
Book Review

Editor: Angelina Gomez

LEARNING TO LITIGATE: A GUIDE FOR YOUNG LAWYERS

Learning to Litigate: A Guide for Young Lawyers, by Neil Williams SC and Alison Hammond, Federation Press, 2022, 308 pages: ISBN 9781760024079. Softcover and eBook \$89.95.

For the aspiring advocate comes *Learning to Litigate: A Guide for Young Lawyers*. This straightforward handbook is for all those with the temerity to consider a career in litigation. It is an effective springboard to propel junior practitioners onward and upward, highlighting the skills they should nurture to achieve their professional goals as advocates and how they can go about doing so. The authors stress that the skills of all advocates (whether barrister, solicitor, or hybrid West Australian) are not innate, but are the result of study and practice over many years.

The combination of Neil Williams SC and Alison Hammond merges the wisdom of those who have gone before with those who are currently going through it. The former is a senior barrister of more than three decades of experience. The latter is in her first five years at the bar and previously practiced as a solicitor. Both authors operate out of chambers located in Sydney, but there is sufficient appreciation for the nuances of various Australian jurisdictions to makes the book relevant to anyone across the States and Territories.

Broken into three parts, *Learning to Litigate* has a lot to offer junior lawyers. Much of the knowledge imparted is of a kind that can only be derived from hands-on experience. In addition to Williams SC and Hammond, third parties have lent their expertise and endorsement. Kristina Stern SC is acknowledged for her contribution to the section on coronial inquests and the foreword is drafted by the Hon Chief Justice Susan Kiefel AC.

Part I, titled “Becoming a Litigator”, explains the work of advocates to the uninitiated before delving into the options available for advocacy work and the steps (both necessary and optional) to get there. It traverses the skills required to become a proficient advocate (professional and commercial instincts, legal research skills, etc) and offers pragmatic tips on how to cultivate those skills. It also covers matters of court etiquette including the Shakespearean dilemma: to (ro)be or not to (ro)be?

Cognisant of reports released in the last several years highlighting the mistreatment of junior practitioners, Part I includes some brief, general advice about managing bullying and sexual harassment in the workplace. Williams SC and Hammond are frank in their assessment, acknowledging that there are no easy solutions. Refreshingly, the authors give some insight into how to avoid being the unintentional perpetrator of such transgressions as well as what to do if you are subjected to unwarranted behaviour.

Part II, “Techniques in Advocacy”, makes up the bulk of the book, diving deeper by examining how to manage each stage of the litigation process for best results. Here readers will find detailed and realistic advice on methods of obtaining evidence, navigating interlocutory steps, alternative dispute resolution, corresponding with the Court and other parties, crafting persuasive written and oral submissions, tips for engaging in oral examination, entering pleas in criminal matters, conducting jury trials, preparing witnesses, drafting settlement agreements, identifying experts, when to offer undertakings to the Court, preparation of court books, and what to do if you cannot meet a court-imposed deadline or your client cannot comply with an order. This is only to name some of the issues covered.

Part III, “The Bigger Picture”, covers an assortment of topics. It includes a chapter on “How to Be a Good Junior” which explains the desirable qualities of those working under senior practitioners. The skills identified range from such broad application that they should be tacit (such as punctuality) to more niche skills like devilling. The next chapter covers “Advocacy-adjacent Skills” including managing finances, workload, and professional relationships. Following the emergence of the COVID-19 pandemic, this chapter also includes discussion of virtual advocacy. Despite a recent decline in matters dealt with



remotely by courts, there remain numerous circumstances in which lawyers are required to appear by telephone or video. The final chapter approaches the topic of work-life balance.

This is a book that readers will want to check in with periodically throughout their early career as sections differ in significance depending on which stage a person is at. Prepare to dog-ear pages and highlight passages to revisit many months – even years – down the track. *Learning to Litigate* is directed at those in their first 10 years of practice and the authors describe it as, in part, a textbook for persons entering their reader’s year, which is apt. It contains much advice for aspiring barristers, such as selecting tutors and chambers, tips for interviews, figuring out where your work will originate at the bar, and whether to be a generalist or specialist. However, those who will get the most longevity will be law students because it also contains helpful guidance for individuals approaching their penultimate year of study.

Despite the breadth of matters covered and the considerable detail of the advice proffered, *Learning to Litigate* exudes brevity. Some sections contain ideas for potential further reading in the form of textbooks and leading authorities. In other sections, readers will need to conduct their own enquiries if they wish to learn more (possibly drawing upon the tips on legal research set out in Part I).

Where *Learning to Litigate* truly excels is by delivering on its promise to be “deeply practical”. For example, platitudes about establishing and expanding one’s practice are broken down into concrete steps that can be applied. There are checklists to prepare advocates for a wide variety of situations, including hearings on directions, motions and applications, subpoenas, discovery, preparation of evidence, and witness conferences. The authors make a conscious effort to demystify some of the unwritten etiquette of legal practice: What are the appropriate forms of address inside and outside of court? Should you say “good morning” when addressing the bench? Is it a good idea for a barrister to eat while wigged? No doubt these will assist newcomers to avoid the sort of early career gaffes which form the substance of cautionary tales traded between colleagues.

Overall, *Learning to Litigate* is fertile ground for those with questions they may be too afraid to ask, have nobody whom they can ask, or do not even know what questions they should be asking. For that reason, it may be of particular assistance to those who come to the law with limited legal background. For persons with some prior knowledge and experience of the law there will inevitably be parts with which they are already familiar. But, as the authors astutely caution, “familiarity is deceptive”. Simple and creative solutions to common problems are woven throughout which would benefit any budding litigator.

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