

The (new) struggle: Starting at the Bar

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You have passed the National Bar Examination after completing a pupillage period of some five months and have just taken chambers. The period of anxiety begins. No one, except members of the group in which you did pupillage, knows that you are now a practising advocate.

Starting at the Bar after finishing pupillage is not easy for most juniors. Very few members come to the Bar already with a reputation that precedes them. If you don't have this reputation you have to build it from the day you are interviewed for pupillage membership to the day you make your first appearance in court and in most cases, for the next five years of practice.

Very few people come to the Bar with an assurance from an uncle or relative or friend in a big law firm that they will be briefed by them. Even fewer come to the Bar knowing that they will be taken under the wing by a senior relative or friend at the Bar. You are, for all intents and purposes, on your own.

Drawing from my own experience and that of many other juniors, I shall attempt to encourage other juniors not to despair but to use certain suggested strategies to ensure that they not only survive but become successful at the Bar.

- What obstacles are there in the path of success at the Bar? First is the fact that clients want knowledgeable and experienced counsel to be briefed in their matters. It is therefore in the small matters "reserved" for baby junior counsel that one must impress the attorney and client.
- Secondly, the compartmentalisation in terms of race and gender denies blacks and women the opportunity to prove themselves in commercial law matters or any other more substantial work other than criminal law and fa-

mily law cases. Briefing patterns by mainly big, white law firms whose clients are mainly white big corporations will always be skewed in favour of a white male over a black or woman counsel.

- Thirdly, silks who have been given the right to choose a junior will prefer a fairly senior junior unless the baby junior comes with a reputation from the attorneys' profession or has higher qualifications in a particular field of law. Similarly, an attorney who briefs junior counsel with a particular silk will prefer junior counsel who comes highly recommended or has, in post-graduate degrees specialised in a particular field.
- In order to overcome these obstacles, baby juniors have to work hard and perform exceptionally well in order to impress their attorneys, clients and their opponents. The road to success at the Bar starts on the day you apply for pupillage membership.
- Your interviewer for pupillage membership is usually a senior member of the Bar. If he/she is impressed by you, he/she may want to ask after you after the examination. So don't be shy to state to the interviewer what your area of interest is in law or what other post-graduate degrees or diplomas you have attained and areas of your particular interest. This information may set you apart from the rest of the applicants.
- In the motion court, which is the court where juniors start their court experience, your colleagues will notice your performance as they wait for their matters to be called. Their pres-



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ence is your opportunity to secure a junior brief from senior colleagues or for them to recommend you to an attorney who is looking for a junior, or for them to recommend to their attorneys that a brief they can no longer do be passed onto you.

- Acting judges are also the people to impress when appearing before them. They are important because they see you in action for the whole trial. Next time they have to choose a junior or recommend one you will be in their minds. This, of course, is no suggestion that we must be ill-prepared when we appear before permanent judges.
- Devilling, that is, assisting in a matter free of charge, is a provision not frequently used. The reason for this is, inter alia, that juniors find it difficult to approach seniors and offer to devil for them. It may be useful if seniors who are prepared to accept devils were to put their names on a list that is displayed on the main notice boards. However, it rests upon every junior to find out which seniors are prepared to make use of devils. Devilling will give a junior an opportunity to learn and at the same time to make a good impression on someone who may bring you in as a junior in his brief(s) or recommend you to attorneys.
- Another way of ensuring that colleagues know you is to introduce yourself, which is of course compulsory for

pupils, to members of your Bar and to do so again when you become a full member. Considering the size of some Bars this may not be adequate. It is therefore important that you re-introduce yourself in the tearoom or common room until they can remember your name, not just your face. Counsel who want to pass a brief can only do so to people they know, and about whom they have formed an impression that they are capable of discharging their duties satisfactorily.

- Another crucial area to consider when coming to the Bar is what your expectations are. Many people assume that success is immediate. I wish to warn you that it is not so for the majority, especially for blacks and women. You must therefore consider the Bar as a long term investment. A sizeable practice, comprising of the areas of your particular interest will, in most cases, only emerge in your fifth year or so.
- The five-year investment in building a practice suggests that you must not

have immediate financial responsibilities beyond yourself. This is impossible for many people who come from the previously disadvantaged sectors of society. The expectations of the parents or relatives who struggled to put you through university expect that a profession as elite as the legal profession will yield a comfortable lifestyle immediately, and that self-sufficiency comes immediately.

- Blacks therefore continue to have a disadvantage of not having parents who will offer financial support in the first few years of practice when things don't go quite right. This has led to the Bars losing many black members with great potential because they cannot afford to sustain themselves and cater for their other responsibilities on what they are able to earn in the first five years of practice.
- Lastly I wish to warn ourselves against placing our aspirations for success at a level that is not achievable immediately. We must be conservative

in assuming financial commitments. I know it is most alluring to want to live immediately the lifestyle befitting of an advocate. Caution is called for here. I must say that I know of many junior members who are aware of these pitfalls and have not bought the latest BMW or Merc on the day they passed pupillage. This is a sign of wisdom.

I must conclude by saying that the legal profession and the love of the law could be the most fulfilling of all the professions. Once you have entered this profession you must make every effort and make all the necessary sacrifices to remain here.

The legal profession is not all about how much money you can make. It is a profession upon which democracy ultimately may depend. Without a vibrant legal profession and a legitimate judiciary, all the principles of democracy and the laudable norms of our society may end up with no guardian at all. 

Practice and the procedure of getting started: A rough guide

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The proverbial roller coaster ride of your life is about to begin! Strap yourself in, hold on tight but don't close your eyes.

This article is written from the perspective of two juniors who started practice, five and two years ago respectively, penniless, "careless" and feeling somewhat clueless. We've managed to stay on the roller coaster and are actually enjoying the ride. Our brief is to offer some practical advice to those who are about to set up practice.

Capital

The first thing you need is capital. If you do not have a benefactor in the form of a wealthy relative or partner,

you will need to form a good relationship with a bank. Find out which institutions are willing to assist new professionals at the beginning of their careers. An example is Standard Bank, which offers the pupil advocate loan. This is akin to a student loan with favourable rates of interest and flexible terms of repayment. Other junior colleagues have approached other institutions which have put together similar packages.

Be cautious of how you use the loan you obtain, since there will be months

when you will need to draw on this fund to pay the rent and meet living expenses.

Most people in practice will tell that there often are cash flow problems and when you are starting out you will find that your income is very erratic. It is therefore advisable to open a cheque account with an overdraft facility to enable you to meet your overheads in the lean months. However, keep your head about you in this regard, as banks are often prepared to offer you the world, which is very tempting to take when you have nothing. Keep your overdraft limit low and use it sparingly.

Simultaneously with putting your financial framework in place you will need to find and set up chambers. Don't over-extend yourself. Try to join a group which has a good spread of juniors and seniors - don't fall into the