

# Adjournment to address evidentiary problems

## *Jango v Northern Territory of Australia (No 3)* [2004] FCA 1029

Sackville J, 9 August 2004

### Issue

An adjournment was sought in a part-heard matter to allow the applicant time to prepare additional documents to address and, presumably, overcome, evidentiary objections upheld in *Jango v Northern Territory (No.2)* [2004] FCA 1004, summarised in this issue of *Native Title Hot Spots*.

### Background

The applicant sought an adjournment as a result of the applicant's advisors' failure to appreciate the magnitude of the task facing them. As the expert reports had not been prepared with close attention to the requirements of the *Evidence Act 1995* (Cwlth), it was necessary to reassess the reports. It was not yet clear to the applicant whether or not fresh reports were needed. The applicant estimated that this would take at least a month.

### Adjournment granted

Justice Sackville held that, as the adjournment was not opposed and the applicant could not be held responsible for the deficiencies in the expert reports, the adjournment should be granted and the scheduled hearing vacated—at [11].

### Preparation of evidence requires legal intervention

Sackville J noted that:

- the present extremely unsatisfactory state of affairs came about because the applicant's advisors failed to ensure that reports complied with the *Evidence Act*;
- legal representatives must have the requirements of that Act firmly in mind when preparing reports and written statements;
- it was essential that the task of gathering and adducing evidence was carried out paying close attention to the issues that, on the pleadings, the applicants must address;
- the preparation of relevant and admissible evidence could not normally be safely delegated to experts without the intervention of the appropriate legal knowledge and skills—at [12] to [13].

### Directions

The court gave the applicant leave to file and serve further supplementary reports in response to the respondents' objections to the expert reports.