

# Desmond Odhiambo

Partner



Desmond Odhiambo is a Partner in our Dispute Resolution, Employment Law, Trusts & Estates practice areas, as well as in our Business Rescue, Restructuring & Insolvency sector.

He has extensive litigation experience as lead counsel in all the higher Kenyan courts as well as quasi judicial bodies such as the Public Procurement Administrative Review Board and the Kenya Industrial Property Institute. He is a qualified mediator and a member of the Chartered Institute of Arbitrators (MCI Arb).

## About Desmond

Desmond started as a Trainee Lawyer at a firm in Kenya and was later appointed as an Associate. He subsequently joined another firm where he remained as a Partner in the Dispute Resolution practice until October 2017. Desmond joined Kieti in 2017.

## Credentials

### Education

- Postgraduate Diploma in Law, Kenya School of Law & Kenyan Bar Admission
- LLB, Bachelor of Laws, University of Leeds, England

### Membership

- Law Society of Kenya
- Chartered Institute of Arbitrators (MCI Arb)

## Experience

- Retail supermarket chain

Advising a large retail supermarket chain on a debt restructuring plan that culminated in a Company Voluntary Arrangement ("CVA") with hundreds of creditors.

- Food services franchisee

Advising a leading food services franchisee on an appropriate business rescue mechanism under the Insolvency Act 2015.

## Contact Desmond

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## Expertise

Dispute Resolution

Employment Law

Business Rescue, Restructuring & Insolvency

Industrials, Manufacturing & Trade

Occupational Health & Safety

## Location

Nairobi

## Language

English

Swahili

- **Estate of luxurious apartments**

Successfully restraining the government from demolishing an estate of luxurious apartments along the coastal line of Mombasa worth KES 2 Billion.

- **Mortgage finance company**

Successfully defending a mortgage finance company in a claim for an alleged breach of undertaking worth KES 200 Million.

- **Commercial bank**

Successfully defending a commercial bank against a claim for shares worth KES 120 Million under an Employee Share Ownership Scheme (ESOP).

- **International charitable organisation**

Successfully defending an international charitable organisation in a construction dispute worth KES 78 Million.

- **Provisions on inheritance.**

Acting for an estate worth KES 15 Billion in a landmark succession case at the Court of Appeal on whether estoppel can override statutory provisions on inheritance.

- **USAID funded projects**

Advising various USAID funded projects on employment regulations, redundancies and drafting employment agreements.

- **Commercial litigation**

Undertaking a wide range of commercial litigation in relation to guarantees, judicial review of government actions, winding up of companies and enforcement of securities.

## News

### [Missed opportunities: The implications of squandering a disciplinary hearing](#)

In employer-employee workplace tales, a person decrying unfair termination is a common scenario. But what about the instances where the employee had a chance to tell their side of the story in a disciplinary hearing, but they let it slip away? This is the story in the case of *Okun v Kenyatta University* (Cause 363 of 2019) where the employee sought a declaration from the court that his employment was terminated unfairly. The twist is that the employer had extended two invitations to the employee to appear before a disciplinary committee, which were postponed at the request of the employee. Thereafter, it sent a third invitation which the employee refused to honour entirely. What is the implication of squandering the termination process in this way?

### [Why employers should consider grievances provided by underperforming employees before termination](#)

In today's fast-paced and competitive world, employers are often faced with the challenge of managing employees who are not meeting their performance expectations. Poor performance constitutes one of the valid reasons for an employer to terminate the service of an underperforming employee.

### [Liquidation of Tuskys Supermarket: A case of too little too late](#)

On 31 May 2023, Justice Majanja issued a judgment that marked an end to the restructuring efforts of Tuskys Supermarket after a three-year court battle. It was another classic example of an attempt to restructure a company's debt at the tail end of a distress cycle rather than at the early stages when the chances of recovery are higher.

### [Harassment in the workplace: Risks, Regulation and Rights](#)

The Employment Law team from CDH and Gateley hosted a webinar titled: Harassment in the workplace: Risks, Regulation and Rights.

### [The Legal 500 Private Practice Arbitration Powerlist for Africa](#)

Congratulations to our Dispute Resolution Lawyers that have been included in the Legal 500 Private Practice Arbitration Powerlist for Africa.

## Videos

### [Re-thinking industrialization in Kenya and the East Africa Community. What does the future hold?](#)

CDH in partnership with the French Chamber of Commerce Kenya hosted an informal breakfast event to discuss matters that affect the future of business in an everchanging market.

## Podcasts

### [An Analysis of the Affordable Housing Bill, 2023 vis a vis the High Court's Judgment and the ruling of the Court of Appeal](#)

On 28 November 2023, The High Court of Kenya held that the housing levy as framed in Finance Act, 2023 is unconstitutional.

### [Fair farewell – How to deal with secondment contracts during redundancy](#)

Many businesses use redundancies as a strategic restructuring tool.

### [The concept of lockouts and how employers may respond to a strike](#)

A lot of discourse within employment circles in Kenya has been about strikes. However, very little has been said about the right of employers to lockout employees.

### [Performance management and performance improvement plans in the employment context](#)

Managing employee performance and creating an effective performance improvement plan (PIP) are active responsibilities that employers often underestimate. Employers must establish clear performance standards and build an employee's capacity to perform, in a manner that is reasonable, measurable, verifiable and achievable. The law further requires employers to structure a PIP to address a perceived employment failure, as opposed to using it to terminate an employment contract. Join Desmond Odhiambo and Tyler Hawi Ayah as they delve into these issues and discuss practical methods of managing performance and creating an effective PIP.

### [Njeri Wagacha talks to Vinodh Brathrie and Desmond Odhiambo](#)

On this month's podcast Njeri Wagacha talks to Vinodh Brathrie Head of Employee Relations for Africa Standard Bank and fellow Partner, Desmond Odhiambo, Partner in the Dispute Resolution practice, CDH Kenya on Return to Work Policies, as the Continent emerges from the COVID-19 Pandemic.

[All news by Desmond Odhiambo →](#)

## Recognition

- Legal 500 EMEA
  - The Legal 500 EMEA 2022 recommended Desmond for dispute resolution.