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LL.B. (Moi), PGD, Law (KSL)
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A. PROFESSIONAL PROFILE

Herman Omiti is an Advocate of the High Court of Kenya. He holds a Bachelor of Laws (LL.B.) Degree from Moi University and a Post Graduate Diploma in Law from the Kenya School of Law. Herman practices law in the Law Firm of Ngeri, Omiti & Bush Advocates LLP (NOB Advocates LLP) where he is the Partner in charge of Finance & Strategy and the Head of Dispute Resolution Department.

Herman is mainly engaged in Dispute Resolution matters where he does mostly litigation, arbitration and mediation. He has extensive experience in handling disputes before the Supreme Court, the Court of Appeal, the High Court as well as other specialized Tribunals. As a way of giving back to society, Herman is from time to time engaged in pro bono briefs in partnership with Kituo Cha Sheria and the Court of Appeal Legal Aid Program.

Herman has acted and advised various clients in different areas of law including Intellectual Property Law, Information, Communication & Technology Law, Real Estate Development & Construction Law; Electoral Law and Election related disputes; Arbitration & Alternative Dispute Resolution, Media & Technology Law, Constitutional and Administrative Law; Comparative Law and Governance; Environmental and Land Law; Health Law; Tax Law; Procurement Law; Company Law; Insolvency Law; and Employment Law.

Herman boasts of a wealth of experience in representing and advising clients in various cross-border briefs. He has in this regard advised clients in a number of countries within the East African Community including Tanzania, Burundi, Rwanda and Uganda), across the African Continent including South Africa, Ghana, Ethiopia, Zimbabwe and beyond Africa including Turkey, Thailand, Canada, China, Mauritius, United Kingdom, United States of America and India.

Because of his interest in cross-border practice, Herman serves as a member of the Law Society of Kenya Cross-Border Practice & Immigration Committee. He also serves in a number of Bar-Bench Committees as organized by the Law Society of Kenya, Nairobi Branch. He is currently the Convenor of the High Court Constitutional and Human Rights Division Bar-Bench Committee. Herman is a qualified Arbitrator and a member of the Chartered Institute of Arbitrators (London & Kenya). He is also a member of the Chartered Institute of Arbitrators Young Members Group

(YMG) Global and Young Members Group (YMG) Kenya. Herman is also a member of the African Arbitration Association (AfAA) where he serves as the Chairman the AfAA Young Members Group (YMG).

Herman is also trained by the Communications Authority of Kenya in joint collaboration with International Telecommunication Union (ITU) on critical areas of the Information Communication and Technology regulatory framework in terms of interpretation, implementation and enforcement.

B. Professional Experience

Herman has advised, trained and acted for several Clients including Corporate Institutions both local and international; Government Institutions, both at the National and County levels; and Commercial Banks and Financial Institutions, both local and international on a range of matters. Some of the selected briefs he has/is handling include:

- ❖ Part of the team that advised Pharmacy & Poisons Board on Parallel Importation of Medicine in Kenya.
- ❖ Part of the team that advised Lake Basin Development Authority on the strategy on how to reinstate the Lake Basin Mall Project which had stalled due to unresolved disputes between the Authority and other stakeholders.
- ❖ Part of the team that advised the Kenya Nuclear Electricity Board (KNEB) on the necessary legal and institutional framework for setting up of Nuclear Power Plants in Kenya.
- ❖ Represented Kenya Power and Lighting Company in a Court Mandated Mediation in an employment dispute against the Company's former employees (332 employees) who sued the Company for unlawful termination after being declared redundant by the Company valued at roughly Kenya Shillings Three Billion (KShs. 3,000,000,000.00).
- ❖ Represented Hausraum Limited in an Arbitration against the Nairobi City County Government in a dispute over revenue collection and payment system that the Company had developed for the County Government to ease in the collection of revenue, especially parking fees within the Nairobi valued at Kenya Shillings Six Billion (KShs. 6,000,000,000.00).
- ❖ Has advised various clients on employment law including, termination, dismissal, redundancy, and work injury.
- ❖ Successfully handled several Election Petitions including Presidential Election Petitions at the Supreme Court.
- ❖ Served as an Assisting Counsel to various IEBC Dispute Resolution Tribunals, including, the Tribunal handling the Party List Disputes, the Code of Conduct Enforcement Committee and the Committee handling nomination disputes.
- ❖ Part of the team that represented KCB Tanzania Limited in pursuing its interests in the ongoing Insolvency Petition against Nakumatt Holdings Limited on account of a loan amounting to United States Dollars Eleven Million (USD 11,000,000.00) given to Nakumatt Tanzania Limited which was guaranteed by Nakumatt Holdings Limited.

- ❖ Part of the team that successfully represented Kobby Technologies Limited in a Public Procurement dispute against the National Treasury for a value of Kenya Shillings Two Hundred and Forty-Three Million Nine Hundred and Twelve (KShs. 243,912,000.00).
- ❖ Has represented and advised clients on various land disputes including compulsory acquisition, illegal allocation and acquisition of land and adverse possession.
- ❖ Representing clients in a number of intellectual property claims.
- ❖ Represented various clients in a number of Public Procurement matters both before the Public Procurement Administrative Review Board and before the Courts
- ❖ Has been involved in conducting trainings, on request to various clients on different areas of law. Some of the clients include: Ecobank Kenya Limited; Insurance Regulatory Authority (IRA) in conjunction with the Kenya School of Law, Spire Bank Limited and National Oil.
- ❖ Has handled several Arbitration and Mediation matters both as Counsel and as an Arbitrator.

C. WORK HISTORY

1st January, 2018 to date

Partner, Finance & Strategy & Head of Dispute Resolution Department at Ngeri Omiti & Bush Advocates, LLP.

18th January, 2016 to 31st December, 2017

Associate at Gumbo & Associates

15th January 2013 to 31st December, 2013)

Program Associate, Kenya Human Rights Commission (KHRC), working under the following Programs.

i. Trade Justice and Judicial Reforms

Herman worked with different communities and workers organizations, educating them on their rights and responsibilities in the work environment. He also took part in training of different multi-national organizations on the importance of human rights approach to business and investment and on Corporate Accountability in business.

ii. Economic and Social Rights (Mainly Government Accountability and Devolution)

Similarly, in Economic and Social Rights program, Herman worked with different communities offering Civic Education on Devolution to enhance meaningful and informed public participation at both the County and National levels. This work began with Kiambu County as our Model County and later rolled out to other counties. He also participated in training different County Leaders on Devolution, the functions of elected leaders at the County level and the role of the citizens in the process of governance, particularly devolved government to build their capacity on service delivery both for the leaders and citizens, and to ensure quality and informed public

participation at the county level. He also took part in developing the KHRC Publication on “The Functions of Elected State Officers” which was launched in Kiambu County in April, 2013.

iii. Legal Aid and Civic Education

In Legal Aid his duties included receiving complaints from clients on human rights violations, maintaining a data base on the complaints received, giving legal advice/Civic Education and making follow up on behalf of the clients on the status of their cases. He has also participated in different workshops on Legal Aid, for example, on the discussions on the Legal Aid Bill and Policy which is due to be tabled before Parliament, and also the Integrated Referral Complaint Mechanism.

iv. Legal Research and Writing

As a Legal Researcher, his duties included conducting research and developing different publications for the Commission. Some of these publications include; KHRC Handbook on ‘The Functions of Elected State Offices,’ which was aimed at simplifying devolution, to make it easier for all Kenyans to understand; KHRC’s Handbook and Q&A Brochure on Economic Partnership Agreements among others.

2nd May, 2012 to 31st December, 2012

Intern at Gumbo & Associates

D. REPORTS/WRITINGS/RESEARCH WORK

Herman has a keen interest in research and writing. In this regard, he has written and published various Articles in Legal Magazines such as the Nairobi Law Monthly in which he is a frequent contributor and in other peer review journals, most notable ones being:

1. Omiti, H., (2012), The Monist Dualist Dilemma and the Place of International Law in the Hierarchy of Valid Norms under the Constitution of Kenya 2010 (Available at the Social Science Research Network (SSRN) Website, <http://ssrn.com/abstract=2099043>);
2. Omiti, H., et al (2012), Emerging Jurisprudence of the Supreme Court and the Question of Jurisdiction (Published in the Nairobi Law Monthly, Nov. 2012 Issue);
3. Omiti, H., (2012), Corruption and Governance In Kenya: Implications Of Constitutional Provisions On Ethics And Integrity, LL.B. Dissertation, Moi University (Unpublished);
4. H, Omiti, (2012), Inadequacies in the Anti-Corruption Agenda and the Quest for Good Governance in Kenya under the New Constitutional Dispensation: The Role of the Citizen (A Paper Presented at The Moi University Annual International Conference On 7th September 2012) (Unpublished);

5. H, Omiti, (2013), Sexual Orientation, Gender Identity and the Right to Legal Recognition of the Intersex Persons in Kenya (unpublished), Electronic copy available at: <http://ssrn.com/abstract=2181973>;
6. Omiti, H., et al (2013), A Tale of Two Similar Cases and Two Opposite Rulings. Nairobi Law Monthly, March-April, 2013 Issue;
7. Omiti, H., (2013), High Court Makes Public Interest Litigation Too Expensive, Nairobi Law Monthly, June Issue.
8. Omiti, H., (2010), Presidential System versus Parliamentary System: A Comparison with the Current Mongrel System in Kenya ((2010) (Unpublished)).
9. Omiti, H., et al (2014), Assessing the Legal Mechanisms for Redressing Medical Malpractice in Kenya: Just How Effective Are They? (with Elizabeth Fundi) Journal on Law and Ethics, Kabarak University, Vol. 1, 2014.
10. Omiti H., et al (2014), The Referendum Dilemma, The Nairobi Law Monthly October 2014 Issue
11. Omiti H., (2014), Mixed ‘Grill’ Courts? No, That’s Unlawful: The Constitutional Myth of Constituting a Mixed Bench of Judges from the High Court, Industrial Court and Land and Environment Court to hear the same Matter, The Nairobi Law Monthly, September 2014 Issue
12. Omiti H., (2015), The Supreme Court “Exercises Restraint” and Takes a Back Seat on Important Jurisprudential Issues, The Nairobi Law Monthly, February 2015 Issue
13. Omiti H., (2015), Why the Law Society of Kenya Must Have the Advocates Act Amended, The Nairobi Law Monthly, April 2015 issue
14. Omiti, H., et al (2015), The Concept of “a House without Land” (with Titus Mugambi), The Nairobi Law Monthly, May 2015 Issue.
15. Omiti, H., (2015), Protection Against Domestic Violence Act: It is Never Enough to Simply Enact, The Nairobi Law Monthly, July, 2015 Issue.
16. Omiti, H., et al (2015), Green and Clean: Curbing the Menace of Plastic Carrier Bags (With Harriet Okello), The Nairobi Law Monthly, October 2015 Issue.
17. Omiti, H., et al (2015), A Critique of Kenya’s Banking Laws: The Case of Under-regulated Mobile Banking (With David Odhiambo), Nairobi Laws Monthly, September, 2015 Issue.

18. Omiti, H., (2016), "But who is to Guard the Guards?" A case of the battered Integrity of the Supreme Court, The Nairobi Law Monthly, December 2015 Issue
19. Omiti, H., (2016), What happens when Judge's bias taints the case? A view from the lens of an innocent litigant, The Nairobi Law Monthly, January 2016 Issue

E. EDUCATION

1. Bachelor of Laws (LL.B.), Moi University (2012).
2. Post-Graduate Diploma in Law (PGD), Kenya School of Law (2015).

G. PROFESSIONAL ASSOCIATIONS

1. Member, Law Society of Kenya.
2. Member, East African Law Society
3. Member, Pan African Lawyers Union (PALU)
4. Member, Chartered Institute of Arbitrators (Kenya & London)
5. Member, African Arbitration Association (AfAA)
6. Member, AfAA Young Members Group (YMG)
7. Member, Chartered Institute of Arbitrators (Kenya & London) Young Members Group (YMG)

F. REFEREES

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