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Professional Background

John's professional study, training and experience can be summarised as follows:

B.A. (Econ), LL.B.	(Macquarie University, Sydney, Australia),	1981
M.B.A. (Finance)	(Pace University, New York, U.S.A.),	1995
Admitted: Solicitor of the Supreme Court of New South Wales.		1981-1993
Admitted: Barrister and Solicitor of the High Court of Australia.		1982
Admitted: Barrister of the Supreme Court of New South Wales.		1993
Member Australian Institute of Arbitrators and Mediators.		2010-2013

Appeals:

Karpany v Dietman [2013] HCA 47, (2013) 252 CLR 507.

Minister Administering the Crown Lands Act v NSW Aboriginal Land Council [2008] HCA 48; (2008) 237 CLR 285, (2008) 82 ALJR 1505.

Members of the Yorta Yorta Aboriginal Community v Victoria and Ors [2002] HCA 58, 214 CLR 422, 194 ALR 538; 77 ALJR 356.

Lake Torrens Overlap Proceedings No. 3 Appeal SAD249 of 2016, SAD250 of 2016 and SD 251 of 2016) Decision reserved 2 March 2017.

Wyman on behalf of the Bidjara People v Queensland [2015] FCAFC 108, [2015] 324 ALR 454.

Western Australia v Graham (Ngadju People) [2013] FCAFC 143.

Straits Exploration (Australia) P/L v Kokatha Uwankara Native Title Claimants [2013] SASCFC 121.

Commonwealth v Akiba (Torres Strait Sea Claim group) [2012] FCAFC 25, (2012) 204 FCR 260.

Worimi Local Aboriginal Land Council v Minister for Lands [2010] FCAFC 3; (2010) 181 FCR 320.

NSW Aboriginal Land Council v Minister for Lands [2007] NSWCA 281; (2007) 157 LGERA 18.

Commonwealth v Clifton [2007] FCAFC 190, (2007) 164 FCR 355, (2007) 245 ALR 1.

Mogo Local Aboriginal Land Council v Eurobodalla Shire Council [2002] NSWCA 12, (2001) 54 NSWLR 61.

Lawson v Minister for Land and Water Conservation [2004] FCAFC 308, (2004) FCR 548

Members of the Yorta Yorta Aboriginal Community v Victoria and Ors [2001] FCA 45, (2001) 110 FCR 244, (2001) 180 ALR 655.

Concluded contested proceedings for determinations of native title:

Murray (Yilka Native Title Claimants) v Western Australia and ors (No 5) [2016] FCA 752.

Related/Collateral to:

Murray (Yilka Native Title Claimants) v Western Australia and ors (No 4) [2013] FCA 413 (interlocutory strike out application – abuse of process etc.).

Murray (Yilka Native Title Claimants) v Western Australia and ors (No 3) [2010] FCA 1455 (interlocutory application - procedural orders).

Murray (Yilka Native Title Claimants) v Western Australia and ors (No 2) [2010] FCA 926, (2010) 188 FCR 48 (interlocutory application - parties).

Murray (Yilka Native Title Claimants) v Western Australia and ors [2010] FCA 595 (interlocutory application - parties).

Harrington-Smith (Wongatha People) v Native Title Registrar [2007] FCA 414 (application to restrain de-registration of claim).

Harrington-Smith (Wongatha People) v Western Australia [No 9] [2007] FCA 31, [2007] 238 ALR 1 (determination of native title – 1039 pp., 4010 paras).

Harrington-Smith (Wongatha People) v Western Australia [No 8] [2004] FCA 28, [2004] 207 ALR 483 (interlocutory decision – evidence – genealogical charts).

Harrington-Smith (Wongatha People) v Western Australia [No 7] [2003] FCA 893, [2003] 130 FCR 424 (interlocutory decision – 1426 objections to 15 expert evidence).

Harrington-Smith (Wongatha People) v Western Australia [No 6] [2003] FCA 663, (interlocutory decision – contested adjournment application by applicant after 65 hearing days).

Harrington-Smith (Wongatha People) v Western Australia [No 5] [2003] FCA 218, (2003) 197 ALR 138 (interlocutory decision – application by applicant to amend – viability of amendments proposed).

Harrington-Smith (Wongatha People) v Western Australia [No 4] [2003] FCA 17, (interlocutory decision – evidence – hearsay – historical photographs).

Harrington-Smith (Wongatha People) v Western Australia [2002] FCA 934, [2002] 121 FCR 82 (interlocutory decision – giving of evidence accompanied).

Harrington-Smith (Wongatha People) v Western Australia [2002] FCA 871, (interlocutory decision – representation of party by non-lawyer).

Walker (Ngalia Kutjutkatja People) v Western Australia [2002] FCA 869, (interlocutory decision – joinder – interest of proposed party – applicant for mineral exploration licence).

Harrington-Smith (Wongatha People) v Western Australia [No 3] [2002] FCA 632, (interlocutory decision – 8 applications concerning evidence, recall of witnesses, location and manner of receiving and recording evidence).

Harrington-Smith (Wongatha People) v Western Australia [No 2] [2002] FCA 184, (interlocutory decision – joinder – interest of proposed party – industry organisation).

Harrington-Smith (Wongatha People) v Western Australia [2001] FCA 1893, (interlocutory decision – setting aside subpoenas to expert witnesses).

Wyman on behalf of the Bidjara People v Queensland [2013] FCA 1229.

Related/Collateral to:

Wyman (Bidjara People) v State of Queensland and ors [No 4] [2014] FCA 93. (Making of orders).

Wyman (Bidjara People) v State of Queensland and ors [No 3] [2014] FCA 8. (Determination of no native title).

Wyman (Bidjara People) v State of Queensland and ors [No 1] [2013] FCA 366. (Application by competing claimant for leave to appeal from interlocutory decision).

Wyman (Bidjara People) v State of Queensland and ors [2012] FCA 921. (Application to amend to rectify mapping error by commencing further proceedings).

Wyman (Bidjara People) v State of Queensland and ors [2012] FCA 454. (Application for summary dismissal).

Wyman (Bidjara People) v State of Queensland and ors [2012] FCA 416. (Application to restrict use of materials held by expert).

Wyman (Bidjara People) v State of Queensland and ors [2012] FCA 397. (Application to restrict access to materials held by expert).

Graham (Ngadju People) v Western Australia and ors [2014] FCA 1247.

Related/Collateral to:

Graham (Ngadju People) v Western Australia and ors [2014] FCA 700. (Addendum, after further submissions, to findings on extinguishment at first instance).

Graham (Ngadju People) v Western Australia and ors [2014] FCA 516. (Findings on extinguishment at first instance).

Graham (Ngadju People) v Western Australia and ors. [2012] FCA 1455. (Findings on connection at first instance).

Akiba (Torres Strait Sea Claim Group) v Queensland (No3)[2010] FCA 643 (2012) 204 FCR 1.

Related/Collateral to:

Akiba (Torres Strait Sea Claim Group) v Queensland (No.2) [2010] FCA 643; (2010) 184 FCR 406, (Production of documents used or produced by anthropologist).

Members of the Yorta Yorta Aboriginal Community v Victoria and Ors [1998] FCA 1606.

Related/Collateral to:

Members of the Yorta Yorta Aboriginal Community v Victoria and Ors [1997] FCA 1181 (Evidence of distinctive customs).

Members of the Yorta Yorta Aboriginal Community v Victoria and Ors [1996] FCA 453 (Standing of parties – joinder).

Proceedings related to native title seeking relief other than a determination.

Re: Kelaray Pty Limited and Straits Exploration (Australia) Pty Limited, Ex Parte Mining Act s63N [2017] SAEDRC 14. (Determination under alternative State provisions to NTA Subdivision P of application to conduct mining operations (exploration) on ‘native title land’).

Related/Collateral to:

Starkey (Kokatha People) v South Australia and Ors [2016] FCA 1577. (Application for stay of orders or injunction following dismissal of claimant application).

Lake Torrens Overlap Proceedings (No 3) [2016] FCA 899.

Lake Torrens Overlap Proceedings (No 2) [2015] FCA 519.

Lake Torrens Overlap Proceedings [2015] FCA 1195.

Straits Exploration (Australia) P/L v Kokatha Uwankara Native Title Claimants [2013] SASCFC 121 (Appeal from EDR Court decision and application for Judicial review).

Straits Exploration (Australia) P/L v Kokatha Uwankara Native Title Claimants [2011] SAEDRC 2. Determination under alternative State provisions to NTA Subdivision P of application to conduct mining operations (exploration) on ‘native title land’. Extinguishment of native title.

Straits Exploration (Australia) P/L v Kokatha Uwankara Native Title Claimants [2010] SAEDRC 55.

Budby (Barada Barna People) v Queensland [No.7], [2016] FCA 1271. (Overlapping claimants to determination of native title, consent determination).

Related/Collateral to:

Pegler (Widi People of the Nebo Estate) v Queensland [2016] FCA 1272. (Overlapping consent determination of native title).

Budby (Barada Barna People) v Queensland [No 6], [2016] FCA 1271. (Overlapping Determinations of native title to shared area).

Hunter and Dunrobin (Wierdi People) v Queensland 28 June 2016, Federal Court of Australia, Dowsett J. Reasons not published. (Interlocutory application by Budby to join and seek dismissal of overlapping claim filed days before listing of proceedings for consent determination).

Budby (Barada Barna People) v Queensland [No 5] [2015] FCA 1511 (interlocutory application by dissident indigenous parties to join proceedings as respondents).

Budby (Barada Barna People) v Queensland [No 4] [2014] FCA 801 (interlocutory application by dissident indigenous party to join proceedings as respondent).

Budby (Barada Barna People) v Native Title Registrar [2015] FCA 629, (2015) 228 FCR 434 (Proceedings under *Administrative Decisions (Judicial Review) Act* to review registration decision).

Budby (Barada Barna People) v Queensland [No 3] [2014] FCA 607 (interlocutory decision concerning programming orders in three overlapping proceedings).

Wullli Wullli Nation Aboriginal Corporation v Auburn Dawson People Limited (atf The Auburn Dawson Peoples Trust) Federal Court of Australia, Reeves J, 19 March 2013. (Application to replace trustee company appointed before determination with PBC).

Related/Collateral to:

Anderson (Wullli Wullli People) v Queensland (No 3) [2015] FCA 821 (consent determination).

NSW Department of Primary Industries v Ardler and Brown (Unreported, Local Court of NSW at Nowra, Dr Gabriel Fleming LCM, 19 March 2013). (Costs of \$200,000.00 awarded to defendant Aboriginal gatherers of abalone on withdrawal of prosecution during hearing.)

Related/Collateral to:

Andrews v Ardler and Brown [2013] DCNSW 94; (2012) 16 DCLR 339, (Appeal to District Court of New South Wales from magistrates earlier costs order.)

Andrews (NSW Fisheries) v Ardler and Brown (Unreported, Local Court of NSW at Nowra, Dr Gabriel Fleming LCM, 19 March 2013) (Costs of \$200,000.00 awarded to defendant Aboriginal gatherers of abalone on withdrawal of prosecution during hearing.)

Andrews v Ardler and Brown [2012] NSWSC 845; (2012) 266 FLR 177. (Appeal to Supreme Court from separate question determined by magistrate, as to availability of “mistake of fact” defence in relation to defendant’s belief that he holds native title.)

O’Mara and Syme v Minister for Land and Water Conservation (NSW) and anor [2008] FCA 51, (2008) 167 FCR 145. (Interlocutory Application by members of deadlocked claimant group for injunction to restrain third parties (State and Moorabbin Coal) from permitting coal mining).

Rigby and Others v NSW Fisheries. (unreported District Court of NSW, Blanch CJ, 14 Dec. 2007). (Appeal by defendants after reliance on NTA s211 in prosecution for fisheries offences.)

Related/Collateral to:

NSW Fisheries v Rigby and Others (unreported Local Court of NSW, Magistrate Lyon, 2 Dec. 2005).

(Conviction of 11 Aboriginal defendants for fisheries offences notwithstanding reliance on NTA s211.)

Mason and Others v Lyon and Another.[2005] NSWSC 804 (Appeal from ruling in Local Court).

Brown v NSW Coal Compensation Board (CCRT 2007/30-32) (One of thirteen appeals from decision of Coal Compensation Board refusing compensation to Aboriginal people for compulsory acquisition of coalfields.)

Related/Collateral to:

Cruse v NSW Coal Compensation Board (CCRT 2007/33-35)

Coyte v NSW Coal Compensation Board (CCRT 2007/26-27)

Matthews v NSW Coal Compensation Board (CCRT 2007/28/29)

Northern Illawarra Aboriginal Collective Inc v NSW Coal Compensation Board (CCRT 2007/36-38)

Kanak v Minister for Land and Water Conservation [2000] FCA 1105, (2001) 106 FCR 31, (2001) 180 ALR 489. (Dismissal of unauthorized non-claimant application seeking positive determination of native title and collateral injunctions as abuse of process.)

Related/Collateral to:

Kanak v Minister for Land and Water Conservation [2000] FCA 1553.(Application for leave to appeal from decision to strike out proceedings.)

Taking of preservation evidence in various proceedings:

Yaegl people v Minister for Lands (NSW)-NG 6052/98. (NNTT Member Sosso), 24 to 26 May 2011. North Coast New South Wales - proceedings later resolved by consent.

Anderson Gunai-Kurnai People v Victoria – VID 6007/98,VID 398/2005. (North J), 3 to 5 and 10 to 11 December 2007. Victoria – Gippsland area, proceedings later resolved by consent.

Kaanju, Umpita, Lamalama & Ayaputha v Queensland -QUD 6117/98. (Greenwood J.) 14 to 16 July 2007. Eastern Cape York - proceedings later resolved by consent.

Blacklock (Nucoorilma Clan, Gamilaroi People) v Minister, NSD 6106/98. (Buchanan J), 5-7

December 2006. New South Wales – Armidale area. Proceedings later dismissed.

McKenzie (Kuyani People) v South Australia – SAD 6004/98. (Finn J), 25 to 28 October 2004. South Australia - Port Augusta area. Proceedings later dismissed.

Sir Samuel and Tjupan claimants v Western Australia - WAG 6001/98. (Sackville J), 18 to 21 October 2004. Western Australia – Leinster area, Proceedings later discontinued.

Dimer (Esperance Nyungar people) v Western Australia –WAG 6097/1998. (Giles J), 2 to 4 and 7 to 10 April 2003. Western Australia – Esperance area. Subsequent ‘Early Neutral Evaluation’ by the Hon. John Lockhart (retired Federal Court Justice). Proceedings later resolved by consent.

Kennedy (Wotjobaluk people) v Victoria – VID 6005/1999. (NNTT President Graham Neate), 17 March 2003. Victoria – Horsham area. Proceedings later resolved by consent.

Wilson (Bandjalang people) v New South Wales – NG 6034/98. (Hely J), 21 to 25 and 28 to 29 October 2002. New South Wales – Evans Head area). Proceedings later resolved by consent.

Gundangara Tribal Aboriginal Corp. v New South Wales – NG 6060/98. Wilcox J, 17-18 September 2002. New South Wales – Goulburn area. Proceedings later dismissed.

Appearances in Future Act processes in the National Native Title Tribunal.

White Mining (NSW) Pty Ltd, Austral-Asia Coal Holdings Pty Ltd & ICRA Ashton Pty Ltd/Scott Franks & Anor (Plains Clans of the Wonnarua People)/New South Wales [2011] NNTTA 110

Coalpac Pty Ltd, / North Eastern Wiradjuri People of the Bathurst, Lithgow, Mudgee area /State of New South Wales [2009] NNTTA 137.

Related/Collateral to:

Coalpac Pty Ltd, / North Eastern Wiradjuri People of the Bathurst, Lithgow, Mudgee area /State of New South Wales [2009] NNTTA 133.

Carol Dawn Bissett and Another / Mineral Deposits (Operations) Pty Limited / New South Wales [2001] NNTTA 104.

Some matters unconnected with native title.

Estate of the Late Akos Balazs Melegh [2016] NSWSC 584.

Related/Collateral to:

Estate of the Late Akos Balazs Melegh [2016] NSWSC 249.

Administration of estate of deceased with no Australian relatives – superannuation death benefit - competing applications for probate – questionable wills – other suspicious circumstances – solicitor/executors move to remove caveat, strike out administration claim – collateral claim for family provision by surprise de-facto beneficiary under questioned wills – claims for commission and or costs by ‘solicitor/executors’ under ‘wills’ – fraud - conduct concerning creation of ‘wills’ referred to Attorney General – costs.

Ray and others v Eastern Suburbs Motor Cycle Club Inc. and ors [2012] NSWSC 1151.

Application for judicial advice on distribution of proceeds of sale of land held by trustees for unincorporated association. Affairs of association later informally ‘taken over’ by incorporated association formed years later. Documents lodged at time of incorporation described association as ‘new’, not successor to unincorporated body. ‘Life members’ of (former) unincorporated association asserted continuing parallel existence (albeit inactive) of unincorporated association and asserted beneficial entitlement to funds.

Inquest into the death of Private Jacob Kovco.

(Unreported, Magistrate Mary Jerram, State Coroner with a jury, 1 April 2008)

Private Jacob Kovco was an Australian soldier deployed in Iraq. He was fatally wounded by a single upwardly directed shot to the head from his own Browning 9mm sidearm. The incident occurred within Bagdad's (less dangerous) red zone inside the fortified and secure Australian Embassy compound in a closed 'donga' which he shared with two other soldiers, both of whom were present in the closed room at the time of Kovco's death.

A military inquiry found that Kovco accidentally shot himself while mishandling his pistol. Private Kovco's mother disputed this version of events and drew support from a series of misstatements and mishandled events following the death (such as repatriation of the wrong body). Private Kovco's mother secured a civil inquest with a jury (unique and no longer possible in New South Wales).