

The Hon Justice Brigitte Markovic

Justice Brigitte Markovic was sworn in as a judge of the Federal Court of Australia on 24 August 2015.

Justice Markovic grew up in Sydney, attending Ascham School, and then UNSW, where her Honour graduated with degrees in commerce and law. Senator Fierravanti-Wells, representing the Commonwealth Attorney-General, Senator the Hon George Brandis QC, mentioned in the course of her remarks:

‘Your Honour, like me, is a first generation Australian. Our parents came to this country to build a better life for themselves and for their children. Your parents migrated from Europe, and I understand your father came from what is now the Slovak Republic, and your mother is from France. Your Honour’s success is the embodiment of that successful migrant story.’

Her Honour was a partner in Clayton Utz, having joined the firm 27 years ago as a summer clerk. At the age of 32, her Honour became one of the youngest partners in the firm. Her Honour quickly developed a busy practice in Corporations Law matters. One of the barristers her Honour worked with as a solicitor at Clayton Utz was Michael Slattery QC, now Justice Slattery of the Supreme Court of New South Wales. Mr Stuart Clark, president-elect of the Law Council of Australia, observed that a note from her Honour’s personnel file at Clayton Utz records Justice Slattery as describing her Honour as ‘brilliant’ and ‘always in control’. He went on to say: ‘Ms Markovic is one of the best solicitors who instructs me and one of the best you have got’. He added that, with her grace under pressure and tactical acumen, her Honour would have been a great military commander.

ASIC had a similar view when her Honour worked with the regulator on a secondment. It later retained her Honour to act on the HIH and James Hardie litigation, both of which were highly complex and difficult commercial cases.

Her Honour made a substantial contribution to developing the firm’s Canberra office, introducing the firm to the Australian Government and developing a practice across a broad range of areas, including immigration, social security and aged care. Her Honour developed expertise in administrative law while developing the firm’s practice in the area.

In 2010, her Honour became a managing partner in the Litigation and Dispute Resolution group of Clayton Utz. Mr Clark noted that in this role, her Honour:

set an example as a senior lawyer with a professional life who was not afraid to take time out for your children – for example, to leave the office to attend events at school.

Senator Fierravanti-Wells noted her Honour’s involvement in high profile commercial litigation, her prodigious work ethic, tenacity and commitment to leading by example. Speaking for

the New South Wales Bar, Arthur Moses SC continued the theme:

By my imperfect count, there were six High Court appeals in which you had involvement. If the Australian Government is to be considered a model litigant then there needs to be a model litigator. By all accounts, your Honour fulfils that role with distinction. One person familiar with your work at the time described you as the perfect lawyer for a minister. You were aware of the political pressures concerning matters but at all times you gave fearless and frank advice. You were also fair and conscious of the disparity and resources between parties to a dispute, which is very important, of course, in immigration matters.

Mr Moses also acknowledged her Honour’s involvement on the bar’s equitable briefing working party, which recently completed its report reviewing the application in NSW of the Law Council of Australia’s equitable briefing policy.

Her Honour has a rich life outside of the law, enjoying theatre, classical music and the visual arts.

Her Honour concluded her own remarks by stating:

Today I have the honour of joining this Court, but also the honour of becoming a colleague of many distinguished female judges. After the announcement of my appointment, I received a number of emails and cards from young women, who generously commented on the inspiration they took from my career. Every woman who becomes a partner of a law firm, becomes a Senior Counsel, or becomes a judge is a potent symbol of what women can achieve in our profession. I have been extraordinarily fortunate to work with supportive colleagues, both men and women, throughout my career. That good fortune extended to working with men who never regarded my gender as relevant to my progress in the profession. They properly judged me by how I did the job and no other measure. I recognise that is not always the case. To those young women who have written to me and others, I would like to say with skill, endurance, focus and some luck, you can achieve what you strive for. Always seek to be judged by what you do.

His Honour Judge Gregory Farmer SC

Gregory Farmer SC was sworn in as a judge of the District Court on 15 September 2015. Attorney General Gabrielle Upton spoke on behalf of the New South Wales Bar.



Photo: Gilliane Tedder

His Honour graduated from Macquarie University in 1983 with a Bachelor of Laws while working full-time with the Magistrates Courts Administration. In the early years of his Honour's practise as a solicitor he worked as a legal officer with the Department of Corrective Services. He later worked as a solicitor at the office of the Commonwealth Director of Public Prosecutions. His Honour was called to the bar in 1990.

Just prior to becoming a barrister, his Honour instructed Barry Toomey QC in the matter of a solicitor who was found to have committed fraud to the extent of \$4 million. Mr Toomey, with whom his Honour subsequently joined in private practice in the same chambers, has said that his Honour is a calm and judicious lawyer and that he has never known anyone who could be more perfectly suited in temperament and in conduct to be a judge.

After being admitted as a barrister, his Honour was appointed to the position of in-house counsel at the DPP, appearing on behalf of the Crown in jury trials in the District Court and as junior counsel in Supreme Court trials, and on many occasions in the Court of Criminal Appeal. His Honour also appeared in the Federal Court, the Supreme Court and the District Court in sentence matters, appeals and proceeds of crime matters. His work contributed to the development of case law and legislative amendment in one instance.

His Honour was also briefed by the Directors of Public Prosecutions for the Commonwealth, New South Wales, ACT

and the Northern Territory, and by the Australian and New South Wales Crime Commissions. His Honour, after coming to the private bar, also acted as counsel for the defence and developed a civil practice; was involved in numerous public inquiries including as counsel assisting the Independent Commission Against Corruption and the Police Integrity Commission; and appeared for plaintiffs and defendants in the Dust Diseases Tribunal and related appeals to the Court of Appeal. He was appointed senior counsel in October 2011.

Ms Upton noted that Judge Henson, chief magistrate of New South Wales (whose friendship with his Honour stretches back to the days his Honour and Judge Henson played cricket together in the late 70s and early 80s at the Petty Sessions Justice Cricket Club, of which Judge Henson was the captain) has commented that his Honour is a 'good bloke'. Ms Upton also noted that Judge Henson also described his Honour as a laconic and a laid back individual with the ability to see humour in life.

Ms Upton stated:

Your Honour understands what it is like to navigate the entire criminal process, something that will be appreciated by those who appear before you in the District Court, I am sure.

One particular case that has been brought to my attention was where your Honour was lead counsel in relation to 14 prosecutions arising from the Villawood Detention Centre riots; not many barristers could claim to having dealt with 14 different opponents in one trial. The instructing solicitor at the Commonwealth DPP has noted that the constant composure that you maintained in dealing with the demands of all those legal representatives was admirable.

Mr Eades echoed the Attorney's remarks on behalf of the many solicitors with whom his Honour had worked.

His Honour, in the course of thanking many who have provided friendship and support during his professional life, paid tribute to his mother who parented a large family in difficult circumstances. His Honour aspired, in this next phase of his professional life - as he had since childhood - to live up to his mother's favourite challenge: 'Answer the question'.

Ms Upton's concluding remarks were a fitting summation:

It goes without saying that your Honour's appointment was only a natural progression of your legal career. Given your outstanding ability, your intelligence, your reserve and vast experience, I have no doubt when I say this, for the great benefit of the people of this State that you have taken the robes of a judge of the District Court.

Her Honour Judge Catherine Margaret Traill

Her Honour Judge Traill was sworn in as a judge of the District Court of New South Wales on 24 August 2015. Hon Gabrielle Upton, attorney general for New South Wales, spoke on behalf of the bar.

Judge Traill graduated from the University of Sydney with a degree in Arts, with Honours in Politics and Fine Arts and a Diploma of Law from the Barristers Admission Board.

Colleagues have described her Honour as one of the finest jury advocates at the bar.

Her Honour was called to the bar in 1987 and developed an impressive practice in criminal law, inquiries, defamation, administrative law, equity and military law.

Ms Upton said:

What is admirable about your criminal practice is that you have served both ends of the bar table as defence and prosecution. You have represented the Crown and accused alike, serving as defence for a number of years before taking up a position as a Crown Prosecutor from 2009 to 2010.

Her Honour's passion for travel has allowed her to work as a legal practitioner in the UK and as a lecturer in Law and Advocacy in Bangladesh. Her Honour's contribution to the practice and teaching of law around the world earned her the distinction of being ordained a Dame of the Equestrian Order of the Holy Sepulchre in 2002.

Her Honour also helped establish the New South Wales Bar Association's Duty Barrister Scheme.

Her Honour has served as a member of Bar Council since 1990.

Her Honour has also served the broader community through her extra-curricular activities, having served as an elected councillor on Mosman Council from 2004 to 2008, Aide-De-Camp to the current and the most recent former NSW Governor and member of the Dental Board of Australia. Her Honour also continues to serve as Lieutenant Commander in the Royal Australian Naval Reserves.

Ms Upton noted that her Honour's colleagues at St James' Hall will miss her sense of humour, lively discussions about the law, dedication to clients and 'penchant for a smart pair of shoes'; and concluded by saying that:

'Your practical approaches to problems and your sense of empathy will stand you in good stead for dealing with the varying challenges of judicial office. Your professional and personal qualities will help better protect and deliver justice for our children and for our young people. There is no higher nor more important calling.'



Photo: Gilliane Tedder

Her Honour paid tribute to the support and example of her family, educators, mentors and colleagues. She enthusiastically described the interactive demands, inspirations and enjoyment of professional practice in diverse fields of engagement.

Judge Traill will dedicate most of her Honour's time to the conduct of child sexual assault matters before the court.

Her Honour Judge Jennie Anne Girdham SC

Her Honour Judge Girdham SC was sworn in as a judge of the District Court on 24 August 2015. Attorney General Gabrielle Upton spoke on behalf of the New South Wales Bar.

Judge Girdham grew up in Tasmania. Her Honour graduated from the University of Tasmania before beginning work as a civil litigation lawyer in Hobart. Her Honour became well known in the close-knit Tasmanian legal circles, not only for her readily apparent legal skills but also for her bright and engaging personality.

After several years of post-admission work her Honour moved to London for what was initially a working holiday but stayed for several years working, first, as a complaints lawyer with the Law Society of England and Wales, and later becoming a prosecutor with the Crown Prosecution Service in London. Her Honour's work as a prosecutor in London resulted in meeting some colourful characters and having some interesting experiences in the Old Bailey, which Ms Upton noted gave her Honour a keen empathy with those caught up in the criminal justice system.

Her Honour later relocated to Australia, moving to Western Australia to work for the Western Australian DPP. After seven years working in Western Australia on difficult and high profile matters including the Easton Affair, her Honour moved to Sydney in March 2002 taking up an appointment as a New South Wales Crown Prosecutor.

Ms Upton noted her Honour's courageous and spirited advocacy, including the occasion when her Honour received applause after a trial from the jury that had witnessed her vigorous cross-examination.

From 2004 her Honour worked at the Sydney Crown Chambers undertaking appellate work in the High Court, the Court of Criminal Appeal and Court of Appeal. Her Honour has appeared in some of the most complex criminal appeals including *Carroll v The Queen* and *Keli Lane v The Queen*. Her Honour has led many appeals in the court of Criminal Appeal often serving as a contradictor. She was appointed senior counsel in 2012.

Her Honour has continuously served as a member of Bar Council.

Ms Upton said:

Your Honour's colleagues at the DPP, Crown Prosecutor and Public Defender have told me that if there was a dictionary definition for 'down-to-earth' that would be one word: 'Jennie'. You have always been inclusive and you have taken the time to talk to your colleagues, especially junior lawyers to ensure they feel part of the team and that their input is valued.

You have been described as someone who is generous, humble, courageous, downright wonderful and intellectually superior without being superior in attitude or approach. I am told the DPP and Crown Prosecutor will miss your finely honed whistling skills and anticipate the District Court being the next beneficiary of your passion for interior design.

Her Honour acknowledged the strong dedicated leadership which had mentored and supported her at the DPP and in Crown Prosecutors' Chambers. She pointed to what she perceived overall as change for the better in the NSW justice system during her professional involvement with it, particularly in accessibility and responsiveness to the needs of victims, with of course, always more remaining to be done.

Judge Girdham will dedicate most of her Honour's time to the conduct of child sexual assault matters before the court.

His Honour Judge Steven Middleton

His Honour Judge Steven Middleton was welcomed to the Federal Circuit Court of Australia during a ceremonial sitting in the Newcastle Registry on 24 November 2015.

Speaking on behalf of the New South Wales Bar, Peter Cummings SC welcomed the appointment as a 'valuable addition to the bench of this hard-pressed court'. Cummings SC said:

It seemed that following the retirement of Judge Coakes four months ago litigants from across the Hunter region and beyond might overwhelm the Newcastle registry of the Federal Circuit Court. Disputes needed resolution. People sought protection. Lives were left on hold. Now, the whole of the New South Wales Bar, and the Newcastle Bar in particular, greets this appointment with enthusiasm enhanced by relief. ... While we wished this day had come sooner, we congratulate the Commonwealth attorney-general for making what is clearly an astute appointment.

Judge Middleton's career in the law began in earnest, as it did for many judicial officers before him, when he joined the NSW Police in 1985 and entered the ranks of Police prosecutors. He graduated with a Diploma of Law from the NSW Legal Practitioners' Admissions Board in 1995. He completed his practical legal training at the College of Law in 1996 before his admission as a solicitor of the Supreme Court of NSW that same year.

In the ensuing decade his Honour built up a very successful practice consisting mainly of criminal and family law – first in New South Wales and then on Queensland's Sunshine Coast.

His Honour was admitted to the Queensland Bar in July 2007 under the pupillage of Catherine McMillan QC and Mark Stunden. He took a room and practised at the Inns of Court in Maroochydore. In 2013 he relocated his practice to Brisbane Chambers.

Although the antecedents of his private practice lay in criminal law, his Honour was increasingly drawn to family law – defined broadly to include cases in child protection, domestic violence and mediation. Often, he appeared as an independent children's lawyer. Cummings SC noted that his Honour's suitability for judicial office was based on more than knowledge of the law:

You are said to have an innately judicial temperament: calm and considered; empathetic yet realistic; firm but fair. There is a widespread expectation among barristers on both sides of the Tweed that your Honour will relish the role of Federal Circuit Court judge and approach the burdens of this new office with your characteristic vim and vigour.

The latter was a reference to his Honour's reputation for 'daunting powers of physical and mental endurance'. Cummings SC continued:

[Y]our colleagues are full of admiration for your ability to compete in ironman triathlons and a six-day 251 km ultra-marathon in the Sahara Desert. There may be days ahead when your Honour longs for the relative ease of the half way mark in the Sahara! Though your Honour's achievements are undoubtedly feats of endurance, they are also manifestations of discipline and focus on the task at hand.

...

[T]he bar is satisfied that you will bring a formidable capacity for hard work and efficiency to bear upon the workload that lies before you.

Appointments to the Local Court

Magistrates Paul Hayes and Ross Hudson were sworn-in on 23 November 2015.

Magistrate Paul Hayes graduated from Macquarie University with a Bachelor of Arts and a Bachelor of Laws in 1986. He was admitted as a solicitor of the Supreme Court of New South Wales on 18 December 1987 and began his career in the law working as a solicitor at Marsdens. After a stint with the Crown Prosecution Service in the UK in the first half of 1990, he returned to Australia and in September of that year accepted a position at Legal Aid NSW.

His Honour ascended through the ranks of Legal Aid, from legal officer in the Central Sydney, Liverpool, Burwood and Fairfield offices. In 2000 his Honour featured in Bernard Lagan's poignant article on 'cheap drugs and hurried justice'. In it, you are described as the 'harassed but always polite Legal Aid lawyer', who tries to put his mind to rest as he travels home to his family. The article concludes with a quote from your Honour: 'Winning is not what it is about. It's about ensuring that the system does, at the end of the day, spit out justice'.

'Appointments to the Local Court'

In January 2004 he became regional program coordinator, assisting the executive director of the Criminal Law Division in delivering legal services throughout NSW. By 2006 he was a deputy director of the Criminal Law Division and then deputy executive director, criminal law. He oversaw the rollout of Legal Aid's audio-visual facilities and oversaw delivery of Legal Aid services through special jurisdictions, particularly the Drug Court. His Honour didn't allow his advocacy skills to wither away and he remained rostered to appear in weekend bail hearings in Parramatta.

Magistrate Ross Hudson graduated from the University of Sydney with a Bachelor of Arts (Honours) in 1998. His honours thesis was on *The History of Long Bay Gaol*. In 1999 he enrolled in Sydney Law School and began working as a paralegal in Carl Shannon Chambers for Peter Zahra and Richard Button,

as their Honours then were. In 2001 he completed a Bachelor of Laws (also with Honours). While attending the College of Law he worked as a paralegal for William O'Brien Solicitors, before his admission in May 2002. At the time, his Honour was an accomplished 400m hurdler, 1500m runner and surfer. He was offered a position at the firm and remained there until the time of his appointment, rising to associate and then in the last five years as partner. During that time, his practice thrived and he briefed many leading criminal defence barristers, including Phil Boulten SC. Among your many notable cases were *Luke Sparos v R*; *R v Henry*; *R v Swansson*; and when he negotiated on behalf of his client, Senad Kaminic, indemnity against the more serious charge of being an accessory after the fact of murder following the death of Michael McGurk.

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