



The Inns of
Court College
of Advocacy

**REPORT TO INNS OF COURT COLLEGE OF ADVOCACY ('ICCA') ON TRAINING
PROGRAMME CONDUCTED FOR AMERICAN INNS OF COURT NATIONAL
ADVOCACY TRAINING PROGRAMME ('NATP'), 20-24 SEPTEMBER 2021**

REQUESTING ORGANISATION: American Inns of Court ('AIC')

FUNDING: AIC

NATURE OF PROGRAMME: Advocacy training. At the request of the AIC, it is run as though a mock trial before ICC i.e. opening address followed by witness evidence and then closing address

LENGTH: Five sessions, each lasting 2.5 hours spread over 5 days, (required by time difference and availability of trainers).

FORMAT: Remote training via Zoom. Basic Hampel method used for reviews but one aspect from 'Advanced Hampel' incorporated, namely trainers played the witnesses for the performance and for the demonstration the advocate being reviewed played the witness. Room reviews only, but delayed replay sessions. The benefit of the latter was highlighted in the evaluation by more than one participant

TRAINERS: Benjamin Aina QC, Rehana Azib, Mukul Chawla QC, Neil Chawla, Sarah Clarke QC, Paul Garlick QC, HHJ Joanna Korner CMG QC (organiser), HHJ Stephen Murch, HHJ Amanda Rippon, HHJ Patrick Thomas QC

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MATERIALS: Training case: *Prosecutor v. Rupert Hentzau* (reduced version). The NATP in advance of the course, placed on-line various papers and films e.g. 'Hampel Method', examination-in-chief aka "direct", cross-examination (American version). Additionally, this year, participants received the Inner Temple mnemonic, ('CAPRI'), dealing with cross-examination on a previous inconsistent statement

PARTICIPANTS: 16 lawyers from various US states

SUMMARY OF TRAINING:

- This is the seventh year the programme has taken place. For the second year in succession, the course had to be carried out remotely as a result of the continuing Covid-19 restrictions on travel to the USA.
- Accordingly, the same programme as that in 2020 was run but this year with only 16 participants, as opposed to the 24 who took part in 2020. The main reasons for this reduction were:
 - The difficulty for practising lawyers in the USA to commit to 5 lengthy sessions spread over 5 days, during their working hours (which depending on USA time zones were c.11.30am – 2pm);
 - The difficulty which Cara experienced in finding experienced trainers to commit to such sessions over the period.
- The reduced programme, as was the case in 2020, meant no legal submissions exercise, no video-review sessions and a simpler case study than that used until last year.

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- Trainers who had taken part in last year's course were asked to volunteer for this year. Whilst most were able to do at least one session, (Mukul Chawla QC nobly did four), a full complement was only achieved shortly before the course started.
- In fact, of the ten trainers who took part, eight were "veterans" of the programme. The two new trainers were Rehana Azib and Ben Aina QC. The former could only attend the Case Analysis session and the latter one session of witness handling. The Participants Evaluation Form shows that all trainers were highly rated by the participants, (*"The trainers are the greatest asset of this programme"*), with one participant singling out Amanda Rippon, Ben Aina and Neil Chawla. Where possible, in the absence of social interaction, trainers were allocated to the same groups.
- Given the limitations of the "remote" method of training, the Evaluation form provided by Libby, demonstrate that the programme was a success and greatly appreciated by the participants. As in past years they were a "mixed bag" in that they were drawn from different areas of practice, with court advocacy experience varying from none to relatively extensive. Few had attended a training course. The difference in experience and abilities highlighted the need for trainers not just to be experienced, but to possess the ability to adjust the review to the level of the participant and the empathy to deal with the nervous advocate.
- Having said that, all trainers were of the opinion that the overall standard this year was extremely good, even the most inexperienced lawyers being able to produce competent performances. I was not able to do the witness handling sessions, but Mukul Chawla expressed the following view *"The different expectations of the US and English in witness handling is always an interesting dynamic. While the US style means that in cross examination, US advocates fear the 'wrong answer' to questions, we were able to make them understand who the 'wrong answer' may not*

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be something to be feared particularly where it substantially and adversely affects the credibility of the witness. In the same vein we were able to consider the merits and demerits of 'putting one's case' so that comments in final addresses could be made to full effect. With the exception of one trainee across both groups, the learning points from the reviews of the performances appear to be substantially absorbed. This was the case even with the more experienced trainees. Late on we also saw increased engagement from the initially resistant trainee. This may well have been a consequence of gaining some confidence from watching others.

- *As ever, this international training provides a valuable opportunity for trainers to evaluate and reset their own thinking because of the occasional clash of styles and procedures. Understanding and explaining the way to address the fear of the wrong answer is but one example of this. As trainers, we already find that we learn something new at each training session, but that sense of learning is always enhanced when training in another jurisdiction.*
- *A key learning point for the trainees, particularly during the witness handling sessions, was how examination and cross examination create the building blocks for a comprehensive and compelling final address. This was important particularly to the less experienced trainees. It was clear that the trainees particularly appreciated the fact that the training was being provided by very senior practitioners with a wealth of trial experience whether as practitioners or judges (or both).*
- *All of the trainees without exception improved their advocacy skills over the course of the 5 session training. Some of the more experienced trainees were happy to admit that the training had given them a greater perspective and insight into how they would prepare for and present their cases in the future.*

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- *The materials for the training were excellent and **the organisation from both the US side and the UK (in the form of Libby and Cara) was, as always exemplary***. (emphasis added).
- In my judgement, having taken part in the training since its inception, taken as a whole, the standard of advocacy was the best I have seen for this course. However, there was barely a session without one or more of the participants, (owing to work commitments), being late/having to leave early/unable to attend. On the last day the groups had to be re-jigged, four participants being unable to be present.
- The technical aspects of the course went without a hitch so that plenary sessions and break-out groups blended seamlessly. This was entirely due to Libby, Cara, (the latter again having to work well beyond her normal time), and the assistance of “alumni” from past NATP courses who were present in the group sessions. The alumni also made notes of the reviews to assist the trainers who had not been present for the performance being replayed at the beginning of the next session.

ASSESSMENT:

- This assessment should be read in conjunction with my report on the 2020 course.
- Whilst remote international training has the advantages, identified in the earlier report, the drawbacks have become ever more apparent. In order of importance, they are as follows:
 - The difficulty Cara experienced in recruiting trainers was not only the result of their professional commitments, (which make it difficult to be present for five days from 4.30pm-7pm), but also that remote training is

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exhausting and after 18 months of this type of training even the most enthusiastic are “zoomed out”.

- As noted above, the participants, because they are doing the course in their offices during working hours are susceptible to pressures to abandon the course as and when required to do “real” work and therefore lose much of the benefit. This problem rarely emerges when the course is held in a city or place outside their offices with a requirement of physical presence. This aspect was noted by one of the participants *“breaking the programme up into 5 days of a few hours each day was not as helpful as having two full days because that then allowed other work to get in the way and detract from the immersion that would otherwise have occurred”*
- As noted in 2020, important elements of the course, namely a legal submission exercise and video review, had to be omitted.
- Notwithstanding Libby’s repeat of the pre-course Zoom session, (in the form of an Anglo-American “happy hour”), for participants to meet those trainers able to attend, the lack of social interaction during lunch and in the evenings remains a drawback, as was noted by more than one participant. This has been observed in feedback provided for domestic training; for the reasons expressed in my 2020 report, it is even more of a disadvantage in respect of this course.
- The quality of the participants this year, meant that the inability of trainers to meet informally, to discuss sessions and problems which may have arisen did not cause a problem

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- In my 2020 report I recommended that the UCL web platform be used for this programme as it allows for video review sessions to take place whilst room reviews are continuing, as in real life. I am assuming that this was not possible.
- This year trainers gave brief talks on the basics of argument advocacy, examination-in-chief and cross-examination before the relevant sessions. As suggested in the 2020 report it included cross-examination on a previous inconsistent statement, with, as noted above, participants being provided with written guidance.
- In the 2020 report I referred to the problems caused by the Case Analysis ('CA') sessions being conducted very differently and the feedback provoked thereby. Earlier this year the Inner Temple Advocacy Training Committee set up a sub-committee to produce a document intended to standardise the elements which needed to be included in CA. The document, approved by the whole committee, was provided to the trainers and to the AIC. It appeared to have had the desired effect, in that both groups covered the necessary elements and the case theory was fully grasped by both groups.

Should any further information be required, then please do not hesitate to contact me.

HHJ Joanna Korner CMG QC

16 October 2021

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