

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
MANCHESTER DISTRICT REGISTRY

Manchester Civil Justice Centre
1 Bridge Street West
Manchester
M60 9DJ

Friday, 28th April 2017

Before: **His Honour Judge Hodge QC**
 His Honour Judge Pelling QC
 His Honour Judge Bird
 District Judge Obodai

VALEDICTORY ADDRESS

for

MR EDWARD BARTLEY JONES QC

by

HIS HONOUR JUDGE HODGE QC

and

MR MARK CAWSON QC

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VALEDICTORY ADDRESS

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HIS HONOUR JUDGE HODGE QC: Mr Cawson, do you move?

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MR CAWSON QC: I do, my lord. My lord, the last few weeks have been truly brutal and shocking for the toll that they have inflicted on Exchange Chambers, and on the Northern Chancery Bar.

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Firstly, the untimely death of our friend and colleague Ian Foster at the end of last month at the age of only 51; and now the grievous loss of our dear friend and colleague, Edward Bartley Jones QC, who died at the weekend at the age of only 64, at the prime of his life and practice.

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Edward was brought up in South Wales, and educated at Cardiff High School, before graduating in modern history from Balliol College, Oxford. He was called to the Bar by Lincoln's Inn in 1975, and began his practice at the Chancery Bar in the Chambers of Nicholas Riddle at 14 Cook Street, Liverpool. For four years between 1977 and 1981, Edward combined practice with a part-time lectureship at Liverpool University.

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It was in this latter capacity that I first met Edward, then aged about 26, as my tutor in succession law. I mentioned this recently to our Chambers director, Tom Handley, and he speculated, quite rightly in fact, that Edward was probably much the same then as he was in later life.

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Edward, having built up a large and successful practice, moved to Exchange Chambers in Liverpool in 1994. At Exchange Chambers, he founded and built up our Chancery and Commercial Department, of which he was Head for many years, becoming subsequently a Deputy Head of Chambers.

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In later years, Edward split his practice between Exchange Chambers in the North and Three Stone Chambers (formerly 13 Old Square) Lincoln's Inn, attracting a loyal following of solicitors both in the North and the South. It is good to see Three Stone Chambers represented here today by Justin Brown, the Chief Clerk, a reflection of the high regard and affection that Edward was held in by all.

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Edward took silk in 1997. Having previously sat as an Assistant Recorder and Recorder, he was appointed as a Deputy High Court Judge in 2002.

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In 2007 Edward was appointed as a Bencher of Lincoln's Inn, in which capacity he loyally served the Inn, helping out for many years with advocacy training and serving on the Education and Chapel Committees.

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Edward was very much in a league of his own for his intellect, his erudition, his judgment, his advocacy skills, and his wit. He was, without question, one of the finest Chancery advocates to come out of this Circuit.

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He excelled as a trial lawyer and was the master of the interlocutory skirmish. But, to my mind, it was as an appeal advocate that he was second to none, being involved in a string of leading cases in the Court of Appeal and above. These included success in the House of Lords in *Horton v Sadler*¹ in 2006, when he persuaded the House of Lords to overrule the decision of the Court of Appeal in *Walkley v Precision Forgings* relating to the discretion arising under section 33 of the Limitation Act 1980, and his more recent appearance in the Supreme Court in the Mesothelioma Trigger Litigation.

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Sitting as a Deputy High Court Judge, Edward, as well as acting with unfailing courtesy and fairness, consistently produced first rate judgments reflective of the

¹ [2006] UKHL 27, [2007] 1 AC 307

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qualities that I have already described, being models of erudition, exposition of the law and incisiveness. Many of his decisions have found their way into the Law Reports.

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Apart from being a first-rate lawyer and a larger-than-life character, Edward was, above all else, a truly kind, generous and decent man, and a real gentleman.

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In an email to me, Lesley Anderson QC described Edward as ... "Simply one of the nicest and the most decent men at the Bar who encapsulated all that is good about it."

This is the universal theme behind the numerous comments that have been passed on to me whilst preparing this Eulogy. I have been overwhelmed by the individual stories of kindness and generosity on Edward's part towards those with whom he has had dealings over the years, whatever their seniority.

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From my own perspective, I can think of many examples, but in particular I can recall appearing against Edward a few years ago on an appeal to the Court of Appeal. I had achieved an improbable victory below, and was due my comeuppance in the Court of Appeal. A lesser advocate would have really stuck the boot in and made life very unpleasant and difficult - as I probably deserved. Not Edward. He was above that. He remained the gentleman throughout, and very effectively demolished my case with calmness, precision, force of argument, and utter courtesy.

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My lord, Edward, being a sufferer from vertigo, was no fan of this building. He appeared in one of the first cases to take place here, perhaps before your lordship? On arriving on this floor, he stepped out of the lift to see the glass, and the drop to the atrium in front of him, only to turn 180 degrees around straight back into the lift. A solution was looked for and eventually found: to blindfold him and lead him to court.

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Imagine, if you will, what his commercial clients - having no doubt paid grandly for

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the services of this eminent Silk - would have thought, seeing their champion being led towards them blindfolded.

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Edward was, I believe, an essentially humble and self-deprecating man. Simon Whitfield, then a solicitor, tells of instructing him on an application where Edward was confident of victory. In fact the judge, Judge Bertie Maddocks, gave him what Simon described as a “proper kicking.” After the hearing, and reeling somewhat outside court, Simon asked Edward what had happened and he candidly replied, “A gross miscalculation on the part of counsel I’m afraid.” Nobody always gets it right.

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Edward was a man with a great sense of humour. We will never forget that characteristic roar of laughter that would often complete a sentence. Edward’s sense of fun extended to playing the role of Father Christmas at our Chambers Christmas Party on a number of occasions. Indeed, a photograph of Edward in this role has done the rounds around Chambers over the last few days.

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In preparation for this role one year, and as was his wont, Edward went out for a smoke in the Chambers car park wearing, of course, his full Father Christmas suit. He was spotted by Stanley, the observant young son of one member of Chambers, who reported to his mum, “Mum, I’ve just seen Father Christmas, and he was smoking a cigarette.” Stanley continued, “And, mum, he told me to bugger off.” It is fair to say that this is an allegation that Edward always denied.

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Stephen Connolly tells the story of being led by Edward, and having finished a case against Anthony Elleray QC in the Court of Appeal on a Friday afternoon. Stephen suggested that they all share a taxi back to Euston. Edward complained that he could not possibly join them because he first had to go back to the flat in Lincoln’s Inn in order to, would you believe it, “empty the ashtrays and Hoover the flat, otherwise,” he

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explained, “Hilary will be very cross.” The picture of Edward with a vacuum cleaner in hand, hoovering the flat, frankly, beggars belief.

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My lord, we are all very pleased that Hilary Bartley Jones has been able to be with us here today.

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Hilary, we all offer you our heartfelt condolences, appreciating the impossibly difficult task you have had over the last few weeks and the comfort and support you have provided to Edward.

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I am pleased, Hilary, that you have been able to be with us here today in order to hear how highly we all regarded Edward, not just as a first-rate lawyer, but as a truly wonderful and kind man.

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It has been a real privilege for many of us here today to have been able to work with Edward and to count him as a friend. We will sorely miss him.

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HIS HONOUR JUDGE HODGE QC:

My lord, we mark today the passing of a true legend.

Thank you, Mr Cawson.

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“Grab your judge.” That was the last headline that I heard Edward deliver, reviewing a pupil performing the narrative advocacy exercise of *Fun Flights Ltd v Beecher* at the last residential pupil advocacy weekend that Edward attended for Lincoln’s Inn, in November 2016. I was acting as the Course Director and so it fell to me to assess Edward’s performance as an advocacy tutor. It was faultless, as always. His reason was (and I quote my contemporaneous verbatim note): “To hammer home your basic points as to why you are entitled to your injunction; to get the judge thinking; to stop

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the judge going off-piste.” His remedy was: “Think what it is you have to put in the forefront of the judge’s mind.” Sound advice, indeed.

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But it was not just as an advocacy tutor that we enjoyed Edward’s presence at such weekends; it was also as a friend. Edward featured in the concluding sub-paragraph of my Course Director’s report for that weekend. Again, I quote verbatim: “The award for initiative must go to Edward Bartley Jones QC for securing a plate of fish and chips for dinner on the Saturday from the Conservatory menu.” I have been attending these weekends for 21 years, and I had never thought of doing that. How I admired Edward’s initiative; and how I envied his fish and chips.

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At a meeting of the Post-Call Education Committee of Lincoln’s Inn on Tuesday of this week, which I attended, its Chairman, Sarah Whitehouse QC and Senior Treasury Counsel at the Central Criminal Court - not one of Edward’s usual forensic haunts - recorded that the Committee had received the news of Edward’s death with deep sadness; and she spoke of “his wisdom, his good humour, and his friendship.”

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I first met Edward when I was a pupil at 20 North John Street in Liverpool and he was a junior tenant at the other then Chancery set, 14 Cook Street. Because I made the mistake of moving south to practise in London, thereafter our paths rarely crossed. We took silk together in 1997. I was the junior chancery silk. The Vice-Chancellor, Mr Justice Norris, who very much regrets that he cannot be here today, has pointed out that our “Class of 97” included one Supreme Court Justice, four members of the Court of Appeal and ten High Court Judges. He tells me that 14 of the Class of 97 met this last Wednesday to celebrate their 20th anniversary. They remembered Edward as a distinguished member of their cohort who had made a great success of being a leader.

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The Vice-Chancellor says that over the years he found Edward to be a doughty opponent, a most distinctive advocate, and a very welcome presence in the front row of any court, and an utterly dependable Deputy Judge. He comments that: “His is a notable loss to this Circuit and to the Palatine Court”; and he offers his condolences to his colleagues at Exchange Chambers, and to those close to Edward, such as Hilary.

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I got to know Edward well only when I came up here as a Chancery Judge in 2005.

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One of my favourite memories of Edward is of a twelve-day trial in which he appeared before me in Liverpool, at the very beginning of October 2010, *Lee v Futurist Developments Ltd*². Edward had only come into the case in the middle of September whereas his opponent, Lesley Anderson QC, had been involved in the case since 2006. Yet Edward had a complete mastery of the documents, if not of the city in which he was appearing.

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The company in question had been involved in the development of property for the provision of student accommodation and at one point Edward observed to a witness that, with its two universities, Liverpool was a good market for such housing. Lesley intervened, pointing out that there were, in fact, three universities in Liverpool: Edward had overlooked Liverpool Hope. She then teased Edward, suggesting that he had lived in Liverpool for many years and should know rather more about the attributes of that fine city. Edward was shocked and horrified at the false suggestion that he had ever actually *lived* in Liverpool rather than merely practising there.

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When I came to hand down judgment I managed to include a reference to one of Edward’s own judgments, when sitting as a Deputy High Court Judge of the Chancery

² [2010] EWHC 2764 (Ch)

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Division: observations in *Sargeant v Reece*³ about the permissible inferences to be drawn from not calling a witness. I concluded my judgment in the case as follows:

“I cannot conclude this judgment without expressing my thanks to both leading counsel for the considerable assistance they have provided to the court during the course of this trial. Such expressions of gratitude are customarily tendered, and are always sincerely meant; but, on this occasion, both counsel deserve especial praise. Mr Bartley Jones came into the case at very short notice, and he has had to make do with statements of case and witness statements which, in certain respects, caused him difficulties, both of presentation and of substance. Although involved in the case throughout, Miss Anderson has had to overcome the difficulties of responding to a counterclaim which has been in a state of constant evolution, and which has not always been expressed with Mr Bartley Jones’s ultimate clarity and precision. Both counsel have responded to these challenges; and to both the absence of certain material documents, and the emergence of other documents during the course of the trial, with their habitual patience, courtesy and good humour. As a result, it has been almost a pleasure to try this case.”

In this very courtroom in Manchester I have fond memories of appearances by Edward in trials such as *Murray Vernon Holdings Ltd v Hassall*⁴, which occupied some 16 court days between, would you believe, May and December 2009, in part because of Edward’s involvement in the Mesothelioma Trigger Litigation; and in a bold but

³ [2007] EWHC 2663 (Ch)
⁴ [2010] EWHC 7 (Ch)

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ultimately successful application by Edward for summary judgment in *Redrow Homes Ltd v Martin Dawn (Leckhampton) Ltd*⁵ in April 2016.

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But it was not only as a judge that I knew Edward. He became a fellow Bencher of Lincoln's Inn in May 2007; and, as Mr Cawson has mentioned, he took a keen interest in both the educational affairs of the Inn and the life of its Chapel. He was a member of the Chapel Committee, and he attended its most recent meeting on 8th February. He took over from me as lead Bencher for the Inn's students in Manchester when I became Joint Chairman of the Student Affairs Committee in July 2008. In that capacity, and with the able assistance of Stephen Connolly, Edward assumed responsibility for organising narrative advocacy and witness handling advocacy sessions for the students of Lincoln's Inn attending the two BPTC providers in Manchester. These never took place until after the end of January, when the shooting season had closed; and they had to fit in with Edward's skiing holidays.

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When the Inn introduced scholarship interviews outside London for the first time in March last year, Edward made Exchange Chambers available as the venue for the interviews; and he did so again this year.

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Those meeting Edward for the first time might have thought him a little pompous and a trifle ponderous. But that was an entirely false judgment, which was rapidly dispelled on closer acquaintance. Bill George, who regrets that he cannot be present here today because he had already booked to visit family in Melbourne, Australia, has emailed me to say that he had some memorable exchanges with Edward but that they could always raise a laugh at the other's expense. He speaks of the loss of a friend whom he will miss sparring with.

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⁵ [2016] EWHC 934 (Ch)

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Mark Harper QC, who also regrets that he cannot be here today, has emailed me to say that he has very fond memories of Edward as he was Mark's opponent on one of his early cases at the Bar and Edward was very encouraging and supportive. Mark also remembers Edward giving a talk to the Northern Chancery Bar Association on sham transactions and how the law had been completely misunderstood by leading counsel in a matrimonial case. Mark contacted him a few days later to see if Edward had noticed that the leading counsel concerned had been elevated to the High Court bench. Edward's response was: "Another one to the social worker division."

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I am sure that I speak for you all when I say that I will miss Edward greatly. I fully endorse the assessments of Edward that you have heard from Mr Cawson QC. With her characteristic economy of language, Lesley Anderson QC has summed Edward up in her assessment of him as: "Simply one of the nicest and most decent men at the Bar, who encapsulated all that is good about it." One of our Benchers in Lincoln's Inn decries the use of the epithet "clubbable" in the context of discussions at Council about possible candidates for election to the Bench of the Inn, but Edward could see nothing wrong with the expression, which certainly applied to him.

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Our hearts go out to Hilary. I trust that she will continue to occupy the flat at Hardwicke Buildings that Edward told me she loves so much, and that she will continue to participate in events in the Inn.

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The Northern Chancery Bar, and the Chancery Bar nationally, have lost a truly great, and humane, leading counsel; and those who counted themselves as such have lost a true, and a faithful, friend. Thank you.

[Ends]