

Ken Phiri

Partner | ALN Zambia | Musa Dudhia & Co.

Physical Address:
2nd Floor, ALN House, 1394 Mushemi Road, Rhodes Park, Lusaka, Zambia

Postal Address:
P O Box 31198 Lusaka, Zambia

Telephone:
+260 211 253822/62/66

Email Address:
kphiri@musadudhia.co.zm

Background

Ken is a Partner at ALN Zambia | Musa Dudhia & Co. with extensive experience in Dispute Resolution and avoidance.

His practice is marked by his ability to navigate intricate disputes with strategic precision while offering clients pragmatic and business-oriented legal solutions. Ken's arbitration work spans both domestic and international proceedings, reinforcing his position as a trusted counsel in contentious matters.

Ken has represented an array of clients, including multinational corporations, Zambia's leading public and private companies, commercial and retail banks, other financial institutions, private equity providers & mining companies.

Professional Membership

- Law Association of Zambia
- Chartered Institute of Arbitrators, UK; and
- Association of Young Arbitrators

Professional Qualifications

2022 – Master of Laws (LL.M), University of Zambia

2018 – Admission as an Advocate of the High Court of Zambia

2016 – LL.B, Bachelor of Laws, University of Lusaka

Areas of Expertise

- Litigation
- Mining
- Corporate & Commercial

- Corporate Governance
- Commercial Arbitration
- Employment
- Alternative Dispute Resolution

Top Matters

Employment

- Successfully defended **Lumwana Mining Company** in a claim by employees for approximately ZMW 25 million in alleged long service packages and long service leave entitlements before the Labour division of the High Court for Zambia. The Court found that the claims were without merit and dismissed the claims. **Benny Mbindo and others vs. Lumwana Mining Company – IRD/SL/15/2023**.
- Represented Lumwana Mining Company in a novel class action before the Supreme Court of Zambia (**Mark Tink vs. Lumwana Mining Company CAZ Appeal No. 41 of 2021**), which clarified and restated the requirements for establishing a valid reason prior to dismissal of an employee.
- Successfully represented and defended First Quantum Mining and Operations, before the High Court and Court of Apepal in a claim for unlawful, unfair and wrongful dismissal by Bruce Maurice Vickers. **Bruce Maurice Vickers vs. First Quantum Mining and Operations Limited CAZ/08/064/2021**
- Successfully reresented and defended Africa Feeds Limited and Progressive Poultry Limited against claims for constructive dismissal. The Court reiterated the parameters of constructive dismissal and what must be proved. **Tiza Mkochi Simumba vs. Africa Feeds Limited and Progressive Poultry Limited COMP NO. IRCLK/468/2020**.

Mining & Natural Resources

- Successfully defended Kansanshi Mining PLC in a claim by Caleb Mulenga seeking USD 4 million in net smelter royalties. The Court in dismissing the claims restated contractual principles inluding the principles governing conditions precededent **Caleb Mulenga vs. Kansanshi Mining PLC- 2022/HP/219**.

Commercial Litigation & Arbitration

- Successfully obtained judgment in favour of Innovative Material Systems USA in a commercial dispute against Herpworth Suppliers Limited, securing the recovery of USD 1.6 million- **Innovative Material System vs. Herpwoth Supplier Limited – 2019/HPC/218**.
- Acted for **Kapsch Trafficom SA** in a derivative action launched by Lamise Trading Limited, involving claims of approximately USD 150 million and multiple applications argued before the Supreme Court of Zambia.
- Successfully defended an application to set aside an arbitral award in a commercial share purchase dispute valued at over USD 2.8 million. The High Court dismissed the Plaintiff's application on all grounds, upholding the arbitral tribunal's award in favour of the Defendant. – **Felistus Zulu (Administrator of the Estate of the late Benson Zulu) – 2023/HPC/ARB/0582**.
- Represented **Barak Fund SPC Limited** in securing and enforcing judgment for facility amounting to USD 36,745,468.73. The High Court entered judgment in Barak's favour, after a preponderance of evidence before it. The case highlights the principles that govern assignemnt of debt and the precursors to the same. **Barak Fund SPC Limited vs The Attorney General and Nerias Investment Limited – 2023/HPC/0886.**

Tax & Regulatory

- Advised on the landmark case of **Teal Minerals Barbados Incorporated vs. Zambia Revenue Authority (Appeal 4 of 2022)**, which addressed when tax becomes payable in the event of a change in shareholding or controlling interest in a paraent company.
- Successfully challenged a regulatory decision by PACRA reversing an increase of share capital. The High Court held that the company's articles permitted alteration of share capital by ordinary resolution, set aside PACRA's decision, and ordered rectification of the companies register. **Zambian High Light Mining Investments Ltd v. Registrar & CEO, PACRA – 2021/HPC/0105**
- Represented the Cold Chain Zambia before the Tax Appeals Tribunal in an appeal against an assessment of ZMW 10 million by the Zambia Revenue Authority. The Tax Appeals Tribunal in finding in favour of the Cold Chain Zambia considered how to determine the applicable tax payable on imported goods where discounts are applied at point of purchase while balancing the power of the Commissioner General to amend an assessment. The tribubnal consider the Customs and Excise Act, Chapter 322 of the laws of Zambia**. The Cold Chain Zambia vs. Zambia Revenu Authority – 2019/TAT/16/C&E**.