

Nikhil Desai

Managing Director

Ground Floor, Cassia House, Westlands Office Park,
(Right next to ABSA HQ), Waiyaki Way, Nairobi.

P.O Box 1612-00606, Sarit Centre, Nairobi, Kenya

T: +254 (0) 700 000 106, +254 (0) 20 434 3159

M: +254 (0) 708 242 260

E: ngd@jmilesarbitration.com



Personal Summary

Nikhil Desai is Managing Director of JMiles & Co. He is an Advocate of the High Court of Kenya, specialising in international arbitration and fraud and asset recovery. Nikhil is Chair of the International Chamber of Commerce (ICC) ADR Commission in Kenya, sits on the ICC-Kenya Arbitrator Nominations Committee and is a member of the ICC ADR Commission. He has represented both private clients and Government entities in numerous local and international arbitrations under the auspices of ICSID; ICC; LCIA; FOSFA; UNCITRAL Rules; and the Chartered Institute of Arbitrators. Nikhil has also sat as Arbitrator and Tribunal Secretary in local and international arbitration. Nikhil is a Fellow of the Chartered Institute of Arbitrators. Nikhil is part of the team that was awarded the “African Arbitration Awards: Leading Arbitration Service Provider Award” for two consecutive years.

Nikhil is also Managing Partner of Desai & Co. Advocates, a law firm specialising in complex Kenyan litigation, particularly appeal applications, and arbitration.

Qualifications

Fellow of the Chartered Institute of Arbitrators	2022
Postgraduate Diploma in Law, Kenya School of Law	2009
Legal Practice Course (LPC), Nottingham Law School (UK)	2007
Bachelor of Law LL.B (Hons), University of Manchester (UK)	2006

Relevant Experience

- Acting as lead counsel for borrowers in a syndicated loan disputes against four large banks in Africa (and a fund based in Mauritius) before a three member LCIA Tribunal seated in London, United Kingdom. The claim is in excess of USD 400,000,000.
- Representing a Hotel Group in Tanzania in an international arbitration against the Government of Tanzania, which involves the licensing of high valued hotels and resorts owned by our Client in the Serengeti and Ngorongoro wildlife parks in Tanzania.
- Acting for the main foreign contractor in various disputes concerning an ongoing multi-million dollar construction project of a technological hub in Kenya. The construction disputes arise under the FIDIC Silver Book and various sub-contracts.
- Advising and acting as lead counsel representing a Ugandan client on various debt claims against the Government of South Sudan and Jubek State in excess of USD 100,000,000. The matter involves potential LCIA Arbitration Proceedings international arbitration proceedings and concurrent court proceedings at the East Africa Court of Justice (EACJ).
- Acting as Lead counsel for a Tanzanian company in concurrent ICC and ICSID (BIT claim) arbitration proceedings against a Tanzanian State Corporation and the Government of Tanzania. The claim related to interests in a thermal power plant and is in excess of USD 500,000,000. Nikhil was the lead counsel in the arbitration proceedings and in settlement discussions with the Attorney General of Tanzania, which in 2022 resulted in a settlement to our Client for in excess of USD 80,000,000.00.
- Acting for private interests in relation to a family dispute concerning offshore trusts in the Channel Islands and managing litigations in Vancouver and Kenya and representing the client in ongoing LCIA arbitration proceedings in London.
- Lead Counsel representing a Canadian geothermal company in an ICSID case against the Government of Kenya, for a claim of roughly US\$600 million, for revocation of a license to develop geothermal energy in Kenya.
- Acting for a multi-national security company in an LCIA International Arbitration concerning the purchase of an East African security company.
- Advising a Mozambique fast moving consumer goods company in international arbitration proceeding under the FOSFA Rules of Arbitration relating to a commodity trade dispute worth approximately USD 4,000,000. Subsequently, representing the client (with UK Barristers) in an application challenging the arbitration award under section 69 of the UK Arbitration Act.
- Assisting in ongoing enforcement and appeal stages of a multimillion-dollar ICC International Arbitration Award obtained by an international power group against an East African government power off taker.

- Acting for Rwandan interest in the enforcement of an ICC Arbitration Award in Kenya. Involved in ongoing Court Proceedings in Kenya.
- Ongoing instructions by GiZ in a two-year project training Law Enforcement Agencies in 12 jurisdictions in African and the West Balkans on fraud and anti-money laundering.
- Acting for the Kenyan Capital Markets Authority (CMA) in carrying out forensic and fraud investigations against two large publicly listed companies in Kenya.
- Advising a Chinese corporation in relation to an internal fraud concerning their Kenyan subsidiaries and commencing civil and criminal proceedings.
- Acting for a Mozambique company who was the victim of internet fraud in India and Nigeria.
- Instructed by GIZ to assist the Business Regulatory Service under the Office of the Attorney General to in drafting regulations with regard to disclosure of beneficial ownership regulations in Kenya.
- Instructed by the London Stock Exchange Group and the Ministry of Energy and Petroleum to carry out a detailed review on all Kenyan legislation touching on Environmental, Social and Governance issues and identifying the gaps in the Kenyan legal framework using international standards as a bench mark. The final report was submitted in April 2019 and is aimed at assisting Kenyan companies obtaining financing through Green Bonds.

Publications

- Authored a number of articles on international arbitration, fraud and asset chasing (focusing on Kenya and East Africa generally)
- Contributor: FraudNet Compendium, *International Bar Association Asset Recovery Subcommittee's Global Survey on the Role and standing of corruption victims in criminal proceedings, notably in structured criminal settlements* (FraudNet, 2020)
- Co-Author: *A Gap analysis on standards for Environment, Social and Governance: A Guide for Kenya* (FSD Africa; UK Aid, 2019) <https://www.fsdafrica.org/wp-content/uploads/2019/10/ESG-Final-Report-29.05.2019.pdf>
- Co-Author: Nikhil Desai, Laura Lusiji and Maira Martini and Maggie Murphy. *Toward Beneficial Ownership Transparency in Kenya: An Assessment of the Legal Framework* (DFID, Transparency International, 2017); <https://tikenya.org/wp-content/uploads/2017/11/Beneficial-Ownership.pdf>
- Editorial Team and Contributor: Miles, Fagbohunlu and Shah. *Arbitration in Africa: A Review of Key Jurisdictions* (Sweet & Maxwell, 2016)
- Co-author: *Guerrilla Tactics in International Arbitration* (Kluwer Law International, 2013)

Recent Speaking and Training Engagements

- Speaker on International Arbitration (focusing on East Africa) and fraud forums in a number of jurisdictions including: Vienna; Paris; London; India; South Africa; Zambia; Mozambique; Sudan; Uganda; Tanzania; Rwanda; and Ethiopia.
- Training the Ethics and Anti-Corruption Commission of Kenya (EACC) on an intensive 5-day course on the use of Alternative Dispute Resolution in carrying out their mandate.
- Training the Attorney General's Office in Addis Ababa, Ethiopia on an intense 3-day course on international arbitration.
- Participated in the roundtable discussions hosted by the London Stock Exchange Group on the launch of the Report co-authored by Nikhil on Green financing in Kenya.
- Leading a stakeholder's forum on transparency with regard to beneficial ownership in Kenya which was led by the Business Registration Service, under the Office of the Attorney General, in Nairobi.
- Training law enforcement agencies in 15 countries of tracing of illicit financial flows.

Positions Held

Director, JMiles & Co.	October 2019 – to date
Managing Partner, Desai & Co. Advocates	January 2023 - Present
Assistant Director, JMiles & Co.	January 2016 – September 2019
Senior Associate, JMiles & Co.	January 2014 – December 2015
Associate, JMiles & Co.	September 2012- December 2013
Associate, Anjarwalla & Khanna,	July 2009 – August 2012
Trainee Lawyer and Associate, Daly & Inamdar Advocates	September 2008 – June 2009

Secondment

- Seconded to the law firm Stephenson Harwood LLP's London office
- Carried out a secondment with London based barristers from Essex Court Chambers and Brick Court Chambers.
- Shadowing English High Court Judge, Sir Bernard Eder (now retired), in a week-long hearing at the High Court (Commercial Division) in London.

Membership in Professional Societies:

- Member - Law Society of Kenya
- Fellow – Chartered Institute of Arbitrators
- Chair, ADR Commission – ICC (Kenya)
- Sub - Committee Member - African Arbitration Association (AFAA)
- Country Representative (Kenya) – Delos Dispute Resolution