

Dear Diary,

I will be on my feet in the blink of an eye. The days are rolling into weeks. Sometimes it all feels a bit surreal. Aside from shadowing the kinds of hearings that I may be instructed on, I have engaged in relevant financial planning with my accountant and sought advice from barristers about how they organise their finances. As the time gallops ahead, I want to be ready for all aspects of practice.

### Week 23

On Monday my supervisor provided me with the papers to read for a case which was remitted to the Employment Tribunal. The Claimant appealed to the Employment Appeal Tribunal. The claim was remitted back to the same tribunal to determine:

- a) Whether the Claimant was a disabled person within the meaning of the Equality Act 2010
- b) Whether the Claimant had been discriminated against and or unfairly dismissed
- c) The remedy if appropriate

We discussed the issues in the hearing, and I provided a synopsis of the Claimant's skeleton argument.

I also read the papers for a small claims hearing in a road traffic collision which I was supposed to attend the following day. Unfortunately, on Tuesday and Wednesday I was ill and unable to attend work.

Thursday and Friday were spent conducting case preparation, researching and drafting an advice. On Friday, I also prepared my CV. This is a helpful document which will be placed on Chambers' website. It is also useful for my clerks to have a copy of it so that they can send it to the instructing solicitors. Friday concluded by reading case papers for Monday's Stage 3 hearing.

### Week 24

On Monday I travelled to Birkenhead. During my train journey I drafted a Particulars of Claim. When I arrived, I shadowed James Kinsey in a Stage 3 hearing. There are two key takeaways:

- When undertaking these hearings, ensure that you are aware of the applicable fixed costs regime. The costs for this hearing were governed by the old CPR 45 rules.
- When preparing for these hearings identify the value of the claim; know the final offers made by the parties; identify the losses claimed; read the medical reports and identify the value of the injuries by using the Judicial College Guidelines.

I concluded the day by reading papers for a solicitor's application to come off the record and papers for a Stage 3 hearing.

On Tuesday I travelled to Manchester. While on the train I read Section III of the old CPR 45 rules. This is essential knowledge for the cost aspects of Stage 3 hearings which operate within that fixed costs regime. I shadowed James Kinsey who represented the Defendant in a Stage 3 hearing. In order to prevent the Defendant from paying for the Claimant's missed dance classes (due to her injury), James made submissions about the quality of the evidence (the figure in the invoice could not be clearly identified). He also submitted that strictly speaking the payment of the Claimant's (who is a child) dance classes are not her losses. They constitute the losses of her mother who paid for the classes. The Judge was persuaded not to grant the costs of the missed dance sessions on the

sole basis of the poor quality of the evidence. The Judge indicated that she was not persuaded that the losses were not the Claimant's losses.

In the afternoon, I shadowed James in an application to come off the record. In this case, the Claimants breached their Conditional Fee Agreement (CFA) with the instructing solicitor as they were failing to provide instructions on the claim. CPR 42.3 was relevant. Before granting the application, the Judge wanted to ensure that the Claimants were notified of the application and the hearing.

The remainder of the day was spent reading papers for another solicitor's application to come off the record. The day concluded by attending the *North Eastern Circuit's Tea on Teams: Ten Things I Wish I'd Known Before Second Six*. This was a useful session which provided practical tips on travelling to court, the night before the first hearing, food and drink (to keep your body fuelled and energised), advocacy, bundles (missing documents), attendance notes and helpful apps (for recording the time on particular tasks and recording expenses).

On Wednesday, I submitted my advice on liability and Particulars of Claim to Chris Richards. I travelled to Barnsley to shadow Jack Scott in an application to come off the record. In this case, the instructing solicitor advised the Claimant before trial to accept a drop-hands offer with the Defendant. The Claimant refused and carried the matter to trial and was found to be fundamentally dishonest. This finding was in breach of the CFA. The application was granted once the Judge was satisfied that the Claimant was aware of the application.

On Thursday, I shadowed my supervisor in an employment conference for an ordinary unfair dismissal claim. The Claimant was dismissed for gross misconduct. There were three key takeaways:

- When undertaking a conference with a lay client ensure that you explain the court procedure, the format of the hearing, the legal test and the burden of proof. Before moving on to the substantive aspect of the conference, check if the client has any questions on this aspect of the hearing.
- Advise on the prospects of the claim including the strengths and weaknesses.
- Give the client an opportunity to explain any weaknesses or deficiencies.

During the afternoon I shadowed Paul Kirtley in a personal injury conference. This case was about a cyclist who was struck by a vehicle while on his way to work. He had numerous injuries. He was instructed to advise on whether the settlement offer should be accepted. Below are three lessons:

- When assessing these kinds of cases reflect on the impact of the long term sequelae on the Claimant.
- Assess the medical records and identify whether there are any pre-existing medical injuries. Then assess the medical reports.
- When advising on whether a settlement offer should be accepted be mindful of Part 36 consequences. Ask yourself whether it is unlikely that the Claimant will beat the offer at trial.

On Friday, I travelled to Stoke-on-Trent to shadow Imogen Nichol in a small claims trial. Imogen represented the Claimant. I was reminded about the importance of being candid about the strengths and weaknesses of the case during the conference with the client. This assists in managing the client's expectations.

In this case the Claimant was unaware of the importance of having a witness statement. Imogen sought an adjournment on the basis that the Claimant would be on an unequal footing against the Defendant who filed a witness statement. The Judge balanced the potential costs sanctions (wasted costs order against the Claimant's solicitors, costs of attendance for the Defendant's

counsel), appropriate court time and resources against the fact that the Claimant would be on an unequal footing against the Defendant who had their witness statement. The Judge rejected the request on the basis that court resources must be used appropriately (particularly given that it is a small claims trial). The Judge also indicated that the client's position was within different aspects of the bundle despite no witness statement. Imogen's adaptability and ability to represent her client fearlessly in less-than-ideal circumstances are critical takeaways for the beginning of my second six.

With two weeks left to go before I am on my feet, I feel surges of excitement as I await the beginning of a new chapter of my career.

Yours truly,  
Nia Marshall