



Curriculum vitae – John Louis Whitington

Employment History

John Whitington joined the Adelaide based Australian law firm *Griffin Hilditch* as a Graduate Clerk in August 2004 and was admitted to practice in December 2004.

John has worked with *Griffin Hilditch* (now known as Griffins Lawyers) for the past 13 years as a member of the Commercial Litigation Group.

Griffin Hilditch changed its name to *Griffins Lawyers* on 1 July 2010.

Qualifications

Admitted as a Legal Practitioner of the Supreme Court of the Northern Territory of Australia, December 2004

Admitted as a Barrister and Solicitor of the Supreme Court of South Australia, January 2005

Admitted as a Barrister and Solicitor of the High Court of Australia, November 2005

Bachelor of Laws, Charles Darwin University, Australia, 2003

Graduate Diploma in Legal Practice, the College of Law, Sydney, 2004

Graduate Diploma in Applied Finance and Investment, the Financial Services Institute of Australasia (FINSIA), 2010

Professional Experience

John's recent professional experience includes:

Reported decisions

1. *Re Day [No.2]* [2017] HCA 14 (5 April 2017) – John acted as instructing solicitor for former Senator Bob Day in the High Court proceedings (sitting as the Court of Disputed Returns) respecting Senator Day's eligibility to sit in the Senate by reason of s 44(v) of the Constitution. (John also acted for current Senator Lucy Gichuhi in the proceedings following the special re-count of the Senate Ballot papers).
2. *Re Day* [2017] HCA 2 (27 January 2017) – John acted as instructing solicitor for former Senator Day in the factual trial before Gordon J in the High Court proceeding.
3. *Clone Pty Ltd v Players Pty Ltd (In Liquidation)* [2016] SASCFC 134 (Full Court) (8 December 2016) – John acted as instructing solicitor for the Players Parties (Note: Clone Pty Ltd was granted special leave to appeal to the High Court on a limited basis: see [2017] HCATrans 130 (16 June 2017)).



Curriculum vitae – John Louis Whittington

4. *Acquista Investments Pty Ltd & Anor v The Urban Renewal Authority (A Statutory Corporation) & Ors* [2015] HCATrans 295 (13 November 2015) – John acted as instructing solicitor for the applicants who were successful in obtaining special leave to appeal to the High Court. (Note: the matter was settled shortly before the Full Court hearing).
 5. *Players Pty Ltd (in Liquidation) (Receivers Appointed) & Ors v Clone Pty Ltd (No 2)* [2015] SASC 178 (9 November 2015) – John acted as instructing solicitor for the Players Parties.
 6. *Tait v P.T. Limited as trustee of the Scentre Tuggerah Trust* [2015] FCA 1015 (11 September 2015) – John acted as instructing solicitor for the applicant who obtained a mandatory injunction.
 7. *Players Pty Ltd (In Liquidation) (Receivers Appointed) & Ors v Clone Pty Ltd* [2015] SASC 133 (28 August 2015) – John acted as instructing solicitor for the Players Parties at the trial.
 8. *Acquista Investments Pty Ltd & Anor v The Urban Renewal Authority & Ors* [2015] SASCFC 91 (Full Court) (20 July 2015) – John acted as instructing solicitor for the appellants.
 9. *Acquista Investments Pty Ltd & Anor v The Urban Renewal Authority & Ors (No. 2)* [2015] SASCFC 117 (Full Court) (18 August 2015).
 10. *Lockyear & Ors v Niehus & Anor* [2015] SASC 74 (19 May 2015) – John appeared as counsel for the plaintiffs.
 11. *Acquista Investments Pty Ltd & Anor v The Urban Renewal Authority & Ors* [2014] SASC 206 (24 December 2014) (the “Gillman Land case”) – John acted as instructing solicitor and junior counsel for the plaintiffs.
 12. *Milisits v The State of South Australia* [2014] SASCFC 67 (4 July 2014) – John appeared as junior counsel for the appellant (plaintiff) in the Full Court (and also in the subsequent application for Special Leave to appeal to the High Court which was successfully resisted).
 13. *Sheahan, in the matter of Atsikbasis Nominees Pty Ltd (in Liquidation) (No 5)* [2013] FCA 1214 (19 November 2013). John acted as instructing solicitor for the plaintiff Liquidator in the *Atsikbasis Nominees* litigation.
 14. *Sheahan, in the matter of Atsikbasis Nominees Pty Ltd (in Liquidation) (No 4)* [2013] FCA 1148 (5 November 2013).
 15. *Sheahan, in the matter of Atsikbasis Nominees Pty Ltd (in Liquidation) (No 3)* [2013] FCA 982 (25 September 2013).
 16. *The State of South Australia v Milisits* [2013] SASC 189.
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Curriculum vitae – John Louis Whitington

17. *Sheahan, in the matter of Atsikbasis Nominees Pty Ltd (in Liquidation) (No 2)* [2013] FCA 724 (24 July 2013).
 18. *Donovan v Sheahan as Trustee of the Bankrupt Estate of Donovan* [2013] FCA 437 (15 May 2013) – John acted as instructing solicitor for the respondent trustees (the applicants for directions).
 19. *Sheahan, in the matter of Atsikbasis Nominees Pty Ltd (in Liquidation)* [2013] FCA 44 (5 February 2013).
 20. *Cornes v The Ten Group Pty Ltd & Ors* [2012] SASCFC 99 (Full Court) – John appeared as junior counsel for the plaintiff (respondent).
 21. *Sheahan in the matter of Gemhall Holdings Pty Ltd (in liquidation) v Lo Pilato* [2012] FCA 700 (29 June 2012) – John acted as instructing solicitor for the plaintiff trustee.
 22. *Rini Coolen v Adelaide United Football Club Pty Ltd (ACN 136 768 539)* [2012] SADC 179 – John acted as instructing solicitor for the defendant/appellant (and junior counsel at trial).
 23. *Cornes v The Ten Group Pty Ltd & Ors* [2012] SASCFC 106.
 24. *Cornes v The Ten Group Pty Ltd & Ors* [2011] SASC 104 – John appeared as junior counsel for the plaintiff.
 25. *Cornes v The Ten Group Pty Ltd & Ors (No.2)* [2011] SASC 141.
 26. *Taekwondo Australia Ltd v TKD Sports Taekwondo Australia Incorporated* [2010] FCA 1492 – John acted as instructing solicitor for the plaintiff/applicant.
 27. *Devere Legal Pty Ltd (In Liquidation) (ACN 125 641 787) v Greener Investments Pty Ltd (In Administration) (ACN 110 036 452)* [2010] FCA 789 – John appeared as counsel for the plaintiff.
 28. *Rozaklis v Samra* [2010] FMCA 579 – John appeared as junior counsel for the applicant.
 29. *Burrell & Family Pty Ltd v Harris* [2010] SASC 184 – John acted as instructing solicitor for the plaintiff.
 30. *Foti v P & S Investments Pty Ltd* [2009] FCA 1409 – John acted as instructing solicitor for the plaintiff.
 31. *Hardel Pty Ltd v Burrell & Family Pty Ltd* [2009] SASC 77 (Full Court) – John acted as instructing solicitor for the respondent/defendant.
 32. *Scholle Industries Pty Ltd v AEP Industries (NZ) Ltd & Anor* [2009] SASC 145 - John acted as instructing solicitor for the second defendant.
 33. *Scholle Industries Pty Ltd v AEP Industries (NZ) Limited & Anor* [2007] SASC 322.
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Curriculum vitae – John Louis Whittington

34. *Registrar of the District Court of South Australia v Nicholas David Cooper as Official Liquidator of JM Properties Pty Ltd (in liquidation) (ACN 062 504 590) [2007] FCA 42* – John appeared as counsel for the applicant.
35. *JM Properties Pty Ltd v Strata Corporation No 13975 Inc & Ors (No.3) [2006] SADC 46.*
36. *JM Properties Pty Ltd v Strata Corporation No 13975 Inc & Ors (No.2) [2005] SADC 105* – John acted as solicitor for the 3rd, 4th and 6th defendants (the applicants for the Mareva injunction).

Supreme Court of WA (Court of Appeal)

1. *Broadwater Hospitality Management Pty Ltd v Primewest (Lot 4 Davidson Street Kalgoorlie) Pty Ltd [2009] WASCA 230* – John acted as instructing solicitor for the appellant (applicant for the stay).
2. *Broadwater Hospitality Management Pty Ltd v Primewest (Lot 4 Davidson Street Kalgoorlie) Pty Ltd [No.2] [2010] WASCA 174.*

Supreme Court of the Northern Territory

3. *Henderson & Ors v Purairclean Pty Ltd & Anor (No 3) [2013] NTSC 73 (Unreported)* – John appeared as counsel for the respondents to the application (the defendants).

Other matters

- Instructing solicitor in a large product liability claim in the Supreme Court of SA on behalf of a London based plastics designer/manufacturer being sued for circa AUD 20 million arising from a substantial product recall throughout Europe and the United Kingdom. The matter involved numerous interlocutory arguments concerning pleadings, discovery, non-party discovery, confidentiality regimes with respect to commercially sensitive documents, the assignment of a tortious cause of action by an American parent company and *ASIC v Rich* type applications to exclude Expert evidence.
- Instructing solicitor in litigation in the Supreme Court of SA involving a dispute over pre-emptive rights provisions in a Joint Venture Agreement pursuant to which the Joint Venture operated Retirement Villages. The matter involved interlocutory injunction applications to prevent the sale of an interest by one of the Joint Venturers, the replacement of the trustee of the Joint Venture and the recapitalisation of the trustee company of an associated Joint Venture, and the seeking of orders for specific performance of a share purchase agreement. Additionally, the matter involved advising on the commercial and transactional aspects of the divestment and acquisition of interests in the two Joint Ventures.
- Instructing solicitor in a derivative action commenced in the Federal Court of Australia pursuant to section 237 of the *Corporations Act* seeking permission from the Court to bring an action in the name of the company against a director of the company for alleged misuse of the company's confidential information as well as conflict of interest



Curriculum vitae – John Louis Whittington

allegations arising from the director's interests in a competing entity. The matter also involved advice on the commercial and transactional aspects of a pre-emptive rights offer made pursuant to the company's constitution and associated Unit Trust Deed for the sale of a 50% interest in the business (the Unit Trust).

- Instructing solicitor in minority oppression proceedings in the Federal Court of Australia in Sydney concerning substantial hotel and resort assets in New South Wales which involved allegations of breaches of fiduciary duties and directors duties relating to the non-disclosure of the company's financial position to its financier under its lending facilities and the seeking of a compulsory share purchase order pursuant to s. 233 of the *Corporations Act* in relation to the company whose assets were valued in the order of AUD 18 million.
- Advising Lloyds Underwriting Syndicate in relation to the operation of a professional indemnity insurance policy issued to an Australian Securities Exchange (ASX) listed company whose directors were being sued by the Australian Securities and Investments Commission for allegedly making misleading and deceptive disclosures to the ASX (the market).
- Advising an American Insurer in relation to the operation of a professional indemnity insurance policy issued to an ASX listed company whose directors were being investigated by the Australian Securities and Investment Commission in relation to alleged manipulation of the company's share price through on-market trading in the company's securities.
- Instructing solicitor in Federal Court proceedings seeking the winding up of a Joint Venture company under the 'quasi-partnership' just and equitable ground as well as in insolvency and a subsequent application to set aside the appointment of Administrators to the subject company on the basis of abuse of process and the subsequent challenging of a Deed of Company Arrangement passed by the company's creditors. Additionally, the matter involved advising on the commercial and transactional aspects of an associated share and unit sale agreement bringing about the separation of the partners' interests across a group of related entities.
- Conducting Liquidator's Examinations as counsel in the Queensland District Registry of the Federal Court.
- Acting on behalf of the Australian Rail Track Corporation in proceedings commenced in the Supreme Court of Victoria arising out of a substantial train derailment in Victoria involving total losses in the order of AUD 15 million.
- Advising London Underwriters in relation to the operation of an "aggregation clause" in a business interruption loss policy of insurance arising from substantial losses incurred by the insured, a large ASX listed company, as a result of substantial business interruption at the insured's mining operations.
- Acting on behalf of a 50% shareholder and director of a company in a 'deadlock' and breakdown in relations ('quasi-partnership') action in which John's client successfully appointed a Provisional Liquidator to the company and subsequently wound the company up. John subsequently acted in an application brought in the Supreme



Curriculum vitae – John Louis Whittington

Court of SA by the shareholder challenging the Liquidator's determination of the shareholder's proof of debt relating to an assessment of the quantum of the shareholder's Loan Account.

Further Qualifications

John completed a Graduate Diploma in Applied Finance and Investment through the Financial Services Institute of Australasia (FINSIA). John completed the following subjects as part of the Graduate Diploma:

- Mergers and Acquisitions
- Futures and Options Markets and Trading
- Risk Management for Financial Sector Enterprises
- Funding Sources (Corporate Finance)
- Fundamentals of Portfolio Management
- Financial Markets and Economics
- Financial Analysis and Valuation
- Securities Industry Law and Ethics

Directorships

John served as a member of the Board of Directors of the South Adelaide Football Club Inc (SAFC), which is a member of the South Australian National Football League, from 2006-2009 and was SAFC's Tribunal Advocate during that period.

Academic Achievements

Cridlands Property Law Prize 2002, Charles Darwin University

Clayton Utz Commercial Law Prize 2003, Charles Darwin University

North Flinders International House Academic Scholarship 2002

Personal Information

DOB: 2 August 1980

Secondary (High School) Education: The Collegiate School of St. Peter, Adelaide, South Australia (Matriculation 1997)



Curriculum vitae – John Louis Whittington

Personal & Professional Referees

Personal and professional referees will be provided upon request.

Contact Details

Personal

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