

Advocacy Skills for Family Lawyers Workshop

Brisbane, 22-23 February 2019



Please read the information below immediately and thoroughly as it is important to your preparation and contribution to learning at this workshop.

Dear Workshop Participant,

The AAI is pleased to be able to provide this advocacy workshop for you and we are sure that you will find this course helpful in improving your advocacy skills.

Workshop Program:

Part 1: Introductory Session – Friday 22 February, 2019

Time: 5-7pm

Location: **Family Court of Australia, Harry Gibbs Commonwealth Law Courts Building, 119 North Quay, Brisbane**

This session will finish by 7.00pm.

Part 2: Advocacy Performance Skills Workshop – Saturday 24 November, 2018

Time: 8.30am-4.30pm

Location: **Family Court of Australia, Harry Gibbs Commonwealth Law Courts Building, 119 North Quay, Brisbane**

Workshop Format:

The following “**Timetable and Task Allocation**” details the format for this workshop. On page 4 you will find a table that allocates a GROUP and PARTICIPANT NUMBER for each participant.

On Saturday, Group Performance Sessions and Technique Sessions have been scheduled through the day. In the Group Sessions, you will break into smaller groups to individually **present your allocated advocacy tasks** before a Judge/Instructor in the same manner that you would present in court. You will find your allocated advocacy tasks set out within each session of the timetable.

Once you have finished each performance you will be given a review by the instructor. This review is designed to be positive, not critical. You will be given advice on ways that your individual performance can be improved using various advocacy skills, including a demonstration and explanation of the particular skills relevant to your performance.

The Workshop Case Studies:

Why are we using applications and a case study?

We acknowledge that for some of you, the case studies we will use may not be of the type you generally deal with. We use these case studies deliberately as we believe them to be very good for the teaching of advocacy, demonstrating skills that can be applied in any jurisdiction. The advocacy skills you will learn will be of universal application – the same skills apply regardless of the type of case, the jurisdiction you appear in or the side you appear on. This has been proven in over two decades of advocacy instruction by the AAI.

Please don't get bogged down in your preparation with any legal technicalities within the case studies. Don't research or bring statutes or precedents. Do not be distracted with “the law”. Evidence is restricted to **only** that contained within each case study so you do not need to look outside the immediate information provided. The purpose of this workshop is to help you with how to structure a case, how to prepare, how to ask purposive relevant questions, how to argue, how to be persuasive in court. We will not be concerned with jurisdictional procedure.

Preparation before the workshop:

This is a performance-based workshop. **NO** preparation time is included during the actual workshop.

You are required to prepare each of your set tasks between now and the commencement of the workshop. Please **allow yourself time to prepare properly** – it is anticipated that you should allocate 3 to 5 hours to this preparation.

Please also note that in the workshop group sessions, participants will be called upon to act as the witness when other participants are presenting tasks in Evidence in Chief and Cross Examination. A thorough knowledge and understanding of the facts of each case study will help both you and your colleagues get the most out of the workshop.

If you are not totally familiar with the requirements of any particular advocacy task, you may find it helpful to refer to the “Specific Advocacy Tasks” summary at the end of the Course Materials document.

You have also been provided with a pdf copy of the “AAI Advocacy Manual”, which contains detailed chapters on each of the advocacy tasks you will be presenting. Unfortunately, copyright restrictions require this version to be ‘read only’ and cannot be printed. You are not required to bring a copy to the workshop, rather use this Manual in your preparation and for future reference.

Presenting your set tasks:

You will see in the timetable task allocations that a time limit has been set to present each task. Please prepare the whole of the task, even though the time allocation means you may not finish your presentation. Your review will be on that part of the task you present, not the parts you may not have reached.

At the close of the workshop the evaluation sheet provided with these materials will be collected. Please fill out this form before leaving as your (anonymous) comments help us structure future courses.

Dress is casual. Refreshments and lunch will be provided on Saturday.

Regards



Scott Wallace
General Manager, Australian Advocacy Institute.
Email: aai@advocacy.com.au



**Australian
Advocacy
Institute**

**ADVOCACY SKILLS
for FAMILY LAWYERS
WORKSHOP**

BRISBANE

22-23 February 2019

Moderator –

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

TIMETABLE AND TASK ALLOCATIONS

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DAY ONE

FRIDAY 22 February 2019

Family Court of Australia, Brisbane

Combined Session – All Groups

SESSION 1 5–7pm (120 mins)	
General Session	<u>INTRODUCTORY SESSION</u> – The Nature of Advocacy <u>Moderator</u> – The Hon Justice Ann Ainslie-Wallace

Day TWO – SATURDAY 23 February 2019

Family Court of Australia, Brisbane

PARTICIPANT NUMBER

This is your participant number and is used to determine which **TASKS** you will be performing in the timetable that follows.

No	RED GROUP	BLUE GROUP	BLUE GROUP	YELLOW GROUP
1.	Kayla Bucknall	Aaron Davis	Susie Donkin	Aleisha Edwards
2.	Peta Eyschen	Alita Flannery	Dean Foley	Siobhan French
3.	Rohan McAdam	Ross Godden	Todd Green	Kiara Greenway
4.	Jennifer Hamilton	Robyn Hampton	Abigail Johnson	Sophie Kannemeyer
5.	Rowan King	Cliff Kroesen	Melissa Lanthois	David Love
6.	Harry McDonald	Ebony Morris	Guy Neilson	Megan Peace
7.	Michelle Richardson	Louise Sawtell	Nikila Schomberg	Brian Studman
8.	Max Sutton	Luke Tonge	Stacey Ward	Rebecca Wilson

SESSION 2		8.30-9.30am (60 mins)	
Group Session	<u>APPLICATIONS</u>		
	<u>Case Study 1: Wood v. Simpson</u>		
PERFORMANCE SESSION 1	TASK:	Present application for injunction	PARTICIPANT: 1
	TASK:	Present application for injunction	PARTICIPANT: 2
	TASK:	Present application for injunction	PARTICIPANT: 3
	TASK:	Present application for injunction	PARTICIPANT: 4
	<u>Case Study 2: Davies v. Riverside Grammar</u>		
	TASK:	Present application	PARTICIPANT: 5
	TASK:	Oppose application	PARTICIPANT: 6
	TASK:	Present application	PARTICIPANT: 7
TASK:	Oppose application	PARTICIPANT: 8	
	Performances	3 minutes per task	
	Instructor Review	4 minutes per participant	

MORNING TEA 9.30-9.45am (15 mins)	
SESSION 3	9.45-11am (75 mins)
<p>Group Session</p> <p>PERFORMANCE SESSION 2</p>	<p><u>EVIDENCE-IN-CHIEF and CROSS EXAMINATION</u></p> <p><u>Case Study 3: Wilson v Wilson</u></p> <p>TASK: PARTICIPANT: 1 Evidence in Chief - Margaret Wilson (The Applicant) (Witness: PARTICIPANT: 7)</p> <p>TASK: PARTICIPANT: 2 For the Respondent, Cross Examine Margaret Wilson (Witness: PARTICIPANT: 5)</p> <p>TASK: PARTICIPANT: 4 For the Respondent, Cross Examine Margaret Wilson (Witness: PARTICIPANT: 3)</p> <p>TASK: PARTICIPANT: 6 Evidence in Chief - Julie Wilson (The Respondent) (Witness: PARTICIPANT: 8)</p> <p>TASK: PARTICIPANT: 3 For the Applicant, Cross Examine Julie Wilson (Witness: PARTICIPANT: 2)</p> <p>TASK: PARTICIPANT: 5 For the Applicant, Cross Examine Julie Wilson (Witness: PARTICIPANT: 4)</p> <p>TASK: PARTICIPANT: 8 For the Respondent, Cross Examine Dr Gloucester (Witness: PARTICIPANT: 1)</p> <p>TASK: PARTICIPANT: 7 For the Applicant, Cross Examine Dr Foster (Witness: PARTICIPANT: 6)</p> <p style="text-align: right;">Performances in Group 4 minutes per task Review in Group 5 minutes per participant</p>
SESSION 4	11-12.15pm (75 mins)
General Session	<p><u>TECHNIQUES IN QUESTIONING</u></p> <p><u>CASE THEORY</u></p>
LUNCH 12.15-12.45pm (30 mins)	

SESSION 5		12.45-2pm (75 mins)	
Group Session	<u>CROSS EXAMINATION</u>		
PERFORMANCE SESSION 3	<u>Case Study 3: Wilson v Wilson</u>		
	TASK:	PARTICIPANT: 8	For the Respondent, Cross Examine Margaret Wilson (Witness: PARTICIPANT: 5)
	TASK:	PARTICIPANT: 7	For the Applicant, Cross Examine Julie Wilson (Witness: PARTICIPANT: 4)
	TASK:	PARTICIPANT: 6	For the Respondent, Cross Examine Dr Gloucester (Witness: PARTICIPANT: 3)
	TASK:	PARTICIPANT: 5	For the Applicant, Cross Examine Dr Foster (Witness: PARTICIPANT: 8)
	TASK:	PARTICIPANT: 2	For the Respondent, Cross Examine Dr Gloucester (Witness: PARTICIPANT: 7)
	TASK:	PARTICIPANT: 1	For the Applicant, Cross Examine Dr Foster (Witness: PARTICIPANT: 2)
	TASK:	PARTICIPANT: 4	For the Respondent, Cross Examine Dr Gloucester (Witness: PARTICIPANT: 1)
	TASK:	PARTICIPANT: 3	For the Applicant, Cross Examine Dr Foster (Witness: PARTICIPANT: 6)
	Performances in Group		4 minutes per task
	Review in Group		5 minutes per participant
SESSION 6		2-3pm (60 mins)	
General Session	<u>The CLOSING ARGUMENT</u>		
	<u>COMMUNICATION in the COURTROOM</u>		
SESSION 7		3-4.15pm (75 mins)	
Group Session	<u>THE CLOSING ARGUMENT</u>		
PERFORMANCE SESSION 4	<u>Case Study 3: Wilson v Wilson</u>		
	TASK:	PARTICIPANT: 1	Present closing argument for the Applicant
	TASK:	PARTICIPANT: 2	Present closing argument for the Respondent
	TASK:	PARTICIPANT: 3	Present closing argument for the Applicant
	TASK:	PARTICIPANT: 4	Present closing argument for the Respondent
	TASK:	PARTICIPANT: 5	Present closing argument for the Applicant
	TASK:	PARTICIPANT: 6	Present closing argument for the Respondent
	TASK:	PARTICIPANT: 7	Present closing argument for the Applicant
	TASK:	PARTICIPANT: 8	Present closing argument for the Respondent
	Performances in Group		4 minutes per task
	Review in Group		5 minutes per participant
SESSION 8		4.15-4.30pm (15 mins)	
Group Session	<u>DEBRIEF and DISCUSSION</u>		

AAI Teaching Faculty, Brisbane 22/23 Feb.

Australian Advocacy Institute



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

Professional:

- ◆ 1978: Admitted to the Bar in New South Wales
- ◆ 1995: Acting Judge, District Court of NSW
- ◆ 1997-2010: Judge, District Court of NSW
- ◆ 2006-: Adjunct Professor of Law, UTS University, Sydney
- ◆ 2010-: Appointed as Judge of the Appeals Division, Family Court of Australia.

Current Professional Appointments:

- ◆ Chair, Australian Advocacy Institute (AAI)
- ◆ Chair, College of Law Master of Applied Law [Family Law] Advisory Committee
- ◆ Fellow of the Australian Academy of Law
- ◆ Council Member, National Judicial College of Australia
- ◆ Member, Australian Institute of Judicial Administration
- ◆ 2015: Appointed Master Benchers, Inner Temple, London UK
- ◆ 2018: Awarded Doctor of Laws (*honoris causa*), UTS University, Sydney.

Past:

- ◆ Member, NSW Bar Council
- ◆ Member, NSW Bar Professional Conduct Committee, Advocacy Committee, Family Law Committee
- ◆ 1992-1997: Law Council of Australia, Family Law Executive
- ◆ Law Council Committee to develop and conduct the Australian Separate Representative Training Program
- ◆ Chair and Board Member, Law Society of NSW, Specialist Accreditation Board
- ◆ 2006-2010: Deputy Chair, NSW Medical Tribunal
- ◆ 2007: Judicial Commission of NSW Advisory Committee, Equal Treatment Bench Book
- ◆ 2008-2015: Board Member and Deputy Chair, AAI
- ◆ 2008-2010: NSW Representative, Australian Association of Women Judges
- ◆ 2009: Australian Institute of Judicial Administration Advisory Committee, Children's Evidence Bench Book
- ◆ 2010-: Member, National Judicial College of Australia.

Teaching Commitments:

- ◆ Moderator and Senior Instructor at AAI workshops throughout Australia and in the United Kingdom, Italy, The Hague, Malaysia, Singapore and Hong Kong
- ◆ Moderator of the Investigators, Expert Witness and Advocacy Skills Workshops: Securities and Futures Commission and Hong Kong Monetary Authority, Hong Kong: 2004 to date
- ◆ Instructor, New Practitioners Advocacy Workshop, Inner Temple, London 2013, 2015-2017
- ◆ Instructor, UK Advanced International Advocacy Course, Keble College Oxford 2016-2018
- ◆ Instructor, AAI Advanced Teacher Training Program, UK Advocacy Training Council, London 2013
- ◆ Instructor, Hong Kong Bar Readers' Advocacy Program, 2018
- ◆ Instructor, South African Bar Advanced Advocacy Workshop, Stellenbosch 2019
- ◆ Instructor, AAI workshop on Advocacy for Victims of War Crime, International Criminal Court, The Hague 2013
- ◆ Faculty Member, National Institute for Trial Advocacy (USA)
- ◆ 'Train the trainers' workshops and advocacy skills workshops in association with the Bangladesh Bar Association
- ◆ Instructor, NSW Bar Association Readers Course and Law Society of NSW Specialist Accreditation in Advocacy
- ◆ Moderator, Advocacy, College of Law, Sydney
- ◆ Teaching for International Institute of Forensic Studies – Monash University, Melbourne
- ◆ Workshops for professionals and experts including members of the Medical Tribunal of NSW and the Professional Services Review Tribunal
- ◆ Occasional instruction for University of Technology Sydney, University of Sydney, Monash University Italy, Monash University Malaysia and Hong Kong University undergraduate courses in Advocacy Skills.

The Hon. Justice Anne Rees - Family Court of Australia

- 1978-1981 - Practice as a Solicitor
- 1981-1993 - Australian Legal Aid Office and was one of a small group of legal aid lawyers who pioneered the representation of children in parenting disputes in the Family Court of Australia
- 1993 - Admission to the Bar - General family law including property, children's and appellate work
- NSW Barrister representative on the Family Law Section of the Law Council, Chairman of the Section's Children's Law Committee and responsible for supervision of the national training course for Independent Children's Lawyers
- Previously member of the Family Law Review Tribunal of the Legal Aid Commission of NSW; Chairman, Family Law Review Tribunal; Family Law Committee of the Law Society of NSW; Family Law Committee of the Bar Association of NSW; observer for the Law Council on the Family Law Council; the Law Council and Family Law Council joint working party drafting the "Best Practice Guidelines for Lawyers Doing Family Law Work"; Family Law Council committee reporting to the Attorney General on the representation of children. Briefed by the Attorney General's Department on the content of the "Family Law On-Line Web Site"
- 2011 – Appointed as Judge of the Family Court of Australia.
- Instructor, Australian Advocacy Institute.

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

- 1980 – Admitted to Bar
- 1999 – Appointed Senior Counsel
- 2012 – Appointed as Judge of the Family Court of Australia
- 2105 – Appointed to the Appeals Division, Family Court of Australia.

Areas of Practice:

Before being appointed to The Family Court of Australia, appearances and appeals in all jurisdictions, commercial and equity with a strong emphasis on personal and corporate insolvency and Corporations Law. Appeared for ATO and liquidators and trustees in bankruptcy.

Professional Appointments:

- Past Member of the Law Council Insolvency and Reconstruction Committee
- Past Member of Law Society Advocacy Accreditation Committee
- Past member of Bar Council Professional Conduct Committee for many years
- Council Member, Australian Institute of Judicial Administration
- Council Member, Consultative Council for Australian Law Reporting
- Advocacy Instructor with the Australian Advocacy Institute, including as instructor in advocacy, investigation and expert evidence for AAI workshops in Hong Kong
- Presented numerous papers at legal conferences throughout Australia.

Peter Campton SC – Barrister, NSW Bar

- 2014 – Appointed Senior Counsel
- 2000 – Admitted to NSW Bar. Founding member of Waratah Chambers.
- 1983 – Admitted as Solicitor. Specialist practice in family law disputes in the Family Court of Australia and the various tiers of the State Courts of New South Wales
- Developed a practice focusing on complex family law financial disputes. He has extensive experience in, and has developed a speciality for, avenues of forensic financial enquiry and the evaluation of expert evidence.
- Member of the New South Wales Bar Association's Family Law Committee and a member of the Family Law Section of the Law Council of Australia.
- Presented seminars, papers and published Family Law articles to specialised members of the legal profession.
- Regularly briefed to appear at country sittings of the Federal Circuit Court within New South Wales and in trials listed in the Family Court Registries in the eastern states of Australia.
- Accredited Arbitrator and a member of the Australian Institute of Family Law Arbitrators and Mediators.
- Instructor, Australian Advocacy Institute.

Bob Lethbridge SC – Barrister, NSW Bar

Professional:

- 39 years as a legal practitioner specialising in litigating in the area of family law and related matters. Four years practice as a solicitor in general practice. 34 years practicing as a barrister representing private clients and on occasion the Australian Taxation Commissioner, the Australian Government Solicitor and the Legal Aid Commission in complex family law and related property, maintenance/child support and children's matters. Briefed by, among others: - Barkus Doolan - Pigdon Norgate Family Lawyers - McDonnell Milne Toltz - Blachfield Nicholls Partners - Pearson Family, Lawyers - KDB Holmes, Solicitors
- 2014 – 2002 Head of Chambers, Culwulla Chambers, Sydney, NSW 2000. Specialist practice in Family Law, property relationships and related matters
- 2002 – 2000 Barrister, Family Law, Windeyer Chambers, Sydney NSW
- 2000 – Appointed Senior Counsel
- 2001 – Specialist practice in Family Law, Property Relationships and related matters
- 2001 – Called to Queensland Bar
- 2000 – 1979 Barrister, Family Law, Edmund Barton Chambers, Sydney. Specialist Family Law / Property Relationships practice
- 1979 – 1975 Solicitor, Sly & Russell, Solicitors, Sydney. General litigation – commercial litigation, insurance law, family law, debt recovery
- 1975 – Admitted to practice as Solicitor NSW
- 1975-1974 – Solicitor, Donald and Francis, Solicitors, Sydney. General matters.

Career Achievements:

- Since being called to the Bar and developing a specialised practice in family law and family relationship matters, appearances at trial in the Family Court and on appeal as both junior and senior counsel in the High Court of Australia and the Full Court of the Family Court in Appeals in matters arising under the Family Law Act.
- Appearances in the Supreme Court, Court of Appeal, the Supreme Court of NSW and the NSW District Court in matters arising under the De Facto Relationships Act/ Property Relationships Act and the Child Care and Protection Act, and the domestic violence provisions of the NSW Crimes Act in NSW Local Courts and the District Court.
- Appearances in appeal matters commencing in 1982 in the Full Court of the Family Court and as junior counsel in 1995 in the High Court of Australia in family law related matters.
- Appearances as counsel in reported decisions in the authorised CCH Australian Family Law Cases and Lexis Nexis Family Law Reports commencing in 1982 and thereafter in most years on occasion 2-3 times.
- Author, 2nd edition CCH Family Law Handbook.
- From time to time, member of NSW Bar Council, Family Law Committee.
- Professional speaking events including papers presented to the Law Council of Australia Family Law Section Biennial Family Law Conferences, The NSW College of Law including the David Opas Memorial lectures on a number of occasions, Lexis Nexis seminars, NSW Young Lawyers Continuing Education, NSW Legal Aid Commission Seminars.
- Qualified mediator (Bond University Dispute Resolution Centre).
- Instructor, Australian Advocacy Institute.