



PRIVATE PRACTICE POWERLIST 2023
ARBITRATION | **AFRICA**

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LEGALEASE LTD

For over 30 years, The Legal 500 has been analysing the capabilities of law firms and sets across the world. In the research team, we constantly track which sections are used most by clients, and this often matches up with an increase in that section from submissions, client referees, requests for interviews and feedback – all of which make up the research process. The international arbitration rankings are consistently one of our most used and read editorial sections and one of the most competitive areas for law firms, sets, lawyers and barristers. This very much chimes with what we constantly hear anecdotally in the market, with international arbitration frequently cited as the preferred form of dispute resolution.

The *Arbitration Powerlist: Africa 2023* showcases the leading arbitration practitioners working today in Africa, a continent which, traditionally, relied heavily on litigation in court to resolve disputes. However, recent years have seen a significant increase in the use of international arbitration as a form of alternative dispute resolution involving African parties. Currently, close to 100 arbitration institutions exist across Africa, varying in size and area of focus. The ICC and the LCIA continue to dominate international arbitration in Africa, as they do worldwide, but arbitration centres, as well as the practice of arbitration, are continuing to grow in size and popularity.

In addition to showcasing the ever-growing strength and depth of Africa's community of arbitration counsel, we offer examples of how the continent at large has taken the lead on a number of procedural and institutional innovations. The growing number of states acceding to New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards over the past years reflects the growing importance of the enforcement of foreign arbitral awards. It is no surprise, then, that the world looks to Africa to derive inspiration and guidance on complex international arbitration.

As with any publication of this nature, we were faced with the dilemma of including as many worthy candidates as possible without diluting the significance of their listing. After lengthy discussions across the editorial team, we decided that a larger selection was necessary to provide sufficient nuance and balance across so many different markets.

To collate the list of leading practitioners we have of course drawn on our research team's expertise. We have also approached leading arbitrators, arbitral institutions and general counsel active in the market to help create a definitive list of the leading arbitration counsel in Africa today. As such, we think the listing reflects those practitioners that are deemed the gold standard by businesses. ■



Elena Lewis | Researcher

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Important Regional Arbitration Centres – Africa

Commission for Conciliation, Mediation & Arbitration (CCMA)

Location: South Africa

China-Africa Joint Arbitration Centre Johannesburg

Location: South Africa

The Arbitration Foundation of Southern Africa (AFSA)

Location: South Africa

The Association of Arbitrators (Southern Africa)

Location: South Africa

Tokiso Dispute Settlement

Location: South Africa

Cairo Regional Centre for International Commercial Arbitration (CRCICA)

Location: Egypt

Ghana Arbitration Centre (GAC)

Location: Ghana

Ghana Association of Certified Mediators and Arbitrators (GHACMA)

Location: Ghana

Mauritius International Arbitration Centre (MIAC)

Location: Mauritius

MCCI Arbitration and Mediation Center (MARC)

Location: Mauritius

Permanent Court of Arbitration (PCA) Mauritius Office

Location: Mauritius

International Centre for Arbitration & Mediation Abuja (ICAMA)

Location: Nigeria

International Dispute Resolution Institute (IDRI)

Location: Nigeria

Lagos Chamber of Commerce International Arbitration Centre (LACIAC)

Location: Nigeria

Lagos Court of Arbitration

Location: Nigeria

Nigerian Institute of Chartered Arbitrators

Location: Nigeria

Regional Centre for International Commercial Arbitration – Lagos (RCICAL)

Location: Nigeria

The Chartered Institute of Arbitrators CIArb, UK Nigeria Branch

Location: Nigeria

Centre for Conciliation, Mediation and Arbitration of the Algerian Chamber of Commerce and Industry

Location: Algeria

The Local and International Arbitration Center 'Al-Insaf'

Location: Tunisia

The Botswana Institute of Arbitrators

Location: Botswana

Chartered Institute of Arbitrators, Kenya Branch

Location: Kenya

Nairobi Centre for International Arbitration

Location: Kenya

Centre d'Arbitrage du GICAM

Location: Cameroon

Organisation pour l'Harmonisation en Afrique du Droit des Affaires (OHADA)

Location: Cameroon

The Permanent Centre of Arbitration and Mediation (CPAM) Centre Permanent d'Arbitrage et de Médiation

Location: Cameroon

Cliffe Dekker Hofmeyr



INCORPORATING
KIETI LAW LLP, KENYA

Business message

Cliffe Dekker Hofmeyr has over 46 qualified dispute resolution lawyers (including 24 partners) in Johannesburg, Cape Town and Nairobi who are experienced specialists in litigation, arbitration, mediation and investigations.

When required, our team can co-ordinate specialists from across the firm to meet the needs of clients in contentious, pre-contentious and high-stake disputes and corporate investigations mandates. Our disputes specialists have a reputation for succeeding in the most sensitive

and complex of cases. We provide pragmatic, commercially-focused legal solutions for our clients' most complex problems. We use leading edge technology to manage disputes both efficiently and effectively. Our sophisticated knowledge management systems and processes provide immediate access to global best practice and legal precedents, and we have access to a worldwide database of relevant dispute resolution cases.

Our dispute resolution practice is recognised as one of the strongest in South Africa and Kenya.





Tim Fletcher

Cliffe Dekker Hofmeyr

Location: Johannesburg

Job title: Chairperson, Director

Number of years in practice: 31

Admissions: South Africa, with right of appearance in the Superior Courts Act, England & Wales

Main sectors covered: General commercial disputes

Geographical areas of focus: South Africa

Languages: English

Tim Fletcher has been in practice for more than 31 years and has seen first-hand, the growth of arbitration practice in South Africa. Although most of the matters in which he has been involved can generally be described as commercial disputes, the issues range from shareholder altercations to breach of warranties and any number of matters in-between. Tim strives to ensure the quickest and most cost-effective outcome but that is not always possible with so much dependent on the matter itself and one's opponent. In the course of the disputes in which he has been involved, he has encountered, amongst many other things, sous-vide cooking, military vehicles, become something of an expert in the regulation of higher education and managed a fascinating range of factual issues.

In conversation with...

What are the arbitrations you have worked on that you would flag as your highlights?

I worked on an arbitration that ran for several years concerning a very substantial damages claim for alleged breach of contract in the context of cooking processes for bulk catering. The first hearing ended very abruptly when documents uncovered the day before the arbitration as a result of a subpoena, revealed that the claimant had no *locus standi* on the pleadings. The arbitration was withdrawn, costs tendered and my client, my team and I enjoyed a big celebratory lunch. Approximately a week later we received a new claim on the same issue and that went to a hearing. The claimant's first two witnesses were destroyed in cross examination and the matter was settled for the payment of a tiny amount of money which did not even cover the

claimant's liability to the arbitrator for the aborted first week. Again, my client, my team and I enjoyed a big celebratory lunch. Astonishingly, the matter then went to new attorneys and an application was brought to the High Court. That was dismissed with costs *de bonis propriis*. The appeal suffered the same fate. We did celebrate the third victory albeit in a very subdued fashion but that did signal the end of the dispute.

Private higher education has been a specific focus of mine and in an arbitration between two higher education providers (which arose out of action taken by the Department of Higher Education & Training) opposing counsel cross-examined our expert witness, a leading accountant who is also a professor of accountancy at a local university. The cross examination was approached by opposing counsel, apparently with the intention of subduing our expert witness and extracting damaging concessions. It was one of those occasions to which we could have sold tickets, where the expert witness very calmly and quietly turned the tables on opposing counsel and effectively destroyed the claimant's version in half an hour of quiet skilful responses.

My third particular highlight was an arbitration between a South African manufacturer of military hardware and an arms dealer from Saudi Arabia who claimed commission on a transaction eventually conducted through an agent in the US. We were exposed to details of some extremely impressive military kit and the intricacies of an international arms deal between governments. This was also my first experience of having several witnesses testify via video link from a range of locations in the Middle East and the US. The matter became increasingly acrimonious and ultimately we triumphed. This was one I will remember for a long time.

What do you think are the most important qualities or skills you bring to an arbitration?

I am pragmatic and solution-oriented and I enjoy the development of strategy as a dispute unfolds. Those qualities are obviously important in disputes practice generally but I have been able to apply them in the context of an arbitration both in the technical structuring of the pleadings and in dealing with opponents. Often that curtails the arbitration either by securing an early win or bringing about a favourable settlement. The careful application of a clear strategy from the very first engagement can be decisive.

What do international counsel facing a matter in the jurisdiction need to know about the local arbitration scene?

Firstly, the local arbitration scene is well developed and the majority of practitioners have had some exposure to arbitration. There is though, a tendency amongst local practitioners to default to the Uniform Rules of the High Court in arbitration proceedings even though that stifles some of the essence of arbitration as a more cost-effective and faster mode of dispute resolution.

Secondly, we have a pool of excellent arbitrators, but in international terms, it is a relatively small pool and it is not uncommon for an arbitrator to have been briefed by one (or even more than one) of the attorneys representing parties in the arbitration. That is obviously not as common when the arbitrator is a retired judge.

Thirdly, I believe that the majority of international arbitrations in South Africa are conducted through the Arbitration Foundation of Southern Africa which is the leading arbitral institution in the country and arguably the leading arbitral institution on the continent. It boasts a significant international panel of arbitrators, a very competent secretariat and rules comparable internationally.

Finally, and from a practical point of view, South Africa has excellent infrastructure for the conduct of arbitrations including appropriate facilities, bandwidth, venues that are easily accessible from international destinations and all of this at prices significantly lower than might be available in Europe.

When you look back at your career and the knowledge you have gained, what advice would you give to those who are about to embark on a career practicing arbitration?

The first piece of advice is to learn the rules applicable to the arbitration. Many young practitioners are intimidated by foreign arbitral institutions and rules with which they are unfamiliar. My second piece of advice is that the rules are to be regarded as a tool in the process but not an end in themselves. The third and related piece of advice is to work on peripheral vision. Dispute resolution and particularly arbitration practice might seem to be linear but most opportunities for settlement are the result of lateral thinking and an awareness of things appearing in the corner of your eye. ■

Kgosi Nkaiseng

Cliffe Dekker Hofmeyr

Job title: Director

Location: Johannesburg

Number of years in practice: 13

Admissions: Member of the Legal Practice Council (South Africa), Admitted as an attorney of the High Court of South Africa (with right of appearance)

Main sectors covered: Business rescue, restructuring and insolvency, consumer goods, services and retail, public law, financial services

Geographical areas of focus: Sub-Saharan Africa

Languages: English

Kgosi Nkaiseng is a director in the dispute resolution practice at Cliffe Dekker Hofmeyr. He focuses mainly on business rescue, insolvency, corporate recoveries and general commercial litigation.

Kgosi began his career as a Candidate Attorney at Smit Sewgoolam Inc. He joined Hogan Lovells (SA) Inc in 2014 as an Associate and was promoted to Senior Associate in 2016. He joined Cliffe Dekker Hofmeyr Inc as a Senior Associate in 2017. Kgosi was promoted to Director in 2019.

In conversation with...

How would you describe your firm's arbitration practice in the wider region? What strengths does it have as a wider group of attorneys?

The ability of our firm's arbitration practice to provide arbitration services both locally and internationally gives us the leading edge for clients seeking assistance with cross border matters. Our group of attorneys practice in multiple disciplines of law which enhances our service offering and makes our practice one of the strongest in the region.

What are your views on diversity and inclusion in international arbitration today?

We live in a very dynamic world that demands diversity, inclusion and equal representation in our profession, practices and commerce generally. All these factors should be taken into account in arbitration proceedings, particularly in the selection of arbitrators or arbitrator panels.

What qualities make for a successful arbitrator?

I believe a successful arbitrator pays attention to detail, understands the specific circumstances of each client's case and is able to manage any potential risk that a client might face.

What are your goals for practice in the next five years?

To be recognised by clients and colleagues as a leading expert in the industry and be a champion for change and diversity. ■



Tim Smit

Cliffe Dekker Hofmeyr

Job title: Director**Location:** Johannesburg**Number of years in practice:** 11**Admissions:** Member of the Legal Practice Council (South Africa), admitted as an attorney of the High Court of South Africa**Main sectors covered:** Consumer goods, services and retail, corporate investigations, financial services, e-commerce and fintech, healthcare and pharmaceuticals, industrials, manufacturing and trade, insurance, international arbitrations, product liability, public, administrative and regulatory law, technology and communications.**Geographical areas of focus:** South Africa, Southern Africa (Botswana, Eswatini, Lesotho, Namibia, Mozambique), United Kingdom**Languages:** English, Afrikaans

Tim Smit is a director in the dispute resolution practice and has practiced exclusively in commercial dispute resolution since his admission as an attorney. Tim specialises in High Court litigation, private mediations and arbitrations (both domestic and international), as well as forensic investigations. Tim has successfully resolved disputes concerning administrative law reviews, complex shareholder agreements, insurance policy response, professional indemnity claims, product liability claims, public liability claims, e-commerce and merchant services agreements and fintech contractual disputes. Tim has also investigated allegations of legislative and regulatory non-compliance, employee performance related complaints, as well as numerous claims of fraud against suppliers, employees, directors and designated officers of companies.

In conversation with...**What do you think are the most important qualities or skills you bring to an arbitration?**

My attention to detail. I am obsessed with working through and understanding the minutia of the matter to ensure that all possible claims and/or

defences are properly understood and considered. The critical and skeptical eye that I bring in regard to each and every matter in which I am briefed. In this regard, I bring my expertise in forensic investigations to bear in all of my matters.

I remain mindful of the ultimate client objective throughout the arbitration process and continuously assess the status of the claims and defences to ensure that ultimate objective is being achieved.

What aspects of a potential case/arbitration are more likely to grab your attention and have you eager to be involved?

The complexity of the terms of the agreement and/or conduct that forms the subject of the dispute and any undercurrents of impropriety, misrepresentation and/or irregularities in regard to the administration and/or operation of a contract and/or the standard of conduct that is the genesis of the arbitral dispute.

How would you describe your firm's arbitration practice in the wider region? What strengths does it have as a wider group of attorneys?

The Cliffe Dekker Hofmeyr arbitration practice group comprises a practitioner complement of broad and diverse expertise and experience. We are able to call on a wide array of expertise from within our ranks to ensure that every facet of an arbitral dispute is covered. We have experts in virtually every sector of the global economy and are able to bring our multi-disciplinary expertise to bear in every arbitral matter.

What previous work and/or life experiences have you been able to call on and apply in your arbitration practice?

I previously worked for a period of 16 months as the chief legal counsel of a prominent European payment and merchant services provider in the ecommerce and fintech sector. My experience in both the commercial and dispute resolution aspects of the business across multiple jurisdictions (including the Caribbean, South America, Europe and Asia) has translated into my legal practice in assisting ecommerce and fintech clients in regard to arbitral disputes. ■





Anja Hofmeyr
Cliffe Dekker Hofmeyr

Job title: Director

Location: Johannesburg

Number of years in practice: 18

Admissions: Member of the Legal Practice Council (South Africa)

Main sectors covered: Commercial dispute resolution, telecommunications, broadcasting, product liability, chemicals, mining and minerals, regulatory and administrative/public law

Geographical areas of focus: South Africa

Languages: Afrikaans and English

Anja Hofmeyr has over 18 years experience in a wide range of sectors, including telecommunications, broadcasting, media, gambling, oil and gas, mining and chemicals. She specialises in commercial litigation, administrative law, regulatory law, product liability and group or class actions. Anja has also received training from leading law firms in the US regarding product liability litigation and the class actions.

She has represented several major players in the above industries, including Vodacom, Sasol, Media24, and Sentech in mediation, arbitration and/or court proceedings. She also regularly advises clients regarding regulatory compliance and represents clients in review proceedings relating to administrative action taken by regulatory authorities.

Anja follows a pragmatic and commercial oriented approach in matters, to ensure that clients resolve disputes as efficiently and cost effectively as possible.



Jackwell Feris
Cliffe Dekker Hofmeyr

Job title: Director

Location: Johannesburg

Number of years in practice: 15

Admissions: Member of the Legal Practice Council (South Africa)

Main sectors covered: Oil and gas, energy and power, mining and minerals, infrastructure and transport, international investment law

Geographical areas of focus: South Africa, Lesotho, Botswana, Namibia, Tanzania

Languages: English, Afrikaans and Setswana

Jackwell Feris has over 15 years' experience in the oil and gas, mining and minerals, energy and power, infrastructure and transport, government and state-owned sectors having represented governments, state-owned entities and private commercial parties and investors in complex disputes providing dispute prevention, dispute avoidance and dispute resolution services and providing advisory work on projects and/or transactional matters. He has developed depth of skills and experience in oil and gas laws, energy laws, mining laws, constitutional and general public law matters, public procurement and public finance law, international arbitration law, public international law, international investment law, international trade law, climate change laws.

Jackwell, as the sector head of industrials, manufacturing and trade, works closely with several of CDH's leading professionals in consolidating CDH's services in, amongst others, heavy industries and future industries such as clean hydrogen, e-mobility, robotics and automation.

The industrials, manufacturing and trade sector of CDH was born from the need to provide our clients with a dedicated service to economic industries that, amongst others, require to decarbonise flowing from industries such as mining and minerals, energy and power, oil and gas and other natural resources industries that will be the catalyst for the industrialisation of Africa under the African Continental Free Trade Area.



Clive Rumsey
Cliffe Dekker Hofmeyr

Job title: Director

Location: Johannesburg

Number of years in practice: 32

Admissions: Member of the Legal Practice Council (South Africa) / admitted attorney of the High Court, Gauteng

Main sectors covered: Construction and engineering, insurance

Geographical areas of focus: South Africa

Languages: English

Clive Rumsey is a director in the dispute resolution practice at Cliffe Dekker Hofmeyr and head of the construction and engineering sector. Clive focuses on construction and engineering law.

Non-contentious experience includes being part of the team that prepared particular conditions for new build power stations (FIDIC); preparation of and advice in regard to a new build project for a mining house involving 200 packages (FIDIC); advice in regard to EPC and EPCM contracts in various industries; acting as part of the team appointed to provide legal advice on a renewable energy project, relating to wind power; and contractual advice on Koeberg Power Station.

Contentious experience includes being appointed to act on behalf of construction employees by the insurance underwriters in regard to the Grayston Bridge collapse in Sandton; assisting an insurance company to defend a claim of over US\$50m brought against it in the Supreme Court of Victoria, Australia for defective pipeline welding undertaken by a contractor; multiple adjudications/arbitrations involving NEC3 form of contract; ICC arbitrations relating to disputes in Mozambique; and conducting DAB and arbitrations involving FIDIC form of contact.



Corné Lewis
Cliffe Dekker Hofmeyr

Job title: Director

Location: Johannesburg

Number of years in practice: 13

Admissions: Member of the Legal Practice Council (South Africa)

Main sectors covered: Administrative law, forensic investigation, company law, public law, corporate investigations, gambling law, mining law, evictions, business rescue and liquidations

Geographical areas of focus: Namibia, South Africa, Lesotho

Languages: English and Afrikaans

Corné Lewis began his career in 2009 as a candidate attorney at Cliffe Dekker Hofmeyr. He was appointed as an associate in January 2011. In 2013 Corné was promoted to senior associate. He was appointed as a director in 2016.

Corné has extensive experience in advising mining houses in both South Africa, Lesotho and Namibia including but not limited to mining licenses, sale of material, Ferro Alloy, Chrome and commercial litigation. He conducted an investigation into allegations of bribery, fraud and procurement irregularities committed by a senior employee in a multinational oil and gas company. The work involved a review of information, internal policies and applicable legislation, analysing evidence including laptop and cellular phone data, leading interviews with persons of interest and preparing a report on the findings.



Rishaban Moodley
Cliffe Dekker Hofmeyr

Job title: Director, Head of Dispute Resolution

Location: Johannesburg

Number of years in practice: 21

Admissions: Member of the Legal Practice Council (South Africa)

Main sectors covered: Commercial litigation, mining, media, administrative law, forensic investigation

Geographical areas of focus: South Africa, Botswana, Swaziland, Namibia

Languages: English and Afrikaans

Rishaban joined Hofmeyr Herbstein and Ghwala (now Cliffe Dekker Hofmeyr) as an associate in 2001 and was promoted to senior associate in 2003. He became a director in 2005. In 2022, Rishaban was appointed head of the dispute resolution practice.

Rishaban has done the following work for the SABC:

- Conducted forensic investigations at the SABC and has in the past and is presently advising and making recommendations to the SABC board and management on improving certain of their policy documents.
- Advised the board and management on tender procedure, irregularities and good governance.
- Advised on the Broadcasting Act, Delegation of Authority Framework, PFMA and SABC's company registration documents. Familiar with the internal as well as external regulatory instruments governing the SABC



Thabile Fuhrmann
Cliffe Dekker Hofmeyr

Job title: Director

Location: Johannesburg

Number of years in practice: 26

Admissions: Member of the Legal Practice Council (South Africa)

Main sectors covered: Commercial arbitration, strategic BEE driven acquisitions and related litigation, corporate and tax law, insolvency, liquidation and business rescue, commercial litigation, foreclosures on all forms of security instruments, public procurement law, public law

Geographical areas of focus: South Africa

Languages: English, German, Setswana, Sesotho, Sepedi and Afrikaans

Thabile Fuhrmann is a director in the dispute resolution practice and joint head of CDH's government and state-owned entities sector. Before joining CDH, Thabile founded her own independent law firm called Thabile Fuhrmann & Associates Inc. Prior to that she practiced in partnership under the name and style of Knight Thabile Fuhrmann Attorneys. Upon dissolution of the partnership in August 2004, Thabile continued to practice for her own account until December 2011. She subsequently joined Cliffe Dekker Hofmeyr as a director in January 2012. In 2018, Thabile was appointed as chairperson. She held this position until 2022.



Belinda Scriba
Cliffe Dekker Hofmeyr

Job title: Director

Location: Cape Town

Number of years in practice: 15+

Admissions: Member of the Legal Practice Council (South Africa)

Main sectors covered: Complex commercial disputes, shareholder disputes, insolvency and business rescue

Geographical areas of focus: South Africa

Languages: English and Afrikaans

Belinda Scriba is a director in the CDH dispute resolution practice. She is a member of the business rescue, restructuring and insolvency sector. Her extensive experience includes litigation and arbitration (international and local) in the areas of insolvency and business rescue, corporate and commercial contractual disputes, companies act disputes, maritime, and international trade. She has more recently trained and qualified as a mediator.



Lucinde Rhodie
Cliffe Dekker Hofmeyr

Job title: Director

Location: Cape Town

Number of years in practice: 22

Admissions: Member of the Legal Practice Council (South Africa)

Main sectors covered: Business rescue, restructuring and insolvency, companies act litigation, corporate investigations, agriculture, aquaculture and fishing, healthcare and pharmaceuticals

Geographical areas of focus: South Africa

Languages: English and Afrikaans

Lucinde specialises in a wide range of business rescue, restructuring and insolvency matters such as liquidation and sequestration applications, the running of insolvency enquiries and other insolvency related litigation including prosecuting claims on behalf of liquidators, setting aside dispositions and assisting creditors with submitting claims in insolvent estates, perfecting securities on behalf of creditors (cessions/general notarial bonds). She acts for both liquidators, creditors and commercial banks, both in regard to South African and cross border insolvency matters; forensic investigations – in liquidation and commercial dispute scenarios; banking litigation including but not limited to litigating on securitised debt for commercial banks; and Companies Act litigation including section 164 appraisal rights, shareholders' and directors'



Desmond Odhaimbo
Cliffe Dekker Hofmeyr

Job title: Director

Location: Nairobi

Number of years in practice: 12

Admissions: High Court of Kenya

Main sectors covered: Construction, telecommunications and banking

Geographical areas of focus: Eastern Africa

Languages: English, Kiswahili

Desmond Odhiambo is a partner at Kieti Law LLP (CDH Kenya), a leading African law firm. He has over 13 years' experience providing dispute resolution, insolvency and regulatory services to clients in Kenya and various other African jurisdictions. He has represented clients in various complex arbitrations (whether ad hoc or institutional) and complex litigation. Industry experience includes banking, telecommunications, engineering and construction sectors. He is a qualified mediator and a member of the Chartered Institute of Arbitrators – Kenya Chapter (MCI Arb).