

## Advocacy Workshop

On 24 and 25 April the Bar Association held an Advocacy Workshop in which participants competed with their egos in the presentation of a model case before a number of their colleagues. The Workshop procedure was that 6 or 7 barristers were allotted to each group, each of which had two "instructors". One of these "acted" as a judge, and one examined the group member's presentation. There were four segments during the course of the Workshop, a jury opening, leading of evidence in chief from the party, leading of evidence in chief from an expert and cross-examination. Each segment was videotaped and the video tape was given to the participant for analysis in one of the small rooms adjacent to the courts on the 7th floor of the Supreme Court Building.

A great benefit from the Workshop was an opportunity to see ourselves as others see us. For some it was a bitter experience, for others there was a feeling of relief - "it didn't look as bad as I thought it would".

Some of the instructors had themselves recently participated in a workshop at the new Australian Advocacy Centre in Melbourne. The instructors in the group with which I worked had that experience and were able to pass on a great deal of useful information to me.

One of the major benefits of participation was an opportunity to step back from the day to day hurly burly of presentation of cases where frequently there is no time to examine the method and style of presentation and actually look at how I appeared. This opportunity only arises where a workshop of this nature is available. A second benefit was the model case which involved a great deal of complexity and raised a number of difficult issues. It was not the "infants" type of model case which may sometimes be used elsewhere; this one had the complexities of the real thing including even difficulty in reading the handwriting in hospital notes which could have involved entries on which success or failure turned. Those who drafted the model case are to be greatly commended for their care and imagination.

In addition to the participation there were 2 model cross-examinations. Both of these involved Barret as the victim witness and he was subjected to searching cross-examination from O'Keefe QC and later from Walker. While each of us may not have used the style of the particular cross-examiner it was a great opportunity to see, both in the demonstration cross-examination and in the group participation cross-examination, the techniques and tricks used by our colleagues. They were made available to us in a situation which condensed all of these techniques into a short period of time.

In addition for my part I found it a thoroughly enjoyable experience and, putting the ego aside, I did not look as bad as I thought that I would.

After the Workshop a survey took place and the comments from the participants show the benefits which flowed from it. All the comments received were very favourable. One senior junior described the Workshop as "excellent, should be held at least every six months". Another participant said that the most useful aspects of the Workshop were "video replay"

and "no holes barred criticism by (name of instructor)". I note that I myself at the time wrote: "Very, very helpful and creative. It is important to stand back and see where you are at and revise your techniques."

A more junior member of the Bar said of it: "Very helpful to watch it being done properly and then having a go at it yourself straightaway. Good to have the opportunity of working with your peers. Helpful to be a "witness" to see how it looks from that point of view. Great idea. I also enjoyed the opportunity to have lunch and socialise with the "top" of the Bar.

The Workshop was appropriate for all members of the Bar at whatever level. I noted at the time that there is always more than we can learn. The workshop is appropriate for greater participation from the senior Bar as I am sure that we, and those junior to us would learn a great deal. □

Brian Donovan QC

## The NRMA's Mediation Scheme for Personal Injury Claims

In late April 1992, the NRMA announced that it was creating a voluntary mediation program for all third party personal injury claims in which it is the defendant's insurer. According to press accounts, the NRMA now has about 30 per cent of the "Green Slip" market in NSW and receives about 5,000 personal injury claims per year. The NRMA expects that several hundred claims will be mediated each year. Mediation will apparently be available once the plaintiff's injuries have stabilised and will be offered not only for minor injuries, but also for major ones such as brain damage and paraplegia.

The mediation program will be provided through the Australian Commercial Disputes Centre ("ACDC"), a non-profit independent organisation established by the NSW State Government in 1986. Participation by plaintiffs in the program is voluntary; both the plaintiff and the NRMA must agree to mediation. The parties then sign a mediation agreement and select a mediator from a panel of independent mediators maintained by ACDC.

The NRMA has agreed to pay the mediator's fees and ACDC's fees, no matter what the outcome of the mediation. Plaintiffs participating will have to bear the costs of their own professional advisors, and recovery of such costs will no doubt be a matter for negotiation as part of any settlement achieved at the mediation.

The NRMA's aim in creating the scheme is to bring about early settlement of personal injuries claims. As noted elsewhere in this issue (see page 13), a majority of "Green Slip" insurers are participating, through ACDC, in similar schemes. A number of cases have already been settled through mediation.

The NRMA has a useful brochure on its program that will be helpful to barristers and their solicitors and clients. Contact The Senior Manager, CTP Claims, on (02) 229 3820. □

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