.

14. Further, I do note from the court records that on 23rd day of October, 2025 and 23rd day of March, 2026, there were attendances made on the part of the Defendant either for a mention to take a hearing date and/or for the assessment/taxation of this bill of costs. I hereby do award then a sum of Kshs. 1,400/- each, for these two attendances thus totaling to Kshs. 2,800/-.

15. Item number 61 which relates to miscellaneous expenses incurred in terms of scanning, telephone calls, printings etc. totaling to Kshs. 10,000/- are all hereby taxed off. The same are not provided under Schedule VII of the Advocates Remuneration Order – 2014.

16. On the whole therefore I do hereby assess and/or tax the Defendant's party and party bill of costs dated 19th day of March, 2026 in total sum of Kenya Shillings One Hundred And Nine Thousand, Five Hundred (Kshs. 109,500/-) Only.

Dated, signed and delivered in the open court at Voi this 28th day of May, 2026.



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HON. P.O. OOKO (MR.)

CHIEF MAGISTRATE.

In the presence of:-

Ms. Munaa:- Court Assistant.

Ms. Kitsao Advocate h/b for Mr. Mwazhige for the Defendants.

N/A for the Plaintiffs.

SIGNED BY: HON. P. OOKO (MR) CM

THE JUDICIARY OF KENYA.
VOI MAGISTRATE COURT
MAGISTRATE COURT
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