



# Abbas A. Esmail

**Partner | ALN Kenya | Anjarwalla & Khanna**

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## Background

Abbas is a Partner at ALN Kenya | Anjarwalla & Khanna and a member of the Dispute Resolution team. He specialises in criminal and commercial litigation as well as regulatory enforcement disputes, with a focus on anti-corruption and economic crime, white collar crime, cyber-crime, and competition law.

He has significant experience handling a wide range of high-profile litigation which include tax disputes, insolvency proceedings and administration of solvent companies, disputes concerning land and environment, fraud, corruption, shareholder disputes and constitutional and civil rights litigation.

## Professional Membership

- Law Society of Kenya

## Professional Qualifications

2010 – 2011: Kenya School of Law, Diploma in Law

2005 – 2009: LL.B (Hons) Second Class (Upper Division) University of Nairobi

## Career Summary

Jul 2021 – Date: Partner, Anjarwalla & Khanna, Nairobi

Jul 2017 – Jun 2021: Senior Associate, Anjarwalla & Khanna, Nairobi

Mar 2016 – Jul 2017: Principal Associate, Anjarwalla & Khanna, Nairobi

2011 – Mar 2016: Kilukumi & Co. Advocates, Nairobi

2004 – 2005: Purchasing Manager, Civicon Uganda Limited

## Top Matters

## Dispute Resolution

- Representing a Company incorporated the UAE, in insolvency proceedings in connection with an outstanding debt of approx. USD 139 million as a secured creditor of Mumias Sugar Company, having been assigned the debt in the Ethanol and Co-generation plant assets of Mumias.
- Acting for a leading Danish private equity firm operating in the African renewable energy market, in connection with its Chania Green wind project, a 50MW wind energy farm at Loodariak, Kajiado County (the Project), regarding a claim filed at the Environment and Land Court (ELC) of Kajiado by residents of the local community (Plaintiffs) against the Project on the basis that the Environmental Impact Assessment License obtained by Chania from the National Environment Management Authority (NEMA) was illegal under the relevant regulations.
- Representing **Sogea-Satom** and **Rasel Bec**, in connection with a suit filed at the High Court, on 14 December 2021 seeking to stop the Kenya Airports Authority (KAA) from calling on a performance guarantee of approx. USD 5.9 million securing the performance by the client of its obligations in the rehabilitation of airside pavements and AGL system at Moi International Airport, Mombasa that had an agreed contract price of approx. USD 59 million.
- Acting for **Balton CP**, a UK-based multinational in the technology and agricultural industry, with operations in several African countries, in connection with various civil suits before the Labour & Employment and Labour Relations Court and the High Court concerning several claims, including unfair termination, fraud, conflict of interest, breach of fiduciary duties, breach of contract, economic loss, defamation, payment of service fees and taxation of a Bill of Costs over a disputed advocate-client relationship.
- Acting for **Kenya Airways** (KQ), the flag carrier and national airline of Kenya, in connection with high profile strike actions commenced by its employees through the Kenya Aviation Workers Union protesting the alleged mismanagement of the aviation sector in Kenya and opposing a proposed takeover by Kenya Airways over the running and management of Jomo Kenyatta International Airport, in addition to a strike action intended to prevent the airline's maiden flight to New York, including securing injunctions in KQ's favour.
- Acting for **Style Industries**, a local subsidiary of Indian consumer products company Godrej, in connection with a criminal antitrust investigation by the Competition Authority of Kenya, including successfully obtaining an injunction against enforcement on abuse of process grounds.
- Acting for **TEAMS**, a joint venture comprising the Government of Kenya and major telcos operating in Kenya, in connection with a tax dispute with the Kenya Revenue Authority over the laying of an undersea fibre optic cable between Kenya and UAE; including successfully obtaining an injunction against enforcement action to recover the taxes.
- Acting for **Actis** (a CDC offshoot) and **GC Retail** in relation to a dispute with Nakumatt, formerly the largest supermarket chain in East Africa, in connection with regaining possession of leased premises in insolvency proceedings declared by the government to be of public importance. Nakumatt was an anchor tenant in Actis' mixed use development project known as Garden City which has been recognised by the Government of Kenya as a Vision 2030 flagship project.
- Acting for **East African Exploration Kenya**, a local subsidiary of Afren (In Administration), an international oil exploration company formerly listed on the London Stock Exchange, in a civil case brought by a Seismic Data provider, BGP Kenya for breach of contract for failure to pay a contractual sum due to BGP Kenya.
- Acting for and advising **Reliance Industries** in connection with an employment claim instituted by employees of GAPCO Kenya in the Employment and Labour Relations Court to stop the sale of Reliance's shareholding in GAPCO.
- Drafting Anti-Money Laundering legislation and other payment systems legislation for the **Government of Somaliland** including training on the draft legislation to Somaliland senior Government officials and other stakeholders.
- Acting for **Telkom Kenya** and **Airtel Networks Kenya** in connection with the first merger review

- application filed before the Competition Tribunal relating to a conditional approval of a proposed merger by the Competition Authority of Kenya.
- Acting for **Safepak** in connection with successfully resisting a claim alleging historical land injustices by a local Kenyan community.
- Acting for **Varian Medical Systems International AG** in connection with a tender review application before the Public Procurement Administrative Review Board.
- Acting for a high-net-worth client in connection with matrimonial proceedings which include child custody and maintenance, divorce and matrimonial property proceedings filed in various courts.
- Acting for a client in connection with a cross-border child abduction case and return of minor children to Kenya.
- Acting for **Aga Khan Council for Kenya** in a criminal private prosecution of one of its former officials in the criminalisation of a civil dispute.
- Acting for **Victoria Commercial Bank** in several insolvency related disputes.
- Acting for **Mastercard International** before the Supreme Court of Kenya against the Kenya Revenue Authority in connection with erroneous application of withholding tax on certain fees as well as the erroneous classification of some payments of royalties.