



ORARO & COMPANY
ADVOCATES

Dispute Resolution Brochure



Introduction to Oraro & Company Advocates

Oraro & Company Advocates is a market-leading African law firm established in 1977 with a strong focus on **dispute resolution** and **corporate & commercial law**. With a dedicated team of 12 partners, 13 associates and 41 support staff, the firm is highly respected for its dispute resolution practice in Kenya, and its strong bench of litigators.

We provide specialist legal services both locally and regionally in **Arbitration, Banking & Finance, Corporate & Commercial, Conveyancing & Real Estate, Dispute Resolution, Employment & Labour, Infrastructure, Projects and PPP, Restructuring & Insolvency** and **Tax**. Over the years, we have represented both local and foreign clients, governments, regulators, and not-for-profit organisations from target industry sectors including construction, education, energy, financial services, manufacturing & industries and the public sector.

We provide both local and cross-jurisdictional legal services, either directly or through the extensive relationships that we have established with leading firms across the globe, which enable us to offer cross-jurisdictional legal advice in a seamless manner while maintaining the highest professional standards.

The firm has a robust team of lawyers and has over the years been consistently ranked by **Chambers Global, IFLR 1000** and **Legal 500** as a top-tier firm in Kenya.

Oraro & Company Advocates prides itself in its **deeply rooted client relationships** by providing quality legal services through its **partner-led approach**, drawing from **local knowledge** and **global perspectives**.

"They're very pleasant to work with. They have a very collegiate atmosphere and a great work ethos."

Chambers Global 2019

Our Dispute Resolution Heritage

Referred to as a “*Dispute Resolution powerhouse*”, we are well regarded for our in-depth understanding of the judicial process and our extensive experience to find innovative solutions to the most challenging problems whenever they occur. Our litigators have a long history of handling cutting-edge litigation matters, including many of the most significant disputes in the country. We are called upon to play a central role in high stakes and high profile matters such as representing the Kenya National Union of Teachers (one of Kenya’s biggest trade unions) in a high-profile pay dispute between teachers and their employer – Teachers Service Commission.

A tight-knit group of 16 lawyers (8 Partners, 5 Senior Associates and 4 Associates), the largest dispute resolution team in Kenya, we approach each matter with intensity, thoroughness and creativity and build teams appropriate to the circumstances. We handle all aspects of contentious matters, from the strategic and tactical to the practical and procedural. We represent clients in tribunals in areas such as tax, environment, public procurements, among others.

Our dispute resolution practice area is also highly esteemed for its **international arbitration practice** advising across the full range of domestic and cross-border arbitral proceedings. We have represented clients in local and international arbitration tribunals including International Centre for Settlement of Investment Disputes (**ICSID**) and the International Chambers of Commerce (**ICC**) and the London Court of International Arbitration (**LCIA**).

Occasionally, we work with market leading firms from around the world as a single united team. We build specific teams according to the issues and requirements in question and increase effectiveness by having the right minds in the right place at the right time, whilst always providing value for money.

"They're very impressive. Oraro is the team we turn to for our most important litigation and arbitration." **Chambers Global 2019**

Our Key Competencies

Our practice area encompasses the full spectrum of contentious matters, including:

- arbitration/International Arbitration
- complex banking litigation
- constitutional law
- election petitions
- employment and labour law
- environmental litigation
- family law
- highly complex commercial disputes
- insolvency
- property disputes
- projects, infrastructure and energy disputes
- public procurement
- tax

“The firm continues to lead the way and has great litigators.”

Chambers Global 2018

Our Market recognition



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“Litigation is a very strong area for Oraro & Company. They are very knowledgeable and well respected in this field.”

Chambers Global 2017

Our Experience

ARBITRATION

Our Arbitration practice has been at the forefront of the International Arbitration practice in Kenya. The practice area has represented clients before both local and international arbitral tribunals such as ICSID, LCIA and the ICC. The firm has advised clients in various sectors including, construction, banking & financial services, manufacturing and energy.

Some of our recent arbitration work highlights include:

- Successfully represented a Pan-African Bank in a USD 25 million claim brought by a Zambian borrower who claims he never authorised the bank to disburse funds to the borrower. It was an ICC matter and the seat is in London.
- Representing a Canadian-based energy company as co-counsel in the ICSID proceedings brought against the Government of Kenya (**GoK**) in respect to the unlawful revocation of the company's geothermal licence worth USD 312.7 million.
- Advising and representing an international civil engineering company to enforce an international arbitral award of USD 13 million in Kenya issued under ICC arbitration with its seat in London.
- Advised a major American private equity fund on their legal options and remedies against former directors and shareholders of a leading East African civil engineering and construction company with a view of recovering an arbitral award of USD 312.7 million from the LCIA.
- Represented a construction company in a USD 6.5 million claim for VAT on breach of a building contract. The claim was for contract work, the cost of additional works and variations.
- Representing a leading Kenya Building contractor in an arbitration seeking to a USD 6.4 million claim for a breach of building contracts under the East African Institute of Architects.

BANKING & FINANCE

Our Banking & Finance practice area is well-known for its years of experience in advising clients in banking & finance law in contentious matters. The team advises high-profile clients including local and regional banks, regulators and international financial institutions on complex transactional banking and financing matters. Moreover, the practice area is well-known for its expertise in handling complex banking litigation, debt recovery and asset tracing.

Some of our banking and finance experience includes:

- Representing a leading Kenyan commercial bank (under receivership) in a claim that seeks the tracing and recovery of approximately USD 340 million which was fraudulently siphoned from a Bank. We obtained a *mareva injunction*/freezing order, which is currently in force to preserve the subject matter of the suit. We also successfully defended the client against a claim by the shareholders seeking to be enjoined in this suit despite stiff opposition.
- Acting for Dyer & Blair Investment Bank in a USD 557,000 suit in which a customer alleges that the Bank failed to act in accordance with his instructions, with respect to a sale order on Safaricom shares that he had purchased.
- Representing a government corporation in a Constitutional petition by a bank's depositors challenging the Central Bank of Kenya Deposit Insurance Corporation's (**KDIC**) statutory powers to place the bank under receivership, and/or proceed to liquidate the bank, which was shut down due to a USD 340 million fraud.
- Representing KDIC (receiver manager for a mid-sized Kenyan bank) as lead counsel in a recovery action of assets worth USD 220 million as well as the tracing and recovery of assets from individuals and companies alleged to have defrauded the bank, leading up to its receivership.
- Representing a Pan-African bank in a claim of USD 52 million arising from a facility of USD 300 million advanced to the defendants to fund the construction of the Nairobi – Mombasa oil pipeline.
- Successfully represented Standard Chartered Bank-Kenya (**Stanchart**), in a rare application seeking to have the Court of Appeal re-open, re-examine and set aside its decision. In addition, we sought to have the Court of Appeal declare its earlier decision a nullity and direct that the appeal be heard afresh. The matter value is USD 2.1 million with an interest growth of 14% per annum.

EMPLOYMENT & LABOUR RELATIONS

The Employment & Labour team has been recognised as the “go-to” practice by both Chambers Global and Legal 500. The practice advises local and international clients such as the Government of Kenya (**GoK**), international research organisations, NGO's, banks and hospitals on contentious matters involving redundancy, unfair terminations disputes, employment contracts, pensions and collective bargaining support. Over the years, we have been retained by Kenya's leading trade union (KNUT) in a long standing dispute with one of the biggest employer in the country, Teachers Service Commission.

Some of our employment & labour experience includes:

- Representing NBK against three separate class action claims in the Employment and Labour Relations Court (**ELRC**), for the retabulation of terminal benefits arising from

voluntary early retirement taken by the claimants. The claimants are praying for additional payments based on redundancy. The claims arose from the bank's transformation agenda which changed the bank's business model resulting in a human resources re-organisation.

- Representing Kenya Railways Corporation (Kenya's national railway) in a claim brought by its former employees to enforce an award made by the Industrial Court and a claim for unfair dismissal after a strike which led to their dismissal. This matter is important as allows for the employees to receive their final dues.
- Representing a Kenyan bank against a claim for constructive dismissal and discrimination of an employee. The award is set at USD 200,000.
- Representing one of Kenya's leading mortgage finance providers in Kenya against a former manager in an employment claim revolving around unfair termination. Our client is seeking an order restraining any publication of the matter (a gagging order) which had been widely reported.
- Representing one of Nairobi's top five-star luxury hotels in two employment claims of unfair termination and fraud allegations against the employees. We also advised the hotel on its internal HR policies and contracts.
- Representing Stanchart in a case involving alleged wrongful dismissal and malicious prosecution (claim value USD 600,000, excluding the interest).

COMMERCIAL DISPUTES

Our dispute resolution practice is well regarded representing corporates in highly complex commercial-related disputes such as disputes between shareholders, breach of contract and damages claims resulting from the breach of terms of agreements.

Some of our recent commercial disputes include:

- Representing the corporation in a dispute arising from a collapsed share purchase agreement. The prospective purchaser has sued the shareholder for USD 12 million alleging the sum of the damage covered as a result of the loss incurred.
- Advising and acting for a Kenyan solar technology firm in a Judicial Review application under the Fair Administrative Actions Act, 2013 against the Kenya Revenue Authority.
- Acting for Toyota Kenya Limited in a class action product liability claim with respect to Toyota's HINO FC 500 motor vehicles. The Plaintiffs allege that the motor vehicles were sold with patent manufacturer's defects, and that their consumer protection rights under the Constitution were violated.
- Represented Standard Group Ltd in a commercial dispute against the Kisumu Municipal (now know as the County Government of Kisumu), relating to Standard's advertising rights within the county.

- Representing a distribution subsidiary of a leading cement company in a shareholders dispute regarding the directorship and ownership of a major cement manufacturer in the country. The dispute concerns the acquisition of the shares valued at USD 25 million by Seruji Limited.

LAND AND PROPERTY DISPUTES

Our dispute resolution team is recognised for an outstanding reputation for handling complex ad hoc and high-profile land and property disputes, acting on pivotal cases for a wide range of clients such as financial institutions, real estate developers and NGOs.

Some of our recent work highlights include:

- Representing the International Livestock Research Institute (**ILRI**) in a suit filed by two self-help groups claiming adverse possession over their land (approximately 13,000 acres). The plaintiff seeks to be registered as the proprietors of the land.
- Representing Kapiti Plains Estate Limited in a USD 44 million claim by some individuals seeking orders restraining the company from interfering with their peaceful and quiet use and possession of a parcel of land namely: ILRI Agricultural plot “A” Konza, Machakos.
- Acted as counsel for the companies in winding-up petitions for Tatu City Limited and Kofinaf Company Limited. The companies were engaged in the development of a modern city in the outskirts of Nairobi.
- Represented Nairobi Business Park Limited against trespass and prevention of ongoing construction on Phase II of Nairobi Business Park by the Kenya Forest Services (the property in dispute was thousands of acres).
- Represented foreign beneficiaries in a local probate and administration matter involving a large estate and protection of the assets in the estate pending hearing and determination of the matter.
- Represented the Kenya Medical Association Housing Cooperative Society Ltd (**KMAHS**) in a case in which KMAHS had purchased land to put up a mega housing project. The case pitted the original owners of the land against KMAHS and various government departments including the Lands Office and the Company Registry.

Our Dispute Resolution Lawyers

George Oraro SC, Senior Partner



George (goraro@oraro.co.ke) is the Senior Partner at Oraro & Company Advocates. With over 42 years of experience, he is held in high esteem for his arbitration, mediation and litigation expertise in Kenya. He specialises in administrative and judicial law, banking & commercial litigation, corporate & commercial law, employment and labour disputes, international trade and tax disputes.

He has practised in the International Criminal Court , LCIA, ICC, the Supreme Court of Kenya, Court of Appeal, the High Court, Employment & Labour Court, and various Tribunals.

In 2012, George was conferred with the rank of Senior Counsel for his exemplary service to the legal profession. Similarly, Chambers Global 2019 Guide ranked George a top-tier lawyer, noting that he has a *"brilliant legal mind"* and that he has *"attention to detail and extensive knowledge of law across jurisdictions."* He was also appointed to serve as a Commissioner of Assize to assist in expediting and determining criminal and civil matters.

Aside from his legal practice, George has served as a board member for the Capital Markets Authority in which he was instrumental in the development of the legal and regulatory framework for the Capital Markets in Kenya. He was also a member of the Nairobi Securities Exchange Technical committee. In 2015, George became the first Honorary Consul for the Republic of Lithuania.

Chacha Odera, Managing Partner



Chacha (chacha@oraro.co.ke) is the Managing Partner at Oraro & Company Advocates and practices in the dispute resolution practice area. He specialises in arbitration, alternative dispute resolution and litigation. With over 30 years of experience, he has represented local and international clients in banking, commercial disputes, constitutional law, electoral law, employment and labour law, insolvency, land and property law.

Chacha has been ranked by Chambers & Partners and Legal 500 in dispute resolution and employment. In 2019, The Chambers Global Guide lauded Chacha noting his activity in the employment courts *"when things get very serious."*

Chacha has a Bachelor of Laws (**LLB**) from the University of Nairobi, Kenya and a Diploma in Law from the Kenya School of Law. In addition to being an Advocate of the High Court of Kenya, Chacha is a Commissioner for Oaths and Notary Public.

Walter Amoko, Partner



Walter (wamoko@oraro.co.ke) is a Partner in the dispute resolution practice group who specialises in arbitration, alternative dispute resolution and litigation. With over 21 years of experience, Walter has represented local and international clients on administrative law, highly complex banking and commercial disputes, constitutional law, employment and labour law, environment, judicial review, public procurement and disposal law and tax law.

Chambers Global Guide 2019 ranked Walter as a leading lawyer in dispute resolution and employment with commentators lauding that *"He's top tier for the high calibre of disputes that he handles and his preparation."* In addition, Walter was commended for being *"quick on his feet"* and *"extremely bright."*

Walter has an LLB from the London School of Economics and Political Science, United Kingdom and a Diploma in Law from the Kenya School of Law.

John Mbaluto, Partner



John Mbaluto (john@oraro.co.ke) is a Partner in the dispute resolution practice group, specialising in arbitration, alternative dispute resolution and litigation. With over 11 years of experience, John has represented and advised local and international clients particularly in employment and labour law, pension law, construction law, banking and commercial disputes and constitutional law.

He is well regarded for advising employee associations and trade unions such as the Kenya National Union of Teachers (**KNUT**). For instance, he represented KNUT in the historic 2015 pay rise dispute against the teachers' employer, the Teachers Services Commission.

John has represented and advised clients in a wide variety of sectors including construction, education, financial services, Insurance and transport & logistics. John also steers the Oraro & Company Advocates' publication committee which has to date successfully published 10 issues of the firm's newsletter – *Legal & Kenyan*.

Noella Lubano, Partner



Noella (noella@oraro.co.ke) is a Partner recognised as a dispute resolution expert having acted for well-noted clients in some of Kenya's published contentious matters. She Specialises in commercial litigation, employment, oil and gas, public procurement, banking, pensions and shareholder disputes but is well-regarded for asset tracing, insolvency matters and both local & international arbitration. Noella has acted for several local and international clients including one of the biggest fraud cases in a claim seeking the tracing and recovery of approximately USD 340 million which was fraudulently siphoned from a Kenyan bank.

She is ranked by Chambers Global 2019 as an "Up and Coming" lawyer in Arbitration with the guide noting that Noella is *"a good strategist"* with *"an extensive knowledge of ICC arbitration and an investigative approach."*

Noella is an eloquent speaker. She spoke on various topics in International Arbitration at the International Arbitration Conference in Kigali, Rwanda in 2017, and Addis Ababa, Ethiopia in 2018. She has also shared her legal insights across the globe including the United Kingdom and Austria.

Geoffrey Muchiri



Geoffrey (geoffrey@oraro.co.ke) is a Partner in the dispute resolution practice group who specialises in arbitration, alternative dispute resolution and litigation. With over 12 years of experience, Geoffrey has represented and advised local and international clients in admiralty and maritime law, banking and commercial litigation, insurance, medical malpractice, oil and gas transactions but is well regarded for his restructuring and insolvency expertise.

Geoffrey has an LLM from the University of Birmingham, United Kingdom in Commercial Law and an LLB from Nagpur University, India and a Diploma in Law from the Kenya School of Law.

Georgina Ogalo-Omondi, Partner



Georgina (georgina@oraro.co.ke) is a Partner in the dispute resolution practice group. She specialises in Dispute Resolution and Mediation. With over seven (9) years' experience, Georgina has advised local and international clients in a wide variety of complex employment and labour disputes, commercial and family law.

Georgina recently advised Aga Khan University Hospital- Nairobi (AKUH, N) before the ELRC in a challenge against proposed potential redundancies of upto 500 staff. She has also advised BIDCO Africa Limited on their employee restructuring process.

Ranked Band 3 by Chambers & Partners in Employment, the Global Guide in 2019 described her "*energetic and articulate*" lauding Georgina for being "*very well versed in employment matters.*"

Georgina has a double concentration in Bachelor of Commerce in Economics & an LLB from the Nelson Mandela University, South Africa and a Diploma from the Kenya School of Law.

Lena Onchwari, Partner



Lena (lena@oraro.co.ke) is Partner in the litigation department who specialises in Tax law. She has 7 years' experience in advising both domestic and international clients on tax disputes, corporate tax, tax exemptions, domestic and cross-border tax, excise duty, customs duty, vat, withholding tax, penalties and tax advisory.

Lena acted for a Kenya mining company in a matter that involved an assessment raised against the company in respect of VAT, withholding tax and corporation tax. She also successfully represented the Tourism Promotion Services Ltd in a tax dispute before the Tax Appeals Tribunal. This was settled through

Alternative Dispute Resolution.

Lena has a Masters in International and European Tax law from the University of Maastricht and an LLB from the Catholic University of East Africa. She is also an accountant by training and holds a CPA (K).

Gibran Darr, Senior Associate



Gibran (gibran@oraro.co.ke) is a Senior Associate in the dispute resolution practice group. With over seven (7) years' experience, Gibran has advised local and international clients in administrative and constitutional law, judicial review, banking and commercial litigation, employment and labour disputes and environmental litigation.

Gibran was recently part of a team that advised a leading telecommunication pension scheme in a judicial review application has been filed to quash a judgement by the Retirement Benefits Tribunal for unpaid retirement dues of USD 70 million. He also acted for a Kenyan solar technology firm in a judicial review application under the Fair Administrative Actions Act, 2013 against the Kenya Revenue Authority.

Gibran holds an LLB from the University of London and a Diploma in Law from the Kenya School of Law.

Daniel Okoth, Senior Associate



Daniel (daniel@oraro.co.ke) is a Senior Associate in the Litigation Department and specialises in Arbitration and Dispute Resolution. With over four years' experience, he has advised both local and international clients in arbitration, banking and commercial litigation, constitutional law, employment and labour law and land disputes.

Daniel has been involved in a number of notable matters including being part of a team that represented Telkom in a landmark employment dispute arising from a redundancy of 2,600 employees and further negotiating a settlement worth USD 3.5 million.

Daniel holds an LLB from Moi University and a Diploma in Law from the Kenya School of Law.

Sandra Kavagi, Associate



Sandra (sandra@oraro.co.ke) is an Associate in the dispute resolution practice group specialises in dispute resolution. She has 4 years' experience in advising clients such as an international advertising company, the County Government of Kitui, an international NGO, Jomo Kenyatta University of Agriculture and Technology (JKUAT) and the Kenya Wildlife Service on Banking litigation, Constitutional, Employment and Labour, Election Petitions, Commercial and Contract Disputes, Fraud, Land Disputes, Civil.

Sandra formulated and advised on Collective Bargaining Agreements on behalf of a client in the education sector. She was also involved in the successful application in the environment and land court to strike out a plaint for a suit that had been filed without the consent or approval of the plaintiff company.

Sandra has an LLB from Moi University and a Diploma in Law from the Kenya School of Law.

Anne Kadima, Associate



Anne (anne@oraro.co.ke) is an Associate in the Litigation Department and specialises in dispute resolution. She has represented local and international clients in banking litigation, commercial litigation, defamation, election petitions, employment and labour, land disputes, insolvency proceedings, and shareholder disputes from various target sectors including financial services, manufacturing & industries and the public sector.

Anne is part of the team representing a leading commercial bank against 3 separate class action claims in the ELRC, for the recalculation of terminal benefits arising from voluntary early retirement taken by the claimants.

Anne holds an LLB from Moi University and a Diploma in Law from the Kenya School of Law.

Erastus Rabut, Associate



Erastus (erastus@oraro.co.ke) is an Associate in the Litigation Department and specialises in Arbitration & Mediation, Dispute Resolution.

He has advised local and international clients from various sectors such as financial services, manufacturing & industries, telecommunications, energy, public sector. His expertise largely focuses on banking and commercial litigation, constitutional and administrative law, complex employment & labour disputes as well as land and property disputes. Erastus has a keen interest in insolvency and restructuring following the new changes in the Insolvency Act 2015 as well as asset tracing and recovery.

Erastus has an LLB from Moi University and a Diploma in Law from the Kenya School of Law.

Eva Mukami, Associate



Eva (emukami@oraro.co.ke) is an Associate in the Litigation Department and specialises in Arbitration & Mediation and Dispute Resolution.

She has advised local clients from various target sectors such as energy, oil, manufacturing and financial services in arbitration & mediation, constitutional law, land disputes, debt recovery, banking & commercial litigation, and insolvency.

Eva recently advised a bank on enforcement of third party securities under the Insolvency Act, 2015 as well as advising an oil company on its prospective claim against the National Land Commission for denial of fair administrative action under the Constitution in its compulsory acquisition of the oil company's land.

Eva has a LLB from Moi University and a Diploma in Law from the Kenya School of Law.

Meshack Kwaka, Associate



Meshack (meshack@oraro.co.ke) is an Associate in the Litigation Department. He specialises in Dispute Resolution, including alternative dispute resolution arbitration, banking & commercial due diligence, employment and labour disputes, constitutional law, judicial review and fintech.

He has assisted in advising and acting for both local and international clients across a wide array of sectors including financial services, manufacturing, payment services providers and public benefit organisations.

Meshack was part of the team representing the KDIC (in its capacity as receiver of various banks under receivership), against claims by its depositors and shareholders as well as being part of the team representing KDIC in the tracing and recovery of assets worth USD 220 million from individuals and companies alleged to have defrauded Chase Bank (a mid-sized Kenyan bank), leading up to its receivership.

Meshack holds an LLB and Bachelor of Arts (BA) in Political Science and Sociology, both from the Catholic University of Eastern Africa and a post-graduate diploma in Law from the Kenya School of Law.

Quinter Okuta, Associate



Quinter (quinter@oraro.co.ke) is an Associate in the Litigation Department and specialises in Dispute Resolution and Employment & Labour.

She has been part of the teams that have represented local and international clients from various sectors such as manufacturing & industrials, healthcare, retail and banking on unfair termination claims, trade union disputes, redundancies, contract disputes, judicial reviews, constitutional disputes and fraud & asset tracing.

Quinter was part of the team that represented the Kenya Association of Manufacturers in a claim in which it was contended that local manufacturers were not extensively consulted on the decision to effect the ban on plastic bags contrary to the Statutory Instruments Act.

She holds an LLB from the Catholic University of Eastern Africa and a post-graduate diploma in Law from the Kenya School of Law.

Yonah Ougo, Associate



Yonah (yonah@oraro.co.ke) is an Associate within the Litigation department. He specialises in Dispute Resolution, Employment Law, Constitutional Law, Environmental and Land Law. Yonah has also been involved in some significant matters in the Corporate & Commercial and Real Estate & Conveyancing practice areas.

Yonah has assisted in advising both local and international clients across an array of sectors such as real estate & construction, financial services, manufacturing and public sector. Recently, Yonah has been part of a team representing a leading commercial

bank in a claim for unfair and unlawful termination on account of the loss of confidence and negligence that exposed the bank to a potential loss of KES 330 million.

Yonah has an LLB from Moi University and a Post Graduate Diploma from the Kenya School of Law.

“[A] distinguished practice with renowned experience in a wide range of dispute resolution mandates. Recognised for the technical prowess of its lawyers in both litigation, including IP disputes, and arbitration.” Chambers Global 2016



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