

## OVERVIEW

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Awais was called to the NSW bar in 2011. He was admitted as a solicitor of the NSW Supreme Court in 2008. He is also a nationally accredited mediator.

Between 2006 and 2009 Awais worked with a top tier law firm where he advised in relation to insolvency and commercial dispute resolution, schemes of arrangement, capital markets and oil and gas regulation.

In 2009 Awais joined the faculty of law at Macquarie University where he delivered lectures and tutorials in Tort Law and Company Law.

In 2010 Awais was tipstaff to the Honourable Justice George Palmer AM of the NSW Supreme Court (Equity Division). During that time, he sat with his Honour on the Corporations List, Probate, Protective and Adoptive Lists. For a period in this time he was also tipstaff to the late Honourable Justice Rex Smart and Justice Peter Hall.

As a barrister Awais has built up a considerable practice appearing in Courts and Tribunals across NSW. His practice is wide and varied. It has extended from appearing in commercial/equity, insurance and personal injury matters to complex family law proceedings to criminal jury trials as well as proceeds of crime matters.

Most recently he successfully appeared as lead appellate counsel before a specially convened Full bench of the Federal Court in a matter of statutory construction concerning s501 of the *Migration Act 1958* (Cth) and then again successfully as lead counsel before the Full bench of the High Court of Australia as a respondent.

Awais has also sat on the board of directors of the Hills Grammar School Pty Ltd and the NSW Bar Association Committee for New Barristers for several years.

He is passionate about continuing legal education in a wide and varied sense and has delivered papers/seminars on, amongst other things:

- Civil Procedure – Costs rules including offers of compromise indemnity costs;
- ADR Skills and the duties upon practitioners;
- Domestic Violence & parenting capacity, the intersection between Family Law and the Criminal Law;
- Drafting affidavits and preparing evidence;
- The introduction and application of the *Bail Act 2013* (NSW);
- Res judicata and estoppel in the context of consent orders;
- The intersection between insolvency law and family law; and
- Family law challenges in advocacy and preparation.

Finally, Awais is an executive member of Australian Lawyers Cricket Council where he has also participated in the Lawyers Cricket World Cup in Colombo, Sri Lanka (2017) and Hamilton New Zealand (2019).

Melissa Brown  
Clerk - **Maurice Byers Chambers**

## PARTICULAR AREAS OF PRACTICE AND SKILLS

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**Appellate:** accepts and appears in multiple appellate jurisdictions including, the NSW Court of Appeal, the Full Family Court of Australia, the Full Federal Court of Australia and the High Court of Australia.

**Commercial, Equity and Probate law:** regularly appears in commercial matters involving contractual disputes, debt recovery, family provision and associated equitable relief.

**Torts:** regularly appears and advises insurance companies in actions arising out negligence/nuisance including

property, damage, public liability personal injury claims and intentional torts such as battery and false imprisonment.

**Family Law:** appears in interim, final and appellate matters in range of matters ranging from sensitive Magellan listings, relocation and recovery applications, interim property and spousal maintenance matters child support applications and complex property matters.

**Criminal Law & Proceeds of crime:** regularly appears in district court and local court hearings in a range of criminal matters as well as in Courts vested with jurisdiction arising out of proceeds of crime legislation (both state and federal).

**Insolvency/Bankruptcy:** winding up applications, statutory demands, bankruptcy proceedings, possession matters and associated urgent relief – specific interest in the intersection between insolvency and family law.

**Administrative:** appears and advises in relation to proceedings for judicial review and merits review of decisions of the delegate of the Minister, including character visa cancellations and deportations.

### **SOME SELECTED CASES (APPEARING UNLED UNLESS INDICATED)**

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- *Minister for Immigration and Border Protection v Makasa* (2021) 386 ALR 200; *Minister for Home Affairs v Brown* (2020) 376 ALR 133 & *Makasa v Minister for Immigration and Border Protection* (2020) 376 ALR 191– successfully appeared for the applicant concerning the construction of s501 of *Migration Act 1958* (Cth).
- *Anquetil v Commissioner of the Australian Federal Police* (2019) 367 ALR 291: appeared for Mr Anquetil in his application to stay examination orders during the pendency of criminal proceedings.
- *Pruchnik v Pruchnik (No 2)* (2018) 58 Fam LR 458: acted for the Independent Children’s Lawyer in an appeal before the Full Court of the Family Court concerning parental responsibility and procedural fairness.
- *Re RT & Ors* [2018] NSWSC 1881: appeared for the trustee in bankruptcy in relation to a complicated interwoven set of proceedings in the Supreme Court, the Federal Court and the Family Court.
- *Kadir & Nejiz* [2018] FAMCA 778: appeared for the father in parenting proceedings concerning allegations of sexual misconduct and parental alienation.
- *Commissioner of Australian Federal Police v Elzein* (2017) 94 NSWLR 700; *D151, D152, D154 v New South Wales Crime Commission* (2017) 94 NSWLR 738 – appearing for applicants concerning the power to grant leave to examine ‘a person who is the subject of a current charge for an offence arising under a federal law’ pursuant to the (NSW) Crime Commission Act 2012 s 35A – led by Peter Lange.
- *Hamade v Minister for Immigration and Border Protection* [2017] FCA 402 – application concerning declaration of citizenship in circumstances of deportation.
- *Sampson (as Trustee of Bankrupt Estates of Makisi & Makisi) v Taboada* [2017] FCA 79 – acted for the Trustee in relation to the recovery of preference payments.
- *Director of Public Prosecutions v Darcy-Shillingsworth* [2017] NSWCCA 224: acted for the offender in response to a prosecution appeal against an inadequate sentence.
- *El-Kabbout v Insurance Australia Ltd t/as NRMA Insurance* [2016] NSWSC 417; BC201602531 – successfully resisted an appeal on denial of an insurance policy.
- *Lowery v Insurance Australia Ltd* (2015) 90 NSWLR 320: acted for IAL (NRMA) before the NSW Court of Appeal concerning subpoenas and a denial of indemnity.

- *Everett v Upton* [2015] FAMCA 704: magellan listing concerning the issue of unsupervised access to children and the question of unacceptable risk.
- *Tajjour v New South Wales; Hawthorne v New South Wales; Forster v New South Wales* (2014) 254 CLR 508; (2014) 313 ALR 221; (2014) 88 ALJR 860; (2014) 241 A Crim R 381; [2014] HCA 35; stated case before the High Court concerning the constitutional validity of 'bikie' consorting legislation, led by Greg James QC.
- *Elkington v Farsands Solutions Pty Ltd* [2012] NSWCA 334: proceedings pursuant to implied terms in an option contract led by Dr. Christopher Birch SC.
- *King v Jetstar Airways Pty Ltd* [2012] FCA 413: interlocutory motion on capping costs of an appeal in the public interest.
- *Strata Plan No 44999 v Premier Holdings Corp Pty Ltd and Another* (2012) 16 BPR 30,439: equitable relief concerning management deed of retirement village.