



EMPLOYMENT, LABOUR RELATIONS & IMMIGRATION ADVISORY PRACTICE GROUP

NAIROBI

MOMBASA

KAMPALA

DAR ES SALAAM

KIGALI



OUR PRESENCE

**Head Office, Nairobi:**

I&M Bank House, 7th Floor
2nd Ngong Avenue
P.O. Box 22588 - 00505 | Nairobi, Kenya
Tel: +254 20 221 0978 | +254 20 221 1077
Cell: +254 716 209 673
Email: law@cmadvocates.com

Mombasa Office:

Links Plaza 4th Floor
Links Road, Nyali
P.O. Box 90056 - 80100 | Mombasa, Kenya
Tel: +254 41 447 0758 | +254 41 447 0548
Cell: +254 746 995 283
Email: mombasaoffice@cmadvocates.com

Tanzania Office:

Oyster Pearl Galleria, 7th Floor
370 off Chole Road
Oysterbay Peninsula
P.O. Box 77044 | Dar es Salaam, Tanzania
Tel: +255 713 411 721 | +255 654 702 304
+255 682 495 603
Email: law@cymbellattorneys.com

Uganda Office:

Plot 49, Ntinda Rd,
Rovis Apartments, First Floor
Tel: +256 776 739 643
Email: law@cymbelladvocates.com

Rwanda Office:

Kigali Heights Building,
West Wing, Third Floor
Tel: +250 252 580 152
Email: law@cmadvocates.rw

THE FIRM

At CM Advocates LLP, we pride ourselves on being able to provide our clients with consistently timely, high quality, innovative and commercially relevant legal advice. Since technical know-how is not adequate, we constantly seek to build excellent working relationships with our clients and clearly understand their businesses and the realities and imperatives they face. Our strategy is to build teams that are specific to our clients' needs and also combine specialist legal skills, industry experience and practical know-how.

Our focus is getting to the core of our clients' legal needs, creating and adding value to them; by delivering timely, innovative and commercially-sound advice and legal solutions. We have set up robust systems to ensure consistently high quality out-put in every assignment we undertake and we are uncompromising in our quality control. Moreover, we always seek to protect our clients' interests, mitigate their risks and create superior outcomes for them.

Our achievements for clients are made possible by our professional team of technically and commercially brilliant lawyers led by our Managing Partner at the fore front of every transaction, who are singularly focused on their clients' success. In other words, our pride is to make you succeed in your business or project.

We have a culture of professionalism, team work and respect, where talented professionals with different views, experiences and backgrounds can thrive. To remain on the cutting edge, we put extra emphasis on continuous learning, knowledge sharing and peer reviews. This has enabled the Firm to carve a niche for itself in the existing as well as new and emerging branches of law. The Firm's local and international clientele cuts across various sectors of our economy like financial services, real estate development, manufacturing, telecommunication, agribusiness, tourism and hospitality, energy and mining.

OUR PRACTICE AREAS

1. Anti-Bribery & Anti-Corruption
2. Asset Tracing & Recovery
3. Aviation Law
4. Capital Markets
5. Charities and Not-for-Profit Organizations (NPOs)
6. Commercial/Business Law
7. Construction & Infrastructure Law Unit
8. Corporate Law
9. Cyber Security, Privacy & Data Protection
10. Debt Recovery, Restructuring & Insolvency
11. Dispute Resolution
- 12. Employment, Labour Relations and Immigration Law Advisory**
13. Energy, Mining & Extractive Industries
14. Entertainment & Sports Law
15. Family Law, Estate Planning & Probate Administration
16. Forensics & Investigations, Risk & Compliance
17. IP & TMT (Telecommunications, Media & Technology)
18. Lobbyist & Policy Practice
19. Multi-lateral Organizations. Foreign Embassies & Consultants
20. Non-Compete, Non-Solicit & Trade Secret Practices
21. Private Equity & Venture Capitalist
22. Real Estate, Banking & Finance
23. Shipping, Logistics & Admiralty Law
24. Start-ups & Small & Medium Sized Enterprises
25. Tax Law Advisory

EMPLOYMENT, LABOUR RELATIONS & IMMIGRATION LAW ADVISORY

1. IMMIGRATION LAW

CM Advocates' Immigration Advisory team represents businesses, organizations, and individuals from around the world on a wide range of immigration matters and visa needs. We regularly advise businesses on a variety of employment-related immigration issues including those related to relocation of personnel from and into Kenya and the East Africa region.

We work with our clients to address the visa and work authorization needs of Kenya and regional personnel, including professionals, managers and executives and essential workers.

We assist foreign investors looking to invest and carry-on business in Kenya to get investors permits as well as dependent and student passes for their family 'members. We also regularly assist foreigners and expatriate employees who intend to settle or retire in Kenya get retirement permits or permanent residence permits.

Our team offers specialized, quick and seamless immigration services including: -

- application of business visas, and multiple entry visa;
- processing of work permits and passes for investors, missionaries, expatriate employees and other foreigners wishing to work in Kenya on a long- term or

short- term basis;

- application for tax compliance certificates (TCC) for the employer and employee, as required for the processing of work permits;
- processing of permanent residency applications;
- processing of dependents as well as pupil/student passes;
- application for asylum in Kenya;
- application for dual citizenship;
- application for Kenyan citizenship; and
- general immigration law advisory.

2. EMPLOYMENT AND LABOUR RELATIONS LAW

CM Advocates can offer strategic advice on all types of employment and labour related issues and disputes, across a wide variety of industries in both private and public sectors including NGOs and charities.

We offer national and international organizations strategic and practical legal services that are focused on maximizing human resource potential. Our employment and labour lawyers are known for their dexterity and business-savvy advisory and counselling skills and, when necessary, their results-driven dispute resolution techniques.

We have practical experience representing

employers in all industry sectors, including financial services, art and entertainment, education, professional services, telecommunications, ICT, hospitality sector, manufacturing concerns, extractive industries as well as transport and logistic sector.

Our employment lawyers will take the time to understand your scenario and offer creative, commercial found and clear, thorough advice. The employment issues we can assist with include:

- human resources advice and counselling;
- taxation on gain and profits from employment
- statutory compliance for employers;
- taxation for expatriate employees;
- tax reconciliations for expatriates;
- review of employment contracts for tax planning purposes and identification of tax exposures;
- handling tax audits on employment taxes;
- strategic HR Planning (including Dismissals and Redundancies);
- disciplinary, grievance procedures and performance management;
- wrongful and unfair termination as well as constructive dismissal;
- executive employment and severance agreement;
- settlement agreements;
- contract, labour agreements, HR Policies and Collective Bargaining Agreements;
- occupational health and safety;
- workers compensation/ work injury benefits;

- human rights and discrimination;
- business sales and acquisitions, and corporate restructuring;
- boardroom disputes;
- IP protection and litigation;
- privacy and cybersecurity;
- internal corporate investigations;
- restraint of trade or non-compete agreements;
- employee raiding/poaching;
- non-solicitation agreements;
- data protection and confidentiality agreements;
- dispute resolution (including litigation, arbitration and mediation);
- pay and benefits (including retirement benefits, ESOPs, and other stock options);
- pension schemes; and
- international employment law.

3. NON-COMPETE, NON-SOLICIT AND TRADE SECRETS PRACTICE

Our Non-Compete, Non-Solicit, and Trade Secrets Practice is tailored towards protecting your interests on termination of an employer-employee relation or other contractual engagements. Whether you are an employer who may face competition by a departing employee or an employee seeking to set up shop or work for a competitor, you require sound legal counsel or representation.

Invariably, key customer relationships, talented employment, and vital intellectual property and expertise (including trade secrets, proprietary business information, and corporate technology) lie at the core of successful businesses. Accordingly, it has become commonplace for businesses to use agreements that prohibit

competition, or that limit the solicitation of customers, in an effort to protect their commercial interest and unwarranted disclosure of confidential information or data.

From the employer's perspective, the business can be exposed to risk or litigation when a departing employee diverge vital business assets belonging to their former employer. With the current labour mobility, the employer's most valuable assets can be jeopardized through theft or unwarranted disclosure for commercial exploitation.

From the perspective of the departing employee (or his or her new employer), the ability to work and compete can be unfairly hampered or restrictive by an unreasonable restraint of trade provisions or overbroad or unduly burdensome non-competition or non-solicitation agreement that goes far beyond protecting the former employer's legally protectable interests. If left unchecked, the employee may be unfairly deprived of the ability to earn a livelihood.

The attorneys in our Non-Compete, Non-Solicit, and Trade Secrets Practice are we strive to promote fair business practices, safeguard vital business assets and facilitate the lawful transition of employees or contractors subject to post-engagement restrictive covenants.

a) Preventive Measures

Our lawyers develop, draft, and review key documents that are pivotal to setting the stage for the transition of employees through the post-employment restrictive period. Covenants typically contained within non-solicitation, non-competition, and confidentiality agreements can be useful, effective tools, but they must be carefully drafted so as not to be

construed as an unenforceable restraint on trade and lawful competition.

Restraint of Trade or Non-Compete Agreements - Chiefly contained in the employment contract, these covenants seek to prevent a former employee from working for a competitor within a certain geographic area for a specified period of time after departure from his or her previous employment.

- **Confidentiality Agreements** - These agreements require employees to acknowledge the sensitivity of corporate information (such as trade secrets, proprietary information, intellectual property, and information technology), and to create a binding obligation on the employee not to use or disclose that information during the currency of the contract as well as after expiry of contract or termination of employment.

- **Non-Solicitation Agreements** - When properly drafted, these covenants prohibit departing employees from soliciting key customers that resulted from the investment of time, resources, and goodwill by the employer. These are also common in connection with the sale of a business, along with its goodwill.

- **Anti-Poaching or Anti-Raiding Agreements** - It is common for a former employee, especially a manager, to poach or solicit good employees from their former work place. Besides increasing the costs of training, this can cause huge disruptions to the former employer. Such predatory practices can be prevented through the usage of appropriate anti-poaching or anti-raiding agreement, which prevents a former employee from soliciting his or her former coworkers.

b) Litigation - When Needed

Often times, a departing employee or his or her new employer will choose to disregard even a properly drafted restrictive covenant. Conversely, in order to achieve some ulterior motives, former employers may seek to enforce covenants that are unreasonable or overbroad. Our Dispute Resolution team has huge experience fighting to protect our clients' interests in court of law or through arbitration. We employ our expertise to aggressively pursue negotiation and litigation strategies tailored to the needs of the people and businesses we serve.

Other Services include:

- development and creation of a comprehensive intellectual property preservation program: creating, drafting, and reviewing policies regarding the ownership, protection, and retention of company-sensitive information and data; and
- design and implementation of a human resource program intended to train employees about unfair competition, its various forms, its impact, and the attendant consequences for violations.