

SHEREEF HABIB SC

Curriculum Vitae

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Education

University of Sydney: 1983-1987

Bachelor of Economics/Bachelor of Laws (First Class Honours):

- Second in Law in the class of 1987;
- Various academic prizes, including first in combined law student ranking; and Walter Reid Memorial Prize for second in Law.

Stanford University Law School, California: 1988

- Visiting Scholar
- Landerer Scholarship

New South Wales Bar Association: 1995

- First in the New South Wales Bar Exams: 1995.

Professional Experience

1989	Associate to His Honour Justice Wilcox, Federal Court of Australia
1990-1993	Solicitor at Freehills 1990-1993 primarily in the litigation section of the firm.
1993-1995	Senior Officer at the Commonwealth Director of Public Prosecutions
1995	Called to the NSW Bar, February 1995 and barrister since that time at the private bar.
2009	Appointed Senior Counsel in 2009.

Experience as Barrister

I have practiced primarily in commercial litigation, including class actions. I have also had experience in criminal work and in common law.

The majority of my appearances have been in the Supreme Court of New South Wales and the Federal Court of Australia and I have also appeared in the High Court of Australia. I refer below to a small number selected matters in which I appeared:

- *B v B* [2023] NSWSC 1231 — mental health and intellectual disability; management of an estate;
- *Quirk v Suncorp Porfolio Services Ltd* [2022] NSWSC 1457 — appeared for the plaintiff in a significant class action concerning alleged improper superannuation fees — settlement approval;
- *Avant Insurance Ltd v Darshn* [2022] FCAFC 48 — appeared for the respondent in the Full Federal Court on significant insurance issues. The appeal was dismissed. I appeared before the High Court on Avant's special leave application which was dismissed.
- *Arsalan v Rixon* (2021) 274 CLR 606 — appeared with Mr Gleeson SC in the High Court for the appellant on novel questions concerning the assessment of damages for the loss of use of motor vehicles;
- *Lee v Strelricks* (2020) 92 MVR 366 — appeared for the defendant in the Supreme Court of NSW defending an appeal from the Local Court concerning damages for the loss of use of a motor vehicle;
- *Rose v Essential Energy* [2020] FCA 124 appeared for a putative applicant for a potential significant class action concerning the Tathra bushfire;
- *Bradgate (Trustee) v Ashley Services Group (No 2)* [2019] FCA 1210 — appeared for the applicant in an investor class action concerning an alleged misleading prospectus — settlement approval;
- *H LundbeckA/S v Sandoz Pty Ltd (No.2) & Ors* [2019] FCA 46 and principal judgment [2018] FCA 137 IPR 408— appeared with other senior counsel for a respondent to a patent infringement claim and related damages assessment;
- *Otsuka Pharmaceutical co, Ltd v Generic Health Pty Ltd (N02)* [2019] FCA 2215 appeared for the respondent prosecuting a claim on an undertaking as to damages; the matter settled but this judgment concerned an important client legal privilege waiver issue;

- *Commonwealth of Australia v Sanofi (Formerly Sanofi-Aventis)(N04)* [2017] FCA 979 — appeared for Apotex Pty Ltd (a generic pharmaceutical company) asserting client legal privilege;
- *Wong v Maroubra Automotive Refinishers Pty Ltd* [2015] NSWSC 222 — appeared for the plaintiff (on instructions from NRMA) on a claim in detinue;
- *Oswal v Burrup Holdings Ltd (N02)* (2012) 208 FCR 425 — appeared for Mr Oswal defending a contempt of court motion for alleged breach of an undertaking;
- *Re Application of Solomons and Tayeh* [2012] NSWSC 923 — appeared for trustees on a judicial advice application;
- *FirstMac Fiduciary Services Pty Ltd v HSBC Bank of Australia Ltd* [2012] NSWSC 1122 appeared for the defendant on a misleading and deceptive conduct claim. The case concerned an important question relating to the extent to which parties can agree to shorter limitation periods than set out in the relevant legislation;
- *Westpac Banking Corporation v Bell Group Ltd (in liq) (N03)* (2012) 44 WAR 1 — appeared, together with other senior counsel, for 20 banks (14 European and 6 Australian) in a claim of over \$1b brought by the liquidator of the Bell Group Ltd concerning, amongst other things Barnes v Addy allegations against the Banks. Special Leave from this decision was granted, but the matter settled prior to a hearing before the High Court of Australia. The first instance hearing, during which I as a junior, ran for over 3 years in the West Australian Supreme Court.
- *Chameleon Mining NL v Murchison Metals Ltd* [2010] FCA 1129 — appeared with Mr Hutley SC and junior counsel for the applicant in a breach of directors' duties claim;
- *Vassiliadis v Law Society of NSW* (1997) 41 NSWLR 383 — appeared with Einfeld QC for the solicitor in relation to a claim on the fidelity fund
- *R v Corner* 1997, BC9707221 — appeared with Barker QC in sentencing proceedings for improper use as a company director;
- *Handbury-Brown, In the Marriage of* (1996) 130 FLR 252 — appeared with Rayment QC for the wife in an international child abduction claim;
- *Pepsico Australia Pty Ltd v Kettle Chip co Pty Ltd* 33 IPR 161 appeared with Douglas QC in an important trade mark infringement claim.

I have also appeared and been briefed in many matters which have settled prior to judgment or are awaiting judgment. A very small selected sample is referred to below:

- I appeared as lead counsel for the applicant in *Brady v Nulis Nominees (Australia) Ltd*, a large class action in the Federal Court of Australia

which concerned superannuation fees. The matter was heard in late 2023 and judgment is reserved.

- I have represented *Apotex Pty Ltd* as lead counsel prosecuting claims pursuant to undertakings as to damages given by originator pharmaceutical companies in the Federal Court of Australia. Those include claims involving amounts over \$100m. They include: o Concerning the drug clopidogrel, against Sanofi; o Concerning the drug rosuvastatin against AstraZeneca AB; ● I have also represented for *Generic Health Pty Ltd* prosecuting a claim on an undertaking as to damages against Otsuka Pharmaceutical Co, Ltd. The claim was for a significant amount.
- I represented the *Commonwealth of Australia* in the Supreme Court of NSW as lead counsel in a significant claim brought by Opel Networks Pty Ltd (In liq) concerning the roll out of broadband into regional Australia;
- I represented, as junior, *Goldman Sachs and Mr Malcolm Turnbull* in claims made by the liquidator of HIH;