

The Australian Advocacy Institute



The Securities and Futures Commission, Hong Kong

Workshop for Enforcement Division Investigators and Legal Services Division

Wednesday 29 November 2017

Thursday 30 November 2017

Friday 1 December 2017

PROGRAM

Presented by:

The Hon. Justice Ann Ainslie-Wallace

The Hon. Justice Murray Aldridge

Craig Smith SC

Carolyn Davenport SC

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Wednesday 29 November 2017

SESSION 1 9.00 – 11.00 am	
<p>General Session</p> <p>4 groups of 8 ENF staff</p>	<p><u>Briefing the Expert</u></p> <p>In attendance: Investigators from Enforcement Division</p> <p>Introduction.</p> <p>Investigative Theory revisited.</p> <p>Case Theory Discussion</p> <ul style="list-style-type: none"> - What is it and how it differs from the Investigative Theory. - How is it achieved. - What is its purpose. <p>Developing questions to ask the expert to guide his/her consideration.</p> <p>Formulation of questions</p> <ul style="list-style-type: none"> - logical - consistent - aimed at getting all relevant information from the expert.
<p>Morning Tea 11.00 – 11.15 am</p>	

SESSION 2 11.15 – 12.45	
<p>Practical Session, in Groups</p>	<p><u>Preparing to brief an Expert</u></p> <p>In attendance: Investigators from Enforcement Division</p> <p>CASE STUDY: SFC and Refreshment Sales Limited (2017). Working in groups with investigators and guided by moderator.</p> <p>Discuss the proposed questions and settle on a set of questions to ask the expert.</p> <p>Discuss and settle on what additional information is given to the expert and what other documents will be given to the expert.</p> <p><i>NOTE: Session continues after lunch break</i></p>

Lunch 12.45 – 2.00 pm	
SESSION 3 2.00 – 3.00 pm	
Practical Session, in Groups	<p><u>Preparing to brief an Expert</u> In attendance: Investigators from Enforcement Division</p> <p>Session 2 continues.</p>
Afternoon Tea 3.00 – 3.15 pm	
SESSION 4 3.15 – 4.45 pm	
General Session	<p><u>Preparing to brief an Expert</u> In attendance: Investigators from Enforcement Division</p> <p>CASE STUDY: SFC and Refreshment Sales Limited (2017). Each group will in turn present:</p> <ul style="list-style-type: none"> i) Case Theory ii) Questions for Experts iii) Information to be given to Experts <p>General discussion about presentations.</p>

Thursday 30 November 2017

SESSION 1 9.00 – 12.45 pm	
General Session	<p><u>The Expert Report</u> In attendance: Invited SFC Experts</p> <p>Demonstration of submissions to the court about expert reports, deconstruction and discussion</p> <p>Discussion: Role of the expert How Judges determine credibility/reliability and partiality How these findings impact on the acceptance of the opinions in the report.</p> <p>What makes a good expert (+ illustrations) What makes a good report (+ illustrate good/bad reports). Working with lawyers/being briefed. Ethical constraints.</p> <p><i>15 mins. Morning Tea at appropriate time</i></p>
Lunch 12.45 – 2.00 pm	
SESSION 2 2.00 – 3.15 pm	
General Session	<p><u>The Expert Report</u> In attendance: Invited SFC Experts Lawyers from Legal Services Division</p> <p>Discussion/round-table, moderated by Instructing Faculty, concerning issues relevant to the Lawyer/Expert briefing process.</p>
Afternoon Tea 3.15 – 3.30 pm	
SESSION 2 3.30 – 4.30 pm	
General Session	<p><u>The Expert Report</u> In attendance: Invited SFC Experts</p> <p>One on one discussion with experts about reports written by them and previously provided (If desired).</p>

Friday 1 December 2017

SESSION 1 9.00 – 10.30 am	
General Session	<p><u>Argument and Submissions</u></p> <p>In attendance: Lawyers from Legal Services Division</p> <p>Demonstration by Instructors of Submissions to the Court about an expert report. Deconstruction of demonstrations and discussion on effective presentation.</p>
Morning Tea 10.30 – 10.45 am	
SESSION 2 10.45 – 12.00	
Practical Session, in Groups	<p><u>Conferencing with an Expert</u></p> <p>In attendance: Lawyers from Legal Services Division Invited SFC Experts</p> <p>Guided by an Instructor, groups will conduct a conference with an Expert, based on the questions settled in Sessions 2 & 3 on Wednesday 29 Nov.</p>
SESSION 3 12.00 – 12.45 pm	
General Session	<p><u>The role of the Expert and the Expert Report</u></p> <p>In attendance: Lawyers from Legal Services Division</p> <p>How judges determine credibility – reliability – partiality. How these findings impact on the acceptance of the opinion in the report.</p>
Lunch 12.45 – 2.00 pm	
SESSION 4 2.00 – 3.00 pm	
General Session	<p><u>The Expert Opinion</u></p> <p>In attendance: Lawyers from Legal Services Division</p> <p>How to help an Expert to write a good report which assists the court. How to ask all of the relevant questions the first time.</p>

	<i>Afternoon Tea 3.00 – 3.15 pm</i>
SESSION 5	3.15 – 4.45 pm
General Session	<p><u>Effective ways of dealing with Experts</u> In attendance: Lawyers from Legal Services Division Invited Investigators Invited SFC Experts</p> <p><i>Round table discussion, facilitated by the instructors and senior lawyers from Legal Services Division.</i></p> <p>Analysis of the issues arising out of the morning exercise Discussion of effective methods of: Instructing the Expert Considering the Expert Report Conferencing Ethical considerations</p>



TEACHING FACULTY Hong Kong, 2017

The Hon. Justice Ann Ainslie-Wallace – Appeals Division, Family Court of Australia. Chair, Australian Advocacy Institute.

Professional:

- ◆ 1978 Admitted to the bar in NSW
- ◆ 1995 Acting Judge, District Court of NSW
- ◆ 1997-2010 Judge, District Court of NSW
- ◆ 2006 Professor of Law, University of Technology, Sydney
- ◆ 2006 Deputy Chair - NSW Medical Tribunal
- ◆ 2010 Appointed as Judge of the Appeals Division, Family Court of Australia.

Professional Appointments:

- ◆ Chair, Australian Advocacy Institute (AAI)
- ◆ Chair, AAI Management Committee
- ◆ Senior Instructor and Moderator for AAI since 1995
- ◆ Chair, College of Law Master of Applied Law [Family Law] Advisory Committee
- ◆ Fellow of the Australian Academy of Law.
- ◆ Master Bencher, Inner Temple, London.

Past:

- ◆ Member, NSW Bar Council
- ◆ Member, NSW Bar Professional Conduct Committee
- ◆ Member, NSW Bar Advocacy Committee
- ◆ Member, NSW Bar Family Law Committee
- ◆ Law Council of Australia, Family Law Executive
- ◆ ABA Advocacy Team - Bangladesh, 1995-1999
- ◆ Member of Law Council committee to develop and conduct the Australian Separate Representative Training Program.
- ◆ Chair, Law Society of NSW Specialist Accreditation Board
- ◆ Member, Judicial Commission of NSW Advisory Committee, Equal Treatment Bench Book 2007
- ◆ Member, Australian Institute of Judicial Administration Advisory Committee, Children's Evidence Bench Book 2009
- ◆ NSW Representative, Australian Association of Women Judges 2008-2010.

Current Board and Committee Memberships:

- ◆ Chair, Australian Advocacy Institute (AAI)
- ◆ 2004 to date: Director, AAI
- ◆ 2000 to date: Chair, AAI Management Committee
- ◆ 2000 to date: Member, Judicial College of Australia
- ◆ 2000 to date: Member, Australian Institute of Judicial Admin.
- ◆ 2010 to date: Member, International Bar Association.

Teaching Commitments:

- ◆ Moderator and Senior Instructor at Australian Advocacy Institute workshops throughout Australia and in the UK, Italy, Singapore and Hong Kong
- ◆ Visiting Faculty, National Institute for Trial Advocacy (USA)
- ◆ Instructor, Inner Temple (UK) New Practitioner's Advocacy Workshops, London, 2013, 2015-2017
- ◆ Senior Instructor, AAI Teacher Training Program for the UK Advocacy Training Council, London, 2013
- ◆ Instructor, SE Circuit (UK) Advanced Advocacy intensive week, Keble College Oxford, 2017.
- ◆ Senior Instructor, AAI Workshop on Advocacy for Victims Counsel, International Criminal Court, The Hague, 2013.
- ◆ Train the trainers workshops and advocacy workshops in association with the Bangladesh Bar Association
- ◆ Instruction in NSW Bar Association Readers Course, Law Society of NSW Specialist Accreditation in Advocacy
- ◆ Teaching for Institute of Forensic Studies – Monash University.
- ◆ Workshops for professionals and experts including members of the Medical Tribunal of NSW and the Professional Services Review Tribunal
- ◆ Occasional instruction for University of Sydney undergraduate course in Advocacy, University of Technology Sydney, Monash University Italy, Monash University Malaysia and Hong Kong University.

The Hon. Justice Murray Aldridge – Appeals Division, Family Court of Australia

Professional:

- 1980 – Admitted to bar
- 1999 – Appointed Senior Counsel
- 2012 – Appointed as Justice of the Family Court of Australia.
- 2015 – Appointed as Judge of the Appeals Division, Family Court of Australia

Areas of Practice:

- Appearances and Appeals in all jurisdictions, commercial and equity with a strong emphasis on personal and corporate insolvency and Corporations Law. Frequently appeared for the ATO and liquidators and trustees in bankruptcy. Very familiar with banking, trusts, wills, probate, Family Provision Act and Trade Practices Act.

Professional Appointments:

- Member of the Law Council Insolvency and Reconstruction Committee
- Law Society Advocacy Accreditation Committee
- Past member of Bar Council Professional Conduct Committee for many years
- Past member of Bar Council Committee that investigated Bankrupt Barristers
- Bi-annual marker of the Bar Council Ethics Exam
- Senior Advocacy Instructor with the Australian Advocacy Institute
- Presented numerous papers at legal conferences throughout Australia.

Craig Smith SC – Deputy Public Defender, NSW Public Defender's Office

Professional:

- ◆ 2015 - Board Member, Australian Advocacy Institute
- ◆ 2015 - Appointed Deputy Public Defender
- ◆ 2014 - Appointed Senior Counsel
- ◆ 2006 - Barrister - NSW Public Defender's Office
- ◆ Admitted to Bar in 2001
- ◆ Appearance in appellate matters before the Court of Criminal Appeal and a wide range of serious criminal trials including fitness proceedings, sentence matters, appeals, committal hearings and summary hearings
- ◆ Solicitor, admitted July 1995
- ◆ 1995 to 2001, Legal Officer – NSW Legal Aid Commission, Western Aboriginal Legal Service
- ◆ 1995 - 1997, Solicitor, private practice.

Other:

- ◆ Senior Instructor and Moderator, AAI workshops across Australia and AAI workshops in Singapore and at Monash University, Italy
- ◆ Instructor, SE Circuit (UK) Advanced Advocacy intensive week, Keble College Oxford, 2017.
- ◆ Former Vice-President Criminal Defence Lawyers Association
- ◆ Participant in the pro-bono scheme run by the Sydney Regional Aboriginal Corporation Legal Service (SRACLS)
- ◆ Presentation of lectures in criminal law, children's law and forensic procedures relating to children
- ◆ Papers and lectures to groups including: Young Lawyers, Children's Legal Service of the Legal Aid Commission, Various branches of the Legal Aid Commission, Western Aboriginal Legal Service, Solicitors participating in Pro-Bono scheme of Blake Dawson Waldron.

Carolyn Davenport SC – Barrister, NSW Bar

Professional:

- ◆ 1977 - Barrister practising in criminal and family law at Wardell Chambers, Sydney
- ◆ 1980/1985 - Corporate Affairs Comm. NSW. Prosecution of major corporate fraud and civil litigation
- ◆ 1985/2001 - Crown Prosecutor. Criminal trials in the District Court, Supreme Courts and the CCA
- ◆ 1991/1992 - General Counsel with the Independent Commission Against Corruption
- ◆ 2001/present - Barrister, criminal law in the District and Supreme Courts and the Court of Criminal Appeal, and Counsel Assisting before the ICAC
- ◆ 2004 - Appointed Senior Counsel.

Memberships and Teaching:

- ◆ 1996/2002 - Member, Education Committee of the NSW Bar Association
- ◆ 2001/2008 - Member, Criminal Law Committee of the NSW Bar Association
- ◆ 2007, 2010 - Instructor with AAI/Monash University Trial Practice Course, Prato, Italy
- ◆ 2009 - AAI Moderator Training
- ◆ 2011 - AAI Leadership Training
- ◆ 1995/present - Advocacy teaching as a Senior Instructor with AAI across Australia and in Hong Kong
- ◆ 2015 - Member of Board, Australian Advocacy Institute

