**Gathenya and another v Muheria**

**Division:** Court of Appeal of Kenya at Nairobi

**Date of judgment:** 14 March 2005

**Case Number:** 343/04

**Before:** Deverell AJA

**Sourced by:** LawAfrica

*[1] Advocate – Change of advocate at the Court of Appeal – Notice of change of advocates must be filed*

*with the registrar.*

**Editor’s Summary**

The applicants had filed an application for extension of time for filing and serving the memorandum and record of appeal. An issue arose as to whether advocates appearing for the intended appellants were properly on record to represent the said intended appellant. The notice of appeal had been signed by the intended appellant’s original advocates and no notice of change of advocates had been filed in court. The intended appellant argued that since a consent order had been signed between his current advocates and the original advocates in the High Court after judgment had been entered, that was sufficient to enable the said advocates proceed with further proceedings between the parties.

**Held** –Where a party to an appeal, having been represented by an advocate, decides to change his advocate, he shall, as soon as possible, lodge with the registrar a notice of change. An advocate who has not complied with the stipulated procedure of coming on record is not entitled to represent the intended appellant in applying for and conducting an application for extension of time for filing the record and memorandum of appeal out of time. Preliminary objection allowed.

**No cases referred to in judgment**