

Faith Macharia

Partner | ALN Kenya | Anjarwalla & Khanna

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Background

Faith Macharia is a partner at ALN Kenya | Anjarwalla & Khanna and a member of the Dispute Resolution team with over 13 years of experience. She is the principal partner for employment disputes and leads the regional court litigation at the East Africa Court of Justice and COMESA Court of Justice. Kenya's leading business newspaper, Business Daily, rated her as one of the region's leading women, Top 40 under 40, 2021, for her outstanding contribution to legal space in Kenya and the East African community. The Law Society of Kenya, Nairobi Branch, nominated her under two separate categories, Best Lawyer of the Year and Pupil Master of the Year, 2020.

Faith specialises in navigating complex and high-stakes local and multi-jurisdictional commercial and shareholder disputes, cross-border trade issues, employment matters, tax disputes, and environmental and sustainability matters across various African jurisdictions. Her client base is wide-ranging, comprising multinational corporations, regional companies, industry associations, local businesses, and senior executives, and she has successfully represented them before key judicial bodies locally, regionally, and internationally, including tribunals appointed by the London Court of International Arbitration.

Legal 500 2023 recommended Faith as "a powerhouse, scaling beyond local courts to deliver excellent performance at the East African Court of Justice. She has mastered cross-border dispute resolution within EAC and is counted among leading advocates on cross-border trade disputes." While Legal 500, 2024 commended that 'Faith Macharia stands out for her courtroom presence and her impeccable advisory on complex cross-border disputes'.

Chambers Global 2024 commented that "Faith is a fast-evolving advocate with the unique ability to rapidly understand a client's complex situation and convert it into a precedent-setting case."

She is the Chairperson of the East Africa Law Society,, Trade and Regional Integration Committee. The Committee comprises representatives from the seven-bar associations in the East Africa Community and select civil society organisations with the key mandate of advancing the East Africa Community trade and integration agenda through policy formulation, legislation, advocacy, and strategic litigation at the EACJ.

She is also the chairperson of the Law Society Task Force, tasked with reviewing the laws impacting the legal profession in Kenya alongside Senior Counsels.

Professional Membership

- Law Society of Kenya
- Law Reform, Devolution and Constitutional Implementation Committee
- East African Law Society
- Chairperson, Trade and Regional Integration Committee of EALS

Professional Qualifications

2010: Admission to the Kenyan bar

2009: Diploma in Law, Kenya School of Law

2007: LLB (2nd Class Honours, Upper Division) University of Nairobi

Career Summary

2020 – Date: Partner, Anjarwalla & Khanna

2016 – 2019: Senior Associate, Anjarwalla & Khanna

2016: Associate (Secondment), Stephenson Harwood, London

2015 – 2016: Principal Associate, Anjarwalla & Khanna Advocates

2012 – 2014: Associate, Anjarwalla & Khanna

2011 – 2012: Associate, MMC Africa Law (previously Muriu, Mungai & Co. Advocates)

2009 – 2010: Legal assistant, MMC Africa Law (previously Muriu, Mungai & Co. Advocates)

2008: United Nations Development Programme (UNDP)

Awards & Accolades

- Faith is ranked as an 'Up and Coming' Partner by Chambers Global 2024.
- Faith is ranked as a Next Generation Partner for Dispute Resolution Practice (2023 & 2024) and Employment Practice in Kenya by Legal 500 (2021 – 2024).
- Faith has been recognised as a 'A Leading Dispute Resolution Lawyer in East Africa' by The Lawyer Africa in 2021 & 2022
- Faith was nominated by The Law Society of Kenya, Nairobi Branch, under two separate categories, Best Lawyer of the Year and Pupil Master of the Year, 2020.
- Faith was ranked by Chambers Global 2018 as an Associate to watch in dispute resolution in Kenya.

"Faith Macharia stands out for her courtroom presence and her impeccable advisory on complex cross-border disputes."– **Legal 500 2024**

"Faith is a fast-evolving advocate with the unique ability to rapidly understand a client's complex situation and convert it into a precedent-setting case." – Chambers Global 2024

"Faith Macharia is very responsive to clients' needs." – **Chambers Global 2024**

"Faith Macharia is a powerhouse, scaling beyond local courts to deliver excellent performance at the East African Court of Justics. She has mastered cross border dispute resolution within EAC and is counted among leading advocates on cross border trade disputes." – **Legal 500 2023**

"Faith Macharia is a powerhouse, scaling beyond local courts to deliver excellent performance at the East African Court of Justice. She has mastered cross-border dispute resolution within EAC and is counted among leading advocates on cross-border trade disputes." – **Legal 500 2023**

"Accrues client praise for her solution-oriented advice and is recognised as a confident and passionate litigator. Takes the lead on significant matters."– **Chambers Global, 2023**.

"Demonstrates a solid presence and handles several high-profile tax disputes" Chambers Global, 2023.
"Faith Macharia is well experienced in litigation, both at the Tax Appeals Tribunal and at the High Court." – **Legal 500 2022**

Top Matters

Commercial Disputes

- Acting for **Africa Oil Corporation Africa**, a Canadian oil and gas company with assets in Kenya and Ethiopia, Oil Turkana and Africa Oil BV, in connection with contentious high profile judicial review proceedings commenced in 2010 by Interstate Petroleum Company (IPL) against the Ministry for Energy, our clients, and a number of other parties challenging the grant of Petroleum Sharing Contracts (PSC) to Africa Oil over oil blocks 10BA, 10BB, 11A, 11B, 12A and 13T in Northern Kenya at the High Court and Court of Appeal.
- Successfully representing a minority shareholder against a private company in a without prejudice petition filed at the High Court, addressing unfair, prejudicial, and oppressive actions by majority shareholders. Subsequently, acting in arbitration proceedings to determine the value of the minority shareholder's shares.
- Acting for **Kenya Bankers Association** (KBA), the leading financial sector advocacy group and overarching body for all institutions regulated by the Central Bank of Kenya, including commercial banks, in connection with a groundbreaking dispute before the Supreme Court of Kenya (SCK) against the Kenya Revenue Authority (KRA) involving global payment processing transactions particularly those executed through debit and credit cards.
- Successfully acting for **AKI**, an independent consultative and advisory body in the insurance industry with 55 members and 4 associate members, including Africa Reinsurance Corporation, the largest reinsurer in Africa in terms of net reinsurance written premiums, in connection with a suit filed by activist Okiya Omtatah, seeking cancellation of medical insurance covers procured by the Parliamentary Service Commission (PSC) at the cost of approx.USD.40 million on 17 September 2021 for two years with effect from 1 January 2022, for Members of Parliament (MPs), on the grounds that there is a wastage of public funds and lack of accountability by the PSC
- Acting for **Google Kenya** (Google) in connection with a series of high-value tax disputes between the company ,company, and the Kenya Revenue Authority (the KRA). We successfully obtained a judgment in favour of Google and the matter is pending before the Court of Appeal.
- Successfully acting for **Kenya Airways**, the national airline of Kenya and one of the largest airlines in Africa, in connection with a matter seeking to injunct and ultimately stop KQ's Ab Initio Pilots Training Programme a scheme through which KQ trains its future pilots with no prior experience, and KQ's foreign-based pilot training programmes on among other grounds, alleged use and misuse of public monies to fund the Programme and discriminating against locally trained pilots by local institutions licensed by the Kenya Civil Aviation Authority.

- Acting for **Netflix** in connection with the alleged copyright infringement of Kenya's first TV series on Netflix, Country Queen requiring a deep understanding of international intellectual property laws.
- Acting for a client in connection with an ongoing, multi-faceted dispute involving multiple complex high-level shareholders disputes, including proceedings in the High Court of Kenya, the Court of Appeal, special committees of the Parliament, the Ethics and Anti-Corruption Commission, and the Multi-Agency team.
- Successfully representing for the **Kenya Association of Manufacturers** (KAM), in connection with a high-profile and politically charged tax dispute against the Attorney General, the Kenya Revenue Authority (KRA), and the National Assembly at the High Court and the Court of Appeal challenging the constitutionality of minimum tax.
- Acting for Gamcode (trading as Betin), in connection with a complex and high-profile tax dispute against the Kenya Revenue Authority. The matter is currently pending appeal at the Court of Appeal.
- Acting for a client in connection with a petition challenging the recent amendments made to the National Health Insurance Fund Act, 1998 (the Principal Act), which were introduced through the National Health Insurance Fund (Amendment) Act No. 1 of 2022.
- Acting for a minority shareholder in a petition filed at the High Court against unfair, prejudicial, and oppressive actions undertaken by majority shareholders.

Employment Disputes

- Acting for **DHL**, a global logistics industry leader, in connection with two separate claims brought by former directors and top management in Kenya involving allegations of unlawful termination, discrimination based on race, fraudulent amendment of employees' handbooks, employment policies, and compensation policies to include additional employee benefits.
- Acting for **Access Bank** (Kenya) in connection with an employment claim filed by the Bank's former Country Chief Financial Officer (CFO).
- Acting for **Schneider Electric Kenya**, a subsidiary of Schneider Electric, in connection with a complex employment dispute with multiple legal elements, including fundamental rights, employment law, discrimination, cross-border legal considerations, and constitutional breaches.
- A major development finance institution with a multi-billion-dollar investment portfolio in connection with various employment issues arising during the termination process of an employee on a probationary contract, the appeal process and an employment dispute filed in the Employment and Labour Relations Court challenging the termination.
- A nonprofit social enterprise that provides financing and advisory services to small and growing businesses in connection with an investigation into the Client's operations following the receipt of whistleblowing reports alleging irregularities in the consultant payment processes. We also offered legal guidance to the Client during the investigation and disciplinary processes instituted against the employee found culpable, among other employment work.
- Acting for **African Trade & Investment Development Insurance** (ATIDI), formerly the African Trade Insurance Agency, a prominent multilateral insurer across Africa, at the Court of Appeal.
- Acting for **Nanovas International Kenya**, the operator of the betPawa, a Kenyan betting company, licensed by Softpawa UK, in connection with a myriad of employment law-related issues, comprising advising on disciplinary procedures and effectively addressing and managing claims related to unlawful termination, racial discrimination, and sexual harassment.
- Acting for **Rainforest Farmlands Kenya** (RFKL), a floriculture company, in connection with an employment dispute with a former employee over alleged unlawful termination of his employment, refusal to vacate company housing after termination, correct formula for calculation of leave days and payment of his terminal dues.
- Acting for **GSK**, a global biopharmaceutical company and member of the Haleon Group, a world-leading

- consumer health company, in connection with an employment dispute related to secondment contracts.
- Acting for **Association of Chartered Certified Accountants** (ACCA) in connection with a claim filed at the Employment and Labour Relations Court by the former Head of Markets, Africa,
- Acting for a confidential client operating in the agriculture sector in connection with a compliance investigation into the Client's operations in Kenya, Tanzania and Rwanda.
- Acting for **AAR Kenya** in connection with a high-stakes dispute with three former top management employees, who attempted to disrupt their disciplinary hearings and filed claims for damages.
- Acting for **Style Industries** and **Godrej Consumer Products**, in connection with an employment dispute before the Employment and Labour Relations Court, filed by their former legal counsel, seeking to halt an ongoing redundancy process arising out of financial difficulties and affecting over 200 employees.
- Acting for a venture-backed technology company operating in East Africa and India (the Company), in connection with an employment dispute concerning employee discrimination claims.

Regional (Cross-Border)

- Acting for **Catalyst Principal Partners** in a landmark cross-border post-acquisition dispute at the London Court International Court and subsequent enforcement proceedings at the High Court and Court of Appeal with far-reaching implications for businesses, investors, and legal practitioners in the region.
- Representinged **OLA Energy Uganda** in a landmark cross-border dispute filed at the East Africa Court of Justice against the Attorney General of Uganda. The case involves the interpretation of joint verification reports issued by the EAC Secretariat, impacting tax assessments across the region. Historic as it marks the first instance of the EACJ deliberating on disputes centered around EAC Rules of Origin.
- Acting for a private security firm in connection with a cross-border dispute in six countries, Kenya, Rwanda, Malawi, Tanzania, Uganda & Burundi, filed in local courts and at the London Court of International Arbitration's (LCIA) appointed tribunals arising from a share purchase agreement.
- Acting for **Kioo Limited**, a Tanzanian company, in cross-border dispute filed at the East Africa Court of Justice regarding Government of Kenya's obligations under the EAC treaty and ancillary protocols. Resulted in amendment of relevant legislation in Kenya.
- Acting for as lead counsel in a high-stakes cross-border dispute for the **Heineken Group**, involving the disputed termination of distribution agreements with distributors in Kenya, Tanzania, and Uganda, including managing the legal strategy and coordination with local counsel in Tanzania and Uganda following the withdrawal of cases filed in Kenyan Courts against Heineken Group by the Uganda and Tanzania distributors, and subsequently filed in Uganda and Tanzania High Courts.

Environment and Lands

- Acting for **Base Titanium**, a world-class mineral sands operator, in connection with a Constitutional rights claim filed at the High Court around the assertion that the client's mining activities in Kwale County, which is claimed to be adjacent to the landowner's property, have potentially violated the landowner's constitutional rights, particularly the right to a clean and healthy environment.
- Acting for the proprietors and plaintiffs, in connection with a complex land ownership dispute matter at the Environment and Land Court (ELC) in Nairobi where the defendants uttered fake documents and sought to dispossess our client a prime property in Nairobi. We successfully argued and proved that the plaintiffs were the rightful owners of the suit property. The court also awarded the plaintiffs damages for trespassing.