

SAMLA WORKSHOP 10 - THE TRIAL PROGRAMME:

1.

Day 1 (Saturday 11 September 2021):

- 1.1 Coffee and waking up, 07h45 to 08h30.
- 1.2 Opening (*memoriam* Judge Neels Claassen; outline of what we are going to do, and when; outline of the assignment essay topics; etc) by Prof Jan Becker, 08h30 to 08h45.
- 1.3 Lecture on techniques of preparing, leading and cross-examining experts (John Mullins SC, with Judge Bertelsmann), 08h45 to 09h15.
- 1.4 Questions, 09h15 to 09h45.
- 1.5 Coffee, 09h45 to 10h00.¹
- 1.6 Lecture on techniques of preparing to testify, testifying, and undergoing cross-examination, from the expert's point of view (Prof Jan Becker and Dr Peter Koll, with Judge Bertelsmann), 10h00 to 11h00.
- 1.7 Questions, 11h00 to 11h30.
- 1.8 Truth.²

This lecture will be given by the whole faculty of Judge Bertelsmann, Profs Becker and Lerm, Drs Edeling and Koll and Messrs Reynolds and Kyriakou, with the lawyers (Carlos Da Silva SC; John Mullins SC) chipping in.

11h30 to 12h30.
- 1.9 Questions, 12h30 to 13h00.

¹ Because The Trial is offered electronically, by way of video-link, you are going to have to self-cater, I am afraid!

² That will be the simple title of the lecture. It will deal with the ethics of actually testifying as an expert witness. Those little choices you have to make between the start of the question and the start of your answer. That type of thing.

- 1.10 Lunch from 13h00 to 13h45.
- 1.11 Opening address for the plaintiff in Case B, 13h45 to 14h15 (John Mullins SC).³
- 1.12 Evidence in chief for the defendant's expert in Case A, 14h15 to 15h00 (Dr Herman Edeling; led by John Mullins SC).⁴
- 1.13 Coffee, 15h00 to 15h15.
- 1.14 Discussion of the evidence in chief, 15h15 to 15h45.
- 1.15 Cross-examination of Dr Edeling in Case A, 15h45 to 16h30 (Carlos da Silva SC).
- 1.16 Discussion of the cross-examination, 16h30 to 17h00.

2.

Day 2 (Saturday 18 September 2021):

- 2.1 Coffee and waking up, 07h45 to 08h30.
- 2.2 Evidence in chief of the plaintiff's industrial psychologist in Case B (Barbara Donaldson; led by Jenine Khan), 08h30 to 09h30.
- 2.3 Cross-examination of the plaintiff's expert, 09h30 to 10h15 (cross-examination by Carlos da Silva SC).⁵
- 2.4 Coffee, 10h15 to 10h30.

³ We don't have time for an opening address in Case B on the 18th, which is why we will do this on the 11th. We also won't have time for discussion of the opening address – it's just there so that the audience can see what an opening address usually entails.

⁴ Only the defendant's expert will testify in Case A. For that reason, his Rule 36(9)(b) Summary will be drawn up in such a way as to deliberately expose the pitfalls of being an overly partisan expert. This will give food for cross-examination.

⁵ Less time than was provided for chief – we want to show that cross-examination generally should be shorter than evidence-in-chief. We lawyers have a saying that goes along the lines of "It's dangerous out there – get in, get what you can, and get out before you get killed", which applies particularly to our treading on your terrain when we cross-examine you, as an expert.

- 2.5 Evidence in chief of the defendant's industrial psychologist in Case B (Sharon Munyaka; led by Carlos da Silva SC), 10h45 to 11h45.
- 2.6 Cross-examination of the defendant's expert (cross-examination by John Mullins SC), 11h45 to 12h30.
- 2.7 Lunch, 12h30 to 13h30.
- 2.8 General discussion, questions and debate with regard to the evidence and techniques in Cases A and B (and also the assignment), 13h30 to 16h00 (Prof Becker, Advocates Carlos da Silva SC, John Mullins SC and Jenine Khan; Drs Herman Edeling and Sharon Munyaka; Ms Barbara Donaldson).

3.

Day 3 (Saturday 9 October 2021):

Day 3 will involve discussion and feedback in relation to the assignments.

28 AUGUST 2021