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### Speakers



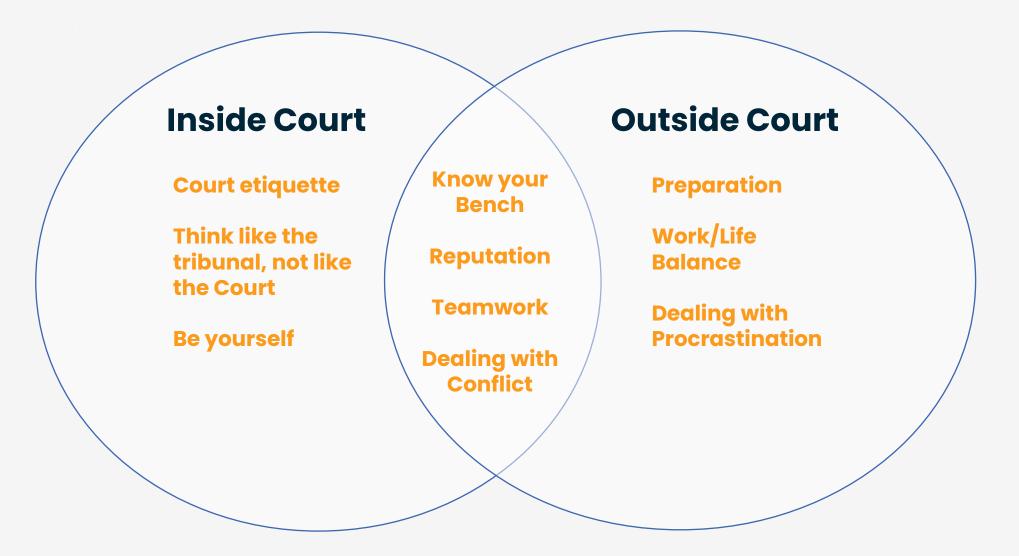


Moya O'Brien

**Zoe Broughton** 

Jonathan Barrera







### **Reputation and Court Etiquette**

#### It takes years to build, but can be lost in an instant

- The judicial officer can see far and wide from up on the bench
- You are always on show with clients, peers, opponents, the judiciary and court staff
- Don't fall into bad habits following virtual appearances in the pandemic
- Treat your opponent as you would want to be treated

- Keep phone use to a minimum
- Stand every time you are spoken to
- Save party discussions for outside the courtroom
- 'I submit' appearing as sole counsel 'We submit' - appearing as co-counsel



#### **Reputation and Court Etiquette**

 Use honorifics or correct titles, they are there for a reason. It puts some distance and professionalism on any attack

Learning the customs of the courtroom is a necessary right of passage and will boost the confidence of any practitioner



### Think like the Tribunal

#### Not like the client

- Objective thinking
- Gain reliability in the eyes of the tribunal
- Represent but not as a mere mouthpiece

- If I were the tribunal, what would I think?
- You will know what is in your client's best interests
- Anticipate and persuade
- Brevity and precision are highly prized attributes for a practitioner in any busy court list
- Pick your salient points and run with those



# **Be yourself**

Be the storyteller. Enjoy yourself

• Make your personality felt

• Don't try to be someone else

• Voice variation shows personality

• Give the case life. Always hold something back from written submissions

• Emphasise the human angle

• Every person in the courtroom has emotions



# Preparation

A close companion of preparation is confidence

• Be prepared for the unexpected, even on a straightforward matter

- Always have an evidentiary basis for your submission. Higher courts will be less likely to accept a submission that is without foundation
- Read the whole case authority, not just the paragraphs that you think benefit your client



# **Know your Bench**

Reasonable minds can differ

Ask around – check with colleagues

 Some judicial officers accept principles more readily than others (e.g. *Bugmy*, *Verdins*)

- Some judicial officers have stylistic preferences
- Tailor your case with the particular tribunal in mind



### Teamwork

- Colleagues can be the voices of reason
- Share the workload between leaders, juniors and instructors
- Sounding boards always help

- Never doubt your contributions to the team
- Get involved, be proactive

Communication



### **Dealing with Procrastination**

Don't punish yourself, difficult cases take longer to think about

• Read the brief early

It's natural to feel overwhelmed at times

 To-do lists provide clarity on the tasks ahead

- Accept that some level of procrastination is inevitable
- Stress and overworking breeds procrastination



# **Dealing with Conflict**

Dealing with the intemperate or impatient bench

- Not all conflict with the bench is 'bullying'
- Judges are humans too

- A courtroom is your workplace and you are entitled to feel safe and supported
- It is important to start an open conversation about judicial bullying and its insidious effects
- We need to accept that in high pressure environments, such as the courtroom, tempers can
  occasionally fray



# **Dealing with Conflict**

• How to deal with it, bring the temperature down. Stay calm. Allow the bench an opportunity to save face

• Gone are the days when being eviscerated in Court is a right of passage

• Don't roll over and play dead



# **Dealing with Conflict**

• Judicial Commission of Victoria – Guidelines for making a complaint

https://www.judicialcommission.vic.gov.au/complaints/guidelines-for-making-a-complaint

Magistrates' Court Protocol on raising concerns about judicial conduct

https://www.vicbar.com.au/sites/default/files/MCV%20Protocol%20Judicial%20Conduct%20%28VicBar%29.pdf

• Victorian Bar – Crisis support and counselling

https://wellbeing.vicbar.com.au/crisis-support-counselling

Law Institute of Victoria

https://www.liv.asn.au/Web/Content/Resource Knowledge Centre/Health-and-Wellbeing/For-You.aspx



# Work/Life Balance

#### It's a marathon, not a sprint

- Have hobbies
- Take time to reduce stress

• Spend time with family and friends

- Being a lawyer is not your identity
- Sleep and health are important

• Humour makes the job easier





### Moya O'Brien

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Moya is a highly experienced trial advocate in both the Supreme and County Courts. In addition to this she has appeared as counsel assisting various tribunals, has appeared for multiple clients in the Royal Commission into Institutional Sexual Abuse and regularly appears for clients in coercive matters.





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Prior to coming to the Bar, Jonathan was employed as a Senior Associate at Stary Norton Halphen. Jonathan was a solicitor advocate for over six years. He had carriage of a high file-load of both summary and indictable matters.





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