

## CURRICULUM VITAE

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Academic Record: B.A. (1985) and LL.B. (Hons) (1987) (Monash University)

Admission: 2 May 1988

Signed Bar Roll: 28 November 1991

Appointed Senior Counsel: 26 November 2008

December 1991 to March 1993 and February 1994 to Present  
Barrister, Division A, Part I (Victorian Practising Counsel)

Main areas of practice: Appeals, Judicial Review, Equity, Property

General commercial and public law practice, including engagement in a series of test cases:  
see attached list of cases

Rankings: Chambers and Partners, Native Title Bar (Band 1); Doyle's Guide, Leading Native  
Title Barristers (Pre-eminent)

Previous experience

March 1993 to January 1994  
Law Officer, Parliament of Victoria

November 1989 to July 1991  
Law Officer, Parliament of Australia

March 1987 to November 1989  
Articles of Clerkship and Solicitor, Minter Ellison, Melbourne

## CASES

### **High Court**

#### Appeals

*Aboriginal Areas Protection Authority v Director of National Parks* [2024] HCA 16; 98 ALJR 655; 259 LGERA 655 – Crown immunity

*Harvey v Minister for Primary Industry and Resources* [2024] HCA 1; 98 ALJR 168; 259 LGERA 251 – mining leases – statutory interpretation

*Minister for Immigration v Montgomery* [2022] HCATrans 51–52 (discontinued) constitutional law – aliens power and Indigenous Australians

*Northern Land Council v Quall* [2020] HCA 33; 271 CLR 394; 94 ALJR 904; 383 ALR 378 – administrative law – delegation and agency

*Northern Territory v Griffiths* [2019] HCA 7; 269 CLR 1; 93 ALJR 327; 364 ALR 208; 235 LGERA 212 – assessment of native title compensation (*Northern Territory v Griffiths (No 2)* [2019] HCA 19; 93 ALJR 803; 368 ALR 77 – suppression orders)

*Tjungarrayi v Western Australia* [2019] HCA 12; 269 CLR 150 93 ALJR 556; 366 ALR 603 – mining tenements

*Queensland v Congoo* [2015] HCA 17; 256 CLR 239; 89 ALJR 538; 320 ALR 1; 147 ALD 1 – effect of war time military orders on native title

*Wurridjal v Commonwealth* [2009] HCA 2; 237 CLR 309; 83 ALJR 399; 252 ALR 232; 169 LGERA 108 – Northern Territory intervention – acquisition of property on just terms

*Northern Territory v Arnhem Land Aboriginal Land Trust* [2008] HCA 29; 236 CLR 24; 248 ALR 195; 82 ALJR 1099 – Blue Mud Bay Case – rights to exclude from tidal waters

*Griffiths v Minister for Lands* [2008] HCA 20; 235 CLR 232; 82 ALJR 899; 246 ALR 218; 161 LGERA 344 – compulsory acquisition powers and racial discrimination

*News Ltd v South Sydney District Rugby League Football Club Ltd* [2003] HCA 45; (2003) 215 CLR 563; 77 ALJR 1515; 200 ALR 157; 77; ATPR 41–943; Aust Contract R 90–176 – NRL merger – exclusionary provisions under *Trade Practices Act 1974* (Cth)

*Western Australia v Ward* [2002] HCA 28; 213 CLR 1; 76 ALJR 1098; 191 ALR 1; ANZ ConvR 446 – tests for extinguishment of native title

*Risk v Northern Territory* [2002] HCA 23; 210 CLR 392; 76 ALJR 845; 188 ALR 376 – title to bays and gulfs

*Commonwealth v Yarmirr* [2001] HCA 56; 208 CLR 1; 75 ALJR 1582; 184 ALR 113 – Croker Island Case – recognition of native title to waters of the sea

#### Special Leave Applications

*Commonwealth v Yunupingu* [2023] HCATrans 143 constitutional law – native title and just terms

*Aboriginal Areas Protection Authority v Director of National Parks* [2023] HCATrans 2023 – Crown immunity

*Harvey v Minister for Primary Industry and Resources* [2022] HCATrans 229 – mining leases – statutory interpretation

*Northern Land Council v Quall* [2019] HCATrans 232 – administrative law – delegation  
*Western Australia v Manado* [2019] HCATrans 132 – public access to beaches  
*Tjungarrayi v Western Australia* [2018] HCATrans 124 – mining tenements  
*Commonwealth v Griffiths* [2018] HCATrans 028 – assessment of native title compensation  
*Rirratjingu Aboriginal Corporation v Northern Land Council* [2017] HCATrans 188 – mine royalties – statutory trusts  
*Western Australia v Banjima* [2016] HCATrans 172 – mining tenements and proof of rights to exclusive possession  
*Queensland v Congoo* [2014] HCATrans 271 – effect of war time military orders on native title  
*Reading Entertainment v Burstone Victoria* [2008] HCATrans 208 – proof of contract damages  
*Northern Territory v Griffiths* [2008] HCATrans 123 – disregarding historical extinguishment  
*Risk v Northern Territory of Australia* [2007] HCATrans 472 – continuity in observance of traditional laws and customs in native title  
*Northern Territory v Arnhem Land Aboriginal Land Trust* [2007] HCATrans – Blue Mud Bay Case – rights to exclude from tidal waters  
*Griffiths v Minister for Lands* – compulsory acquisition powers [2007] HCATrans 320  
*Northern Territory v Alyawarr* [2006] HCATrans 251 – disregarding historical extinguishment  
*Lansen v Northern Territory* [2005] HCATrans 437 – statutory exceptions to Torrens title  
*Dexcam v Deputy Commissioner of Taxation* [2004] HCATrans 19 – taxation set-offs in insolvency  
*Northern Territory v Olney* [2003] HCATrans 811 – grant of foreshore  
*Risk v Northern Territory* [2001] HCATrans 442– title to bays and gulfs  
*Person Charged v Director of Public Prosecutions* [2001] HCATrans 441 – defence of claim as of right

### **Federal Court**

*Northern Territory v Aboriginal Land Commissioner* [2023] FCA 1183 – judicial review – whether bed of estuary land  
*Yunupingu v Commonwealth* [2023] FCAFC 75; 298 FCR 160; 410 ALR 231 – constitutional law – native title and just terms  
*Davey v Northern Territory (No 2)* [2023] FCA 455 – powers to order access and inspection  
*Davey v Northern Territory* [2023] FCA 303 – pleadings  
*Harvey v Minister for Primary Industry and Resources* [2022] FCAFC 66; 291 FCR 263; 401 ALR 578 – mining leases – statutory interpretation  
*Top End Aboriginal Corporation v Northern Territory* [2022] FCA 74; 403 ALR 666 – variation of native title determinations  
*Friday v Minister for Primary Industry and Resources* [2021] FCA 794 – mining leases  
*Northern Land Council v Quall (No 3)* [2021] FCAFC 2 – procedure – further evidence on appeal  
*Friday v Minister for Resources* [2020] FCA 984 – legal privilege

*Roberts v Attorney-General (NSW)* [2020] FCAFC 103; 277 FCR 170 – procedure – separate questions (*Roberts v Attorney-General (NSW) (No.2)* [2020] FCAFC 128 – procedure – time limits)

*Bell v Queensland* [2020] FCA 695 – practice – joinder

*Fulton v Northern Territory* [2019] FCA 2516 – pastoral improvements

*Malone v Queensland* [2019] FCA 2115 – practice – joinder

*Ellis v Central Land Council* [2019] FCAFC 1; 267 FCR 339; 64 ALR 446 – judicial review, evidence (*Ellis v Central Land Council (No 2)* [2019] FCAFC 11 – appeal costs)

*Ellis v Central Land Council* [2018] FCA 35; 355 ALR 93; 161 ALD 93 – judicial review

*BHP Billiton v KN* [2018] FCAFC 8; 258 FCR 521; 351 ALR 491 – native title: extinguishment

*Northern Territory v Griffiths* [2017] FCAFC 106; 256 FCR 478; 346 ALR 247 – native title compensation: principles for assessment

*Warrie v Western Australia (No 2)* [2017] FCA 1299; 366 ALR 467 – native title: form of relief

*Warrie v Western Australia* [2017] FCA 803; 365 ALR 624 – native title: extinguishment

*Tjungarrayi v Western Australia* [2017] FCA 587 – petroleum exploration licences

*Rirratjingu Aboriginal Corporation v Northern Land Council* [2017] FCAFC 48; 248 FCR 349; 352 ALR 589 – mine royalties – statutory trusts

*Griffiths v Northern Territory* [2016] FCA 900; 337 ALR 362; 152 ALD 72 – native title compensation: principles for assessment

*Margarula v Northern Territory* [2016] FCA 1018; 257 FCR 226; 338 ALR 464 – Kakadu Park: effects of Territory self-government

*Hughes v Western Australia* [2016] FCA 840 – principles leave to appeal summary disposition

*TJ v Western Australia* [2016] FCA 231 – procedure - abuse of process by delay

*Wintawari Corporation v Western Australia* [2015] FCA 1053; 238 FCR 428 – powers to vary native title determination

*Rirratjingu Aboriginal Corporation v Northern Land Council* [2015] FCA 36; 324 ALR 240 – statutory trusts

*Congoo v Queensland* [2014] FCAFC 9; 218 FCR 358; 310 ALR 28 – acquisition of property on just terms

*Griffiths v Northern Territory* [2014] FCA 256 – native title compensation: liability

*Gondarra v Minister for Indigenous Affairs* [2014] FCA 139 – costs in public interest litigation

*Gondarra v Minister for Indigenous Affairs* [2014] FCA 16; 311 ALR 21 – summary procedure for specific performance

*Gondarra v Minister for Indigenous Affairs* [2014] FCA 25; 220 FCR 202; 311 ALR 41 – judicial review – natural justice

*Gondarra v Minister for Indigenous Affairs* [2012] FCA 185; 127 ALD 288 – evidence – advance rulings on admissibility

*Wong v Australian Pharmacy Authority* [2011] FCA 52; 193 FCR 490 – judicial review – pharmacy approvals

*Huddleston v Aboriginal Land Commissioner* [2010] FCAFC 66; 184 FCR 551; 268 ALR 454 – judicial review – procedural fairness

*Margarula v Northern Territory* [2009] FCA 290; 175 FCR 333 – disqualification for apprehended bias

*Lansen v Minister for Environment* [2008] FCAFC 189; 174 FCR 14; 163 LGERA 145; 106 ALD 232 – judicial review – environmental law

*Lansen v Minister for Environment (No.3)* [2008] FCA 1367; 162 LGERA 258 – costs in public interest litigation

*Lansen v Minister for Environment* [2008] FCA 903; 102 ALD 558 – judicial review – environmental law

*Foster v Que Noy* [2008] FCAFC 56 – applications to replace native title claimants

*Hazelbane v Doepel* [2008] FCA 290; 167 FCR 325 – judicial review – registration of overlapping native title claims

*Hazelbane v Northern Territory* [2008] FCA 291 – principles for summary dismissal of native title claims

*King v Northern Territory* [2007] FCA 944; 162 FCR 89 – native title and pastoral enterprises

*Griffiths v Northern Territory* [2007] FCAFC 178; 165 FCR 391; 243 ALR 72 – principles for proof of exclusive possession

*Gamogab v Akiba* [2007] FCAFC 74; 159 FCR 578 – joinder of PNG parties

*Jango v Northern Territory* [2007] FCAFC 101; 159 FCR 531; 240 ALR 432 – pleading of native title claims and effect of Torrens title

*Risk v Northern Territory of Australia* [2007] FCAFC 46; 240 ALR 74 – continuity in observance of traditional laws and customs in native title

*Gumana v Northern Territory* [2007] FCAFC 23; 158 FCR 349; 239 ALR 272 – Blue Mud Bay Case – effect of fee simple grant of land to low water mark

*Gumana v Northern Territory* [2005] FCA 50; 141 FCR 457; 218 ALR 292 – claims to rights to exclude from waters

*Lansen v Northern Territory* [2004] FCAFC 257; 138 FCR 563; 211 ALR 365 – statutory exceptions to Torrens title

*Raymond v Northern Territory* [2004] FCAFC 258; 139 FCR 493; 210 ALR 496 – judicial review – jurisdictional conditions

*Commissioner of Taxation v Dexcam Australia* [2003] FCAFC 148; 129 FCR 582; 53 ATR 252; 46 ACSR 406; 2004 ATC 4598 – revenue – taxation set-offs in insolvency

*Northern Territory v Olney* [2002] FCAFC 280; 123 FCR 580; 192 ALR 116 – judicial review – recommendations for grant of foreshore and rivers

*Director of Fisheries v Arnhem Land Aboriginal Land Trust* [2001] FCA 98; 109 FCR 448; 185 ALR 649 – effects of fee simple grant of land to low water mark

*Opal Maritime Agencies v Proceeds of Sale of the Vessel MV Skulptor Konenkov* [2000] FCA 507; 98 FCR 519; 172 ALR 481 – *in rem* claims under *Admiralty Act 1988* (Cth)

*Arnhem Land Aboriginal Land Trust and Another v Director of Fisheries* [2000] FCA 165; 170 ALR 1 – rights to fish and navigate tidal waters

*Dexcam Australia Pty Ltd v Commissioner of Taxation* [1999] FCA 1784; 43 ATR 187 – procedure on stating case

*Patrick Stevedores No 2 v Proceeds of Sale of the Vessel MV Skulptor Konenkov* [1998] FCA 16899; FCA 99; 81 FCR 16; 161 ALR 131 – running account in admiralty claims

*O D Transport (Australia) Pty Ltd (In Liquidation) v O D Transport Pty Ltd* [1997] FCA 1412; 80 FCR 290 – leave to cross-claim against company in liquidation

*Patrick Stevedores No 2 Pty Ltd v Proceeds of Sale of the Vessel MV Skulptor Konenkov* [1997] FCA 1634; 150 ALR 651 – shipping agent claims in admiralty

*Arnhem Land Aboriginal Land Trust v Minister for Mines and Energy* [1997] FCA 1015; 78 FCR 556 – cross-vesting jurisdiction of Federal Court

### **Supreme Courts**

*Ex parte Northern Land Council* [2024] NTSC 34 – land law – unallocated trust funds

*Aboriginal Areas Protection Authority v Director of National Parks* [2022] NTFSC 1 – constitutional law: immunity of Crown from criminal prosecution

*Free Serbian Orthodox Church-Diocese Property Trust v Bishop Irinej* [2017] NSWCA 28; 94 NSWLR 340 – implied religious charitable trusts and cy pres

*Free Serbian Orthodox Church-Diocese Property Trust v Bishop Irinej* [2017] NSWCA 109 – loss of trustee's right to indemnity for costs

*Secretary, Department of Health v AA* [2017] VSC 34; 51 VR 714; 318 FLR 383 – constitutional law: migration and child welfare

*Bishop Irinej v Free Serbian Orthodox Church-Diocese Property Trust No. 2* [2015] NSWSC 1976 – cy pres schemes

*Bishop Irinej v Free Serbian Orthodox Church-Diocese Property Trust* [2015] NSWSC 637 – implied religious charitable trusts

*Plan B Trustees v Parker* [2013] WASC 216; 11 ASTLR 242 – judicial directions to trustee of charitable trust

*Lord Buddha v Harpur* [2013] VSCA 101; 41 VR 159 – principles for proof of misleading and deceptive conduct

*Free Serbian Orthodox Church-Diocese for Australia and New Zealand* [2012] NSWSC 649 – directions to trustee of charitable trust

*Fitzroy Football Club v Brisbane Bears Football Club* [2010] VSC 180 – security for costs in public interest litigation

*McArthur River Mining v Lansen* [2007] NTCA 5; 21 NTLR 6 – effects of validating legislation on earlier court orders

*Lansen v Minister for Mines and Energy* [2007] NTSC 36 – costs in judicial review

*Lansen v Minister for Mines and Energy* [2007] NTSC 28; 20 NTLR 6 – judicial review – approval of open cut mine under *Mining Management Act 2001* (NT)

*Reading Entertainment v Whitehorse Property Group* [2007] VSCA 309 – proof of contract damages

*Minister for Lands, Planning and Environment v Griffiths* [2004] NTCA 5; 14 NTLR 188; 133 LGERA 203 – judicial review - improper use of powers of compulsory acquisition of land

*Reading Entertainment v Burstone Victoria* [2004] VSC 546 – joint venture claims in contract

*Griffiths v Lands and Mining Tribunal* [2003] NTSC 86; 179 FLR 241 – judicial review – compulsory acquisition of land

*Northern Land Council v Commissioner of Taxes* [2002] NTCA 11; 12 NTLR 86; 141 NTR 1; 171 FLR 255; 2002 ATC 5117; 51 ATR 365 – revenue - pay-roll tax exemptions for public benevolent institutions

*Radmanovich v Nedeljkovic* [2001] NSWSC 492; 52 NSWLR 641 – religious charitable trusts

*Northern Land Council v Commissioner of Taxes* [2001] NTSC 115; ATC 4040; 48 ATR 700 – revenue - pay-roll tax exemptions for public benevolent institutions

*Attorney-General (Vic) v St John Prodomos Orthodox Community Inc* [2000] VSC 12 – religious charitable trusts

*Clancy v West* [1996] VicRp 92; 2 VR 647 – judicial review – jurisdiction of coroner

*Re Marvin Manufacturers; New Zealand Steel Australia v Burton* [1994] VSC 262; 13 ACSR 610; 12 ACLC 586 – whether examination of directors an abuse of process