



Developing Confidence in the Courtroom

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For a young practitioner, the early days of appearing in court can be a daunting experience. Lord Denning certainly found it so when he began his career at the bar: “Apart from writing, there is addressing the Court. Speaking needs even more practice: and even more experience. I was no good at first. I was too shy; also too nervous.”²

Make yourself a good lawyer first, then an advocate

Chief Justice Murray Gleeson sharply observed:

To be a good advocate it is necessary to be a good lawyer. Not all good lawyers are good advocates. but an advocate who hasn't taken the trouble to master the principles of law relevant to the contest is like an athlete who can develop a dazzling turn of speed in the course of a race but hasn't taken the trouble to find out where the finishing line is located.

Sir Owen Dixon once pointed out that it is the fundamental ethical obligation of every barrister to have a sound working knowledge of the law. This is both a professional duty and an essential pre-requisite of success as an advocate.³

It should go without saying, but it cannot, an advocate without at least a good working knowledge of the substantive and procedural law in the jurisdiction in which he or she appears is unlikely to have confidence, nor have any right to feel confident, when appearing in court.

It follows, then, that thorough legal preparation for *any* appearance in court is necessary. As experience develops, that preparation may take only a short time for a simple matter. So, for example, after a short time, the law relating to PCA offences ought be second nature to a lawyer doing pleas in the Local Court.

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² *The Discipline of the Law*, Butterworths, London, 1979, p.7-8.

³ The Hon A.M. Gleeson AC, “Advocacy”, Paper to NSW Bar Association’s Bar Practice Course, November 2001.



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The unwritten rules

Each court has its own ways of doing things. Even between Local Courts there are many variations. Most large Local Court complexes, for example, will have a call-over by a Registrar at 9.00 or 9.30am prior to the commencement of the list and hearing courts starting their work for the day. But smaller courts do not necessarily follow that practice.

Each Local Court has a cycle of list days and hearing days. The cycles vary from court to court. So, for example, if you wish to adjourn a case from Sutherland to Wagga Wagga for a plea, the Sutherland Magistrate will expect you to be able to nominate a list day at Wagga Wagga. He or she will not necessarily have that information on the bench. Find out on the web or from the Registry before mentioning the matter in court.

Don't mention a matter before you are ready to proceed unless you are called on by the bench and have your client in court when you do.

Announce your appearance. It is a basic courtesy. It places your name on the court record for the monitor and it avoids those awkward situations in which the Magistrate has a "senior moment" and forgets your name but does not want to reveal this.

On busy list days in any court, the judiciary are under intense pressure to get through a large volume of work. It is critical that practitioners understand that in such situations brevity and precision are highly prized attributes in any practitioner. So, for example, if you are representing a drink-driver in a busy list at the Downing Centre, the court will be unimpressed by a plea which in which 25 references are presented to the court: make a small selection of your best. Similarly, the court will be interested mainly in your client's driving record, anything he or she may have done to reduce the possibility of re-offending (such as attending the Traffic Offenders' Program, commencing treatment for alcohol dependence, etc) and his or her need for a licence.

In short, concentrate on the salient points. Long-winded discussions about the defendant's background and so on is usually not of great assistance to the court.

Remember that it is the duty of all advocates to assist the court in coming to the appropriate conclusions. Anything done in court by an advocate that does not do so is a complete waste of time and is likely to be counter to the client's interest.



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It is also well to remember that advocacy is the art of persuasion. We are surrounded by those who wish to persuade us of some point of view or other, to buy or sell things, to accept or reject certain ideas. It happens in church, on television, in supermarkets, at school and, of course, in the courtroom. The techniques of persuasion are not mysterious to most of us.

Sir Owen Dixon once said that “good advocacy never takes its eyes off the court and it remembers the Greek precept... ‘nothing too much.’ This is sometimes called tact”.⁴

Chief Justice Gleeson, taking up that notion, has observed that “the indispensable requirement for a successful attempt to persuade somebody of something is sensitivity to the occasion and to the audience, an observance of the requirements of courtesy, and a tactful appreciation of the likely response of the audience to particular lines of argument.”⁵

In the Local Court, just as in the High Court, “a tactful appreciation of the likely response of the [Magistrate] to particular lines of argument” is a mark of excellence. It takes time to develop but it distinguishes the real professionals from the lawyers whose successes have little to do with their own contributions to the cases in which they are involved.

Smoothing the way – manners and etiquette

Legal lore and etiquette is a study in itself. On this subject, Justice Peter Young’s article, “Court etiquette”⁶, is well worth close attention. Annexed to this paper is his list of Do’s and Don’t for the courtroom. Courtesy in general, and familiarity with the manners and customs of the courtroom, are part and parcel of good advocacy and legal professionalism. It is self-evident that anyone who is unfamiliar with the customs practised by the “natives” will feel him- or herself to be an interloper or even an imposter in the courtroom. Learning the customs of the courtroom is a necessary rite of passage and a boost to the confidence of any litigation lawyer.

Good manners do not distinguish good lawyers from the mediocre but most good lawyers, in my experience, are also well-mannered in court. Courts will tolerate skilful but liverish lawyers

⁴ “Address upon the occasion of first presiding as Chief Justice at Melbourne on 7th May, 1952” in *Jesting Pilate*, the Law Book Co, Melbourne, 1965 p.251.

⁵ Gleeson, *op. cit.*

⁶ (2002) 76 ALJ 303- 308.



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because they don't have much choice. On the other hand, a combination of lack of skill and insolence will have many magistrates and judges looking for a fast way to terminate the case, usually to the disadvantage of the uncouth one's client.

Lack of courtesy is, of course, not a one-way street. One of the most difficult situations a young advocate may have to face is that of the cranky judge or magistrate. This is a bit like talk-back radio: most of the power in the conversation is at other end. If a judge or magistrate is being unfair or a bully, the sad fact of the matter is that, in such circumstances, the advocate is required to behave better than his or her venerable elder. A complaint to the Judicial Commission may be an option after the event but, in the courtroom, that is no remedy or consolation.

The best way of dealing with petty tyrants is to remain calm, absorb the attack with dignity and not to engage in a squabble with the Bench. Self-deprecating humour can be a saving grace on such occasions.

Lord Birkenhead (F.E. Smith QC), when he was a young barrister early in the 20th century was famous for taking on judges. It is recorded that on one occasion he had the follow close encounter:

Judge: Have you ever heard of a saying by Bacon--the great Bacon--that youth and discretion are ill-wedded companions?"

F.E. Smith: "Yes, I have. And have you ever heard of a saying of Bacon--the great Bacon--that a much-talking judge is like an ill-tuned cymbal?"

Judge: "You are extremely offensive, young man!"

F.E. Smith: "As a matter of fact we both are; but I am trying to be, and you can't help it."⁷

It is also a matter of record, apparently, that while Birkenhead soared to lofty heights in the law and politics, the English Bar was littered with the wrecks of the careers of men who were as cheeky and discourteous as he was but lacked his ability.⁸

⁷ See Gilbert, M *The Oxford Book of Legal Anecdotes* Oxford, 1989 p.279.

⁸ See Lord Alexander of Weedon QC "The Art of Advocacy" *Bar News* Summer 1991 9-15 at p.9.



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Basic rules of court etiquette

Stand when speaking to the Bench. I once saw a QC receive a humiliating ticking off from Chief Justice Gleeson in the Court of Criminal Appeal for failing to stand when making an objection.

Bow when entering or leaving the courtroom if the court is sitting. Bow when the judge or magistrate enters or leaves. Stop talking at the Bar table when the judge or magistrate enters the court and stay silent until the court is called into session.

Don't leave the Bar table unattended. It is old-fashioned courtesy to wait until excused or another practitioner joins you at the Bar table once your matter has concluded.

Announce your appearance. Don't rely on the Bench to remember your name. Some of us see hundreds of people in a week and have senior moments from time to time. It is also helpful for the monitor who has to record a name on the court transcript log if the name is announced. However, while it shows a practitioner is well-mannered, it is unnecessary and a waste of time for a lawyer to announce an appearance before a matter is mentioned by the Bench or before the case is ready for mention by the parties.

Honorifics. Call your lawyer opponents "my friend" or "my learned friend" but don't call an unrepresented party "my friend". The Bench is addressed as "Your Honour" in court. Judges are called "Judge" outside court. Magistrates are generally addressed as "Mr X" or "Ms Y" or "Mrs Z" out of court. Address witnesses by their names or as "Sir" or "Madam", not as "Witness!"

Don't approach witnesses in the box without leave from the court. Leave that to the Americans.

Don't chat with the Bench. If for some reason there is a lull in proceedings, and the magistrate stays on the Bench, don't embarrass him or her by starting a conversation. If you wouldn't do it in the Supreme Court, don't do it in the Local Court either. Both are representative of the rule of law and are therefore formal places.



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Do not speak to the judge or magistrate about cases except in court. If you practise in a country court where the pleasant old-fashioned custom of the practitioners having morning tea with the magistrate still prevails, NEVER discuss your case with the magistrate. In rare instances it may be necessary to raise something with the judge or magistrate in chambers. If so, you must first speak to your opponent and explain what you want to do and why. You must never approach a judicial officer privately in the absence of your opponent.

Be on time for court. If there is a call-over list, be there when the call-over starts. If you are in court for a hearing, be there on time. Return from morning tea at the time appointed. If you need to have discussions, come into court at the start time for the case and seek to have the matter stand in the list. Better still, have them *before* court starts. Call your opponent the night before the trial (or the week before). If you have to be late for some reason, call the courthouse and leave a message for the magistrate or judge with an estimated time of arrival. Don't expect the court to wait until 3pm for you to arrive.

Annoyances

Although minor infractions of the ordinary courtesies are simply that – minor – they are irritating and sometimes distracting to the Bench and other practitioners:

Talk outside. It might be a statement of the bleeding obvious but the courtroom, when a case or a list is being conducted, is not the venue for prolonged discussions that don't involve the Bench. If you have things to talk about with your opponent, talk outside.

Keep the noise down. Don't bang the doors coming in or going out. Turn off the mobile phone.



Disagreeing with the Bench

One of the more awkward situations an advocate may find him- or herself in is to have to disagree with the Bench or to correct an error the judge or magistrate has made. It is important that advocates assist the Bench not to make appealable errors. That means that the advocates ought be prepared relevant authorities and legislation to assist the Bench to apply the law correctly. If it is evident to an advocate that the law is being applied incorrectly by, for example, the magistrate or judge referring to the wrong section of a piece of legislation, the lawyer is duty bound to assist the court by pointing out the error respectfully but firmly.

That kind of situation generally causes no problems. Most judicial officers are humble enough to realise that they sometimes need help, especially in a field that is unfamiliar to them. If, however, a judge or magistrate is foolish enough to refuse such assistance and gets it wrong, there is little the advocates can do about that except appeal (if it is an important point).

Where, however, an advocate has been given a full opportunity to put an argument relating to a point and the Bench has ruled, it is very poor advocacy to seek to continue the debate. There is simply no point in beating your head against a brick wall.

It is unwise to antagonise the Bench with a display of pique if the ruling is unfavourable. Lawyers who throw books on the Bar table, or roll their eyes or stamp around the courtroom when a ruling goes against them do themselves and their clients no favours. This is self-indulgence. The judge or magistrate will not change his or her mind in that case but will certainly remember the advocate in future with distaste. Furthermore, they will talk to their judicial fellows about the lawyer and thus the lawyer may develop a regrettable reputation.

On the other hand, a polite disagreement is a form of discourse well understood and even enjoyed by people who respect one another. A judge or magistrate is much more likely to respect an advocate if treated with respect than otherwise. Respect cannot be measured but it is a powerful, subliminal weapon when deployed in a courtroom. An advocate who has won the respect of his or her fellow lawyers (including the judiciary) is, because of that fact alone, likely to be more persuasive in relation to close decisions than someone who has not. All other things



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being equal, the arguments of the respected person will carry greater weight psychologically than those of the person who has not won respect.

If the Bench is against you, accept the ruling and move on. You may be wrong, in which case you will only make things worse by arguing. If you are right, you have an appeal point but the judge or magistrate has made up his or her mind. It is discourteous, futile and, indeed, puerile for an advocate against whom a ruling has been made to threaten to appeal. I would strongly advise against such histrionics.

Winning and losing the court's respect

The Bar Rules or Solicitors' Rules (whichever apply) on advocacy ought be learned by heart by all advocates before they enter a courtroom. Frankness with the court is mandatory and is one of the marks of a professional lawyer.

As far as judges and magistrates are concerned, a lawyer's reputation is generally formed by his or her performance in court. A reputation for frankness and honesty with the court is treasure for an advocate. A reputation for dishonesty, on the other hand, is virtually indelible. When a magistrate sees a lawyer for the first time, the magistrate will assume that the lawyer will be true to his or her oath and the rules of advocacy. If, however, a lawyer does something slippery or mendacious for a short-term advantage in a case and the judicial officer finds out or comes to suspect dishonourable conduct on the part of the lawyer, that person will not be trusted again and will always be regarded as "tricky" – not a reputation to cultivate.

Outright dishonesty is one thing but more commonly seen is a style of advocacy which is merely crafty or sneaky. The crafty ones are the lawyers who misrepresent the evidence or the case law or who "forget" to tell the Bench about the authorities which are against them in the hope that their opponents will not bring the case to the attention of the bench or that the judge or magistrate will be unaware of all the relevant cases. Lawyers who practise in this vein also soon gain unsavoury reputations both with the Bench and their fellow lawyers. It is a low form of cheating.



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On the other hand, the lawyer who acknowledges the difficulties that the evidence or the law causes his or her client and attempts to provide a reasonable solution favourable to his or her party will earn the respect of the Bench and the other side.

In the same vein, a lawyer who capably analyses both sides of the case, works out what is and is not in dispute, makes reasonable concessions and admissions, honing the case down to the contentious issues, is regarded in all courts and by most other lawyers as a valuable asset and as a worthy and fair opponent.

Fairness as an advocate is not only a question of honour, it has a powerful effect on tribunals of fact. We have a cultural predilection for fairness. We want fair trials run by fair judges, fair prosecutors and fair defence teams. The late Judge Joe Ford QC was regarded as a brilliant and devastating Crown Prosecutor. Justice Peter Hidden of the Supreme Court regards him as one of the best Crown Prosecutors he saw during his career at the Bar. It was said by some that he could make juries eat of his hand. He prepared his cases meticulously but one of the reasons juries found him so persuasive was that he was always impeccably fair to the accused and to his opponent in court. The combination of high intelligence, excellent preparation and fairness rarely left juries with a doubt about the guilt of the accused. (On the other hand, many an apparently strong Crown case has resulted in an acquittal when a jury has formed an impression of unfairness on the part of the prosecutor or the police.)

The converse is the person who seeks to score insubstantial points or to be obstructive. In Jonathan Harr's *A Civil Action*, his brilliant true story of the massive class action brought by Boston cancer victims in the 1980s, he has the senior litigation partner for the defendant's lawyers advising young lawyers, "Keep evidence out if you can. If you fall asleep at the Bar table, the first thing you say when you wake up is, 'I object'".⁹ I can think of no judge or magistrate who would encourage such an approach and I doubt that many American judges would either. With all their diversity one thing unifying all judges and magistrates is their desire to get to the real issues.

⁹ Jonathan Harr *A Civil Action* Random House, New York, 1995 p.88.



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Dealing with opponents

The Bar Rules and Solicitors' Rules outline the key rules relating to dealings between opponents.

Any breach of these rules will be regarded as unprofessional or as professional misconduct.

Lawyers can also diminish their own standing in the court's eyes in the way they deal with opponents in less formal ways. In my view, there is rarely, if ever, any need for hyperbolic, melodramatic denunciations of one's opponent either in correspondence or in court. It is one thing dispassionately to make a complaint about an opponent's conduct and another to launch into a florid rodomontade. It is stressful enough in court for everyone simply running a case without the burden of inflamed emotions being added.

Bickering, tantrums, sledging, petty point-scoring at the Bar table all compound the difficulty of a case without in any way assisting in its resolution. For that reason such displays are universally abhorred by judicial officers. On the other hand, lawyers who are reasonable to one another, make their arguments rationally and with a degree of gravitas are likely to assist their clients (or at least do no harm to them), to run a case efficiently and to find the Bench attentive to them.

This is, of course, the counsel of perfection. From time to time, you will find yourself against an opponent who sledges, who is irritating, who may even be untrustworthy. Some lawyers are incompetent and unprofessional and consequently can't help irritating their more professional opponents. In other cases, they are competent but have adopted an unnecessarily aggressive approach in the hope of gaining some short-term tactical advantage.

In a highly competitive profession like law and in the even more competitive environment of a courtroom, it is easy to become distracted by an opponent's antics, particularly if the Bench does not seem to be interested in intervening to prevent the misbehaviour.

My advice, however, is that you maintain your dignity, you concentrate on your case, that you cocoon yourself as best you can against the opponent and that you direct your attention as much as possible to the court and away from him or her. Whether it is obvious or not, the



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Bench will be observing the behaviour of both advocates and will almost certainly look more favourably upon the advocate who is the still point in the storm. (This is not to suggest that by doing so you will win the point because the court will still decide that on its merits but you will certainly hold your ground more easily by staying calm.)

I would add two further points. First, litigation is a stressful and therefore a sometimes unhealthy occupation. Those who keep their blood pressure down and do the job professionally will do it longer and will enjoy it more than those who are constantly seething with anxiety, anger and adrenalin. Second, what goes around comes around. If people act unprofessionally, it catches up with them one way or another and glad are the hearts of many when it does.

Finally, be fair to unrepresented opposing parties. Most judges and magistrates I know do not like lawyers bullying unrepresented people. Just as offensive is the approach some lawyers adopt of seeking to enlist the Bench, with a sort of a nod and a wink, as a fellow lawyer against the unschooled unrepresented person.

Duties to the client

The lawyer is not a mouthpiece for client. A lawyer's duty is to his or her client but this does not mean that the lawyer is the client's mouthpiece. While an advocate will, obviously, take into account the desires of his or her client, the lawyer takes responsibility for the tactics used in the courtroom. Many an accused has been convicted because a lawyer has decided to follow his or client's instructions to ask a question or a line of questions which has proven fatal to the accused. You are not in court to provide emotional support for the client or to boost his or her self-esteem but as his or her legal adviser.

Lawyer cannot be a material witness for client. An advocate or solicitor cannot be a material witness for his or her own client. The potential for actual or apparent conflict of interest is obvious. Interestingly, three times this year I have seen solicitors called to give evidence in breach of this rule. It is embarrassing for them and for the court when it happens. If you cannot avoid being a witness in a case, you must withdraw in accordance with the rules.



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Onto your feet in court

A case can only be prepared up to a certain point. Once an advocate rises to examine or cross-examine, a different set of skills comes into play. The skills of examination-in-chief and cross-examination have been the subjects of many books and articles. Although I will offer a few ideas here on them, they are specialist topics worthy of much deeper consideration than is appropriate here. What follows is a list of tips, in no particular order, which may help the inexperienced advocate:

Style and presentation

Don't repeat a question several times. Judges, magistrates and juries are not stupid. If a witness prevaricates or is unresponsive or argumentative, they will ask themselves why and the answer will usually be obvious.

Don't argue with witnesses, opponents, the Bench. It looks bad, it is a distraction from the main issues and, besides, labouring a point is a waste of time.

Don't interrupt the judge or magistrate when being spoken to. As discussed above, you are entitled to politely disagree with the Bench but interrupting to contradict the judge or magistrate is highly counter-productive.

Don't interrupt your opponent's address. If you disagree with something your opponent states in submissions, make a note and deal with it in your turn. If your turn has passed, seek leave to raise the point anyway. You are entitled to correct misrepresentations or misapprehensions the court may form as a result of something said by an opponent. It is the sign of an inexperienced advocate to "object" to things said in submissions.

Do your tie up. Most judicial officers are reasonably relaxed about lawyers' attire these days but undone ties look sloppy. Try to look the part.



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Build your voice. If you have a weak or a light voice, you are handicapped as an advocate. In many courtrooms the acoustics are poor and the microphones do not amplify. These difficulties are intensified in places like the Downing Centre and Central by doors banging, the noise of air conditioners, court officers calling out names and so on. Some lawyers are naturally able to cope with such impediments. Others, however, need to work at it. Simple breathing exercises can improve volume and delivery enormously. Secondly, an advocate with a voice that sounds pleasant has a distinct advantage over those with disagreeable voices. If you were locked in a room for six hours a day would you prefer to listen to Cate Blanchett or Judge Judy? It is not critical but it may make a difference on the margin.

Use simple, direct language and be economical with it. Verbose, prolix lawyers are not only boring but sometimes become figures of fun. I don't know about others but I find the Baroque patois of some lawyers, who habitually employ phrases such as "I rise to object..." or "What has fallen from Your Honour...", grandiloquent but vacuous. Their thinking tends to be as ponderous as their phraseology. (While on the point, don't use Latin unless you can translate it into English.) On the other hand, a powerful verbal picture or an elegantly simple sentence is a pleasure to listen to and a valuable advocacy tool. Build your vocabulary by reading – the best advocates I know are well-read in history and literature. I would add philosophy, science and the visual arts as great furniture for a mental library.

Dealing with nerves

Lord Denning said that "One thing that you will not be able to avoid – the nervousness before the case starts. Every advocate knows it. In a way, it helps so long as it is not too much... I was anxious to win – and so tense – that my voice became too high-pitched. I never quite got over it, even as a King's Counsel."¹⁰

There are various well-known methods of relaxation and, if you have difficulties with nervousness, they are well worth exploring. Some people have found undertaking acting training helpful. Many years ago I attended a "presentation skills" workshop presented by trained actors who, in one day, taught a group of lawyers and business people basic techniques

¹⁰ Denning, *op. cit.* p.8.



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of use of voice, relaxing the body, using appropriate gestures and, critically, making eye contact with the audience.

This is not the place for a detailed discussion of relaxation techniques. The point is that there are simple techniques that can be learned quickly and which will improve an advocate's presentation skills in court considerably: a calm, orderly, focussed and quietly confident approach to legal issues helps reduce the intensity of the pressure felt by judges and magistrates and has a subtly persuasive effect. A nervous, jittery presentation, on the other hand, weakens the impact of what otherwise might be a very meritorious case.

Presentation skills

There is a flood of material on the market in the sales and business sections of major bookshops about presentation skills. Here, however, is one worthwhile approach:

1. Before you start:

- a) Outline subject generally
- b) Focus on specific topic
- c) Define objectives (emotional and topical)

2. Know your audience:

- do they possess prior knowledge of your topic?
- what are their expectations?
- are they familiar to you?

3. Presentation 'rules':

- | | |
|-------------|---|
| Simplicity: | Speak in plain English - don't use 'performance mode' and alienate your audience |
| Brevity: | edit out unnecessary points |
| Focus: | on single topic to avoid rambling |
| Awareness: | material should be relevant to audience |
| Energy: | use personality and enthusiasm to 'grab' the attention of the audience. ¹¹ |

Finally...

¹¹ "Winning Presentations", Maura Fay Workshops Pty Ltd, Sydney 1993 p.11.



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Melissa Perry QC, in her excellent paper, "Practical Speaking Skills"¹², makes a number of suggestions that would benefit all young practitioners. I cite only a few here:

- Try to arrive at least 10 minutes before the hearing is listed to commence.
- Before the judge comes onto the bench, ensure that your papers are arranged so that you find documents easily, and focus on thinking about the way you want to present to the court. Mentally try to slow yourself down.
- Note down who you appear for if you are worried about having a "blank" at the start.
- Don't rush to your feet to start speaking straight away. Take your time to rise to your feet and take the lectern. Look at the judge before you start your address to check that you have the judge's attention. Remember that oral address is not a rush to the finish.
- Judges are ultimately looking to counsel to assist them with the task of reaching a decision. When they ask questions, they are looking for that assistance. They want to know how you might answer particular problems or issues which occur to the judge. They reveal how the judge is thinking in a provisional way, and provide an invaluable opportunity to address the issues that are worrying the judge.
- Listen closely to questions from the bench. If you don't understand a question, politely indicate that you are not sure that you have understood the question and ask if the judge would mind expanding upon the question, or words to similar effect.
- Wherever possible, answer questions at the time that they are asked. If you can't think of an answer immediately, indicate to the judge that you would like to return to that point shortly, and remember to do so.

There is, of course, much to learn and to absorb. Some will start with natural advantages but there is no short cut to competence, let alone brilliance, as an advocate. We have all had our good and bad days in court. It is important to understand that, whatever kind of day you have had in court today, tomorrow is another day... Lord Denning found that out and so have all the advocates who have ever achieved success in the law.

¹² Paper for LexisNexis Practical Advocacy Skills For Young Practitioners Seminar, Sydney, 12 December 2006.



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Appendix

Justice PW Young's Rules of Court Etiquette

Courtesy to an opponent

1. Always inform your opponent if you are going to be late.
2. Do not sledge.
3. There is no duty to help fools.
4. Respect the procedure.
5. Do not mention more than two matters at a time.
6. Respect seniority.
7. Be courteous in correspondence.

Courtesy to the court administration and witnesses

8. Estimate the time accurately.
9. Always advise the court as soon as a matter has settled.
10. Lists of authorities are to be provided in due time.

Conduct in court

11. Put your name on the list.
12. Observe the Advocacy Rules strictly.
13. Observe the etiquette of the Bar table.
14. The Bar table is not to be left unoccupied whilst the judge is still sitting.
15. Do not leave the court whilst a judge is delivering an oral judgment.
16. Speak from the Bar table.
17. Call persons producing documents early.
18. Endeavour to minimise the time witnesses wait around.
19. Do not abuse the witness.
20. Observe the rules concerning pagination of documents.
21. Do not confer with witnesses under cross-examination without the consent of your opponent.
22. Silence must be kept whilst a witness is being sworn.
23. Respect subpoenaed documents [and court files].
24. When tendering subpoenaed documents announce to whom they should be returned by the court.
25. Generally speaking, do not ask the judge for advice.
26. Respect the court staff.
27. Speak for the transcript.
28. Do not speak while someone else is speaking.
29. Do not talk loudly inside the courtroom.
30. Avoid approaching witnesses in the witness box.



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31. No mobile phones in court.
32. See your opponent early.
33. Write out the orders.
34. Do not talk about the case or a judge in the lift.
35. Do not read your newspaper in court.

Courtesy to the judge

36. Be on time.
37. Do not patronise the judge.
38. Do not disparage the judge.
39. Help the judge.
40. Give the judge something to hang his or her hat on.
41. Keep your distance from the judge.
42. Do not communicate with the judge out of court.
43. Always stand when addressing the judge.