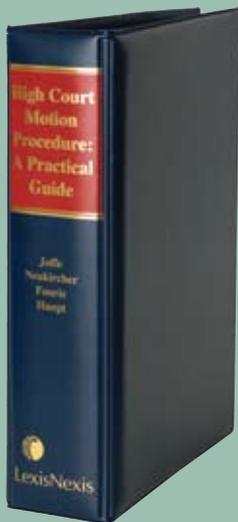


High Court Motion Procedure

By MM Joffe, B Neukircher SC, HR Fourie and LC Haupt, LexisNexis (2008). Looseleaf R456 including VAT



'Practice in the Motion Court,' says Judge Joffe in the preface to this book, 'is not for the faint-hearted.' Few advocates would disagree with that sentiment. Like the unexplored territories on the fringes of early cartographers' maps, the motion court deserves to bear a legend warning travellers that 'here be dragons.' *High Court Motion Procedure* is intended to assist practitioners who draft papers for, and appear in, the land of the dragons.

High Court Motion Procedure is, according to the preface, 'no more than what it is designed to be, namely, a practical guide to the Motion Court' (v). Measured against this yardstick, the book is an unqualified success. It provides practical (as opposed to theoretical or academic) guidance regarding how to draft and move applications in the High Court. The book deals thematically with a series of applications that advocates are likely to encounter in their everyday practice (edictal citation, Rule 43, sequestrations, liquidations and so on). In relation to each of these applications, the treatment commences with a summary of the critical averments that must be made in order to obtain relief. This is followed by notes dealing with the procedure to be followed in the case of each particular application, including references to case law. Then comes the part to which the eyes of most practitioners will be enthusiastically drawn: a precedent for the notice of motion and the founding affidavit. Each section concludes with a block headed 'practitioner's checklist,' containing a series of bullet points to be borne in mind when drafting and moving the relevant application.

When I did pupillage many years ago, my first traumatic exposure to the unopposed motion court left me wishing that there was a practitioner's guide to the bewildering array of applications that were moved according to a script that everyone (except me)

seemed to know. In the absence of such a book, I was compelled to engage in the arduous task of compiling notes and precedents myself, drawing heavily on the handed-down wisdom of generations of pupils who had suffered through the same process before me. The result was the production of a dog-eared file of precedents and notes that I still retain, culled from a motley variety of sources and bearing marginal notes that would have made the Glossators proud. I suspect that most of my colleagues have a similar file lurking somewhere in the recesses of their chambers.

High Court Motion Procedure is a much more sophisticated product than my own frayed and yellowed file. It is the sort of book that junior advocates will consult immediately after reading the brief and just before panic sets in. It is, if you like, an 'Amler on Motion Procedure,' providing precedents for applications in the same way that *Amler* provides precedents for pleadings. The comparison is not inexact because *High Court Motion Procedure* is useful in the same way that *Amler* is useful: it does not provide the last word on each topic, but it does provide an extremely valuable starting point for practitioners confronting a blank page and a looming deadline.

The authors of *High Court Motion Procedure* are a judge in the Witwatersrand Local Division and three advocates at the Pretoria Bar. The book represents the accumulated wisdom of their collective years of practice. They have produced a work that is clearly written, thoughtfully presented and immensely valuable. It is essential reading for anyone sufficiently brave (or insufficiently faint-hearted) to venture into the hazardous terrain of the motion court. The book has the same virtue as the maps of old: you may not be able to avoid the dragons, but at least you will know that they are out there waiting for you.

Alfred Cockrell, Johannesburg Bar



Advocacy Manual

By George Hampel AM QC, Elizabeth Brimer and Randall Kune, Australian Institute for Advocacy (2008). Hard cover AUS \$180 plus postage*

Professor George Hampel AM QC who is well known to all those involved in advocacy training, is perhaps considered the leading light in the quest to improve the advocacy skills of advocates worldwide. Hampel, together with Elizabeth Brimer, who is a barrister practising at the Victorian Bar, and Randall Kune, also a barrister at the Victorian Bar as well as a lecturer at the College of Law, Victoria, have with the assistance of various others involved in advocacy training, compiled this manual. They describe its pur-

pose as 'to provide a practical guide to the philosophy, practice and teaching of advocacy.' Those involved in advocacy training will have learned over the years that what we try and impart to members of the profession is that advocacy is not a science; it involves the art of persuasion and it can be taught. Advocacy embraces fundamental principals which are 'generic and which underlie the practise of all good Advocacy.'

The authors use two case studies as illus-

trations and for practical examples. The main case study is *DPP v Daniel Jones* (which is well known in SA advocacy circles as *S v Jones*) A second case study of *DPP v Lucia Gonzales* is used to illustrate pleas in mitigation.

The manual, interestingly, begins with a chapter on the ethics and etiquette of advocacy. The importance which the authors assign to the ethics involved in advocacy demonstrates what we endeavour to impart to our young practitioners - that above the skills and