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Swearing-In Ceremony of the Honourable Megan Fay Latham as a Judge of the Supreme Court of New South Wales

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THE SUPREME COURT
OF NEW SOUTH WALES
BANCO COURT

SPIGELMAN CJ
AND JUDGES OF
THE SUPREME
COURT

Tuesday 12 April
2005

SWEARING-IN CEREMONY OF THE HONOURABLE MEGAN FAY LATHAM AS A JUDGE OF THE SUPREME COURT OF NEW SOUTH WALES

1 **LATHAM J:** Chief Justice, I have the honour to announce that I have been appointed a Judge of this Court. I present to you my Commission.

2 **SPIGELMAN CJ:** Thank you, Justice Latham. Please be seated whilst the Commission is read. Principal Registrar, please read the Commission.

(Commission read.)

Justice Latham, I ask you to rise and take the oaths of office, first the oath of allegiance and then the judicial oath.

(Oaths of office taken.)

Principal Registrar, I hand you the forms containing the oaths so they may be placed amongst the records of the Court and the Bible so that it may have the customary inscription placed in it and presented to her Honour as a memento of this occasion.

3 Justice Latham, on behalf of all the Judges of the Court and on my own behalf, I congratulate you on your appointment and welcome you as a Judge of this Court. Your arrival in this Court is most welcome in a period of this Court's history in the Common Law Division when it is losing a considerable amount of accumulated experience in an unusually short period of time.

4 For many years you have had such experience, both as an advocate at the top of the criminal Bar and, more recently, as a Judge of the District Court. You will be invaluable to the Court at this time.

5 **MR I G HARRISON SC, PRESIDENT, NEW SOUTH WALES BAR ASSOCIATION:** May it please the Court.

6 It gives me great pleasure, on behalf of the New South Wales Bar Association, to speak on the occasion of your Honour's swearing-in as a Judge of this Court. I am indebted to the Attorney, who asked me to pass on his apologies for not being able to be here today, for graciously giving me the opportunity to do so.

7 You may recall, however, that this is not the first occasion on which I have represented the Bar at

your swearing-in. As events conspired, I did so on 7 August 1998 when you were sworn in as a Judge of the District Court of New South Wales. Your progression from there to here is supported by admirable precedent.

8 You bring, like many others before you, the invaluable experience of having sat as a Judge performing the important and difficult work of that Court. The life of a Judge on this or any Court is not easy. Judges work publicly and are regularly scrutinised in the same way. There is no doubt, however, that you join a Court of great strength with a formidable reputation throughout this country and abroad. Your fellow Judges will be a source of both inspiration and considerable support and you should take some comfort from the fact that the present Chief Justice, in contrast to the custom of one of his predecessors, will not smile and take you aside confidentially to say to you as the newest member of the Court, "Megan, just remember, we are all in this alone."

9 You were born in the 1950s and grew up at Cronulla. You went from MLC Burwood to the University of New South Wales where you graduated in Arts and Law in 1979. From there you went to Maguire & Martin, solicitors in Leeton, where you remained until 1982. After a short time as a legal officer with the Lands Department, you joined the office of the Clerk of the Peace that same year, where you remained until 1987. During that time, you were seconded to the Premier's Department and spent nine months as the executive officer of the Child Sexual Assault Task Force.

10 You came to the Bar in 1987 and were appointed as a Crown Prosecutor. You worked in that capacity until 1994 when you became the Director of the Criminal Law Division. In mid 1996 you were appointed Crown advocate, a position which you held until you were sworn in as a Judge of the District Court.

11 You retain a life-long passion for exercise and physical fitness as well as travel. This places you in the same category as the Chief Judge in Equity who also likes travel.

12 I am pleased to say that you were a student of mine at the University of New South Wales, along with the late Judge Bob Bellear. You and Judge Bellear were both a pleasure to appear before. I recall your sharp wit on one occasion, however, when I was appearing in your Court. Your Honour was dealing with a proposition that I was urging upon you which caused me to remark respectfully that your Honour's analysis did not appear, to me at least, to be entirely logical. You had no hesitation in dealing with my comment by saying very descriptively and very convincingly, "Mr Harrison, if the world were a logical place, men would ride side-saddle." For some reason, I have never been able to get that remark out of my head.

13 Your Honour's appointment today marks a notable acquisition by this Court and for more than one reason. Those reasons include your significant reputation as an advocate for the rights of children and women. I know it to be true that you and I share the view that equality for women will have arrived when it is no longer necessary to refer to it.

14 I wish you well. The barristers of this State wish you well. We trust you will enjoy a long and satisfying career as a Judge of this Court. If the Court pleases.

15 **MR J E McINTYRE, PRESIDENT, LAW SOCIETY OF NEW SOUTH WALES:** May it please the Court.

16 Your Honour, on behalf of the solicitors of New South Wales, it gives me great pleasure to speak on the occasion of your appointment as a Judge of the Supreme Court. The Law Society applauds the wisdom of your elevation from the District Court to the Supreme Court.

17 Reflecting on your legal career, I note that, after graduating from Arts Law at the University of New South Wales, you were admitted as a solicitor in 1979 and remained on the role of solicitors for some eight years. Early in your career it is said that you demonstrated an aptitude, skill and interest in law reform.

18 It has also been apparent that throughout your career a deep and abiding passion of yours has been in the area of child welfare in the law. It is worth reflecting on where your interest in this area of law got its genesis.

19 For five years you were a solicitor with the Solicitor For Public Prosecution Office, including two years as the solicitor in charge of the Child Assault Protections Unit, and then on secondment to the Premier's Department as executive officer of the New South Wales Child Assault Task Force.

20 During this time you were appointed to the Legal Committee of the New South Wales Child Protection Council and the New South Wales Sexual Assault Committee. After that, you were successful in securing a travelling fellowship from the Law Foundation of New South Wales. This enabled you to spend time in the United States looking at how child sexual assault cases were handled and identifying ways of ensuring their more effective conduct.

21 In 1996 you were appointed as the first and, so far as I am aware, only female Crown Advocate of New South Wales. In that position you provided top level advice on high profile cases to the Attorney General's Department.

22 Commenting on your renowned ability and human qualities in a speech given by the Honourable Justice Michael Kirby to the Women's Lawyer Association, in which he was reflecting on eminent female lawyers in Australia, he said, "You showed all the subtlety and forbearance expected of Crown Counsel."

23 In your role as the Crown Advocate, you were appointed to the Model Criminal Code Officers Committee, which was responsible for the development of a uniform Criminal Code in Australia. Your Honour played a valuable role in producing a ground-breaking report in 1998 on offences against humanity involving sex slavery.

24 In August 1998, your Honour was made a Judge of the District Court at quite a young age, a fitting reward for your tireless hard work and commitment.

25 From discussions with those with whom you have worked, it is clear that you are highly respected and well regarded by your colleagues.

26 Practitioners say that your Honour is well known for being very efficient in managing your Court. I believe in one particular recent case, which was expected to take three months, the matter was reduced to two weeks largely in part to your effective management.

27 Your Honour has been the subject of much media comment concerning high profile cases of serious sexual assault, but the judicial case load often throws up other matters of interest including the occasional speeding offence. In a recent matter, despite the Crown having irrefutable photographic evidence that the defendant's car was travelling at 56KPH in a 40KPH zone, the defendant still chose to appeal.

28 The defendant, representing himself, presented to the Court the National Measurement Act and Regulations to prove that the initials "KPH" did not mean what everyone thought they did. The defendant argued that under the Act the "K" stood for "Kelvin", a measure of thermodynamic temperature; "P" for "Poise", a measure of viscosity; and "H" for "Henry", which measures electricity inductance.

29 Your Honour, although amused and entertained by the defendant's submission that the abbreviation might be illogical and incorrect, you applied a large measure of commonsense in your ruling explaining to the hapless defendant that it had to be viewed in context and it clearly suggested that it related to vehicle speed. Using, however, your considerable judicial wisdom you then gave the defendant a bond to be of good behaviour.

30 Much is said these days about balancing career and family, particularly in the legal profession. In that arena I am told your Honour has acquitted yourself well. You are a devoted wife and mother and your husband, Brent, and son, Rhys, are very supportive and very proud of your achievement today.

31 Your Honour, the solicitors of New South Wales congratulate you on your appointment and I am pleased that the community and the Court will have the benefit of your knowledge and skills as you assume this new appointment. We wish you many challenging and rewarding years on the bench.

32 As the Court pleases.

33 **LATHAM J:** Chief Justice, Chief Judge of the District Court, fellow Judges of the Supreme and District Court, members of the Bar and the legal profession, friends and colleagues.

34 Thank you, Mr Harrison and Mr McIntyre, for your general comments. I thank you all for your attendance here today, particularly since many of you attended my swearing-in as a District Court Judge and were entitled to think that you had performed that particular duty for the first and last time. I certainly thought I had. I recall saying that I was somewhat amazed to have arrived on the District Court Bench. You may safely infer that amazement has given way to a sense of unreality.

35 I am still metaphorically pinching myself to make sure that this is not a product of a fevered imagination. Some of you may know that this courtroom has that effect when one is standing on the other side of the Bar table and not at a swearing-in.

36 It would be tempting, were it possible, to adopt a calm, non-plussed and very rational tone in this address. But the truth is that I am not naturally eloquent, witty or erudite, unlike many members of the profession and judiciary. I can, however, do one thing which lawyers are rarely called upon to do. I can speak from the heart.

37 My appointment here is tinged with great regret that I am leaving the camaraderie and support of so many friends in the District Court. The Judges of that Court worked tirelessly and in an environment which often inspires public debate. Sometimes that debate generates more heat than light and at significant personal cost to individual Judges. I am not suggesting that such burdens are beyond our responsibilities - quite the contrary. I believe that they are, nonetheless, rarely acknowledged.

38 Those burdens were easier to bear as soon as one entered the common room on the third floor of the Downing Centre at lunchtime. I have fond memories of Judge Ainslie-Wallace's unerring ability to instantly deflate any ego - including her own - with good humour; of Judge Shadbolt regaling us with one of his many legal anecdotes; and Judge Coorey's capacity to burn almost every piece of toast he prepared for his meagre meal. I am missing it already.

39 I want to pay tribute to two people with whom I have worked in various roles over the past 20 years: One is the Chief Judge of the District Court; and the other is Robert Fornito of the Criminal Listing Directorate of the District Court. The Chief Judge's achievements as the first Director of Public Prosecutions and the head of the most productive trial Court in Australia are publicly known. His influence on my professional development has been immeasurable and I remain indebted to him. Robert Fornito's achievements are less publicly known, but I have no doubt that he has been integral to the operation of the criminal jurisdiction of the District Court for every one of those 20 years. He has also been a great friend to me and I will miss our daily chats, not to mention his fantastic home-made Biscotti and Baci.

40 I want to thank all of the associates who worked with me during my time in the District Court. In particular, I thank Ellen Macleay and Suzannah Trotter, my associates over the last five years, for their tolerance, patience, and good humour and for shielding me from the many irritations of daily life.

41 It is customary on such occasions to express gratitude to one's family, but what I am about to say does not spring from any adherence to custom.

42 My parents provided me with every opportunity in life at great personal and financial cost. My mother worked full time and managed the demands of three children and the household at a time when there was no readily available child care beyond a private babysitter, which they could ill afford. I have only relatively recently come to appreciate her strength and resilience and the incredibly trying child I once was.

43 My father instilled in me a love of debating and a sense of independence. He encouraged me to examine and analyse the opinions of others, no matter how authoritative they appeared to be, before espousing them as my own. These were the building blocks of a career in the law that I owe, in large measure, to him.

44 To my husband, Brent, and our son, Rhys, I could not do what I do or be who I am without your

presence in my life. Since I met Brent at law school when I was 19, I have also been part of the Gerstle family: Mary, Gary, Tanya and Jarrah are here today to celebrate with me, as they have been at every milestone. They have been unstinting in their love and support.

45 As you can see, I am overwhelmed by the congratulations and good wishes I have received from every quarter. I have already been warmly welcomed by many of the Judges of this Court and their expression of confidence in my ability has made this transition somewhat easier.

46 It is a great honour and a privilege to serve the law of this State as a Judge of this Court. I will do all I can to realise the faith that has been placed in me.
