## Introduction

I met my supervisors in chambers about a month before my pupillage started. I had actually met them on previous occasions in chambers because some of them interviewed me and attended social events where I had met them, too.

My pupillage structure is akin to what a trainee solicitor would have as 'seats' in their training contract. I will have a new supervisor every three months (so four in total) with one of them being the overarching supervisor throughout the year. My supervisors are Brynmor Adams (also the overarching one), Stephen Connolly, Rachel Coyle, and Harriet Hartshorn, respectively. Bryn and Rachel mainly practise property law, while Stephen and Harriet have a predominantly commercial litigation practice.

In my first six, I will mainly be shadowing my respective supervisor in hearings, trials, and client conferences. I will also assist my supervisor and other members of chambers with paper- based work and attend hearings with them as well. In my second six, I will be undertaking cases under my own name, which is often referred to as "being on your feet".

My first day of pupillage was diarised for 1 March 2024. Having received the offer for pupillage in May 2022, it had sunk in that I was finally going to start the career that I had spent the last ten years working towards.

I have experienced quite a lot of things since I started pupillage (about 7 weeks ago at the time of writing), so I will endeavour to include the most interesting parts in this diary entry.

## Possession Trial

On that Friday, 1 March, I spent the day in chambers reading papers ahead of the two-day multi-track trial that Bryn had on the following Monday and Tuesday. The claim at the trial was for the possession of a property due to the tenant's alleged anti-social behaviour. Bryn represented the claimant landlord and assisted the claimant's solicitors in drafting the Reply to the defendant's defence back in June 2023. The defendant was represented by a solicitor who is also an advocate (from my understanding, not a solicitor-advocate). The judge in charge of the proceedings is a designated civil judge.

The defendant's anti-social behaviour predominantly comprised of smoking cannabis into the early hours of the morning, shouting (at her daughter), and slamming doors. The neighbours were affected by the defendant's behaviour and informed the landlord of the same. Interestingly, the defendant denies that she or her daughter committed any of the anti-social

behaviour allegations and pleaded that in any event, it was her daughter who committed those acts due to her mental condition (which was not substantiated by any medical evidence). As a result of this, the defendant sought to rely on the Equality Act and argue that it would be discriminatory to evict the defendant and/or her daughter due to her mental condition.

Having observed cross-examination of witnesses on both sides of the case, Bryn and the defendant's solicitor made closing submissions on Tuesday afternoon. It was therefore an opportunity to note how different advocates employed their styles of advocacy.

Judgment was reserved and we will find out who won at a later stage.

## Opinion Writing

The next day, Bryn and I visited a quarry to advise a client on a longstanding and difficult dispute over the boundary separating the client's property to his neighbour's. It was only my third day of pupillage, and I quickly began to realise that a property practice can really take you to some obscure places in the country.

Our client once owned the neighbouring property but sold it to a relative who now owns it. The neighbour has dug up a portion of land along or close to the boundary and built a pathway for their business they ran on site. The question for us was whether a claim for nuisance and/or trespass can be pursued as the neighbour may have encroached on our client's land. The next step for me was to consider the papers. Having reviewed them, I began the process of drafting for an opinion.

Having researched and identified the relevant legal principles, my job was to look at the evidence and surrounding circumstances of when the conveyance occurred and identify where the parties (to the original conveyance) must have intended the boundary to be, applying the leading case of *Pennock v Hodgson* [2010] EWCA Civ 873. This was the starting point before considering whether there'd be any claim for nuisance and/or trespass.

I worked on this opinion for a couple of weeks whilst also being involved in other matters. When I submitted my final draft, Bryn and I discussed the opinion. He sent me his draft of the opinion after I submitted mine. Incidentally, we arrived at the same conclusion. Though our path to the answer was slightly different, our fundamental reason was the same. That notwithstanding, Bryn gave me three headlines for points of improvement for when I next undertake a written task. Overall, I was pleased with the outcome of this task and that Bryn was impressed with my opinion.

## Summary Judgment Hearing, Mooting & Skeleton Argument

I took a train to Skipton to observe an in-person application for summary judgment and/or strike out of the defendant's defence. I arrived at court first and met our lay clients. Bryn was about 10 minutes away by car. Unfortunately, the fire alarm at court wasn't working. This meant that the court prohibited members of the public from entering the court building. We weren't even permitted to use one of the conference rooms to conduct the hearing remotely. I informed Bryn of the same on the phone. The court pushed the time of the hearing 30 minutes back so we could come up with a solution to this (I hesitate to say) not so unusual problem. Eventually, we drove to Ilkley to find a conference room in one of our instructing solicitors' offices. We had about 5 minutes to spare before the hearing commenced. Luckily, instructing solicitors had a room available and we managed to join the hearing remotely.

The claimants demised commercial premises to the first defendant (a business). The second and third defendants were parties to the lease as guarantors and were also directors of the first defendant. The first defendant had breached various covenants of the lease, resulting in financial loss to the claimants. In light of the defendants' defence, the claimant sought summary judgment for rent arrears and empty rates relief.

Bryn succeeded on the first issue, but the judge refused to grant summary judgment on the second issue. After the conclusion of the substantive matters of the summary judgment hearing, the judge transferred the case to Leeds so a specialist business and property judge may have conduct of the case. After the hearing concluded, I assisted Bryn in drafting the Order, which he then filed with the court.

On the way back on the train, I read the papers for the moot I was due to judge that evening at the university I attended as an undergraduate and drafted a provisional judgment of where I thought the case might go. I was very impressed with the standard of advocacy of the mooters, and I hope the finalists enjoy their time at the Supreme Court, where they'll be arguing before one of its Justices. In fact, on the date of finalising the draft of this diary entry, I learned that one of the contestants before me made it to the final and won!

The following day, I drafted the skeleton argument of the summary judgment hearing I heard the day before and submitted it later that afternoon. Bryn and I discussed it at a later date. He was very pleased with the work I had produced, commenting that the piece of work was to the standard of a second six pupil or a barrister in their early years of practice. Again, Bryn gave me three headlines of how I could produce an even better skeleton argument next time.

## Three-day Trial in Bristol

The day before the three-day multi-track trial in Bristol, I read the papers for it, which was due to be heard before the Chief Insolvency and Companies Court Judge. Steven Fennell was representing the defendants in this case.

The claimants are a married couple who had each formed a loan agreement with a firm of solicitors, who was the first defendant. The other four defendants were its guarantors, two of whom headed the law firm. The claimants claimed that the firm and its guarantors were in breach of the loan agreements by failing to make the payments under each agreement. The defence of all five defendants was that the loan agreements were discharged by an oral contract between the claimants (represented by the husband) and the firm of solicitors (represented by one of its then partners) seven years after the original loan agreements were formed. In return for the discharge of the loan agreements, the claimants were given shares in a company, which controls the premises from which the firm of solicitors operated.

I have learned the following things during that trial:

1. Be prepared to make *impromptu* applications. The former partner conceded in cross-examination that the original loan agreements may have been varied by way of email exchanges (not just orally). This led to Steven making an application to amend the defence pursuant to CPR r.17.3, which the judge allowed without hesitation.

2. Keep questions short. On both sides, this allowed the advocate to control the witness to a greater degree. It also gave the advocate more leeway to compel the witness to answer the question or involve the judge in forcing the witness to answer the question if they digressed or gave a long-winded answer to a short, clear question.

3. Related to the previous point, you can phrase cross-examinations like so: *"would it be fair to say that…"*, "*you would accept, wouldn't you that…"*, *"would you agree that…"* – these phrases do not seem antagonistic. In fact, they almost seem like the advocate is trying to help the witness answer *their* question. You sometimes get the impression that the witness forgets that the advocate who's cross-examining them is actually not on their side. But phrasing the questions like the above can be a skilful way of obtaining the answers you want, and therefore referencing those pieces of evidence in closing.

## Multi-million dollar Freezing Injunction

Stephen Connolly and Jodie Wildridge, led by Paul Chaisty KC (from Kings Chambers), asked me to assist them in a case which is, on its facts, the most complicated matter I have ever dealt with. The nub of the procedural issue is that our client, a subsidiary company incorporated in Virginia, brought a petition pursuant to section 994 of the Companies Act 2006 against the UK parent company. Our client successfully applied for a multi-million dollar freezing injunction against the UK company and the US incorporated LLC that heads the UK Company. The respondents to the petition have now applied to set the injunction aside.

The respondents allege in their application that our client did not comply with full and frank disclosure and/or mislead the court when it obtained the freezing injunction. Given that the UK Company has made numerous allegations, it was my task to produce a Scott Schedule. The schedule essentially outlines what the respondents are alleging and where the reference to the allegations is made in the evidence (in this case, an affidavit by the manager of a US incorporated LLC). Our client has responded to these allegations by way of an affidavit too (the director of the subsidiary company). Thus, the schedule also contained his responses and references to the evidence. The purpose of this exercise is to streamline the evidence, given that a lot of allegations (and therefore responses) were made.

The allegations and responses were not always made chronologically in relation to the dates of the events. I thus divided the allegations/responses into 'issues' with the closest bearing to the chronological sequence of when the events occurred.

This case was certainly a lesson in separating the wheat from the chaff. As Jo Sidhu KC said in episode 6 of Bibi Badejo's 'The Advocacy Podcast', *"an accountant crunches numbers, an advocate crunches facts"*.

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