

Advocacy training


In January 2003 30 new advocacy trainers from around the country were trained at a weekend workshop held at Champagne Sports Resort in the Drakensberg.

In September 2002 an expert witness workshop was run for the first time in South Africa. It was held in Pretoria and was

attended by 12 juniors, six trainers and four experts.

The General Council of the Bar hopes once again to send delegates to attend advocacy training workshops in England during the course of 2003. In 2002 four juniors attended training sessions in England with spon-

sorships from both the GCB and the Inns of Court Advocacy Training Committee.

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Drakensberg weekend workshop

Contributed by Lee-Anne Lane, Durban Bar


It was Friday lunchtime when five new members of the Durban Bar set off for the Drakensberg with Gardner van Niekerk SC, our taxi driver and chaperone. We had been invited to attend the annual Advocacy Training Programme to act as pupils in the training of trainer advocates. Little did we know how much hard work, and play, awaited us.

The venue was comfortable, the scenery spectacular, and the company interesting. Finding ourselves in the midst of so many senior counsel from throughout South Africa, three queens counsel from England, and Justice Johann Kriegler was initially intimidating, but turned out to be great fun.

After the introductions on Friday night, the evening proceeded uneventfully. Thus the young and restless had to burn off their excess energy in the gym at the crack of dawn on Saturday. Thereafter, we applied our minds to the real reason we were there – to work. And work we did! However, if the pupils felt the strain, it seemed to be even more draining for the trainees. A senior counsel, who shall remain nameless, provided endless cause for mirth and endeared himself to the pupils as he battled to grasp the process and eventually declared that “This case is c...p, you should stop the prosecution!”

For the pupils, it was humbling and sometimes embarrassing as we were criticised (or should I say “corrected”) first by the trainees and then by the trainers who would point out even more relevant faults. By the end of the day we were exhausted, but there’s always energy for a party. I’m not sure if it was because we were invited to stay or because we had the cheek to do so, but we were the only pupils to join in the REAL

festivities when the party retired to the bar. When Peter Hazell SC brought out his “hubbly bubbly,” apparently a regular feature at these weekends, I realised that these guys meant business! There was not even a raised eyebrow from Wallis SC, an outspoken anti-smoking campaigner, who remained standing till late into the night. Might I add it was all above board, nothing illegal involved! While some disappeared to play snooker in what appeared to be a five-day game, others pretended that they could dance (this included me). Needless to say, there was no gym-routine to be had on Sunday morning. There were, however, several rather pale faces to be seen.

If it sounds like we had fun, that’s because we did. It was also very rewarding to witness the improvement in the performances of both pupils and trainees. Thanks to Sharise Weiner SC and Marion Tanzer (training administrator of the GCB) for successfully organizing such a pleasant and productive weekend. 

Expert witnesses training workshop

Contributed by Johan van den Berg, Pretoria Bar

I was privileged to participate in the expert witness training programme organised by the Training Committee of the Pretoria Bar Council.

Junior counsel often do not have the opportunity of leading cross-examining expert witnesses as a result of, inter alia, the following:

- The cost involved in obtaining the services of such witnesses.
- Expert witnesses are most likely to appear in matters where the quantum of a party’s claim is in dispute (ie damage claims/quantum trials), but is it a rare occurrence for such claims to proceed to trial.
- Junior counsel feel intimidated by the daunting task of cross-examining experts such as doctors, actuaries etc, and they may, therefore, shy away from work of this nature.

This does, however, not mean that junior counsel can simply ignore this essential part of any trial counsel’s practice. Junior

members are confronted from the first day of their practice, with expert evidence, such as the testimony of loss adjusters, in motor vehicle collisions and fingerprint experts in pro deo matters.

The manner in which the Training Committee presented the training course provided me with not only the technical (and tactical) background to expert testimony, but also with hands-on experience in leading and cross-examining real experts.

I wish to pass the following remarks with regard to the expert training programme:

- The group in which I was involved, was provided with the appeal record of a trial in which both experts who participated in the training course testified. We had to lead and cross-examine these experts based on the evidence contained in the record. This gave a sense of reality and certainty to the exercise. It is therefore essential that real experts, with court experience, be involved in the training.
- Counsel can benefit from being instructed, not only by senior members, but also by experts on the basic principles involved in the different fields of expertise. Some junior counsel are for example

not familiar with the role and function of industrial psychologists or actuaries in a third party trial. It goes without saying that it is absolutely necessary for counsel first to understand the contents of the evidence, before he/she is able to present and/or attack it.

- The presentation of a course of this nature cannot be combined, due to time constraints, with other courses. Each participant must, as far as possible, have the opportunity of leading and cross-examining the expert witnesses.
- The facts on which the expert testimony is based must be certain and simple. The leading and cross-examination of, for example, an industrial psychologist in a third party matter in which aspects such as the plaintiff’s loss of earning capacity, early retirement, earning levels and contingencies were to be considered, proved to be too complicated.
- The input by the expert witnesses on how they experienced testifying in court and specifically on the mistakes most often made by counsel in cross-examination gave a fresh perspective to the training course. 