Dear Diary,

It's time. This is it. The big moment! I am about to begin my second six. I have received my first brief, and I am currently overpreparing for it. I feel a combination of excitement, nerves, apprehension and a determination to serve my clients to the best of my ability. The best way to address nerves is through thorough preparation. My aim is to know my brief "inside out."

This is the final diary entry for my first six. Let's reflect on the lessons that the past two weeks brought with it.

Week 25

On Monday, one of my clerks Megan Hawke sent me the papers for what we thought would have been my first brief with a kind and supportive message. I read the papers and began case preparation. Although, I am accustomed to reading case papers, I felt a real sense of pride and responsibility. Subsequently, I was informed that the hearing was vacated. A barrister's diary is fluid, this is the nature of the job, matters come in and matters exit. I certainly do not view my preparation as wasted.

The remainder of the day was spent reading papers in a civil application and papers in a relief from sanction application.

On Tuesday, I travelled to Liverpool chambers to shadow Christopher Allen in a telephone hearing. This was a civil application on costs in a personal injury matter. In this case, the Claimant accepted the Defendant's offer in full and final settlement of her claim. The Defendant considered that the costs should be fixed pursuant to Section IIIA Part 45. Contrastingly, the Claimant contended that Section IIIA Part 45 did not apply given that the claim did not commence under the low value protocol.

Chris' opponent served the witness statement on the day of the hearing. During the hearing, Chris took issue with the fact that the late service of the witness statement was non-compliant with CPR 23.7 as it was not served 3 days before the hearing. This was prejudicial to his client.

Given that Chris was successful in his request to dismiss the application, the parties considered the possible implications for Qualified One-Way Cost Shifting (QOCS). This was due to the fact that the Claimant would have been ordered to pay the Defendant's costs. The Judge was concerned about the application of QOCS and whether the Claimant would have to pay the costs given that they received a settlement sum. Therefore he ordered that the Claimant is to pay the Defendant's costs subject to enforcement by the court. Ultimately, the Defendant's solicitors will have to decide if it is worth pursuing the costs against the Claimant by incurring more costs to seek an Order from the court.

I wrote a report on the outcome of the case and emailed it to Chris. In the afternoon, I shadowed Chris in an application from relief from sanction in Birkenhead. I derived three lessons from Chris' persuasive and successful submissions:

- Begin your submissions with a brief chronology. It provides a helpful timeline of the events. It also assists the Judge with the background of the matter.
- Accept very weak points and mitigate against them. Don't spend an inordinate length of time arguing a poor point. Chris focused the Judge's attention on Stage 3 of the Denton test and invited the court to evaluate all the circumstances of the case. He also highlighted that the Claimant's default or breach of the order caused no demonstrable prejudice to the Defendant.

- Keep your submissions precise and concise. Longwinded submissions may lose the engagement of the Judge and reduce the persuasiveness of the argument.

On Wednesday, I shadowed Paul Kirtley ("PK") in two personal injury conferences, one was conducted with an expert while the other was done with the lay clients. While conducting the conference with the expert, PK questioned the expert about the discrepancies between the expert's report and the Defendant's expert. He highlighted that these are matters that the Judge will have to consider. I also noted that PK prioritised the clients' best interest. Pragmatically, he advised that the value of the claim doesn't merit pursuing trial if the court requires the Claimants to get a further report from both experts. His review of the medical evidence alerted him to the fact that the ongoing litigation is a significant factor which contributes to their deteriorating psychiatric wellbeing. PK noted that the amount of money that they could recover is insignificant in the grand scheme of their psychological wellbeing.

On Thursday, I shadowed Jack Scott who represented the Defendant in a Stage 3 hearing. In these hearings, Counsel must be aware of the offers made in Part B of the Court Proceedings Pack. They must be aware of the Part 36 consequences that follow if the Claimant obtains "*judgment against the defendant [which] is at least as advantageous to the claimant as the proposals contained in a claimant's Part 36 offer." (36.17(1) (b)*

During the afternoon, I had a meeting with my accountant. This was invaluable as we discussed the expenses that can be claimed in second six, VAT and income tax. This meeting reminded me that self-employed barristers need to implement effective strategies to operate their business properly and profitably.

In the evening, I attended Chambers' insightful talk on Philipp v Barclays Bank UK Plc [2023] UKSC 25 and Urgent Delivery-Up Orders. The talk was delivered by Eleanor d'Arcy and Harriet Hartshorn. Eleanor addressed the case and considered the application of the Quincecare duty and agency law. Harriet used a case study to discuss the tactical strategies in litigation when seeking urgent delivery-up orders. This was a great opportunity to network with solicitors and other members of Chambers.

On Friday, I shadowed my supervisor Ashley Serr in an employment preliminary hearing and a conference. In the former, the Claimant made an application to adjourn the hearing due to illness. I derived two lessons from attending the hearing:

- Generally the employment tribunal is a costs-free jurisdiction. However, pursuant to rule 76 (1) (a) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, a costs order can be made where a party acts vexatiously, abusively, disruptively or unreasonably in either the bringing of the proceedings (or part) or the way that the proceedings (or part) have been conducted.
- 76 (1) (c) of the Regulations permits a cost order to be made if the hearing has been postponed or adjourned on the application of a party made less than 7 days before the date on which the relevant hearing begins.

When the hearing concluded, I prepared an attendance note and submitted it to the instructing solicitor. Thereafter, I shadowed Ashley in an employment conference in which the case would have been categorised under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). The Claimant was transferred to a new job. The Claimant was gravely ill and could not attend work. The employer incorrectly dismissed the Claimant on ill health retirement grounds without notice.

Ashley provided the strengths of the case and the risks of the litigation. He discussed the scope of the argument that the employer would have dismissed the Claimant in any event on the basis of efficiency grounds. He also sought clarification on unclear parts of the factual matrix. Ashley also provided advice on the next steps including structuring the letter before action effectively and the quantum of potential offers that could be made to the Claimant.

Week 26

Monday was spent marshalling my supervisor. I observed two employment case management hearings. The first was useful in demonstrating the importance of liaising with the Judge to identify the issues in the case. Prior to the commencement of the hearing, it is helpful when Counsel attempts to identify a list of issues even if aspects of the claim are unclear. It may not be the definitive list of issues, but it will be a helpful starting point for the Judge. A meaningful part of Counsel's role is to assist the Judge.

During the second hearing, the Claimant was not in attendance at the beginning of the hearing. It became evident that the Claimant was encountering technical difficulties joining the remote hearing. There are two lessons that I derived:

- Rule 47 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 indicates that if a party fails to attend or to be represented at the hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it shall consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence.
- If a Claimant is having technical difficulties joining the hearing it may be a useful suggestion to request that the matter is re-listed and heard via a hybrid hearing or in person. A hybrid hearing would allow Counsel to attend virtually while the Claimant can attend in person.

On Monday evening, I attended my second pupillage review with Jonathan l'Anson, Chantal Core and Ashley Serr. A few hours prior to the meeting, I found out that I passed the BSB's Professional Ethics assessment. That was a wonderful moment! I am pleased that my hard work and dedication reaped success. During the review we discussed the learning opportunities during the past 6 months and my performance. I was commended and congratulated for my performance. We also devised a roadmap of the skills that I should continue to improve upon. It was comforting to be reminded that Chambers will continue to support me during my second six. I was encouraged to contact members of Chambers if I need assistance with any of my cases. The mantra was "*Don't suffer in silence. If you need anything shout.*" I can assure you that I will do just that.

On Tuesday, I read the papers for a disposal hearing. I also valued the injuries and discussed it with Imogen Nichol who I was shadowing in Huddersfield. During the hearing, the Judge questioned Imogen about an evidential deficit in the medical reports. The Judge highlighted that none of the experts provided a definitive prognosis. Moreover, they did not state that the knee injury was caused by the accident. The Judge indicated that if the knee injury was still being pursued, the Claimant may struggle to recover damages regarding that injury. Imogen requested that the case is stood down so that she could take further instructions. After obtaining further instructions, Imogen sought an adjournment on the basis of the evidential deficit. Counsel must act in accordance with their client's best interests. If Imogen did not seek further instructions and ultimately an adjournment, it is likely that the Claimant would not have recovered any damages for her knee injury.

The rest of the day involved reading papers for an urgent advice on liability in a road traffic collision.

On Wednesday, I shadowed Christopher Richards in a Case Management Conference (CMC) in Huddersfield. Chris was instructed to obtain a directions order and to make an application for an interim payment of £20,000. A CMC is designed to decide how a case is going to proceed. While Chris was successful in his request to re-allocate the claim to the fast track, the Judge refused the application for interim payment. The Judge indicated that he would not consider an oral application without the relevant paperwork for the application.

Later that day, I was sent my papers for my first brief. I excitedly began reading the papers and preparing.

On Thursday I shadowed Imogen in a small claims hearing in Sheffield. During the conference, Imogen provided the client with an opportunity to discuss the circumstances of the accident. This was aided by showing the client the location of the accident on Google maps. She also explained the process of the hearing and the possible outcomes.

During the rest of the day, I continued preparing for my first brief. In the evening I attended the Leeds Junior Lawyers Division (JLD) Meet the Committee Social. The social was held at one of the local pubs. It was an evening filled with networking and chatting over wine and cheese.

On Friday, I raised any queries that arose from my brief with the instructing solicitor. I also wrote my advice. During the afternoon, I attended International Women's Day Cake & Tea in Leeds Chambers. This was well-organised by Nicole Luna. I welcomed the opportunity to take a break from my work and socialise while indulging in the lovely chocolates and cakes.

Well folks, that's a wrap on my first six. I received heart-warming emails of support from Neil Wright and Rachel Williams on behalf of all of the Liverpool clerks wishing me the best in second six and beyond. Nicole Luna also shared encouraging words for my second six. Ian Spencer and Luke Heywood checked that I had everything that I needed for my first day. My supervisor has also indicated that if I need anything just call him. I also know that Megan Hawke will be waiting in anticipation to hear about my first hearing. It is an incredible feeling to know that I am well-supported by Chambers.

During my second six, I will receive instructions in personal injury and employment law. My first hearing is a Stage 3 in North Shields. I am going to give that hearing and every other hearing my best effort through thorough preparation.

Yours truly,
Nia Marshall