



Practical tips for thriving and surviving in Court

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Speakers



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Inside Court

Court etiquette

**Think like the
tribunal, not like
the Court**

Be yourself

**Know your
Bench**

Reputation

Teamwork

**Dealing with
Conflict**

Outside Court

Preparation

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Balance**

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Procrastination**

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

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
- We need to accept that in high pressure environments, such as the courtroom, tempers can occasionally fray
- 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

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

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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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