

# His Honour Judge Peter J Johns

*The following speech was delivered on behalf of the Bar by Anna Katzmann SC at the ceremony marking the retirement of Judge Johns of the Dust Diseases Tribunal.*

Kastellorizo is the most easterly island of Greece. It is where Europe ends and Asia begins. It was ruled by the Turks for nearly 400 years. It was then ceded to Italy until Italy surrendered to the allies in 1943 and British commandos evacuated the entire population to Egypt, ostensibly to protect them from German air attacks. Most of them did not return, (no doubt at least in part because the troops who were there to protect them ransacked their houses) but accepted an offer to emigrate to Australia. Your Honour was *not* one of them. Your Honour's family had the foresight to come here a lot earlier.

I have mixed feelings about this event.

On the one hand I am honoured to have been asked to speak on behalf of the Bar. It gives me particular pleasure, having have run the odd case before your Honour in the Compensation Court and the DDT over the last fourteen years. On the other hand, I, like all my colleagues here, am sad to see your Honour leave. Your Honour is universally known as a kind and decent man, a truly Christian man, who practices what he preaches.

Your Honour leaves the bench to spend more time with your adored family, to ski, to travel and to pursue further studies.

It is, of course, very difficult to understand why your Honour would choose to leave a job which frequently requires taking evidence from dying people, many of whom are struggling to control intractable pain, in their homes, often day and night, and deciding the fate of their cases which, if they were to lose, could result in the impoverishment of their loved ones. It is difficult to imagine why your Honour would choose international travel, skiing or contemplative study in preference to a life such as this.

When your Honour was sworn in as a judge of the Compensation Court in 1990 the tributes were glowing. Murray Tobias, as his Honour then was, spoke on behalf of the Bar. He spoke, not only of your Honour's intelligence, but also of your Honour's essential humanity, courtesy, sensitivity and gentle and caring disposition. These qualities have stood your Honour in good stead as a judge of the Compensation Court and of the Dust Diseases Tribunal and have eased the way for both litigants and practitioners in often stressful circumstances.

Your Honour exhibited a compassion for the injured and the sick but, at the same time, did not shirk from making the hard decisions.

Your Honour is one of that band of misguided souls who support the South Sydney rugby league side. I am informed

that, you boasted at one time of having one red and one green eye but I have seen no evidence that your Honour's judgments were similarly coloured.

I have also been told that your Honour became ill tempered at times during the running of cases. Although that is readily understandable I, for one, never witnessed it and have trouble accepting it, for I know that I tried your Honour's patience more than once and I vividly remember an occasion when I lost my temper and your Honour completely disarmed me, with a charming, self effacing remark, bringing me quickly to my senses.

Your Honour has made a substantial contribution to the work of the tribunal, a unique and remarkable institution and one of which the state government is justly proud.

On the tribunal your Honour has had to deal with a wide variety of cases, not merely the traditional dust diseases of asbestosis and silicosis but also other dust diseases like cryptogenic fibrosing alveolitis, a disease caused by exposure to dust from the faecal deposits of pigeons and other birds (at least that was our case and your Honour quite rightly accepted that to be so). Your Honour has also had to decide at least one constitutional issue, the wisdom of which decision no one called into question. Your Honour has been to the High Court once and the Court of Appeal twice in the one case, contributing to your Honour's considerable store of knowledge not only of the relevant law but also the medicine in the area of pulmonary fibroses, particularly silicosis. And a decision of your Honour's on the effect of a settlement against a concurrent tortfeasor (*Boyle v SRA* (1997) 14 NSWCCR 374) has even been cited with approval by the House of Lords. For those interested the reference is *Jameson v Central Electricity Generating Board* [2000]1 AC 455. Few New South Wales judges have that distinction.

Your Honour leaves the Bench, not to return to the Bar, as is the fashion amongst some retiring judges, but to spend more time in the bosom of a close and loving family and, in the short term, at least, to travel to the ski fields of the Dolomites. An unkind observer might describe this move as leaving the pissed for the piste.

By all accounts the pace of life in Kastellorizo is a lot slower. I hope that you and Val get to spend some quality time there in the near future.

Balzac said 'The more one judges, the less one loves.' So I wish your Honour good loving and for my own part, and on behalf of the Bar of New South Wales, I also wish your Honour good health and much happiness for the future.