

ABA Advanced Advocacy Course

18 - 22 January 2010

The Australian Bar Association ran its "Fourth Residential Advanced Trial Advocacy Course" over five days in January in sunny Brisbane. Next year's course will be held in Melbourne. This is not a course for the fainthearted or for those looking for a relaxed week racking up half the necessary CPD points for the year. It was intensive and confronting – it exposed each participant's advocacy skills (and lack of them) to a level of scrutiny and dissection that cannot be replicated in day to day practice. But for all that, it was enjoyable and rewarding, both professionally and personally.

The course materials arrived in late December and comprised mock court documents in a Federal Court civil proceeding claiming breach of s52 of the Trade Practices Act. This was the first year in which this particular fact scenario had been used and there were a few teething problems with the materials, some of which the organisers decided to leave for us to deal with during the trial in a way that I felt was somewhat artificial. However, this did not detract from the value of the exercise. Each participant was allocated the brief for either the respondent or applicant and we were urged, in a letter from course spearhead Phil Greenwood QC of the Sydney Bar, to allocate at least three days to preparation in advance of the course – time well spent.

The course commenced on Monday afternoon with some introductory presentations, including example opening addresses by two course coaches. The following day, the participants were divided into small groups, with each participant doing a 10 minute opening address (recorded on DVD), which was critiqued by an in-court coach. Another review was then conducted with a different coach, making use of the DVD. This was essentially the format for the balance of the course, with each day focussing on a different segment of the trial (openings, examination-in-chief, cross-examination and closing), interspersed with sessions on case analysis, use of voice and performance.

Participants were required to have at least two years advocacy experience – in fact the vast majority had considerably more than this. Participants included three silks, one former judge who was returning to the Bar, and one very experienced Crown Prosecutor. There was a conspicuous lack of ego, however, and the atmosphere was encouraging. The Queensland and New South Wales Bars were well represented (making up well over half the total of around 40 participants), with a sprinkling of members from other States and two members of the New Zealand Bar. The Victorian Bar was surprisingly under-represented, with only four participants.

The coaches were, for the most part, both talented and experienced, and were drawn from a wide range of jurisdictions. There were silks from England, Scotland, South Africa, New Zealand and Australia, and a number of Australian judges. The cross-examination demonstration by Gerry Hanretty QC from the Scottish Bar was particularly memorable; especially the line: "kidnappers do not normally call ahead, do they Mr Eiffel?", in response to the emotional outburst from the witness accusing the respondent of kidnapping his business's goodwill. All of the coaches were generous not only with their time and expertise, but also their energy and enthusiasm.



They gave praise where they felt it was due, and were asked to limit their criticism to one or two key points per performance.

The input from the three performance coaches was particularly valuable. They each had an impressive background in drama, voice and communication. It was useful to think about court appearances as a form of theatre and to realise that, although it is important to be yourself, we all have many "selves" which we can tap into. Participants were encouraged to think more consciously about how they wished to be perceived (perhaps warm, persuasive, authoritative or compelling) and then to consider whether their voice, appearance, energy, stance and gestures actually conveyed that impression.

The course was uniformly praised by the participants, including the Victorians. Mary-Anne Hartley SC noted three particular features of the course of value to her, namely:

- the opportunity to reflect on how we work, in a safe environment where it is possible to experiment with alternative styles or methods;
- the chance to meet and work with barristers from other jurisdictions, and to learn from the overseas faculty members as well as judges and senior members of other bars; and
- the input from performance and voice coaches who have a body of knowledge that is very relevant to our work but which few of us have had the opportunity to explore.

And members of the Criminal Bar should not be put off by the course content. Carolene Gwynn said that, as a criminal barrister, she did at first feel like a thief at the picnic, but this eased into the position of long lost family member who no-one was sure what to do with. She also noted that everybody was very welcoming and that she found the high concentration of coach assistance at the course very helpful.

Although the course shared some of the features of the Readers' Course, it demanded greater rigour from all involved and offered a stronger focus on some of the finer points of effective advocacy, commensurate with the average level of experience of the participants. I recommend the course to any member of the Bar with the requisite minimum experience. And it is difficult to think of anyone with too much experience to take something of real value away from the course.

EWV