IN THE DISTRICT COURT

OF NEW SOUTH WALES

FRIDAY 25 AUGUST 2023

**SWEARING IN OF HIS HONOUR JUDGE GREGORY WAUGH SC AS A JUDGE OF THE DISTRICT COURT OF NEW SOUTH WALES**

The Honourable Michael Daley MP, Attorney General of NSW, on behalf of the NSW Bar Association

Mr Brett McGrath, Vice President, on behalf of the Law Society of NSW

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WAUGH DCJ: Acting Chief Judge, I have the honour to announce that I have been appointed a Judge of this Court and I present my Commission.

(Commission read)

(Affirmations of office taken)

HUGGETT ACJ: Judge Waugh the affirmations will be placed in the Court archives. Judge Waugh, on behalf of the Chief Judge and all of the Judges of the District Court, I warmly welcome you to the Court. You bring with you a wealth of experience and all of us look forward to having you join us in the District Court and wish you all the best in your judicial career.

WAUGH DCJ: Thank you, Acting Chief Judge.

HUGGETT ACJ: Mr Attorney.

ATTORNEY GENERAL: Thank you, your Honour. May it please the Court. I acknowledge the traditional custodians of the land on which we meet, the Gadigal of the Eora Nation and I pay my respects to elders past and present. I acknowledge our Aboriginal friends and colleagues who are with us here this morning.

Your Honour on behalf of the people of New South Wales and the Bar, it is my great pleasure to congratulate you on your appointment as a Judge of the District Court of New South Wales. Joining us today here on this special day are many of your friends and family. And so, I welcome your wife Paula Broom, your daughter, India, and your son, Dylan. I also welcome your sister and her husband, Helen and Graham Hamilton. Someone whom you consider to be family and who is also present, is Barbara Auswild who was married to your late cousin, Bill Waugh. There are also others whom I know you wish could be here in person, who are watching online: your wife’s mother, Grace Simmonds and her husband Mike Simmonds and we note of course, that from where they are watching in Devon UK, it is in the middle of the night.

Many colleagues are also present on this most special of days and I am thankful that they, along with your family, have generously contributed to this address. Their contributions give us an indication of the person you are, and why your appointment will be a great benefit to the people of New South Wales, and thankfully they are all happy to be quoted.

Your Honour began life in Wollongong and you had a tough start, losing your mother at a very young age. Your father was a good man and continued to care for his children with the support of other family members and you and your sister, Helen, have always been there for each other. Tragically, your father also passed away when you were in your early teenage years. People who knew you when you were young observed the quiet resolve that had accompanied you through your young life. One family friend observed, “That boy’s been here before. He’s wise beyond his years.”

Helen recalls that you were always independent and able to entertain yourself and you also enjoyed intellectual pursuits from an early age. One family friend taught you to play scrabble and you enjoyed playing together for many years. Now, as we know, scrabble is a popular game with many people, and the fact that you enjoyed it is unremarkable, but what is remarkable is that your Honour was taught to play and continues to play scrabble in Latin, rather than in English. So that’s a first for me or should I say rather, primus est, your Honour.

Your Honour, after high school at St Joseph’s College in Hunters Hill, another great Marist School, might I say, you graduated from the University of New South Wales in 1983. Yours is the first generation in your family to go to university, so it took a deal of courage to decide to study law. You had no family member to look up to or whose example you could follow. You completed the College of Law and were admitted as a solicitor in 1983.

Reflecting on your career, we see a number of family firsts. You were the first solicitor and when after a few years you were called to the Bar, you were the first barrister. You were also the first senior counsel in your family and now your Honour is the first judge. Your first job in the legal profession was back home in Wollongong where you began a lifelong habit of giving to your community. You volunteered at legal aid in Warrawong and I am told that you have continued to do a great deal of pro bono work throughout your legal career.

As we continue to reflect on your legal career further, I would like to share some of your professional colleagues’ thoughts about you. When you first arrived in chambers, you worked with the Honourable Robert McDougall KC, now retired from the Supreme Court and also worked with the likes of the late Rodney Parker QC and the late great Chester Porter QC. While your Honour learned a lot from watching these eminent professionals, I am told that it was from Mr Parker QC that you learned an important lesson, that as an advocate you always need to take the opportunity to reinforce your narrative to the Court.

Your Honour, in gathering thoughts for this occasion, I took the well‑trodden, but nevertheless potentially precarious path of seeking the views of Greg Sirtes SC, with whom you have been in chambers since 1992 when you joined the Selborne side. Consulting Mr Sirtes SC on thoughts about others, is always potentially fraught with danger, but on this occasion he has been suitably, if not uncharacteristically, kind. Mr Sirtes SC advised that while you have practiced generally in equity, you have a very high degree of expertise in real property matters, developed over decades of working in that area. He also admitted to being deeply, deeply alarmed at your Honour’s level of organisation. He says your briefs are perfectly manicured and that you even colour code them, highlighting arguments that will support your case in blue and ones that may damage your case in red. He did also concede there was a third colour on which he did not elaborate, so that may remain a mystery unless you wish to elaborate on it today your Honour. In fact, Mr Sirtes SC went on to say that even though he has known you for more than 30 years, his equilibrium is still upset by your Honour’s meticulous filing of information, annotating of textbooks and interleaving typed sheets and updates into your legal texts at every change of legal precedent.

In contrast to what might be said about a lot of people at the Bar, your Honour has been described as a quiet individual, almost to the point of being taciturn. But the point has also been made that you think carefully about what you are going to say and when you speak it is in a measured manner but delivers concise arguments with great acuity. No doubt this is an attribute that will be of great benefit to you on the bench.

Your former colleague in chambers, now the Honourable Justice John Robson of the Land and Environment Court and Mr Sirtes SC both commented on your calm demeanour. They observed that in many decades, they have never observed you to become agitated or exhibit any signs of stress. Mr Sirtes SC said that of all the people he knows, there is not a single person who has a better temperament for judicial office.

Your Honour, I did not want the Court to think that you were a bland or uninteresting person, so I will speak a little bit about your interests outside of work. Your love of your wife and your children, your dog, Douggie, not called after the late great batsman from Dungog perhaps, golf, skiing and your motor scooter, not necessarily in that order, but maybe, I would imagine that at 6’3 you make quite a sight riding the motor scooter to work each day. We have all heard of the flying nun, but for the past six or seven years, it has been the scootering silk.

Your Honour is not known for wild excesses, but I am told you prefer a good scotch whiskey over champagne. Your sister states that you seem to have an effortless knack for surrounding yourself with interesting and intriguing people. That you are tremendous good company, with a dry and intellectual wit.

In the best traditions of the Bar, your Honour has always been a great mentor to many juniors in chambers, always with an open door and generously sharing your great depth of knowledge about legal matters. Your Honour I am told that from a very young age, people who observed you predicted that one day you would be a judge and that day has arrived. And some suspect that the first thing you will do, is ask the Honourable Justice Price to make your much loved Labrador, Douggie, the District Court mascot.

On a serious note though, and in conclusion, you are a thorough and quiet person with a genuine depth of intellect, a sense of fairness and great consideration for others. Your Honour it is clear that you will be a fine addition to the bench. On behalf of the Bar and the people of New South Wales, I thank you for accepting our request that you join these ranks and wish you well and congratulate you on your future endeavours in this Honourable Court.

May it please the Court.

HUGGETT ACJ: Thank you Mr Attorney. Mr McGrath.

MCGRATH: May it please the Court. I too acknowledge the Gadigal of the Eora Nation, the traditional owners of the land on which this Court stands and pay my respects to their elders past, present and emerging. I acknowledge and extend my respect to all Aboriginal people who are present with us today.

It is a pleasure and a privilege to come before the Court on behalf of the solicitors in New South Wales and congratulate your Honour on your appointment. I too would like to acknowledge your friends and family who are with us today and make mention of their unwavering support for your Honour throughout your career. It may come as no surprise that in preparation for today, our team of researchers spoke to several of them, to ascertain an accurate appraisal of your Honour’s character and accomplishments.

I happily report that “patient and thoughtful” were your daughter’s first words when she was approached for comment. Your wife noted your compassion, balance and containment. It is apparently hard to even come close to angering you. However, your Honour’s friend, Michael Loewenstein, cautioned that bad-mouthing Sophia Loren will provoke a strong response. In case I appear before your Honour one day, let the record note that I am a big fan of the 88 year old Ms Loren.

1950s Hollywood movie stars aside, the one person to whom you are most devoted, beyond your family, unfortunately was not allowed in court today, however, Douggie, the golden retriever is by all accounts a good boy and is, in his own way, probably happy for your Honour.

As we have heard, your Honour grew up in Wollongong. Phillip and Marie, your parents, were not from a legal background. Your father, who was a great dad to you, lived through the Great Depression and was, in your own words, “A Jack of all trades.” As a child you rode a pushbike to St Francis Xavier Primary School, near the beach, where you were taught by nuns. Sadly, when your Honour was only seven, as we have heard, your family lost your mother to cancer. Your father and family looked after you, although on weekdays he left at 6am for work at a coalmine and self-reliance came to you and your older brother and sister at early ages.

You attended boarding school after primary school, becoming a Marist boy (I agree as a St Greg’s boy, good to hear) at St Joseph’s College in Hunter’s Hill, making a group of lifelong friends that you still have to this day. Mostly, you escaped the cane. You showed promise academically across a wide range of subjects and once a month you would return to Wollongong to see your family. However, tragically as we have heard, your father passed away from cancer when you were 15. It is impossible to capture the toll, the loss of both parents has on a person at a young age, however through resilience and hard work you continued to board, cared for by your family when not at school and consistently gained excellent marks. Already, at that age, your Honour demonstrated grit and resilience in the face of adversity.

As the storm calmed, insofar as it ever can, towards the end of high school you put your name down for a variety of courses and happily gained entry into law. Before university, though, you adventured across Europe solo. Solo because two close friends from school ditched the plan at the last minute, one joining the air force, the other having to help his family. But for an amazing three and a half months you traversed the European continent.

When you returned you knew you had to go to university but did not think you were going to be a lawyer. Hedging your bets, you graduated in 1983 with a Bachelor of Commerce and an LLB from the University of New South Wales. After completing the College of Law course, you were admitted as a solicitor in 1983 and graduated into a recession. You landed a job with the State Crown Solicitors, then found employment at a firm in Wollongong. Brian Baird was the main partner you worked for, along with Michael Gamble. Mr Baird practised family law and Mr Gamble practised litigation, looking after the account for the NRMA among other things.

Appearances in Local Court proceedings and arbitration played a big part of your workload, along with debt recovery work, personal injury and common law negligence work. You appeared, in your Honour’s words, against “wily old practitioners”, which taught you a great deal about conducting cases, alongside advocacy in arbitration, writing affidavits and interviewing clients in family law cases.

Your Honour also worked as a duty solicitor in the Children’s Court once a month or so, often dealing with criminal matters, care proceedings and a range of other matters that come before that Court. Courts of Petty Sessions were another of your more common practice touch points, with some tough magistrates who you appeared before. However, you were not one to blame others and tried to learn from setbacks and adapt, an approach you have strived to keep and which will no doubt be of great service to you in your new role in this Court.

After a few years in Wollongong, you applied for a position in Sydney and came to work at the law firm, Law and Milne. It had four partners including Rod McGeoch AM, who worked with others to land the Sydney Olympics bid, and around the time you joined was the President of the Law Society of New South Wales. Rudi Selles was another partner there, and you learnt a great deal from both.

You appeared in many courts, regularly in the commercial list before Justice Rogers, requiring the very highest level of preparation. His Honour was remembered by the Sydney Morning Herald in 2010 for taking control of the Court by insisting, on pain of costs orders, that timetables were met and that hearings focused on the real issues in dispute. How refreshing.

During this time, your Honour was effectively the litigation department. The first six months were exhausting but through a process of steady work, more work, early bedtimes, early rises and focus, you gradually ended each day slightly less tired than the one before. Share houses with friends in Newtown and Rushcutters Bay, squash, golf and jogging were all part of your life outside of this, and any bad mechanics of your early golf swing improving somewhat since then. Your Honour spent a total of six years as a solicitor but decided to reach out to several top barristers, who you knew and had briefed, and discussed the Bar. In a big step, you read with the Honourable Peter Garling SC and the Honourable Robert McDougall KC, and became a barrister at the start of August 1990.

Parallel to this, something perhaps far more important happened. You met Paula Broom, over brussel sprouts, in the kitchen of an old school friend in Ladywell, London on Christmas Eve 1998. To this day, you both remember seeing each other walk into the room for the very first time. After this, there were lots of phone calls, long-haul travel back and forth, and eventually Paula arrived to try life in Australia. You married one summer in Devon and your daughter was born in the year 2000 and son in 2002. It has not been all plain sailing. Paula has suffered several health problems, but your dedication, care and support has been hugely important to her. “Still waters run deep” was your Honour’s friend Mr Loewenstein’s remark, and the depth of your compassion, thought processes and humour have no doubt aided you over these hard times.

Before this brilliant, yet tough, period you spent two years in Windeyer Chambers, focused on the task of becoming a barrister. When a chambers became free in Wentworth Selborne Chambers on the 12th Floor, you borrowed everything and your sister, your brother and your cousin Bill, all helped and backed you in that move. That was 31 years ago in 1992 and your Honour practised there until your appointment.

You were a junior for what was, in your words “probably a record, 27 years” gaining Silk in the year 2017. Common Law, commercial and equity matters made up your Honour’s practice, appearing most regularly in the Supreme Court of New South Wales, alongside considerable experience in many different courts, tribunals and jurisdictions.

Your Honour has also represented clients at hundreds of successful mediations and informal settlement conferences over a considerable number of years. However, on occasion, your free and frank legal advice has been ignored by clients. The solicitor, James Sloan, remembers you once told a tough client in mediation that if the opposing side accepted his zero concessions position, you would eat your hat. They duly accepted that zero concessions position. A cake arrived from your happy client in the form of a hat, the next day.

Instructing solicitors such as Andrew McKenzie, Principal of Roe Mackenzie Lawyers, who instructed your Honour over more than 16 years, admired the mix of laid back personality with fierce hard work. Your emotional and psychological understanding of people and litigants has been greatly appreciated. As others have said, you were well liked by other counsel and well respected by members of the bench. In mediations you were said to be fantastic about understanding everyone’s point of view, with an underlying sense of fairness, practicality and compassion, all attributes that will serve you well in your role on the bench.

Your Honour has always thought that joining the judiciary would be, in your words “good”. This is perhaps, your aforementioned, humorous side. Over the previous decades, you have become confident through experience, through empathy and through judgment. That has allowed you to take this step, encouraged by other Judges who have joined the bench before you.

Your Honour, I would like to close by remarking that next year will be your 25th wedding anniversary. Paula, your wife, remembers the moment on the stairs in England, when you first left for Australia. She thought then, suddenly unexpectedly, “My god, I'm going to marry this man.” She and your family love you. They are incredibly grateful for everything you have done for them over the decades. They are full of joy at your appointment.

Your colleagues, as solicitors, barristers and Judges support and respect you, as no doubt the many, many hundreds of people who crossed your path in legal matters as litigants and clients over more than 35 years in your career. And now, it is with great pleasure that from this day forward, the people of this great State will have the benefit of your wisdom and judgment on the bench.

On behalf of the solicitors of New South Wales, I congratulate your Honour on your appointment.

As the Court pleases.

HUGGETT ACJ: Thank you Mr McGrath. Judge Waugh.

WAUGH DCJ: Thank you, Acting Chief Judge. I too begin by acknowledging the Gadigal of the Eora Nation, the traditional custodians of the land on which we gather and I pay my respects to their elders, past, present and emerging. I extend that respect to Aboriginal and Torres Strait Islander peoples here today.

Thank you Mr Attorney and Mr McGrath. I feel that this is a very dangerous way to be starting as a judge, but I cannot find any fault in anything you have said. I am only kidding, now is not the time to correct you. I thought about correcting some of the misinformation that Mr Sirtes SC gave you, but I am not going to.

But thank you also, Chief Judge, Acting Chief Judge and the other Judges of the Court and the staff of the Court who have made me feel so welcome, even before I begin. I would like to thank some of the Judges who are here and acknowledge their presence, particularly Justice Gleeson, Justice Robson and Justice Stewart, Judge Baird and Acting Judge Hoy, thank you.

People who know me well, know that I don’t like talking about myself and I am not about to change that habit of a lifetime now, but I would like to talk about some other people, those people I have learnt from in life and law and who have helped me along the way, people I need to acknowledge and thank.

I will start with the person I learnt the most from about life, that’s my father. He taught me patience and perseverance and how to laugh. He also wanted to ensure that I had a good education and it was because of him and one of his brothers, an uncle, who persuaded me to go back to boarding school after the first term holidays, I didn’t want to go back, that I ended up going to St Joseph’s, the great school that it was then and I think still is and I ended up thriving there and making many lifelong friends. One of them is sitting at the back of the Court today, down from Brisbane and here for a wedding for one of his children tomorrow and Paula and I are going too - I'm just going to collect myself for a moment. I am going to move quickly through this. For me that was the hard part out of the way.

I am going straight to university. I didn’t really learn much about the law at university. I only knew one lawyer, that was my brother in-law, Graham, who is sitting over to the side. My real education about the law and how it affects peoples’ lives started when I began working. When I got to the end of Uni I was pretty sure I was not going to be a lawyer for the rest of my life. But I thought I have done the five years, I had better go and get two years’ experience maybe and then I could come back to it if I had to, after what I really wanted to do did not turn out. Don’t ask me what I really wanted to do, I didn’t know.

But all of that changed after I spent two years working for Denley Gargett and Baird Solicitors in Wollongong and in particular for the late Brian Baird and Michael Gamble whose names have been mentioned. There, I found out about what lawyers did and how they went about their work. Solicitors, barristers, magistrates, judges, arbitrators. I learnt about family law, about personal injuries claims, about property damage claims for the NRMA, about crime, even some conveyancing. I was given the opportunity to conduct hearings before arbitrators, pleas and hearings before magistrates, to brief and instruct barristers in the District Court and the Family Court and to be a duty solicitor in the Children’s Court as has been mentioned.

I couldn’t have had a better introduction to being a lawyer. I also caught the litigation bug. That bug took me to the corner of Pitt and Hunter Streets in Sydney to Law & Milne Solicitors, where I found that the venerable Mr Milne, who I happened to look up yesterday and I think was admitted in 1928, still appeared most days in what I think was a Homburg hat. I got to work there for Rudi Selles, Rod McGeoch, Don Hughes and Alan McDonald. Here, amongst other things, I was introduced to commercial litigation and the thrill, if you want to call it that, of explaining your client’s defence to the Honourable Justice Andrew Rogers in the Commercial Division of the Supreme Court, who after he had listened to you, would either turn to the Court reporter, saying “take this down” or invite you to come back at 2 o’clock and explain why the plaintiff shouldn’t have summary judgment.

Appearing regularly before the Equity Registrar, Registrar Leslie, was also, what you might call a galvanising experience. In any event, being the litigation department of the firm, the work was varied and interesting and drove me to the conclusion that I wanted to be at the coalface of litigation in the courtroom as a barrister.

You have heard already that when I went to the Bar, I read with Bob McDougall, later QC, then Justice, now the Honourable and KC, who I think is here today but I cannot see him - someone is pointing, he is hiding behind a wig - and Peter Garling, later SC, now Justice, one day to be Honourable but not KC. I want to thank them both for the encouragement and support they provided me, particularly in my early years.

Naturally before coming to the Bar, I consulted them about whether it was a sensible thing to do, as well as whether I could read with them. I remember quite vividly that one of them told me I shouldn’t expect to make friends at the Bar. I will not embarrass Justice Garling by saying it was him, but I found the opposite to be true. Many of those friends are people who have come and gone from 12 Wentworth Selborne Chambers over the almost 31 years I was there. But the friends I have made at the Bar include a number of my opponents and others I have encountered along the way.

It seems safe to mention a few because they have either gone to the bench or retired. I particularly want to thank Bob McDougall and his wife Jenny, Justice John Robson who is here and his wife Penny, Acting Judge Hoy and his wife Phoebe, Michael Lowenstein and his wife Noni, Fred and Suzy Curtis, for the friendship and support they have given me and my wife and children over the years.

I would also like to pay tribute to the late RWR Parker QC who taught me much about advocacy in the cases we did together and to thank the Honourable P A Bergin SC who, along with Judge Newlinds, I can’t call Paddy, for her encouragement and support. I would not be here without her.

Whilst on the 12th Floor, I was fortunate to have three great clerks in the form of Bob Rymer, Di Strathdee and Trish Hoff. I want to thank each of them, but particularly Bob Rymer who put up with me for I think 26 or 27 years of my 31 on the floor.

I owe a special thanks to the secretaries and personal assistants I have had over the years. Karin Hopman is hiding up the back of the court, she is one them and Jo Guthrie in particular.

To return to the chronology for a moment, so to speak, at the Bar I did work in Sydney, in the suburbs of Sydney and around the State for many great solicitors over the years, far too many to mention, but I would particularly like to thank David Rowe and Andrew McKenzie in Gosford, Nick Dan in Newcastle, Kevin Burns in Port Macquarie, Julia McArthur in Gunnedah, Sandy Rendel in Kiama, James Sloan in Albury, Gary Doherty in Bankstown and Joe Denina in Sydney.

From past experience, and you have already seen how I reacted at the start, I think it would be very unwise of me to even begin to attempt to say anything about my beautiful wife Paula or our recent graduate, India, or her brother Dylan or my sister, Helen, so I will end by thanking you all for coming. It is a great privilege to be given this opportunity. I intend to give it my best.

HUGGETT ACJ: Thank you Judge Waugh. I warmly invite everyone present to morning tea that will be held in the dining room opposite the courtroom.