

## The Hon Justice Lucy McCallum



On 30 January 2008 Lucy McCallum SC was sworn in as judge of the Supreme Court of New South Wales.

Her Honour graduated with an Arts degree (majoring in Philosophy) and a law degree from the University of New South Wales in 1983 and 1986 respectively. Upon being admitted to practice her Honour commenced employment at Mallesons Stephen Jaques where she focused on commercial litigation. Her Honour then gained experience in criminal law as prosecutor in the Commonwealth Director of Public Prosecutions Office and the Queensland Director of Public Prosecutions Office. In 1991 her Honour commenced practice at the New South Wales Bar on the Sixth Floor at Selborne Wentworth Chambers where she remained until her appointment. Her Honour took silk in September 2005, and appointed to the Bar Council in 2007.

The speeches at the swearing in were replete with references to Her Honour's breadth of experience, and balance, both in law and in life.

The attorney-general, John Hatzistergos MLC took up that theme when describing Her Honour's practice at the bar:

Your practice areas have expanded to include defamation, administrative law, environmental law, professional negligence, trade practices and competition law. The fact that you have maintained a highly successful, wide-ranging practice renders you very well suited to serving as a judge of this court.

Since joining the Bar you have been involved in a number of important cases and commissions of inquiry. Your involvement as

counsel assisting HIH Royal Commission honed your ability to conduct an extensive and rigorous inquiry which will stand you in good stead in your new position. Incidentally, your colleagues recall that your time at the Commission was marked by both well-tuned advocacy and an impressive display of vocabulary...

You also made an important contribution to the [James Hardie] Inquiry. You acted with Michael Slattery QC and Tiffany Wong,... representing asbestos victims. Together you successfully argued that James Hardie had engaged in misleading and deceptive conduct by allowing corporate reconstruction to proceed on the assumption that the foundation was fully funded...

Even after leaving the Director of Public Prosecutions you continued to appear regularly before juries in your defamation practice. It is telling that when you were recently briefed as counsel in defamation cases your clients included a former appellant judge and many senior members of the Bar. The fact that such illustrious people chose you as their advocate is a testimony to your experience and professional reputation. When asked about your approach to your work one of your peers described you as the 'barristers' barrister'.

The attorney said that her Honour was known to be scrupulously fair in all that she did, never allowing court to be misled. He said that her Honour's rigorous and efficient cross-examination technique, combined with a powerful courtroom presence, had earned her a formidable reputation. This fusion of integrity and incisive, forceful advocacy was said to make her Honour a barrister to be respected and admired.

Attention was directed to her Honour's belief that the law should be the servant of the underprivileged. Her Honour's very strong sense of justice was said to have been reflected in the pro bono work she had performed over the years. That work included programmes at law school for disadvantaged inner-city schools and, in the early years of her legal career, work at the Redfern Legal Centre. Whilst at the Bar her Honour was briefed by the Public Interest Advocacy Centre to represent several refugees in immigration detention, successfully obtaining writs of habeas corpus. Her Honour also represented Greenpeace and the Environmental Defender's Office, pro bono.

The attorney then turned to what he described as her Honour's 'energetically balanced life':

More than one of your peers expressed their admiration for your ongoing pursuit of marathon running. You have run no less than five marathons including the Six Foot Track across 45 kilometres of the Blue Mountains in 2007. You also trained for six months before entering the Honolulu Marathon in 1993. It would appear your nickname, the Energiser Bunny, is well deserved. Your marathon running demonstrates your vigour and determination while your abiding interest in the physical challenge of endurance sport will keep you well grounded as you meet the challenges posed by life on the bench...

You have successfully handled a demanding law practice, given your time pro bono and participated in numerous marathons while having fun playing Laser Zone with your three children. The dedication you have demonstrated in balancing the different aspects of your life is deeply commendable. Not only have you developed

an enthusiastic approach to your diverse commitments but your intimate understanding of the realities of family life enhances your ability to empathise with many different people who will appear before you.

Your Honour possesses a myriad of personal qualities that will enable you to make a valuable contribution to the judiciary of this state. You are recognised as a meticulous, well prepared, patient and hardworking professional who has a keenly developed sense of justice. Your eloquence, approachability and perspicacity will help you serve the people of this state wholeheartedly.

Mr Macken, President of the Law Society, spoke on behalf of the solicitors of New South Wales. Mr Macken observed that the New South Wales' court system will benefit from the depth of expertise and life experience that her Honour would bring to the Bench 'enhancing the diversity, equality and public confidence of the judiciary'. He said that an old friend had described Her Honour as 'unstoppable' and 'conscientious' and had remarked she was always 'destined to succeed'. Another colleague and friend had recalled that her Honour was into everything at university: student legal education, law student president, law journal editing, mooted and was the 'star' of the soccer team.

Mr Macken had collected more accolades from former colleagues from the Sixth Floor: Justice Nicholas had described her Honour as 'extremely competent, meticulous and of sound judgment'; and Justice Tobias, who admitted that he regarded Her Honour as being 'one of his favourite people'; a 'bright, bubbly, focused practitioner' who 'would make a terrific judge'.

Mr Macken continued:

Your Honour is in many ways reflective of a very common legal demographic. You are female and the overwhelming majority of lawyers under the age of fifty are female. You are young. The average age of lawyers is now lower than when you were admitted and getting lower every day.

It is widely accepted that it is more difficult to achieve admission to a law degree and more difficult to finish it now days. The days of the single law degree are long gone. But in other ways you do not fit into any mould. You are supremely fit in a profession where physical wellbeing has not been traditionally highly prized.

You work harder than most. Perhaps because you have had to. Perhaps because you have wanted to.

You are brighter than most. The skill set required to achieve senior counsel at such a young age is reflective not only of hard work and devotion but also intelligence. You manage a life outside the law caring for your children and dealing with bruising encounters at the Annandale Hotel. The increasingly large demographic of the legal profession welcomes your appointment as you can truly be said to be one of our own.

McCallum J responded by noting what a great honour it was to be appointed to the Court which is so highly regarded "even by some

Victorians', so a Victorian silk said in his note to me'. Her Honour reflected:

I will miss private practice. I regret the fact that from today I will be constrained to cross-examine my children, particularly as they are already so adept at spotting my logical traps.

I hope I will discharge my duties of office fairly and with patience, courtesy and above all, impartiality. I am perhaps peculiarly well-placed to show impartiality since I owe success to no person. I have lost trials for the Crown. I have had clients sent to jail. I have suffered verdicts in all manner of civil trials against both plaintiff and defendant. I have appeared for decision-makers whose decisions were quashed and for persons aggrieved, the decisions against whom were not. I have not lost a coronial inquiry but have otherwise been unsuccessful in such a variety of causes that I can think of no category of party to whom I might be said to owe fear or favour, affection or ill-will. The first silk I briefed when I was a solicitor was the late Justice Peter Hely. At Hely's funeral Justice Jacobsen recounted Hely's three golden rules of litigation:

- ◆ There is no argument worth putting that can't be reduced to a page of written argument;
- ◆ there is no such thing as a case that can't be lost; and
- ◆ just don't you muck it up.

I wish Hely were here to tell me the three golden rules of judging, but I suspect he would have retained the third, so above all I will try not to muck it up.

Finally, her Honour acknowledged her family, paying particular attention to the qualities of her late father and her mother: 'He conducted the McCallum family dinner table much in the same way the Chief Judge in Equity conducts the duty list. His intellect was a combination of rigour and passion. It was tempered by my mother's quiet wit and her strong sense of social justice.' Her Honour's final comments paid tribute to her partner, Ged, 'who has as strong a sense of justice as any lawyer, and our incredible children, my three, Anna, Max and Charlotte and Ged's son Tom. They fill our lives with music and laughter and stories and the brightness of youth... If you will picture the chaos on a school morning in our household perhaps you will understand why I am undaunted by the supposed isolation of judicial life'.