



2013

Annual Report

Commercial Court Division





Our Mission

To deliver judicial services to the
Commercial Community
of Uganda by providing:

*“A commercial court which is accessible to
all businesses and which processes commercial
suits expeditiously and justly”*



Our Vision

*To be the leading provider of commercial dispute
resolution services and products in the region
consistent with the best practices worldwide.*



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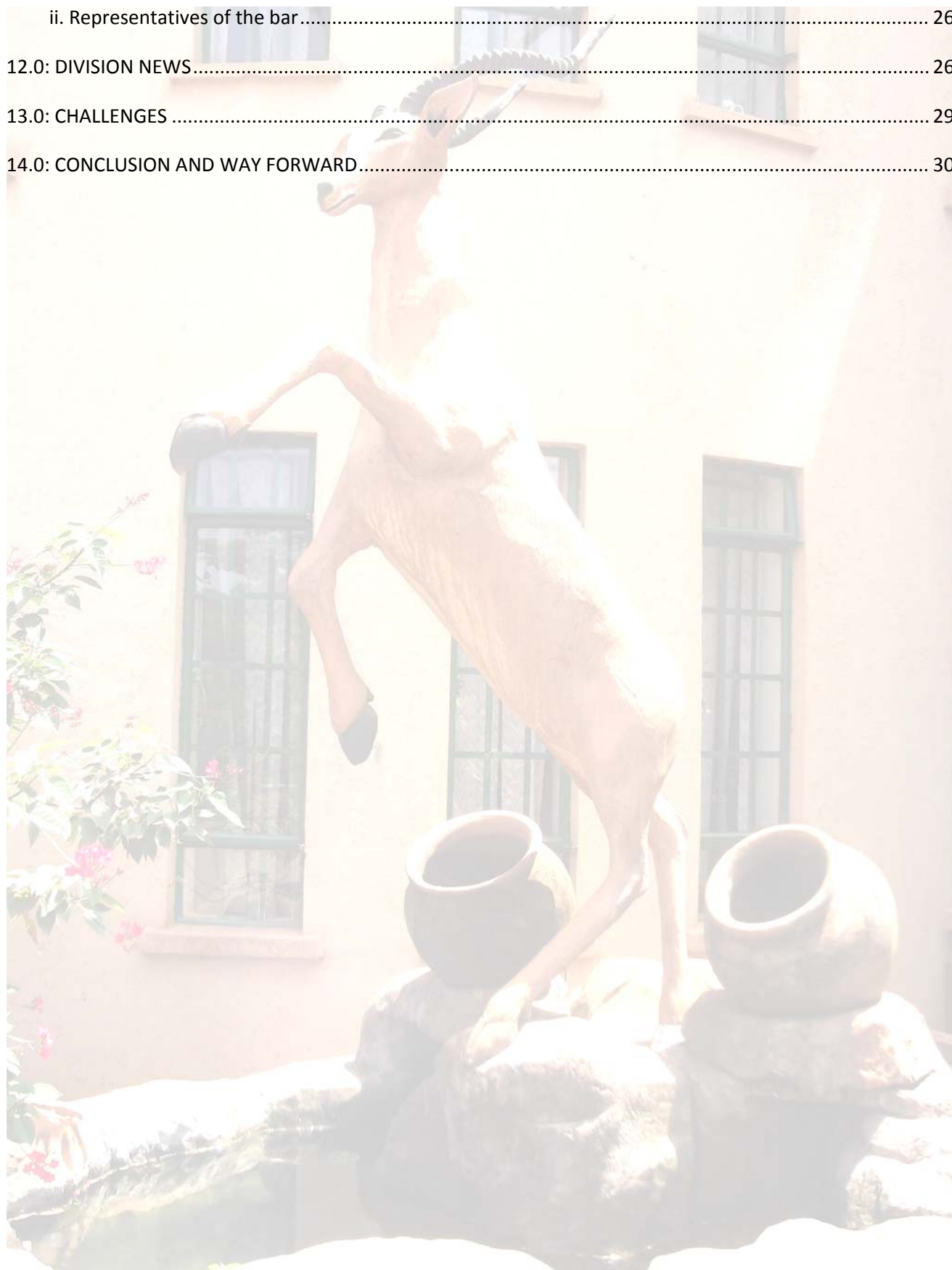
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1: LETTER OF TRANSMISSION OF THE REPORT

TELEGRAMS:

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IN ANY CORRESPONDENCE ON



HIGH-COURT
COMMERCIAL COURT DIVISION
P. O. BOX 7085

KAMPALA - UGANDA

THE REPUBLIC OF UGANDA

THIS SUBJECT PLEASE QUOTE NO
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Our Ref:

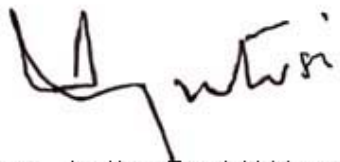
Your Ref:

10 December 2013

SUBMISSION OF THE ANNUAL REPORT FOR THE COMMERCIAL COURT DIVISION FOR THE YEAR ENDING 31 DECEMBER 2013

I have the honor and privilege to submit to you the Annual Report for the Commercial Court Division for the year ending 31 December 2013.

The report sets out the Division's performance, activities, achievements and challenges for the year under review. The year review shows significant increase in cases filed at the time. The Division however, did its best to rise up to the challenge and handle the cases as they came. Performance of the division at a glance is summarized in the executive summary of the report



Hon. Justice David Wangutusi
HEAD, COMMERCIAL COURT DIVISION

Copy to: The Hon. The Chief Justice

2.0: EXECUTIVE SUMMARY

This is the 18th year that the Commercial Court division of the High Court has been in operation on the African Continent.

At creation, it was intended and mandated with the task of delivering an effective, expeditious and cost effective way of adjudicating disputes to the commercial community.

The last year has been yet another successful year for us. Our vision continues to be

“the leading provider of commercial dispute resolution services and products in the region consistent with the best practices worldwide.”

It is through the foregoing that we fulfill our mission that demands of us.

To deliver judicial services to the Commercial community of Uganda by providing:

“A Commercial Court which is accessible to all businesses and which processes commercial suits expeditiously and justly.”

Ultimately, the goal is to ensure that the business Community can participate on equal legal footing characterized by quick case disposal.

The footing of equality and quick disposal has become more secure over time, and the court has made significant strides in enhancing professionalism through improved interaction with the Commercial bar and ensured that best practices are upheld by the stakeholders at the Division.

However, just like any activity, this relationship requires a firm grasp of the emerging best practices to ensure continued existence of an environment conducive to fast dispute resolution.

The Division continues to attract Judges, Justices and administrators of other Judiciaries on the continent as a learning centre.

In the year 2013, the Court hosted a delegation of Justices from the Commercial Court of Liberia who were enlightened with what they saw.

We cannot talk about this past year without mentioning the Division's performance.

In the year 2013, 2417 matters were filed which constituted 22.6% more than the previous year. The total number of cases disposed off was 1,747. I must say that notwithstanding, the increased filings, the backlog in the Division still like the previous year stood at 13%. This is not to say that 13% is good at all.

The increased case disposal in my view was due to the backlog sessions held last year and the increased number of Judges after the midyear court recess who were posted at the Division.

Because of the increase in case filing at the Division, the workload in the Mediation Registry also increased by 15.8%. There was a noticeable reduction of 3.3% of case disposal through mediation compared to 2012.

Amidst the foregoing accomplishments, there is still a lot of work to be done. Building and sustaining a quality and quick dispute resolution court requires commitment by both the bar and the bench. The two must prepare for the court sessions. It was realized that in 2013 many members of the bar came to court without adequate preparation. It is also important to minimize adjournments. Adjournments in 2013 stood on average at 3.4 compared to 2.8 in 2012. It is our resolution at Commercial Court Division to reduce on adjournments as much as possible.

There is need for continued training of the adjudicating group especially in the new cyber world, taxation, Oil and Gas disputes. Hardly a day passes without a case emerging from these fields.

Since knowledge is the bedrock of effective dispute resolution, training stands out as one of the 2014 priorities.

We face 2014 energized by our successes in 2013.

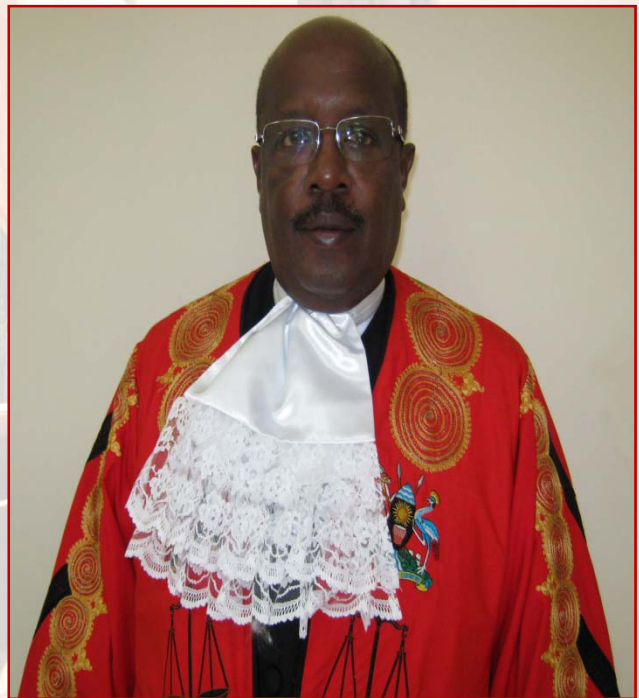
3.0: THE PERSONNEL OF THE COURT AS OF 31ST DECEMBER 2013

The year under review started with the same staffing levels as in 2012. However, two of the Judges left the station and were replaced by four Judges. The Commercial Court Division has six Judges namely the

Hon Justice David Wangutusi (Head of Division); The Hon Justice Billy Kainamura (Deputy Head of Division); The Hon. Lady Justice Hellen Obura; the Hon. Justice Christopher Madrama; the Hon. Lady Justice Flavia Senoga Anglin and the Hon. Justice Henry Peter Adonyo .



The Head, Commercial Court Hon. Mr. Justice David Wangutusi



The Deputy Head, Commercial Court Hon. Mr. Justice Billy Kainamura



Hon. Lady Justice Hellen Obura



**Hon. Mr. Justice Christopher
Madrama**



Hon. Lady Justice Flavia Senoga Anglin



Hon. Mr. Justice Henry Peter Adonyo

The Judges are assisted by an acting Deputy Registrar His Worship Thadeus Opesen (in charge of the Registry Commercial Court)



Assistant Registrar, His Worship Thadeus Opesen

The Division has about 47 support staff and a fully fledged VIP police post with a force of 19 police officers.



Commercial Court Support Staff

4.0: MEDIATION

The Commercial Court Division on a yearly basis benefits from the partnership between Uganda Law Society and the Nootbaar fellowship of Pepperdine University of Law. This fellowship sends graduates to assist in mediation activities and this year Ms. Susan Vincent replaced Mr. David E. Nary who left the Division in August 2013.

In the year 2013 the following were the accredited mediators; Ms. Susan Vincent, Mr. Ojok Julius, Mr. Kawalya Stanley, Ms. Harriet Grace Magala, Ms. Jacqueline Kyobe K, Mr. Byaruhanga Paul, Mr. Kaggwa David, Mr. Barigo Gabriel Okuba, Mr. Ronald Tusingwire, Mr. Silver Adowa Owagara, Mr. Asodio Jordan Paul, Mr. Kwesigabo Johnson, Mr. Gakyaro

Allan Mpirwe, Mr. Byenkya Eric Clive and Mr. Olok Bernard.

For most of 2013 the Mediation Registry ran without a head as the former Registrar Mediation His Worship John Arutu Ochepa was

transferred. In addition, some of the accredited mediators left for greener pastures leaving the Mediation Registry short of personnel. This had a negative impact on the performance of the registry.



Accredited Mediators: Left to Right; Kaggwa S. David, Silver Owaraga Adowa, David E. Nary, Johnson Kwesigabo, Paul Byaruhanga, Eric C. Byenkya, Kawalya Stanley, Allan G. Mpirwe, Asodio Jordan Paul, Harriet Magala, H/W John Arutu Ochepa (*Deputy Registrar Mediation*), Jacqueline Kyobe Kirabo, Ojok Julius



Mr. Ronald Tusingwire
Accredited Mediator



Mr. Bernard Olok
Accredited Mediator



Mr. Gabriel Barigo Okuba
Accredited Mediator



Ms. Susan Vincent
Accredited Mediator

5.0: WORKLOAD OF THE DIVISION

The workload at the Division is the sum of the cases brought forward from the previous year and those that are filed as the year moves on. In the year 2013, the workload increased by

21.4% in comparison with the previous year and this trend is attributed to increased filing.

FILINGS IN 2013

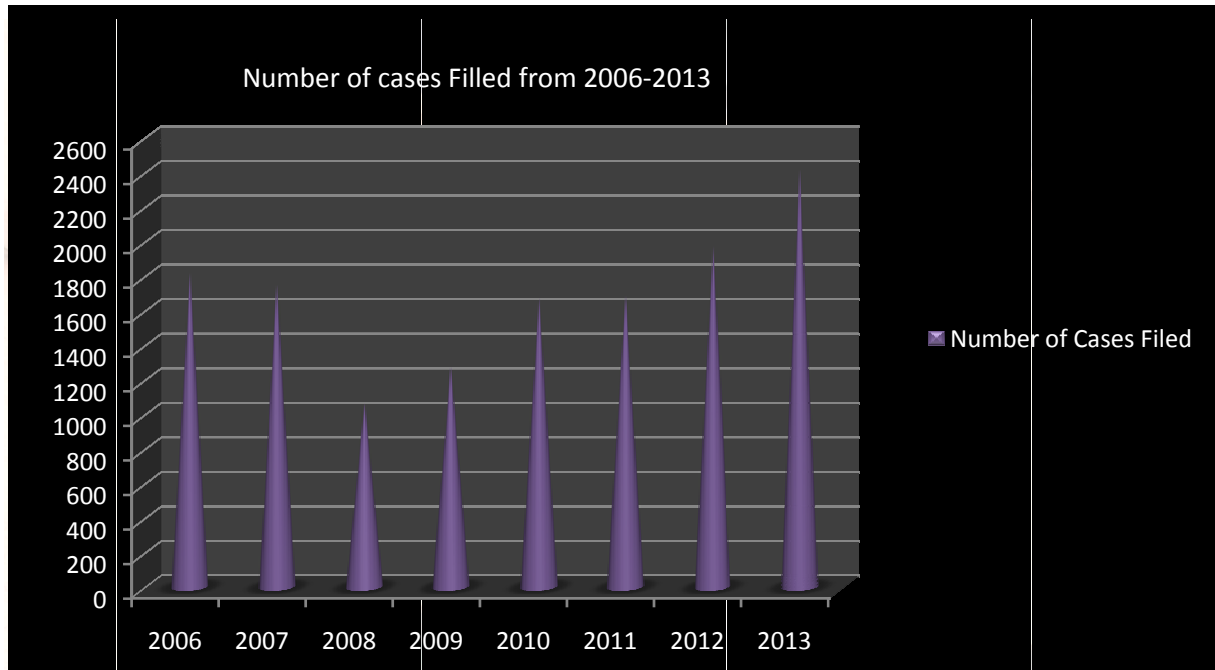
The Division received a total of 2417 suits which constituted 22.6% increment compared to the previous year. Furthermore, the cases brought forward from 2012 led to an increased overall workload of 4,165 cases.

The steady increment in filed matters was most probably inspired by unstable economic conditions that must have led to increased failure of the Commercial Community meeting their obligations and also due to increased confidence in the Division's judicial effectiveness.

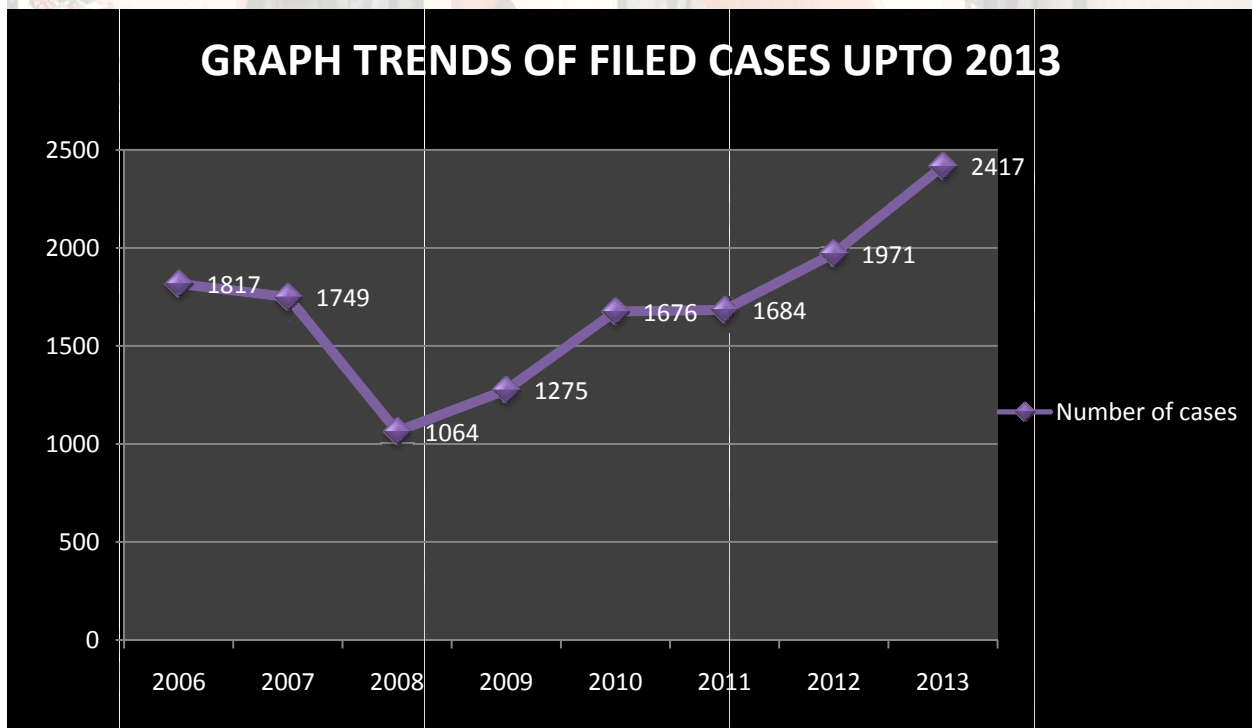
Table 1: Matters filed in all categories 2006-2013

Year	2006	2007	2008	2009	2010	2011	2012	2013
No. of matters Filed	1817	1749	1064	1275	1676	1684	1971	2417

Graph 1: Matters filed in all categories 2006-2013



Graph 2: Matters filed in all categories 2006-2013



WORKLOAD PER JUDICIAL OFFICER

The division's average workload per Judicial Officer reduced to 378.6 from 556.3 matters in all case categories.

This reduction is attributed to the increased number of judicial officers at the Division.

Table 2: Workload per Judicial officer

Judicial officer	B/Fwd	Filed	Disposed	Pending
Hon. Justice David Wangutusi	108	245	105	248
Hon. Justice Billy Kainamura	66	231	46	251
Hon. Justice Hellen Obura	365	244	208	401
Hon. Justice Christopher Madrama	349	246	246	349
Hon. Justice Flavia Senoga Anglin	127	153	22	258
Hon. Justice Henry Peter Adonyo	126	210	87	249
His Worship Thadeus Opesen	121	306	180	247

The following table shows a breakdown of the workload for 2013 by case category.

Table 3: Breakdown of case load for 2013 by category

CASE TYPE	B/FWD JAN 2013	FILED	CASES DISPOSED DECEMBER 2013	PENDING CASES DECEMBER 2013	BACKLOG CASES MORE THAN 2 YEARS	PENDING JUDGMENT DECEMBER 31. 2013
ARBITRATION CAUSE	15	10	6	19	9	0
BANKRUPTCY PETITION	8	5	4	9	4	0
CIVIL APPEALS	50	37	24	63	18	3
COMPANY CAUSE	5	0	1	4	3	1
ORIGINATING SUMMONS	9	14	10	13	5	0
MISCELLANEOUS CAUSE	32	41	33	40	15	0
MEDIATION CAUSE	156	469	381	259	9	0
CIVIL SUITS	1047	768	505	1,333	440	10
MISCELLANEOUS APPLICATION	426	1073	783	720	114	0
TOTAL	1,748	2417	1,747	2,460	617	14

DISPOSAL OF MATTERS BEFORE COURT

The Commercial Court overall disposal rate at the end of 2013 stood at 41.9%. However the disposal rate of matters filed without cases brought forward from 2012 was at 44.64%. This disposal rate could have been better, but because some of the Judges who were transferred to this Division had to write Rulings and Judgments of

matters from their previous stations. There was also the usual slow in business which takes place when settling in a new station. Furthermore, part of the time in the second half of the year both July and December falls in the recess period which affects civil courts.

Table 4: Disposal per Judicial officer

Judicial officer	B/Fwd	Filed	Disposed	Disposal Ratio (%)
Hon. Justice David Wangutusi	108	245	105	29.75%
Hon. Justice Billy Kainamura	66	231	46	15.49%
Hon. Justice Hellen Obura	365	244	208	34.15%
Hon. Justice Christopher Madrama	349	246	246	41.34%
Hon. Justice Flavia Senoga Anglin	127	153	22	7.86%
Hon. Justice Henry Peter Adonyo	126	210	87	25.89%
His Worship Thadeus Opesen	121	306	180	42.15%

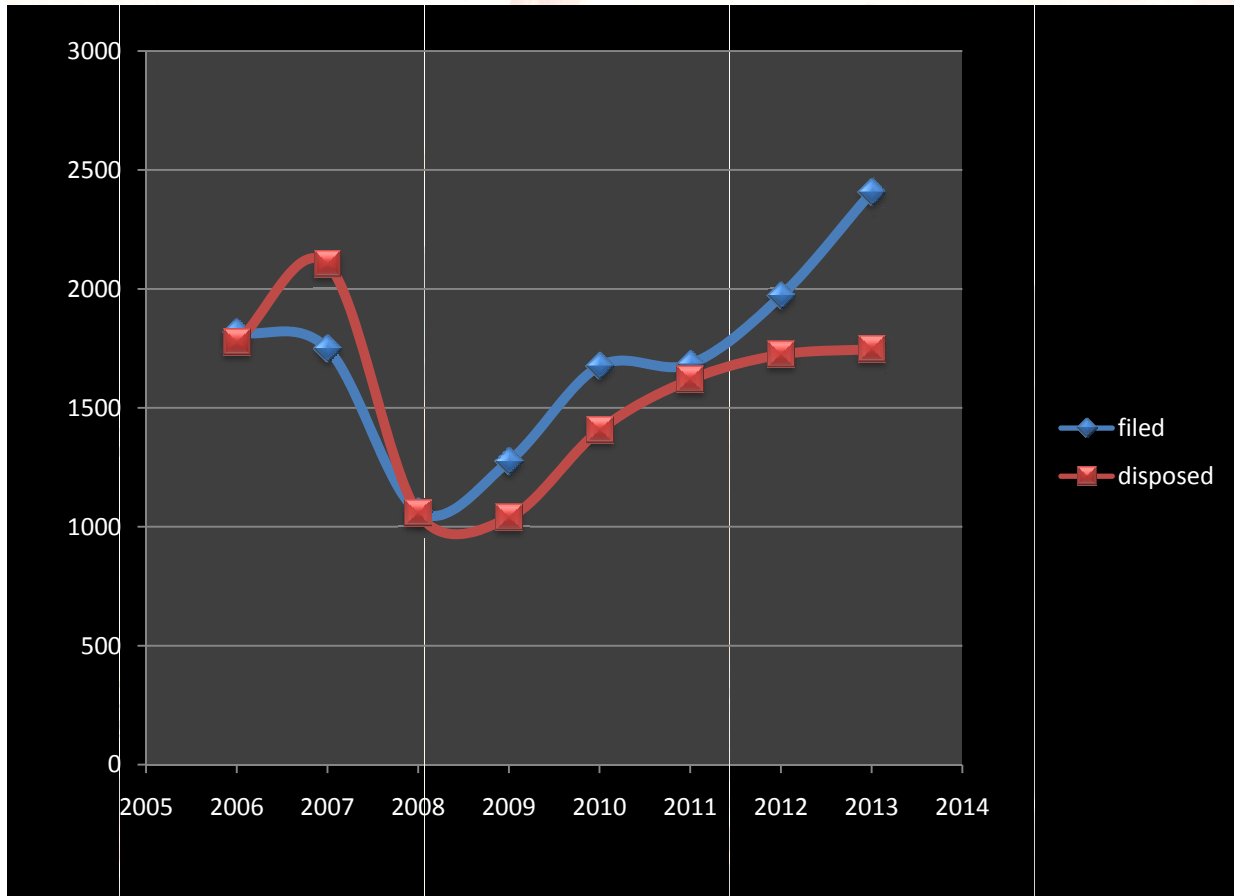
**MATTERS DISPOSED OF BY TRANSFERRED JUDICIAL OFFICERS
(January – July, 2013)**

Judicial officer	Disposed
Hon. Justice Geoffrey Kiryabwire	182
Hon. Justice Lameck N. Mukasa	8
Hon. Justice Wilson M. Musene	151
Hon. Lady Justice Margaret Tibulya	121
Subtotal	462

Table 5: Matters filed and disposed of in all categories (2006-2013)

Year	2006	2007	2008	2009	2010	2011	2012	2013
No. of matters Filed	1817	1749	1064	1275	1676	1684	1971	2417
No. disposed of matters	1776	2105	1057	1039	1407	1561	1679	1747

Graph 3: Matters filed and disposed of (2006-2013)



ADJOURNMENT RATE

The average adjournments increased from 2.8 to 3.4 for the year 2013.

Table 5: Average Adjournments

2005	2006	2007	2008	2009	2010	2011	2012	2013
2.08	2.1	2.15	2.98	3.9	2.8	1.2	2.8	3.4

6.0: CASE BACKLOG BASED ONLY ON CIVIL SUITS FILED

The Division case backlog is defined as cases that have remained in the Court for a period of two years and more, from the time of filing without being disposed of. In the year 2013 the division held a backlog session which helped to maintain a 13% case backlog

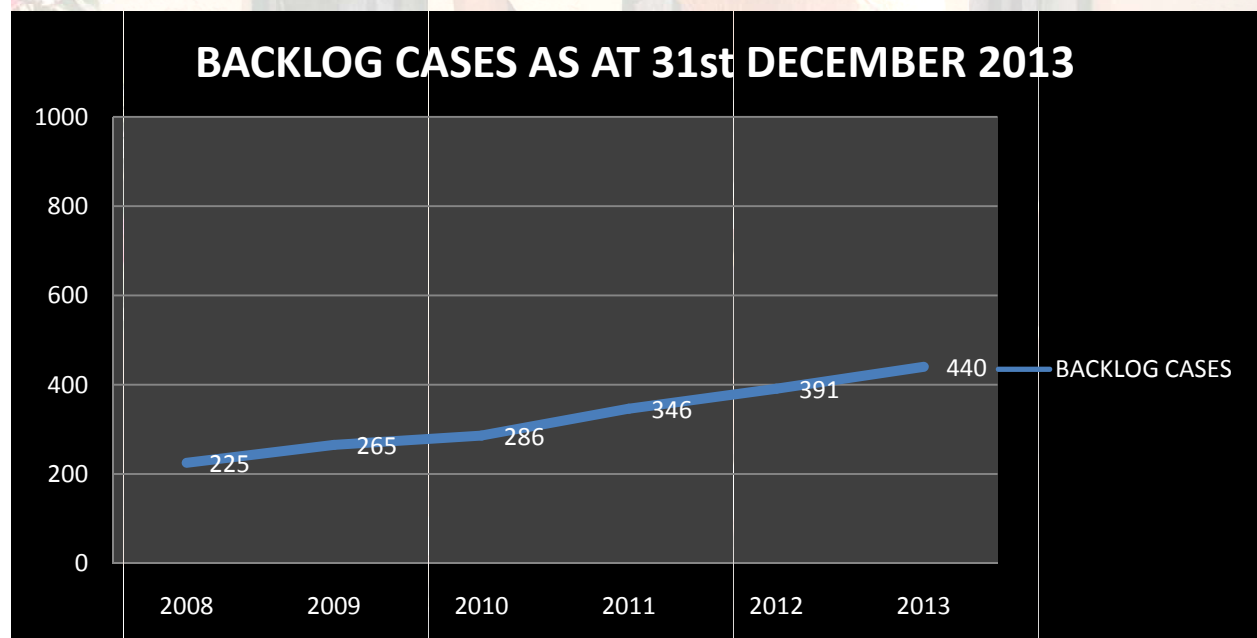
as the previous year despite more cases brought forward from 2012.

The following table shows the backlog trend from 2008 to 2013, showing an overall increase in the backlog from 391 to 440.

Table 6: Case backlog

YEAR	2008	2009	2010	2011	2012	2013
BACKLOG CASES	225	265	286	346	391	440

Graph 4: Case backlog



7.0: MEDIATION PERFORMANCE

The Mediation Registry in the year 2013 had an overall workload of 623 constituting 468 filed cases in the same year and 155 cases brought forward from 2012. 383 cases were

disposed of showing a reduction in the disposal rate of 60.7% as compared to 73.1% of the previous year. The reduction in the disposal of cases is attributed to the fewer number of the accredited mediators.

Below is a table showing the results of facilitative mediation.

Table 7 Mediation (facilitative) Results

Month	B/Fwd from 2012	Filed	Disposed	Pending
January	155	23	16	162
February	162	28	36	154
March	154	42	25	171
April	171	44	41	174
May	174	40	43	171
June	171	32	19	184
July	184	50	29	205
August	205	41	37	209
September	209	35	27	217
October	217	46	48	215
November	215	61	33	243
December	243	26	29	240
TOTAL	B/Fwd (2012) 155	468	383	240

Table 8: Break down of mediation disposal (facilitative)

No	Case Result	Total
1.	Closed – Mediation Fully Settled	53
2.	Closed – Dismissed	0
3.	Closed – Settled Before Mediation	53
4.	Closed – Mediation Failed	162
5.	Closed – Parties Abandoned Mediation	5
6.	Closed – Mediation Partly Settled	8
7.	Closed – Inappropriate For Mediation	3
8.	Closed – Non Attendance Of Parties	51
9.	Closed – File Transferred	4
10.	Closed – Withdrawn	4
11.	Closed – Case - Dismissed	2
12.	Closed – Dismissed Defense Not Filed	0
13.	Closed – Mediation Time Elapsed	36
	Total	383
	Add Pending	240
	TOTAL Sent to Mediation	623

Table 9: The breakdown of performance per mediator is as follows

COMPLETION STAGE	Arutu	Susan	Kyobe	Magala	Barigo	Paul	Kaggwa	Kawalya	Ojok	Nary	Asodio	Owaraga	Ronald	Byenkya	Gakyalo	Kwesigabo	Olok	Stage total
closed-case dismissed	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	2
closed-dismissed	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
closed-dismissed WSD not filled	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
closed-filed transferred	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4
closed-fully settled	4	5	1	3	0	2	1	4	1	10	7	4	1	3	2	3	2	53
closed-inappropriate for mediation	0	0	0	0	1	2	0	0	0	0	0	0	0	0	0	0	0	3
closed-mediation failed	6	11	8	7	3	9	4	12	7	38	10	3	4	7	15	10	8	162
closed-mediation time elapsed	2	1	2	1	4	1	0	0	4	0	1	6	4	0	1	8	1	36
closed-non attendance of parties	3	5	2	2	5	6	1	1	6	2	4	1	2	2	5	2	2	51
closed-parties abandoned mediation	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	5
closed-partly settled	0	0	0	0	2	1	2	0	1	1	0	0	0	0	0	1	0	8
closed-settled before	42	0	0	0	2	1	0	0	2	0	0	0	1	0	1	0	4	53
closed-	0	0	0	0	1	0	0	0	0	1	0	1	1	0	0	0	0	4

withdrawn																		
Total	64	22	15	13	15	23	8	17	21	52	22	15	13	12	22	21	18	383



8.0: EVALUATIVE MEDIATION

Evaluative mediation was anticipated to grow in the year 2013. However, the transfers that characterized the year under review interrupted its

execution. We hope that this year the evaluative mediation will be embraced without any hindrances.

9.0: JUDICIAL TRAINING

The Division undertakes several trainings for Judicial Officer.

However, the training which was scheduled for 9th December, 2013 in Mediation practice as a process of

rolling out mediation to the entire Judiciary was rescheduled to 10th March, 2014. We hope that the Judiciary Administration will as usual avail the necessary financial support.

10.0: INFORMATION AND COMPUTER TECHNOLOGY (ICT) OF THE DIVISION

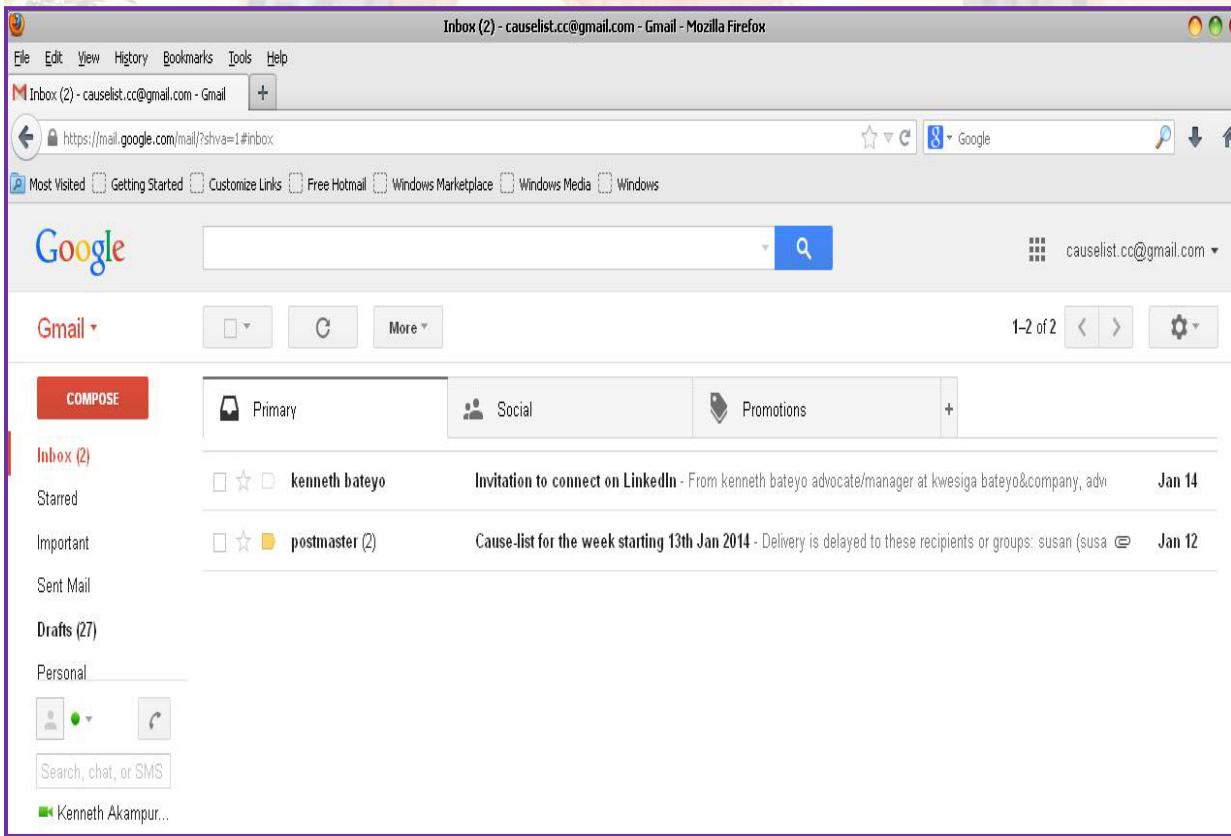
In the bid to modernize and promote faster information exchange among the Court stakeholders, the ICT Division installed an electronic Notice-board that has positively impacted on the information dissemination from the Court to its users, through display of Cause-list and News feeds in the announcement strip. Furthermore, with an already existing Commercial Court Mailing-list (causelist.cc@gmail.com), the Court has streamlined information exchange through which the weekly cause-list and any other important information is sent to the Court users.

The Division has fully adopted Court room Technology among other ICT innovations i.e. the Digital Court Recording and transcription in all the Court Rooms.

The Division together with the Judiciary hopes for a speedy adoption of more ICT innovations which include; E-filing, Courtroom Video conferencing, and Tele-conferencing, Mobile Evidence Presentation System and display devices among others. If these ICT technologies are embraced throughout the division then we hope to achieve a paperless Court.



The Commercial Court Electronic Notice Board displaying Cause list and News feeds



The Commercial Court Mailing list (causelist.cc@gmail.com)

11.0: LOCAL AND INTERNATIONAL COOPERATION.

The Division during the year under review had the following notable visits from

- i. The Hon. The Principal Judge of Uganda Justice Yorokamu Bamwine
- ii. A delegation from Liberian Commercial Court
- iii. Representatives of the Bar.
- iv. President of the Law Society

i. Delegation from Liberian Commercial Court

The Commercial Court division Justices hosted their counterparts from Liberia with the main aim of bench

marking their performance against that of the division and adopting best practices.



Delegates from Commercial Court Liberia share a photo with judicial officers of Commercial court Uganda

ii. Representatives of the bar



Commercial Court bench and representatives of the bar

12.0: DIVISION NEWS

1. *Farewell to Hon. Justice Geoffrey Kiryabwire, Hon. Justice Wilson M. Musene, Hon. Lady Justice Margret Tibulya, His Worship John Arutu and accredited mediator Mr. David Nary*

The Division held a farewell dinner for the transferred judicial officers. The former Head Commercial Court, Hon. Justice Geoffrey Kiryabwire was appointed Justice of Court of Appeal and the former Deputy Registrar Hon.

Lady Justice Margret Tibulya was appointed High Court Judge. Hon. Justice Wilson Masalu Musene was transferred to Nakawa Court. Commercial Court also welcomed a new Head Hon. Justice David Wangutusi, the Deputy Head Hon. Justice Billy Kainamura, Hon. Lady

Justice Flavia Senoga Anglin and Hon. Justice Henry Peter Adonyo.

The Court also did welcome His Worship Thadeus Opesen as acting Deputy Registrar Commercial Court. All these officers are thanked for their tiring service at the Division.



The Hon. Principal Judge hands over a plaque to the outgoing Head Commercial Court, Hon. Mr. Justice Geoffrey Kiryabwire



The Hon. Principal Judge hands over a plaque to the outgoing Deputy Registrar Commercial Court, Hon. Lady Justice Margaret Tibulya



The Hon. Principal Judge hands over a plaque to the outgoing Registrar Mediation, His. Worship Arutu John Ochepa



The Head Commercial court hands over a plaque to the outgoing Accredited Mediator, Mr. David E. Nary

13.0: CHALLENGES

The Division continues to face challenges with limited financing, which has subsequently impacted negatively on the Court activities and developments.

The Mediation Registry ran most of 2013 without a Registrar and this posed a lot of challenges and a heavy workload for the already existing judicial staff.

Another challenge that continues to face the Division is the absence of Judge Assistants or Researchers. The presence of such assistants would ease the research burden of Judges and improve on their output.

The Server room Air Conditioner for ICT Servers frequently breaks down because of the heavy workload, posing a threat to the servers which at

anytime could crash because of the excessive heat. It's therefore prudent that a heavy duty Air Conditioner be installed in the server room to ensure that operation in the division is uninterrupted.

Another challenge that the division is facing is lack of enough process servers and office attendants who are meant to support the work of the judicial officers

14.0: CONCLUSION AND WAY FORWARD

The increase in the judicial personnel in the division, we hope will help curb the rising backlog that has been increasing by 13% for the previous two years.

The Commercial Court also hopes a Mediation Registrar will be assigned as soon as possible to mitigate increasing workload in the Mediation Registry.

