

A Eulogy for Jake Michael Herd

Introduction

My name is Lisa Nichols. I am a judge of the Supreme Court of Victoria. Jake was my Associate. He worked very closely with me and my other Associate, Alex Culshaw, for the year that he spent at the Supreme Court.

Jake was very much-loved member of the Supreme Court community.

At Wendy and Dale's request I'll speak about Jake's professional life. I speak on behalf of his friends and colleagues at the Court. I have incorporated the words of some of Jake's colleagues in what I will say.

Jake was a young of many talents and interests. His legal career was by no means his whole life but his love of the law, his devotion to practising the law and pursuing a career in it, and his affection for the people he met in law were very central to Jake.

Many of Jake's law friends are here today.

Jake at the Court

As you may know, it is fair to say that Supreme Court Associateships are only given to the brightest and the best of young lawyers.

Jake came to the Supreme Court just over a year ago.

Together with an impressive CV, Jake had submitted in his application for the job, an article he had authored that had been published in a law review journal.

Obtaining publication in a law journal is onerous. It takes first class thinking, writing and hard hours of work. The article was on a highly technical subject. But it was interesting, sharply insightful and persuasive. It even had a law-nerd joke in its title. Having read it, I decided that I had to meet this young man.

Meet Jake I did, and I liked him straight away. He came to work at my chambers. Alex joined us shortly afterwards and we became very happy chambers; Jake and Alex working with me in hearing and deciding commercial cases.

Jake's exceptional intellect and his love of the law became obvious very quickly. Jake had a deep interest in the "why" of the law, not just the "what".

His understanding of the "why", reached through thoughtful application and hours of hard work, showed a maturity way beyond his years. He would polish and polish his pieces of work until they were near-perfect.

I was regularly taken aback at the lucidity of Jake's writing and his mastery of legal principle. He seemed to readily grasp some things that eluded others with years' more experience.

After court hearings in Jake would astutely dissect counsel's arguments in our after court de-briefing chats, respectfully, soaking up everything he could learn.

I told him he would make very fine barrister.

Jake's CV

Jake had an impressive list of accomplishments before he came to the Court.

He graduated with a Bachelor of Arts majoring in Italian and psychology and then a Juris Doctor, from Melbourne University, a leading Australian University.

At Melbourne Law school he achieved distinguished marks in difficult subjects, and received, among other awards, a Professor Cheryl Saunders scholarship.

Jake spent his graduate year at King Wood Mallesons in dispute resolution and tax and was, before that, a paralegal at the Victorian Government Solicitor, working in public law.

Whilst at university he was a research assistant to Professor Jeanie Paterson, and an editor of the Melbourne Journal of International Law.

For three months he understood an internship at the United Nations Office on Drugs and Crime. While he was there is drafted chapters of an official United Nations publication on money laundering and the abuse of legal privilege.

None of those positions are easy to come by.

Jake volunteered at refugee legal and the Moonee Valley Legal Service.

I have mentioned edited highlights only.

Jake's Qualities

Perhaps in some other people, such brilliance might be accompanied by a fair dash of hubris or egotism. Not Jake.

He had a genuine curiosity about people and what life had to offer, and was warm and open, thoughtful and considerate of others, not self-seeking.

It's also hard to encapsulate the qualities of a person in a few short words.

The closet I can come is to say that there was within Jake a strong, warm and bright light. Its presence was felt in his cracking intelligence; his easy manner and warm and happy disposition; his interest in and genuine connection with so many people from across the profession; his curiosity about so many things in and

outside of the law; the seemingly limitless capacity to pursue interests and opportunities with a zeal and dedication that left nothing in doubt, nothing in the tank.

Ken Kiat, one of Jake's colleagues who was also a dear friend from their first day together at law school, says this of Jake,

Jake was laid back but beneath the cool and calm demeanour was someone incredibly driven though not competitive, and who had a seemingly endless thirst and capacity for learning, whether it be law, music or history.

His ambition was infectious and he has driven me to become a better person. He was a great friend and one of my biggest cheerleaders at all junctures.

Being driven in pursuit of one's own goals, but while thinking of others and bringing them along with you, being ambitions but not self-regarding is an admirable quality, and Jake had that in spades.

I will now read some of **Alex's words**

As I write this in our chambers, it feels like Jake is sitting right behind me at his desk. I don't think that I will be able to shake that feeling. We practically worked on top of each other, in a glorified broom closet.

Jake was always first in and last to leave for the day. He would sneak in on the weekends to finish off work or get ahead for the week to come. At first, it annoyed me. I thought it was a hangover from his top-tier Mallesons pedigree, that incessant need to compete or show off, as so many lawyers do. He was always one step ahead, I always felt like I was catching up.

But of course, it quickly became obvious that wasn't who Jake was at all, and that feeling melted away. He was kind and generous. He was brilliant and curious. Overwhelmingly, Jake was a decent person. I looked up to him, I sought his counsel, I turned to him when I was unsure. He never patronised me, no matter how elementary my question. He helped me become more confident.

I loved that he loved the law. He was inquisitive and bright-eyed, and I was excited for him to go to the bar. He was interested in public and administrative law, human rights, class actions and tax. He would send me articles of interest or pull me over to look at a Supreme Court rule that he had been pondering. He wanted to know the legal philosophy and development behind every rule.

He had recently joined the Melbourne University Committee in charge of publishing the fifth edition of the Australian Guide to Legal Citation. No one - truly no one - could be as passionate about legal citation as Jake.

Jake loved all relics and traditions of the law. He relished the opportunity to work in a heritage building. He had a favourite courtroom chandelier. He admired the ceiling roses and cornices. He would point out the ornate cast iron vents. He recently ordered green bankers' lamps for chambers.

It is through these daily observations that I feel like he is summoned back into chambers with us.

Jake's work ethic

Every day of the year he spent at the Court, Jake came into work with a smile, an unbounded enthusiasm and an obvious delight that he was doing what he loved. A number of my judicial colleagues who have chambers near mine, have remarked on what a pleasure it was to see his bright face, and engage in easy chat with Jake, on all manner of subjects.

Jake's work ethic and love the law bordered at times on obsession. As I have said, he would polish and polish and polish his work, until forced to hand it over. He would sneakily come in on Saturdays. After Friday night drinks when everyone else went home, he would sometimes return to work in the late hours of the evening, and then start again at the crack of dawn.

I say that Jake's devotion to the law and to his work only "bordered" on obsession.

His devotion did not come at the cost of excluding others or becoming narrow and rigid.

Jake was as at home discussing important matters of justice, as he was talking about how to make pasta, where to travel to next, whether and when to run a marathon.

I think of Jake as a modern day renaissance man, with wide and varied interests – art (in particular painting), music (guitar and heavy metal), languages, travel, skateboarding, cooking, and on the list goes.

Jake the comic

Jake was a serious lawyer with a sunny disposition, a "party animal" and a prankster.

When asked to reflect on Jake's most enduring qualities, his prowess on the dancefloor was remarked upon repeatedly.

Jake's colleague **Chris Albertson** says Jake was the life of the party, with his incredible dance moves; his rendition of pop songs in heavy metal, his re-enactment of Harrie Potter scenes using a bowl of mussels at the pub.

One time he wrote Chris' name on a shower sign-in form (a legacy of covid contract tracing) a staff bathroom at the court, and recorded Chris as having taken an hour-long shower in the middle of the work day. Chris insists that that most certainly did not happen. The note was noticed in due course. Chris was roasted by his friends and enjoyed the joke.

As Chris put it, Jake was everyone's mate, always up for a chat, and a friendly face around work, a brilliant lawyer but more importantly a great friend and wonderful human being.

Jake's friend and colleague **Noah Grub** says this:

Jake was one of the funniest and brightest people I'd ever met. Frequently, my co-worker I share an office with would look over and see me laughing at my screen. She'd almost always ask 'what has Jake sent now?'

Jake's His comedic insights, much like his legal and intellectual ones, were always so incisive and acute – striking directly at the issue and providing a point of view that was uniquely Jake's.

I'll finish Jake's friend's remarks with these words from **Alexander Pemberton**:

When I picture Jake, he's smiling,
A kind smile when he saw you,
A serious smile when he listened intently,
A silly smile when he laughed with you.

When I picture Jake, he's dancing,
Dancing because it made us laugh,
Dancing because he was good at it,
Dancing because he loved to.

When I picture Jake, he's living life,
Living life generously,
Living life his own way,
Living life to the full.

When I picture Jake, I'm proud to have called him a friend.

We at the Supreme Court have been privileged to share a year with Jake.

Jake's time with us ended way too soon. We miss him terribly.

Dale and Wendy

Dale and Wendy, if I may say so for all of us, Jake is a profound credit to both of you.

He has left a legacy of both brilliance and kindness.

It is the sincerest hope of Jake's Supreme Court family that in the darkest hours of your grief, you will take real comfort in knowing how brightly the light of that very exceptional young man shone in our lives.

The word "celebration" is sometimes used of funerals. I must admit that at times I have found that jarring. But when you think about it, the very fact that such a beautiful and exceptional human being did spend 27 years on this planet, sharing his life with each of us who is here today, is indeed worthy of celebration.

Jake was one of the best of us. He brought out the best in us.

Wendy and Dale, Jake will remain on our minds and in our hearts.