




JOHN M. OHAGA PERSONAL INFORMATION

Date of Birth: 23rd February, 1966
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PROFESSIONAL SUMMARY

John Ohaga is the Managing Partner as well as Co-Head of Dispute Resolution in the leading firm of TripleOKlaw LLP, Advocates. He is an inspirational leader and mentor as well as widely recognized for his exemplary work and expertise in dispute resolution.

He is a Senior Counsel and Chartered Arbitrator and has 30 years' post-qualification experience during which he has been involved in numerous complex litigation as well as high value domestic and international arbitrations. He has been recognized for his high-quality work and expertise in dispute resolution by **Legal 500**, **Chambers Global** and **Best Lawyers**. John was declared the 2010, 2016 and 2017 winner for Kenya in the category of litigation by the **International Law Office (ILO) Client Choice Awards** (www.clientchoiceawards.com).

John won the Pupil Master of the Year in 2019 and again in 2021 and was Lawyer of the Year in 2020.

John is an experienced dispute resolution practitioner and has vast experience. As a litigator, John represents clients regularly before the Kenyan courts at all levels, and has provided expert opinions and appeared as an expert witness on Kenyan law issues before the courts of England and the United States of America. He has also represented parties as counsel in arbitration proceedings and acted in numerous disputes as either party appointed Arbitrator, Sole Arbitrator or Presiding Arbitrator. He is an experienced arbitrator and is recognized by **Chambers Global** (<https://chambers.com/rankings>) and **Legal 500** (<https://legal500.com>) as one of the leading arbitrators in Kenya. He is also listed in the Africa 30 Arbitration Powerlist 2020 (<https://africaarbitration.org/2021/02/02/africa-arbitration-academy-publishes-africas-30-arbitration-powerlist-2020>) and Legal 500 Africa Arbitration Powerlist for 2021 (<https://indd.adobe.com/view/07527242-bd96-4ac8-b1ff-03b60f37787a>)

He advises numerous blue-chip companies listed on the Nairobi Securities Exchange as well various other private companies in addition to some of Kenya's largest state corporations.

John has been the Convener of the Law Society of Kenya's Committee on Alternative Dispute Resolution for the last five (5) years. He sat on the inaugural board of the Nairobi Centre for International Arbitration established under the Nairobi Centre for International Arbitration Act, No. 26 of 2013 where he chaired the Legislative Review and Accreditation Committee. He is also an Accredited Mediator and is a member of the Mediation Accreditation Committee established under the Section 59A of the Civil Procedure Act where he chairs the Accreditation Sub-Committee. He is also the Chairman of the Sports Disputes Tribunal which is established under the Sports Act, 2013 and also chairs the Appeals Committee of the Advertising Standards Board and also chairs the National Committee on the Formulation of the ADR Policy for Kenya.

John is regularly invited to speak at conferences and other forums both locally and internationally on arbitration, mediation, management of sports disputes and law firm management. He also participates as a Judge in moot competitions held by the various faculties of law whenever called upon.

EDUCATION & TRAINING

2022:	*LLM (International Dispute Resolution) (Queen Mary, University of London)
2022	*LLM (Corporate Governance)(University of Cumbria)
2018:	Diploma in International Commercial Arbitration
2018:	Chartered Arbitrator
2018:	CIArb Accredited Mediator;
2012	Fellow of the Chartered Institute of Arbitrators;
2010:	Chartered Institute of Arbitrators Fast track to Fellowship Assessment. Construction Claims Course. Advanced Arbitration Course.
1999:	Notary Public
1999:	Commissioner for Oaths;
1990:	Kenya School of Law Post Graduate Diploma in Law (Dip. In Law, KSL)

1989:

University of Nairobi
Bachelor of Laws (LLB)(Hons)

*Writing dissertation

PROFESSIONAL MEMBERSHIPS

- Law Society of Kenya;
- East African Law Society;
- International Bar Association;
- Commonwealth Lawyers Association;
- Chartered Institute of Arbitrators;
- International Council for Commercial Arbitration;
- International Association of Managing Partners;
- African Arbitration Association;
- Asian Institute of Alternative Dispute Resolution;

ACCREDITATIONS AND APPOINTMENTS

- Chartered Arbitrator;
- Accredited Mediator;
- Mediation Accreditation Committee established under Section 59A of the Civil Procedure Act, Chapter 16 of the Laws of Kenya and chairs the Standards & Accreditation sub-committee;
- Member of the team that formulated the Mediation (Pilot Project) Rules, 2015 in Kenya;
- Court-Annexed Mediation Task Force;
- Bar-Bench Committee of the High Court (Commercial Division);
- Chairman of the Sports Dispute Tribunal established under Section 58 of the Kenyan Sports Act, No. 25 of 2013;
- Board of the Nairobi Centre for International Arbitration established under the Nairobi Centre for International Arbitration Act, No. 26 of 2013;
- Trustee of the Chartered Institute of Arbitrators;
- Chair of the Appeals Committee of the Advertising Standard Board;
- Committee appointed by the Council of Law Society to review the rules on marketing and advertising;

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- Sat on the Ad Hoc Committee appointed by the Council of Law Society to advise on the naming of Law Firms and the impact of Limited Liability Partnership Act, 2011;
- Sat on the first board of the Nairobi Centre for International Arbitration which was responsible for formulating the Code of Conduct for Arbitrators, Code of Conduct for Mediators, Arbitration Rules of the Nairobi Centre for International Arbitration, Mediation Rules of the Nairobi Centre for International Arbitration and the criteria for accreditation to the Nairobi Centre for International Arbitration;
- Sat on the Sports Dispute Tribunal Committee on the formulation of the Sport Disputes Tribunal Rules which govern the procedure at the Tribunal;

DISPUTE RESOLUTION PROFILE

I. Litigation (As Counsel)

- Successfully represented Barclays Bank of Kenya, Cooperative Bank of Kenya, National Bank of Kenya, Equity Bank, Deposit Protection Fund Board, Housing Finance, Standard Chartered Bank and Kenya Commercial Bank in high value disputes arising from enforcement of securities, following default by various customers omitting their obligations.
- Successfully acted for the Standard Group Limited in a constitutional petition against the Attorney General, the Commissioner of Police and the Minister in Charge of Internal Security arising from the infamous raid on the Standard Group Limited and Kenya Television Network where the Petitioner sought to have the Constitutional Court determine whether the search and confiscation of the Petitioner's broadcasting and communication equipment and publications were a violation of its fundamental rights.
<http://kenyalaw.org/caselaw/cases/view/91561/>.
- Acted for various Media Houses in a constitutional petition challenging the constitutionality of the Media Bills;
- Acted for various Media houses in a Petition challenging the Communications Authority;
- Acted for various Coca-Cola bottling companies in a dispute concerning the imposition of excise duties by the Kenya Revenue Authority on returnable containers where the aggregate amount claimed in alleged outstanding excise duty, value added tax and interest thereon was in excess of Kshs. 5.2 billion;
- Acting for the Central Bank of Kenya in Civil Appeal No. 65 of 2016, Central Bank of Kenya -vs- Richardson & David Ltd & Kenya Deposit Insurance Corporation. This is an Appeal against the decision of the High Court delivered on 18th November 2015 in **Richardson & David Ltd -Vs- Kenya Deposit**

Insurance Corporation and Central Bank of Kenya which declared section 46(1) of the Kenya Deposit Insurance Act unconstitutional and ordered the reversal of liquidation of Dubai Bank (IL);

- Acted for both NIC Bank and Kenya Commercial Bank as interested parties in High Court Miscellaneous Civil Application No. 43 of 2016, Imanan Ltd -vs- Central Bank of Kenya & Others. The suit sought *inter alia* orders to prohibit the Respondents from transferring or assigning any of the assets of Imperial Bank Limited (in receivership) have fully consulted with the Applicants;
- Acting for Kenya Deposit Insurance Corporation (KDIC), the 1st Defendants in High Court Civil Suit No. 482 of 2015, Richardson & David Ltd -Vs- Kenya Deposit Insurance Corporation and Central Bank of Kenya. The suit was instituted by the shareholders of Dubai Bank (K) Ltd seeking to challenge the placement of Dubai Bank (IL) under liquidation on the claim that it was done prematurely and in violation of the Constitution;
- Successfully represented Tatu City Limited against a winding up petition brought by minority shareholders at the High Court and in the Court of Appeal. The subject matter value was Kshs. 240 Billion;
- Acted for Acorn Properties Limited in a dispute with British America Insurance Company Limited arising from a commercial arrangement which dispute was subsequently settled by mediation;
- Acted for AMREF in a dispute against Flying Doctors Association of Africa which dispute went to mediation;
- Advised Multichoice Africa Limited on an array of compliance and competition regulation issues with the Competition Authority of Kenya;
- Advised Safaricom in relation to a challenge by Airtel Limited relating to exclusivity of Mpesa outlets;
- Advised Multichoice Kenya in relation to a challenge by Wananchi Limited challenging dominance in relation to the airing of the English Premier League;
- Acting for five senior advocates of the High Court of Kenya in relation to a claim against Nation Media Group for defamation;
- Acted for Kenya Airways in a dispute by the pilot's union where they were attempting to force Kenya Airways to sign an updated collective bargaining agreement covering its subsidiaries;
- Acted for Ethics and Anti- Corruption Commission (EACC) in a suit against it alleging unfair termination of contract by employees;

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- Acted for Rift Valley (K) Railways in a claim seeking to enforce a foreign judgement from the High Court in Durban;
- Acting for Libya Oil Kenya Limited in three related matters where the three claimants alleged unfair termination after being summarily dismissed following the loss of more than three million (3M) litres of oil between January 2012 and December 2014 through fraudulent shipping of products from the Company's Nairobi Terminal;
- Acting for Safaricom in the claim by Pauline Wangeci Warui, where the former Customer Care Director seeks to recover damages in excess of Kshs. 600 million for alleged unfair termination.;
- Acted for Muthaiga Road Trust Limited, the proprietor of Libya Oil Plaza (formerly Mobil Plaza) in relation to dispute arising from default in payment of rent as well as observance of various covenants and leases;
- Acted for the Yaya Towers Limited in relation to various tenancy disputes;
- Acted for Verve Limited before the Public Procurement Appeals Board in successfully defending a challenge relating to the supply and implementation of an enterprise resource system for the Kenyan Medical Supply Agency;
- Acted for the Kenya Pipeline Company in appeal against the decision of the High Court which awarded Glencore Energy UK Limited sum of USD 40,330,379.75 for alleged breach of Transport & Storage Agreement as well as Collateral Financing Agreement. The appeal was centred on the question whether Glencore Energy UK Ltd acts of importing petroleum oil in Kenya contravened section 80 of the Energy Act. The appeal also considered the legal principles guiding illegality and bailment by attornment. The appeal was upheld on 27th March, 2015 and the decision of High Court was set aside in its entirety.
- Acted for the national airline, Kenya Airways PLC against the decision of the Employment and Labour Relations Court awarding the former Finance Director, Alex Wainaina Mbugua Kshs. 141,606,363 on account of alleged unlawful termination of his employment contract as an alternative remedy to his reinstatement to the position of a Finance Director.

II. Public Procurement

- Acted for Athi River Power Company Limited before the Public Procurement Appeals Board in successfully challenging the award of the tender design, financing supply, direction of a medium diesel plant;

- Acted for Copy Cat Limited before the Public Procurement Appeals Board in successfully challenging a decision related to supply and installation of highway equipment for Simba project;
- Acted for Orad before the Public Procurement Appeals Board in successfully defending the award of a contract for the procurement, supply, installation of integrated management systems at Jomo Kenyatta International Airport;
- Led Coulson Harney in the dispute between Unilever and Proctor and Gamble relating to running, flighting, or airing of the Airtel 1 wash campaign;
- Led Coulson Harney in acting for Lafarge SA in certain matters concerning its shareholding in East African Portland Cement Company Limited;

III. As Expert

- Instructed by Tandem Law to provide expert report on certain aspects of Kenyan Law in connection with litigation in the High Court of Justice, London, England;
- Instructed by Leigh Day Solicitors to provide expert report on certain aspects of Kenyan law in connection with certain litigation in the High Court of Justice, in London, England;
- Instructed by Kingsley Napley Solicitors to provide expert report on certain aspects of Kenyan law in connection with certain disciplinary proceedings in London, England;
- Instructed by CFC Stanbic Bank Limited to prepare an expert opinion on certain aspects of Kenyan law in connection with litigation in the United States District Court for the Southern District of New York;

IV. As Counsel in Arbitration

- Acted successfully for Kenya Pipeline Company Limited (KPC) in connection with a claim by Triple A Capital Limited seeking to recover approximately Kshs. 685,000,000.00 and in which KPC set up a counterclaim for Kshs. 290,000,000.00. The matter was initially before the Commercial Court before it was referred to arbitration;
- Acted for Kenya Pipeline Company Limited (KPC) in connection with a claim by Kenol Company Limited and Kobil Petroleum Limited (Kenol Kobil) for approximately Kes. 9 Billion. Successfully challenged the award of the Arbitrator of the sum of Kshs 5 Billion in the High Court and successfully defended the subsequent appeal to the Court of Appeal;

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- Acted for Acorn Properties Limited in a claim for approximately Kshs. 90 million against a Property Developer;
- Acted for Safaricom Limited in an arbitration dispute between a company based in the Republic of Lebanon (Claimant) and Safaricom PLC on alleged breach of contract by Safaricom Limited following termination of the contract on account of collusive and corrupt practices by the Claimant. The claim against Safaricom Limited was for the sum of USD 8,799,967.08 in respect of services rendered under the Contract; USD 15 Million and Pound Sterling 2,109,200 for loss of business; USD 20 Million for decline in its valuation;
- Acting for Tricon International Limited in a dispute with Mahendrabha Mithabhai Patel in a matter regarding settlement agreement discharging an existing member of a company, where the matter value is Kshs. 3,474,000,000 together with interest at 14% per annum;
- Acting for Columbia Developers (K) Limited in a dispute with one of the private universities. The value of the matter is Kshs. 219,043,787.52;
- Acted for Madison Insurance Company Limited in relation to a claim for professional negligence in its administration of its Staff Retirement Benefits Scheme where the value of the matter was Kshs. 13,501, 822.00

V. As Mediator

- Appointed as Mediator by the Law Society of Kenya in various disputes between various Advocates and their clients;
- Acted as Co-Chair of the Panel in the Mediation between the Kenya Medical Practitioners and Dentists Union (KMPDU) and the Ministry of Health;
- Acted as Sole Mediator in the Mediation between the Kenya Medical Practitioners and Dentists Union (KMPDU) and the Council of Governors;
- Appointments under the court-annexed mediation scheme;

VI. As Arbitrator

- Sole Arbitrator in the dispute between Mobile Phone Warehouse and Airtel Network Kenya Limited as regards breach of contract relating to provision of IT services to Airtel Networks which contract was later cancelled. The value of the matter is Kshs. 94,000,000;
- Member of Panel of Arbitrators in the dispute between Geochem Middle East Limited, a company incorporated in the UAE and Kenya Bureau of Standards

regarding termination of a contract. The value of the matter was approximately Kshs. 2.2. billion;

- Sole Arbitrator in a dispute between for Dinesh Construction Limited and Moi University Staff Savings Cooperative Society regarding the cancellation of the contract for construction of a building within the institution by Moi University Kshs. 104,000,000 together with interest at the rate of 12% per annum;
- Sole Arbitrator in the dispute between Vuyolwetu Zangqa, Graham Jonathan Bentz and the Kenya Rugby Union. The three claimants are South African Coaches whose contracts of employment had been terminated by the Kenya Rugby Union;
- Sole Arbitrator in a dispute between Quality Inspectors Limited and Zakhem International Contractors Limited concerning breach of contract and non-payment of contractual sums.
- Appointed by the Permanent Court of Arbitration as Sole Arbitrator in a dispute between a Ugandan company and the Government of South Sudan;
- Appointed by the Permanent Court of Arbitration as Sole Arbitrator in a dispute between a South African company and a Mozambique State Agency;
- Acted as a Member of the Panel in an arbitration administered by the London Court of International Arbitration between an insurance company and a firm of lawyers;

VII. As Chairman of the Advertising Standards Appeals Board

- Decided the dispute between BAT vs NACADA in relation to a dispute concerning radius of outdoor advertising for schools and other learning institutions;
- Decided the dispute between East African Breweries and NACADA in relation to advertising;
- Decided dispute between Unilever and Colgate in relation to claims by Close-Up;

VIII. As Chairman of the Sports Disputes Tribunal

Heard numerous disputes relating to disciplinary matters, selection disputes, sports dispute and doping charges;

AWARDS & MERITS

2016: International Law Office (ILO) Client Choice Award in the category of Litigation – Kenya, 2016- <http://www.clientchoice.com/john-ohaga>:

Extracts from client comments:

“His integrity is unquestionable; he is articulate, thorough and extremely smart.”

“He has significant experience in both civil and commercial matters; he provides strategic legal advice that works for clients.”

“Mr. Ohaga has a clear understanding of the law and a deep appreciation of the context and dynamics of the business.”

“His knowledge of the Kenyan courts and the commercial environment is second to none.”

2010: International Law Office (ILO) Client Choice Awards in the category of Litigation – Kenya, 2010 - <http://www.clientchoice.com/john-ohaga>:

Extracts from client comments:

“John’s vast experience in commercial law, coupled with an astute legal mind that is continually enriched through research, is a clear advantage to any client.”

“He has a keen interest in wanting to understand the subject matter of the dispute; he insists on having a detailed briefing in order to appreciate the commercial impact of the problem and he then tailors his advice and actions to ensure an optimal result for us.”

“John brought in fresh impetus in the arbitral proceedings and effectively extinguished numerous related court applications that were removing critical attention from the real dispute at hand”

“John’s unquestionable integrity in handling legal matters is worth mentioning, in a world where compromise sometimes deprives litigants of justice.”

2006-2018: Chambers Global in the categories of Litigation and Arbitration <https://www.chambersandpartners.com/Global/person/278964/john-m-ohaga>

Extract from comments:

‘John Ohaga is widely regarded as *‘a very very fine lawyer’* particularly in the area of alternative dispute resolution... *‘very strong on arbitration’* and *‘a top lawyer without any doubt’*’.

2007-2016: Best Lawyers -

<https://www.bestlawyers.com/Search?query=John%20M.%20Ohaga>

2007-2018 Legal 500 - <http://www.legal500.com/firms/51034/offices/51944>

Recognized as a leading individual and particularly as *‘outstanding in arbitration’*

CONTRIBUTION TO THE DEVELOPMENT OF JURISPRUDENCE IN ARBITRATION AND ALTERNATIVE DISPUTE RESOLUTION AND PARTICIPATION IN INTERNATIONAL FORA

i. Arbitration

I participate as a Judge in moot competitions held by the various faculties of law whenever I am called upon. I believe that this contributes to training students in preparation for entry into the legal profession. In November 2017, on my initiative, my firm sponsored the moot competition at the first China-Africa Joint Arbitration Centre (CAJAC) International Arbitration Conference held in Cape Town, South Africa. The competition was won by the team from Strathmore University and I had the privilege of presenting the trophy to the winners. Further, I participated as a Judge at the moot competition at the most recent Nairobi International Arbitration Conference hosted by the Nairobi Centre for International Arbitration.

I have made numerous presentations at Continuous Professional Development (CPD, or CLE) forums organized by the Law Society of Kenya on diverse topics including Law Firm Management, Effective Dispute Resolution, Alternative Dispute Resolution (ADR) and International Arbitration. Details of the dates and sessions should be available from the CLE Sub-Committee or the Secretariat of the Law Society of Kenya.

I have received numerous certificates from the Law Society of Kenya expressing appreciation for my outstanding commitment to the betterment of the Society.

I am regularly invited to speak at international arbitration conferences. In May 2016 I was requested to Moderate a Panel Discussion at the International Commercial Council Arbitration (ICCA) Conference held in Mauritius. The Panel was comprised of leading international arbitration practitioners. In December 2016 and in June 2018, I was appointed the Programme Director for the inaugural and second Nairobi International Arbitration Conference both held at the Intercontinental Hotel in Nairobi.

I also attend numerous international arbitration conferences as a participant. In July 2017 I attended the CIArb International Conferences 2017 held in Johannesburg, South Africa where I was privileged to be requested to deliver the address on behalf of the Attorney General of the Republic of Kenya; this honour was conferred on me once again at the China Africa Joint Arbitration (CAJAC) Conference held in Cape Town, South Africa in November 2017. In February 2018 I attended the International Commercial Council Arbitration (ICCA) Conference held in Sydney, Australia and in June 2018 I was invited to speak at the Jamaica International Arbitration Centre held in Kingston, Jamaica.

I am presently a mentor in the International Commercial Council Arbitration (ICCA) mentorship programme and mentor several young arbitrators on the African continent.

On my initiative as Managing Partner of TripleOKlaw LLP, my firm sponsor various arbitration events. In 2018 we have sponsored the Women in Arbitration Conference and will be co-sponsoring the Chartered Institute of Arbitration International Conference to be held in Diani in November 2018.

ii. Mediation

I am an Accredited Mediator.

I sit on the Mediation Accreditation Committee established under Section 59A of the Civil Procedure Act, Chapter 16 and Chair the Standards & Accreditation sub-committee. I attach a copy of the Gazette Notice evidencing my appointment (**Tab 11**).

I was nominated by the Law Society of Kenya to initiate the process of the establishment of the mediation pilot project. I attach my letter of nomination (**Tab 12**). I was a member of the team that formulated the Mediation (Pilot Project) Rules, 2015.

I now sit on the Court-Annexed Mediation Task Force.

In 2017 I was appointed by the Law Society of Kenya to Co-Chair the Mediation with respect to the dispute which led to the Doctors' Strike. The Mediation was conducted with the permission of the Court of Appeal. I attach a copy of the letter of appointment

Notwithstanding that the Mediation was unsuccessful, I was subsequently appointed to Chair the negotiations between the Kenya Medical Practitioners and Dentists Union (KMPDU) and the Council of Governors and oversaw negotiations which led to the successful signing of a Recognition Agreement and Collective Bargaining Agreement between the forty- seven (47) Counties and the KMPDU. I attach a copy of the letter of appointment (**Tab 14A**) and a copy of the letter I wrote to the Law Society of Kenya reporting on the success of the negotiations together with a copy of the letter inviting me to participate in the 2017 KMPDU Annual Delegations Conference (**Tab 14B**).

iii. Judicial Functions

I am the Chairman of the Sports Dispute Tribunal established under Section 58 of the Sports Act, No. 25 of 2013. In this role I preside over the resolution of sports disputes including by the use of alternative dispute resolution mechanisms; I also preside over the resolution of anti-doping cases on the basis of jurisdiction vested in the Sports Disputes Tribunal by virtue of Section 31 of the Anti-Doping Act, No. 5 of 2016.

The Tribunal has established itself as a key pillar in establishing and enforcing proper governance structures within the sports sector.

I have addressed forums in Nassau, Bahamas and Kuala Lumpur, Malaysia regarding the work of the Sports Disputes Tribunal.

Professor Richard H. McLaren, O.C (who investigated and reported on the state sponsored doping practices in Russia) has recommended that I be invited to Canada to speak to the Sports Disputes Resolution Centre of Canada (SDRCC) regarding the work of the Sports Disputes Tribunal.

iv. Others

Due to my sound knowledge of the law and professional competence, I am regularly appointed to testify in other jurisdictions as an expert on certain aspects of Kenyan law.