



### Cape Bar contingent at the January 2011 Advanced Advocacy Training Course

Back row (from left): Delegate from Deloitte, Elzette Maritz, Joe van Dorsten, Rudi van Rooyen SC, Jannie van der Merwe, Brenton Joseph, Zach Joubert, Craig Cutler, Claire Reilly.  
Front row: Sven Olivier SC, Shelley Witten, Veronique Joseph, Roseline Nyman, Schalk Burger SC.

ments and, more particularly, the difference between capital and revenue, revenue recognition, provisions (in this instance, for returns from customers) and the quantification of a loss arising from an alleged breach of a warranty that financial statements were 'true and fair.' Several representatives of Deloitte attended the session and participants were given an opportunity to consult with them before leading their evidence and cross-examining the accountants for the opposing party. Some of the participants had never led the evidence of an expert, let alone accountants, and were visibly anxious prior to the session. However, with the assistance of Deloitte's representatives during presentations/demonstrations and consultations, the participants acquitted themselves well.

#### Video reviews

The participants appeared to benefit substantially from the opportunity to view the recordings of their performances and to discuss aspects thereof with tutors/trainers and, on occasion, Professor Marth Munro, an expert in performance skills.

#### Presentations/demonstrations in plenary

The presentations and demonstrations in plenary dealt with the aspects covered during group sessions. Accounting issues were dealt

with by Tracey Walker (Deloitte, Cape Town) and Simon de Quidt (Deloitte, London), case analysis by Greenwood SC, opening address by Sholto-Douglas SC, examination-in-chief by Wallis J and Weiner SC, cross-examination by Kriegler J and Greenwood SC, performance skills by Professor Munro, ethics by Glasgow QC, heads of argument by Harms DP, closing address by Trengove SC and Browne QC and expert evidence by Burger SC.

#### Trials

On the final day the participants were divided into six groups to conduct full trials before Farlam JA (retired), Brand JA, Traverso DJP, Van Reenen J (retired) and Binns-Ward and Bozalek JJ. Tutors/trainers allocated to each of those groups were given the opportunity to review participants.

#### General interaction

Participants also had the opportunity to interact with tutors, trainers and other judges and counsel, who were involved in the course after hours and at the formal dinner held on Friday.

#### Conclusion

Our profession is truly blessed to count among its ranks the judges and counsel who selflessly gave of their time to make this course such

a success. We are particularly grateful to our colleagues from the UK, Australia and Pakistan for their invaluable contribution. Deloitte added a dynamic dimension to the expert witness exercise and we are indebted to them for their participation. Participants had a rare opportunity to improve their performance skills with the assistance of an expert in the field, Professor Munro, whose enthusiasm was contagious and appreciated.

On 4 October 2010 the GCB, in a press release relating to this course, stated that

*'The GCB is committed to promoting the Rule of Law and the independence of the legal profession, to improving the administration of justice, to the maintenance of high professional and ethical standards, to training young advocates and to the delivery of competent legal services. This inaugural advanced advocacy course goes a long way to achieving these noble objectives.'*

The course at Stellenbosch did indeed go a long way to achieving 'these noble objectives.'

Tim Bruinders SC, chair of the Advocacy Training Committee of the GCB, and his team deserve praise for their hard work in organising this course and for managing the day-to-day programme at Stellenbosch professionally and with aplomb. 

## Participants' views

Elzette Maritz and Roseline Nyman, Cape Bar, write:

We are pleased that we participated in the Advanced Advocacy Training Workshop hosted by the GCB from 9-15 January 2011 in Stellenbosch. The training, including the demonstrations, that we received from senior judges and silks from the GCB and British and Australian Bars was extremely beneficial and will contribute to our quality of advocacy. In addition we had the benefit of a performance coach, Professor Marth Munro, who assisted all participants in establishing their own 'performance efficiency during the act of persuasion.'

We received practical hands-on training in

drafting, public speaking and presentations. Such training was to sharpen our litigation skills. Each of the participants therefore took turns in making an opening statement, leading and cross-examining a witness, including expert witnesses, and delivering a closing argument. It was initially difficult to relate to criticism on for example how to lead a witness, but as the week progressed, we welcomed such criticisms as extremely useful and for our advancement. Simple things that stood to be corrected include not pointing a pen or spectacles in the air while addressing the court and being conscious of your posture and tone of voice as these subconsciously influence those you address.

What we found invaluable was the presentation made by Harmse DP on drafting Heads of Argument. His advice that 'articulate and intelligent communication...should use few and wisely chosen words' was appreciated.

While the programme was extremely demanding with many of the participants, trainers and helpers suffering from sleep deprivation since the day started at 6h30 with yoga, a gruelling training session until early evening, and ended with preparation for the following day until the early hours of the morning, all-in-all, it was worthwhile experience. We would like to use this opportunity to thank all the trainers who sacrificed their time to make us better advocates.

Carol Steinberg, Johannesburg Bar, writes:

My week in Stellenbosch was incalculably useful. I have been in practice for four years, practising almost exclusively in the motion court. I came out of the course not only with some knowledge of trial practice, but also with a far deeper sense of how to persuade a judge in any type of case.

For the first time, I have a realistic sense

of how to conceptualise and run a trial. The method employed is very clever: one learns in action, and principles that one understood hypothetically become ingrained.

In addition, whilst I was criticised at every turn, I came out of the course feeling far more confident in my abilities – and in my capacity to learn and improve. I also think that one

should not underestimate the value of spending five days getting to know judges and other members of the bar. I feel challenged, enriched and invigorated. 

## Advocacy skills training: an international perspective

By Amber Darr, Barrister-at-Law, Pakistan

When I was first introduced to advocacy skills training in 2002 in Karachi, I was struck by the trainer's claim that advocacy skills could be taught to any lawyer practising in an adversarial system anywhere in the world irrespective of the substantive law he or she subscribed to. The claim had seemed particularly fanciful at the time, because somehow I perceived advocacy skills to be so closely connected with the personality and ability of a particular advocate and often also with the material he or she was constrained to prepare with, that I doubted if these could be taught at all!

I was soon disabused of my doubts when towards the end of 2003 I, along with a group of trainers, started delivering advocacy training in Karachi and Lahore. Whilst we struggled with cultural issues (certain participants simply failed to respond to robust judicial intervention) and language issues (certain other participants slipped into arguments in Urdu even though the language of the court was and is English) we also discovered that each participant, regardless of his or her background, could equally benefit from honing his or her ability to carry out a thorough case analysis, to formulate appropriate questions whether in examination-in-chief or cross-examination and to develop cogent and concise arguments for the court. I also discovered during this time that perhaps the most fascinating aspect of advocacy skills training was (and is) that while on the one hand it seeks to impart an objective skills standard to the participants during the plenary sessions, on the other hand it utilises the smaller group training sessions to work individually with the particular strengths and weaknesses of each participant.

In 2004 as the programme in Pakistan gained momentum, our counterparts in New Delhi invited a group of trainers to attend and teach in a weekend workshop. The visit was bound to be interesting due to Pakistan and India's shared history and an almost identical legal system, which we both inherited from the British in 1947. Precisely these factors made our experience in India extremely

relevant and highly enjoyable but also somewhat less challenging. The issues we saw in India were similar to those we had already encountered in Pakistan. However, we did discuss with the Indian team new ways of solving these issues.

The real challenge for my fellow trainers in Pakistan and for me personally, came in 2005 when I was invited to teach at the Advanced International Advocacy Training Course organised by the South Eastern Circuit of the Bar of England and Wales held in the last week of August each year at Keble College, Oxford. The Keble Course, as it is popularly known, is one of the most prestigious and perhaps the most elegant advocacy skills training course held anywhere in the world. I still remember my extreme nervousness as I prepared to teach at Keble for the first time: not only would I be training with lawyers who had trained me but I would also be sharing the training with extremely senior and very talented lawyers from South Africa, Australia, Hong Kong and of course, England. Although the nervousness has not entirely left me, the bonds I have forged by teaching at Keble over the last six years and the appreciation I have received from fellow trainers and at times from the participants have more than amply compensated for it.

Despite the growing confidence in my ability to train, I was simultaneously excited and daunted when Tim Bruinders SC, whom I had met at Keble in 2010, invited me to teach at the first Advanced Advocacy Training Course to be held at the Wallenberg Centre at Stellenbosch. Whilst the excitement was due to a tremendous sense of honour at having been offered an opportunity to train in yet another country and in a system and environment which would be entirely new to me, the fear was entirely due to the feeling that I may not be able to bridge the considerable gap in my knowledge of the South African legal system and therefore not only fail to impart anything of value to the participants but also to upset the theory that advocacy skills training can in fact be delivered regardless of the knowledge of local law!

Wallenberg, however, was a brilliant and wonderful surprise. I was particularly delighted to meet many friends I had made at Keble over the years and to have a chance to train with them again in their environment.

I was also equally thrilled to meet many new people both as faculty and participants. The manner in which the faculty (particularly the international faculty) was rotated throughout the week provided us the greatest exposure to the largest number of participants. Toward the end of the week, I had trained with almost every participant and alongside nearly every faculty member. The ostensible reason for rotating us in this manner is to provide a benefit to the participant. A lesser known secret is that it is the faculty that derives an even greater benefit and pleasure for meeting and working with the largest possible variety of lawyers.

I was particularly struck by how generous the faculty were towards the participants and particularly how unflagging the support of the group tutors was towards their groups. There was a great sense of camaraderie and good humour, which I am sure, was transmitted to the participants and helped to soothe nerves and to make the learning sessions even more rewarding. It was perhaps due to this that even though the pressure only mounted as the week progressed, I noticed that the barriers amongst participants and between the participants and faculty were slowly dissolving. While this may have been partly due to the collegiate atmosphere and the fact that participants interacted with each other and with the faculty beyond the classroom, I feel that it was also in large part due to the realisation amongst the participants that no one had an unfair advantage over the other: each participant was placed in the proverbial dock like any other, each had to prepare and perform and be critiqued like any other and most importantly, each not only had his or her unique skill but also his or her unique fear!

Wallenberg has set a new and important trend for advocacy training in South Africa, which is, and with the real, honest and rigorous feedback of the participants will increasingly become, not only a hallmark for excellence for advocacy skills training but also an oasis in which the members of the legal community may transcend seeming national, cultural and legal boundaries to forge connections above and beyond these limitations. I am grateful and honoured for being allowed to be part of this very important initiative and look forward to it growing from strength to strength. 