

Johannesburg

Student vacation programme: June/July 2009

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As we all know the transition from student to professional life can be a challenging and sometimes even daunting experience. Suddenly you are exposed to new rules, new cultures and new expectations. So often the perceptions, especially those of law students, are tainted by novels, films and television. The enthusiasm of law students in their final year knows no boundaries.

During the past two years Advocates Group 21 has offered several students from the University of Zululand an opportunity to gain some insight and understanding of what it entails to practise law as an advocate and life at the Johannesburg Bar. This has been achieved by inviting students to participate in Group 21's Student Vacation Programme during their winter vacation. The aim is to provide students with realistic hands-on experience

by exposing them to as many of the challenges which they might face as young advocates' and as far as possible to provide them with the opportunity to put the theory that they have learned so far into practice.

For a period of two weeks during June/July, students participate in a well-structured programme. Each student is allocated a member of Group 21 that acts as his or her mentor for the duration of the programme. Students also rotate between members in order to maximise their exposure to different fields of law and ways of practice. In so far as chamber-work is concerned, students are exposed to drafting pleadings and opinions, sitting in on consultations, pre-trial conferences and preparing for High Court and magistrates' courts trials. Students also attend High Court and magistrates' courts motion proceedings and trials as well as proceedings in various other courts and tribunals with their mentors and other members. In addition, students participate in a moot court. They are provided with a set of actual pleadings and are required to prepare heads of argument and present oral argument during mock proceedings. This practical experience provides them with insight into what they can expect and what will be expected

of them in the very near future. The students learn through practice and observation in an interactive learning environment. The performance of each student is closely monitored and they are regularly provided with feedback and guidance. The programme also offers guidance and assistance in so far as professional etiquette, personality in the workplace, work/life balance and getting the most out of their career are concerned. The programme facilitates and encourages open discussions between students and advocates. The focus of the programme is to provide the broadest possible development and exposure to practice with hands-on experience.

As advocates and members of the Johannesburg Bar, we recognise that the continued growth and success of quality advocates at the Bar depends on the quality of its members. It is on this basis that the initiative was launched, and will continue, in order to transfer and expose young students to some practical experience. As we all know the leap from law student to lawyer is huge and there exists a social responsibility on us as practitioners to use each opportunity available to introduce and transfer the skills and knowledge that we have gained.

Advocacy training is fun

By Stuart Wilson (completing pupillage at the Johannesburg Bar)

Advocacy training is fun. It is the first exposure that most pupils will get to the art of oral argument and witness handling – safe in the knowledge that nobody's freedom or money really depends on it. Advocacy training, then, is the legal equivalent of the trainee surgeon's cadaver. The procedures pupils are required to master range from the simple unopposed application to restrain a golf club from pelting a residential property with competitive tee shots (which can surely be performed without anaesthetic) to the slightly more complex appeal to the High Court against a magistrate's decision on a motor vehicle accident claim (which, while not a heart transplant, must be analogous at least to an appendectomy).

Each week, pupils are required to read papers sent to them beforehand and to perform a given technique. I was put through my paces on appellate argument, opening and closing statements in a trial, moving a bail application and examining and cross-examining witnesses. Once the 'performance' is done, it is reviewed by the advocacy trainers nominated by the Bar. The form of review is called the 'feedback' method of instruction. Advocacy trainers give a pupil a 'headnote' – the one thing the pupil can work to improve – which is then explained to them in detail. The advocacy trainer then gives an example of how the particular skill should be practised. The pupil is then required to 'playback' the performance having taken account of the advocacy trainer's remarks. So, for example, a cross-examination might fail to make sufficient use of leading questions. The advocacy trainer will give an example of a line of leading questions meant to elicit evidence damaging to one's opponent's case, and demonstrate how this is done in practice (usually on a pupil posing as a witness).

The standard of advocacy training at the Johannesburg Bar is very high indeed, and the calibre of most of the advocacy trainers is outstanding. It can send tingles down the spine to watch, for example,

Gerald Farber SC, hit his stride in cross-examination during one of his sessions. Being closely questioned on my client's appeal by Qhawe Mashabane was a searching, but instructive experience. Being told by Judge Colin Lamont that I should try to sound, in moving a bail application, more like I am making submissions and less like I am delivering judgment was, perhaps, advice I needed. It is to be noted as well that advocacy trainers gave up two hours late on a Friday afternoon to participate in the course. This is surely a difficult commitment to make.

There's no getting away, though, from the fact that advocacy training can be daunting. Pupils understandably lack confidence. Given the now extremely onerous academic and practical demands of pupillage, they never really have time to prepare adequately for the training sessions. As a result, nerves can sometimes get the better of us. I saw a few people in tears after one or two of the sessions. For the most part, the Bar's advocacy trainers know this. Their manner in training sessions is, by and large, constructive and supportive.

However, it was not difficult to detect, in one or two of the sessions, the remnants of a bully-boy machismo that the Bar has, by and large, left behind. I did not get much out of being told, for example, by one senior member of the Bar that he had stopped listening to me after I made an elementary mistake in the first few seconds of my opening statement. As he 'no longer trusted' me, he decided that it was not necessary to pay any attention to the rest of my presentation. This is far from helpful. (For the record, I later found out that my 'mistake' wasn't a mistake at all – he'd got the law wrong!). I once watched the other half of my group chastised for delivering examinations-in-chief so poor that they should not be let loose on the public. Such strictures – and the tone in which they are delivered – are unnecessary. Advocacy training should be a space to make mistakes and to be encouraged to try again – not a boot camp intended to weed out perceived 'weaklings'.

That said, advocacy training is an overwhelmingly positive experience. Carefully planned, sensitively and expertly executed, it is clear that a lot of work goes into the programme. I have felt myself and seen my co-pupils improve a great deal during the first part of the course. Some have even started to enjoy themselves. 