

The Hon Justice Rachel Pepper

On 1 May 2009 the Hon Justice Rachel Pepper was sworn in as a judge of the Land and Environment Court of New South Wales.



Her Honour grew up in Ontario, Canada to the age of 15, when her family moved to Perth where her Honour attended Swanbourne Senior High School. She briefly returned to Canada and commenced a pre-med science degree before returning to Australia, to study arts and law at the Australian National University, graduating with first class honours in law in 1994.

Her Honour was admitted as a solicitor in 1995 and worked at Allen Allen & Hemsley until taking up the position of associate to McHugh J in the High Court. Her Honour came to the bar in August 1997, and read on Seven Wentworth Chambers with Justin Gleeson SC and John Marshall SC, moving to 12 Wentworth/Selborne in 2002. The president of the Bar Association, Anna Katzmann SC spoke on behalf of the bar and Joe Catanzariti spoke for the solicitors of NSW. Pepper J responded to the speeches. Katzmann SC described her Honour's appointment as

a fitting tribute to your prodigious talents and your commitment to the rule of law. Having wreaked havoc in Fiji, where, with Bret Walker SC, you appeared for the deposed prime minister, Laisenia Qarase, against the coup leader, Commodore Bainimarama, the Land and Environment Court must seem like a very safe haven. It will be a long time, I am sure, before we see a Pepper's Resort within cooe of Suva.

Katzmann SC noted that her Honour's practice was diverse from the start:

You accepted briefs in commercial law, equity and professional negligence, but there was a heavy emphasis on public law, particularly constitutional, administrative and discrimination law, as well as local government, environment and planning. You also branched out into criminal law, most recently working with Peter Hastings QC in the inquiry into the murder conviction of Phuong Ngo. In the finest traditions of the profession, you took on a significant amount of pro bono work.

From time to time your work took you to the High Court. Usually you were led, but on occasions you enjoyed a speaking part. On one such occasion, when dumped by the solicitor general for New South Wales ... you thought you could get away with relying on the written submissions but you were stopped in your tracks by Kirby J, who cheekily asked what you had to say about the position in Canada. Despite your assistance, however, the Canadian position never even made it to the footnotes in the judgment.

Joe Catanzariti referred to her Honour's briefs from Peter Moran of Colin Biggers & Paisley, who, he said:

remarked upon your professional, methodical and thorough approach which ensured you were always on top of the brief and that cases were run smoothly and without controversy. Well – almost. Retained by Colin Biggers & Paisley with regard to a negligence claim, I understand your Honour called the client in for an interview on a Saturday because the evidence was due. This rather emotional client came to the conclusion that your Honour had deliberately seated her in a position of disadvantage so that the sun was in her eyes. The said client would no doubt have again felt disadvantaged in the courtroom upon noting that the seating of some individuals are more elevated than others.

Her Honour replied to the speeches, referring to her increasing trepidation about her swearing in

No doubt to assuage my apprehension the chief judge has promised me an all singing and dancing version of the court song. I have diligently scoured the court web site and can find no mention of such a ditty. Perhaps, and there will be a capella rendition of that Kermit the Frog classic, *It's Not Easy Being Green*, green being the official colour of the court's stationery, just in case anyone is concerned that they may have detected bias, apprehended or actual, in a judge of twenty minutes standing. The promise did, however, cause me to reflect on what musical piece I would nominate, sitting here, that would best represent my current state of mind. ... my formative years were in the eighties and in this regard the song *Once in a Lifetime* by Talking Heads seems most apposite. The verses that resonate most audibly for me are as follows. I have taken the liberty of modifying them slightly for context:

And you may find yourself in another part of the world ...

And you may find yourself in a beautiful [court]house with a beautiful wife

And you may ask yourself 'well, how did I get here?

I 'got here' by two means. First, as a direct beneficiary of the enduring support and love of others, and, second, as a result of fate.

Her Honour paid tribute to her family and friends, and to her mentors: the Hon Michael McHugh QC, Michael Slattery QC and Peter Garling SC. The former, her Honour said:

ensured that I did not renege on the obligatory promise given by all of his putative associates during their interviews, particularly the women, that they would go to the bar and be quick about it ... [and] willingly made the necessary and critical introductions which resulted in me reading on Seven Wentworth Chambers

Her Honour referred to her great privilege of serving on Bar Council, under the Hon Justice McColl, then the president of the Bar Association who urged her Honour to run as an under five representative, the Hon Justice Ian Harrison, Bret Walker SC, Michael Slattery QC and Anna Katzmann SC.