

Introduction

Since the beginning of my second quarter of pupillage, I have participated in several trials with various barristers. Below, I describe my experiences in these trials.

Three-day Probate Trial

Probate is an area of law that commercial pupils rarely encounter at Exchange Chambers. However, when the opportunity arose to appear in court (robed) for the first time, I seized it eagerly!

In 2015, the deceased mother had appointed her son, our client (the Claimant) as sole executor and left her residuary estate to him. In January 2021, the deceased appointed two of our client's siblings (the Defendants) as executors and devised her residuary estate to them and excluded our client from the Will. The plot twist in this short story is that the deceased intended to revise her Will again to reflect her wishes from the 2015 Will, but this third Will was never executed. The issue was essentially whether the two siblings in the second Will "poisoned" the deceased's mind, persuading her to exclude our client from the Will.

During the Defendants' cross-examination, my task was to take a good note of their evidence so the barrister I was shadowing could use any useful admissions or inconsistencies in closing submissions. Despite a robust cross-examination and the judge ruling that the Defendants' evidence was "argumentative", "evasive", and "unreliable", there was simply insufficient evidence to convince the judge that the Defendants had influenced the deceased's decision. The judge concluded that the deceased made the decision independently.

This case highlighted how poor evidence from the Defendants could have bolstered the Claimant's case. However, inconsistencies in evidence can be a double-edged sword. On the one hand, you want the tribunal to see the other side's evidence as unreliable. On the other hand, their inconsistencies might strengthen your case. But as a result of the evidence being poor, the judge cannot rely on it.

This experience also underscored that great advocacy has its limits. Despite our best efforts, the outcome hinges on the evidence – or the lack thereof.

Seven-day Commercial Trial

Following the three-day probate trial in Liverpool, I was thrown into the deep end of a seven-day commercial trial in Manchester the following day; also robed. I really had to buy an extra tunic shirt for this. But while I was involved in this commercial trial, I was also set a deadline to complete an Opinion by the end of the week. One of the aims of this was to adjust to the pressures of what second six will be like where I will be balancing my court practice with paperwork.

This case involved a dispute between two companies over an alleged contract for processing refuse-derived fuel from domestic waste, transported from the Isle of Anglesey to Immingham, which processed in Bootle along the way, and shipped to an energy plant in Gothenburg, Sweden. The Claimant, a waste management company with multiple landfill facilities and transfer stations, sued the Defendant, a supplier of waste products for energy recovery, for £989,632 in damages for loss of profits and consequential losses due to the Defendant's alleged repudiatory breach. The Defendant argued that no contract to supply a specific amount of waste per year existed and, even if it did, the Claimant's breach forced them to repudiate the contract.

Like the previous trial, I took detailed notes of the evidence and discussed the case with the barrister I was shadowing. During a lunch break, we compared our notes on one of our client's witnesses and brainstormed ideas for re-examination, which were later implemented in court

Although I joined the team last minute for each case, I felt like a valued member whose contributions were considered. On the flip side, I was also conscious of the fact that other team members had been working on the case for years and knew the facts inside out. This sometimes made me question my role. Nonetheless, as a first six pupil, it's essential to remember that we are there to learn. Making a valuable contribution is rewarding when it is being adopted, but it's important not to be too hard on oneself for not knowing the case details as well as those who've been working on the matter for much longer than you have, particularly when you have only joined the team the day before the trial.

The position is different when you are instructed, either as sole counsel or as a junior and would be expected to be on top of the material as quickly as possible and will likely have more time to prepare the case. This is an important lesson I've learned during my

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first six, which is not to attempt to prepare a complex case as if you were leading it, given that it is unrealistic to achieve the same standard in the considerable shorter timeframe.

This realisation is one of the reasons I'm excited to start my second six, where I'll be handling my own court cases and advising clients on legal disputes. It won't be long until I'm fully immersed in doing just that!

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