2017 Bar Practice Course Materials

Timetable

The timetable for 2017 is currently under review. Please ensure that you check this regularly prior to and throughout the course for the most up-to-date information as changes to sessions may be made at short notice. Please also refer to the timetable for further details on the required reading to be covered prior to each session.

Course Materials

The following reading list is currently under review and is expected to be finalized by 27 April 2017. Changes made after this date will be clearly marked in red. For your convenience—anticipated, but as yet uncompleted, changes will also be indicated wherever possible. Briefs used for the scheduled court applications and advocacy exercises will be made available during the course. Please note: readers will not be expected to prepare all briefs and that allocations of briefs and roles will be advised during the Bar Practice Course.

Recommended Reading List

Introduction

Ethics

Ethics Hypothetical, Stone SC

Ethics in Practice, Mark

Effective and Ethical Settlement Negotiations, Bridge SC

Disciplinary complaints, Muston SC
Case Analysis and preparation

Case Analysis, Greenwood SC
Case Theory Analysis, Taylor SC
Case Preparation, Greenwood SC

Essential Skills of the Barrister

Effective Legal Research, Street SC & Emmett
Analysing a Judgment, Aitken
Analysing a Judgment, Mason
Analysing a Judgment (Part 2), Mason

Witness Preparation

Note to Witnesses, Lindgren J

Drafting

Opinions and Advices on Evidence, Sullivan QC
Drafting Legal Opinions, Cassidy QC
Drafting Affidavits, Donohoe QC
Affidavits - The Basics, Pepper
Preparing Affidavits & Evidentiary Statements, Sullivan QC
Affidavits – Drafting Exercise

Pleadings, The Hon Justice Giles
Interrogatories, Sullivan QC
Pleadings, examples and exercises
Wild - Statement of Claim
Kitch’n – Statement of Claim

Defence Exercise Instructions
Interlocutory Applications

Demonstration Application Guidelines, Greenwood SC

Demonstration Application Material

Demonstration Application - Performance Criteria

Interlocutory Injunctions, Weber SC Interlocutory Procedures, Graves SC & Wood District Court

Applications, Wheelahan QC

Advocacy

Performance Criteria

Examination in Chief - Performance Criteria

Cross Examination - Performance Criteria

Introduction

Conduct in Court and at the Bar, Greenwood SC

Advocacy, Finnane D CJ

Advocacy, Gleeson AC QC

District and Local Court Practices, Stone SC

Local Court Advocacy, Magistrate Dillon

Developing Confidence in the Courtroom, Magistrate Dillon

Effective Advocacy through Civility, M ew

Presenting Evidence

Communication Aids, Molomby SC

Effectively Presenting Evidence, Lindsay SC

Leading Evidence from Lay Witnesses, Maiden SC

Expert Evidence, Greenwood SC
Tendering Documents

Documents to be tendered

Objecting to Evidence, Greenwood SC

Examination in Chief

Examination in Chief, Deakin QC

Expert Witnesses and Examination in Chief, Parker QC

Cross Examination, Donovan QC

The Art of Cross Examination, Bar News Extract

Propriety and Impropriety in Cross Examination, Ryan SC

The Use of Documents in Cross Examination, Collins QC

Cross Examination on Documents, McIlwaine & Stone SC

Cross Examination and Prior Inconsistent Statements, Hoy SC

Re-examination

General Precepts for Re-examination - extract, Morris

Re-examination, Coombs QC

Re-examination, Donohoe QC

Appearing before a Jury and Addresses

Jury Advocacy, Craige SC

Teaching Trial Advocacy, McCrimmon & Maxwell

Closing Addresses

Written submissions

Written Submissions and Case Theory, Renwick

Written Advocacy, The Hon Justice K M Hayne AC

Appellate Advocacy

Ten Rules of Appellate Advocacy, The Hon Justice Kirby AC CMG
Criminal Law

*Practising Criminal Law: Preparing the Case, Porter QC*

*Criminal Practice and Procedure in the Stone Court, Hughes*

*Pleas in Mitigation, Button SC*

*Tactical Plea Making in the District Court, Craigie SC*

*Pleas of Guilty*

*Bail Applications*

*The Bail Amendment Act 2015, Caroline Dobraszczyk*

Equity

*Common Equity Problems, the Operation of the Division and Expectations of Judges*

*Equity, The Hon Mr Justice P W Young AO*

*Equity: Summary Lecture Notes, Lindsay SC*

*Draft Short Minutes of Order – Francis Forbes v Ralph Darling; NSW Supreme Court (Equity Division)*

*Draft Procedural Summary – Francis Forbes v Ralph Darling; NSW Supreme Court (Equity Division)*

*Equitable Relief, Emmett QC*

*The New Regime of Practice in the Equity Division of the Supreme Court of New South Wales, The Hon Justice P A Bergin, Chief Judge in Equity (June 2013)*

*A Judicial Perspective on what the Court Expects from Legal Practitioners in Equity and Commercial Litigation, The Hon Justice P A Bergin, Chief Judge in Equity (July 2003)*
Further Reading

Equity - Principles, Practice and Procedure, Lindsay SC

Problem Solving in an Equity Commercial Context, Lindsay SC

Equity and Commercial Practice in the Supreme Court of New South Wales, Einstein Q C & Brabazon

By The Honourable P A Bergin, Chief Judge in Equity:

The Expert’s Lament, May 2011

Case Management, August 2008

Presentation of Commercial Cases in the Supreme Court of New South Wales, October 2005

Methodology of the Management of Construction Disputes in the Supreme Court of New South Wales, May 2004

Equity in Practice, November 2003

Commercial Litigation: Tips for Success and Traps for the Unwary: A Judge’s Perspective on Case Preparation, August 2003

Federal Court

Federal Jurisdiction I, the Hon Justice Allsop

Federal Jurisdiction II, the Hon Justice Allsop

Federal Court Case Management Handbook

Family Court

Property Settlement and Related Proceedings in the Family Court, Richardson SC

How to Survive the Family Court, Ainslie-Wallace

Care and Protection – Children’s Court, Lawson
Mediation and Alternative Dispute Resolution

The Ethical Limits of Advocacy in Mediation, Angyal SC

Avoiding the Impasse

Civil Procedure Act Part 2A

Civil Dispute Resolution Act 2011

Civil Procedure Act 2005 (NSW) Part 4 – Mediation of Proceedings


Practice Note SC Gen 6

Order for Referral to Mediation NSW Supreme Court

Civil Procedure Act 2005 (NSW) Part 6 – Case Management and Interlocutory Matters

Federal Court of Australia Act 1976 Part VB – Case Management in Civil Proceedings

Federal Court of Australia Act 1976 Part VI – General ss 53A-54B

Federal Court Rules Part 28

Law Council Guidelines for Lawyers in Mediations

Legal Services Commissioner v Mullins

Ethical guidelines for mediators (Law Council of Australia)

Costs Disclosure

Legal Profession Uniform Law (NSW) (UL)

Barristers’ Fees 2016, Brabazon SC

Direct Access Briefs – Avoiding the Pitfalls Dominic, Toomey SC
Trial Material and Briefs...

Collins v Greencent

District Court

King v Castle
May v Wondermart
Daniel v Byron

Equity

Telco Pty Ltd v Flowers
Perry v Shearer
Thomas v Tyler

Federal Court

Discover Network v Star Cable
Fast Tyres v Getup
Wild Travel v Cowboys

Short Hearings

Waddy v Heinrich
R v Smythies

Final Mock Trial

Will be provided during the course
Supplementary Material

Local Court Practice, Bartush-Peek

Diversionary Schemes, Chief Magistrate Henson

Party-Party Costs Post the UPCR, His Hon Judge Johnstone

Risk Management, Greenwood SC

The Role of Junior Counsel when Working with Senior Counsel, Slattery QC

Reciprocal duties of Bench and Bar, Heydon J

Guidelines for barristers on dealing with self-represented litigants

Litigants in Person, Ellison SC

Dealing with unrepresented litigants, Pulsford

Court Structure & Protocol

Duty Barrister Form

Legal Assistance Form

Maximising Special Leave, The Hon Justice Kirby AC CMG

Practice in Practice, Einstein QC

The Statutory Functions of the Coroner, Abernethy

Bilingual Courtroom

SD W v Church of Jesus Christ of Latter-Day Saints, (Refer to Paragraph 34-36 in particular)

The Pillars of Digital Security