



**FARID  
ASSAF SC**  
*Barrister*

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farid.assaf@banco.net.au

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ADMISSIONS

1998

**Admitted as legal practitioner**

2000

**Called to Bar**

2018

**Appointed Silk**

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QUALIFICATIONS

Bachelor of Laws, University of New South Wales\*

Bachelor of Arts (Honours), University of New South Wales

Fellow of INSOL International (Honours, first in class)

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MAIN AREAS OF PRACTICE

General commercial litigation with a focus on corporate insolvency and restructuring, cross-border insolvency, financial services, director's duties, equity and trusts, banking and finance and superannuation.

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PROFESSIONAL EXPERIENCE

Senior Counsel

Solicitor, Australian Securities and Investments Commission  
(1998 – 2000)

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PROFILE

Farid has over twenty years litigation experience and practises in a wide variety of commercial law matters with a diverse client base including multinational corporations, government, SMEs, financial institutions and individuals. He specialises in all aspects of corporations law matters but in particular corporate insolvency. He has advised and appeared unled in hundreds of cases including acting for individuals and corporations subject to investigation by ASIC, the ACCC and APRA. Prior to being called to the bar, Farid worked as an in-house solicitor for the Australian Securities and Investments Commission. At ASIC, Farid developed unique experience in all facets of corporate regulation including detailed knowledge of financial services regulation, ASIC enforcement powers and enforcement strategies (especially ss 13, 19 and enforceable undertakings).

Farid is widely recognised by his peers as a leading practitioner in corporations and insolvency matters and is ranked in all leading legal directories:

Chambers and Partners Australia Directory for 2013, 2014, 2015, 2016, 2017, 2018, 2019 and 2020

Best Lawyers Directory for 2014, 2015, 2016, 2017, 2018, 2019 and 2020;

Doyle's Guide for 2016, 2017, 2018, 2019 and 2020

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\* At the time of graduation, UNSW Law School did not award honours degrees.

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Farid is a Fellow of the prestigious London based INSOL International graduating with honours and first in his class and a leading author in insolvency matters. His textbooks, *Statutory Demands and Winding Up in Insolvency* and *Voidable Transactions in Company Insolvency*, both published by LexisNexis have been repeatedly cited with approval by superior courts across Australia.

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## SELECTION OF RECENT CASES

*In the matter of DSHE Holdings Ltd (receivers and managers appointed) (in liquidation)* (ongoing matter in Supreme Court of New South Wales Commercial List) – advising and acting for former non-executive chairman of Dick Smith defending an action for alleged breach of directors’ duties involving eight defendants and a cross-claim against former auditors for negligence (ongoing matter)

*In the matter of WDS Limited (in liquidation)* – acting for liquidators of former major mining services company in application for pooling order under s 579E Corporations Act

*In the matter of Lendlease Building Contractors Pty Ltd v W.E. Bassett and Partners Pty Ltd* – pending major building and construction matter in the Supreme Court of Victoria. Advising and acting for a German multi-national manufacturer of building products in complex multi-party litigation defending allegations of negligence and misleading and deceptive conduct (ongoing matter)

*In the matter of Custom Bus Pty Ltd (in liq)* – advising and acting for the joint liquidators of previously one of Australia’s leading bus manufacturers with operations in multiple states in pursuing alleged insolvent trading and unfair preference claims

*In the matter of Newheadspace Pty Ltd (in liq)* – advising and acting for NRL Limited and the CEO of the NRL in an application to set aside examination summonses issued under s 5986B of the *Corporations Act*, 2001 (decision reserved);

*In the matter of Paltar Petroleum Ltd* [2019] FCA 636, [2019] FCA 635 application for winding up of public mining company involving complex issues of fact and law including mining rights and relevant legislation and cross-border issues relating to standing of foreign plaintiffs in bringing applications for winding up Australian companies

*Chief Commissioner of State Revenue v Boss Constructions (NSW) Pty Ltd* [2018] NSWCA 270 and [2019] NSWCA 43, (2018) 98 NSWLR 473, (2018) 131 ACSR 631 – advising and appearing for the Chief Commissioner of State Revenue in an appeal from a decision of Brereton J as to whether there can be an estoppel in the face of Part 5.4 of the *Corporations Act*, 2001

*Barnden v Zulian; Barnden v Commissioner of Taxation* (2018) 133 ACSR 361 – leading decision on security for costs against liquidators and circumstances when available

*Preston, in the matter of Toys ‘R’ Us Pty Ltd (Administrators Appointed)* [2018] FCA 940 (Federal Court) - application for extension of convening period under s 439A(6) *Corporations Act*, 2001 of major Australian retailer with 40 retail outlets, over 2,000 staff, annual revenue of over \$200 million and liabilities of over \$1 billion (including cross-collateralised liabilities of associated foreign entities);

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application for suppression order under s 37AF of the *Federal Court of Australia Act, 1976*

*Re Australian Institute of Professional Education Pty Ltd (In Liq)* - [2018] NSWSC 1028, (2018) 334 FLR 401 – acting for the Director of the Tuition Protection Service in application by liquidator for directions as to distribution of assets

*Lowbeer v De Varda; Lowbeer v Tov-Lev* [2018] FCAFC 115, (2018) 264 FCR 228 (Full Federal Court) – acting pro bono for two former members of the Strathfield Synagogue in two appeals involving complex issues of bankruptcy law including the grounds upon which a bankruptcy court can ‘go behind a judgment’; the onus of proof in circumstances where a bankruptcy court decides to go behind a judgment; and the interaction of the costs indemnity principle in the context of bankruptcy law

*Stone v Melrose Cranes & Rigging Pty Ltd, in the matter of Cardinal Project Services Pty Ltd (in liq) (No 2)* [2018] FCA 530; (2018) 125 ACSR 406 – advising and acting for liquidators in a multi-day hearing in the Federal Court seeking to recover unfair preference claims

*In the matter of ACN 152 546 453 Pty Ltd (formerly Hemisphere Technologies Pty Ltd) (in liq)* [2018] NSWSC 1002 – acting for Kaspersky Lab UK Ltd in successful application to appoint special purpose liquidators

*Clipsal Australia Pty Ltd v ACN 134 468 205 (formerly Clipso Electrical Pty Ltd) (No 5)* - [2017] FCA 1584 – acting for contemnor in penalty hearing in the Federal Court of Australia

*Quarter Enterprises Pty Ltd and Another v Allardyce Lumber Company Ltd and Another* [2014] NSWCA 3; (2014) 85 NSWLR 404; (2014) 284 FLR 152 (New South Wales Court of Appeal) - one of the leading cases on the registration of foreign judgments in Australia and a leading decision on actions to set aside a judgment procured by fraud

*ASIC v Bilkarra Investments Pty Ltd* [2016] FCA 371 (Federal Court, Victoria Registry) – appearing for defendant companies in resisting application by the Australian Securities and Investments Commission to wind up on the just and equitable ground and in insolvency in the Federal Court

*Rinfort Pty Ltd v Arianna Holdings Pty Limited* [2016] NSWSC 251; (2016) 111 ACSR 607; 306 FLR 413 (Supreme Court of New South Wales, Corporations List) - application for leave to commence statutory derivative action and set aside statutory demand in context of a commercial dispute involving about \$200 million. Leading decision on the operation of s 237 *Corporations Act* and its retrospective operation

*In the matter of Indochine Ltd (subject to deed of company arrangement)* [2015] FCA 857; (2015) 108 ACSR 134 (Federal Court) – appearing for administrators of publicly listed mining company in successfully resisting application to set aside resolutions passed at creditors’ meeting and deed of company arrangement

*Akers (as a joint foreign representative of Saad Investments Company Ltd) (in official liquidation) (a company registered in the Cayman Islands) v DCT* [2014] FCAFC 57 (Full Federal Court) – advised and appeared for the Deputy Commissioner of Taxation in the leading decision on the interpretation of the *UNCITRAL Model Law on Cross-Border Insolvency* in Australia.

MEMBERSHIP OF PROFESSIONAL BODIES	<p>Fellow of INSOL International</p> <p>Professional member of the Australian Restructuring Insolvency and Turnaround Association (ARITA)</p> <p>Fellow of the Commercial Law Association (CLA)</p>
OTHER MEMBERSHIPS	<p>Bar Association – Bar News Committee</p> <p>Member of editorial board for INSOL World – a publication prepared by INSOL for distribution amongst 10,500 professional members worldwide</p> <p><i>Ex officio</i> member of INSOL International’s Academics’ Steering Committee.</p>
RECENT SEMINARS	<p>‘Cross Border Insolvency &amp; Restructuring: New Frontiers in Singapore and Australia’ – Chair of Panel including Justice Gleeson of the Federal Court of Australia and Scott Atkins of Norton Rose Fulbright at the Australian Bar Association 2019 Convergence Conference</p> <p>INSOL Singapore 2019 Academics’ Colloquium – Chair of academics panel discussing recent academic research in cross-border insolvency and comparative insolvency law matters</p> <p>‘Ten years of the Cross-Border Insolvency Act’, 8 March 2018 (chaired by Andrew Bell SC). Part of a panel discussion regarding the Cross-Border Insolvency Act with Justice Steven Rares and Vanessa Whittaker</p> <p>‘Insolvency Reform Intensive’, 9 March 2018. Part of a panel discussion organised by the Law Society of New South Wales discussing the Insolvency Law Reform Act (panel included Professor Helen Anderson of the University of Melbourne and Sean Wengel of William Buck liquidators)</p> <p>‘Winding Up Strata Title Corporations’ – member of expert panel presentation to the Seventeenth Annual Practical Insolvency Conference on 20 March 2018</p>
PUBLICATIONS	<p><i>Insolvent Transactions in Company Insolvency</i>, Lexis-Nexis Butterworths, 2014 - principal author and concept originator. Cited approvingly by the Full Federal Court and the New South Wales Court of Appeal.</p> <p><i>Statutory Demands and Winding Up in Insolvency</i>, Second Edition, Lexis-Nexis Butterworths, 2012 - cited, repeatedly, with approval by every Australian State Supreme Court (including the Queensland Court of Appeal) and the Federal Court of Australia.</p>
<i>Other</i>	<p>“Adequate Protection of Creditor’s Interests under the Model Law” (2013) 25(3) A Insol J 20.</p> <p>“The Resurgence of Creditors’ Trusts?” (2011) 23(3) A Insol J 26.</p> <p>“Material Grounds for Challenging Insolvency - Unravelling the Mysteries of s 459S” (2011) 49(4) LSJ 62.</p> <p>“Setting aside a statutory demand – a survival guide” (2009) 47(10) LSJ 64.</p> <p>“Bypassing the Liquidator - Bringing Proceedings on Behalf of a Company in Liquidation” (2003) 41(10) LSJ 58.</p> <p>“What Will Trigger ASIC’s Civil Enforcement Strategies?” (2002) 40(4) LSJ 60.</p>

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“Chapter 5.1 Arrangements and Reconstructions” in Australian Corporations Law Principles and Practice (update).

“Ch 5.2 Receivers and Controllers of Corporate Property” in Australian Corporations Law Principles and Practice (update).

“Ch 5.5 Voluntary Winding Up” in Australian Corporations Law Principles and Practice (update).

“Banker and Customer” in Halsbury’s Laws of Australia (update).