

## IN KZN, ADVOCACY TRAINING IS SOARING

By **Warren Shapiro**

Superbly led for the past three years by Anna Annandale SC, the KZN Bar's advocacy training committee has taken training to a new level, increasing the frequency of training sessions, introducing a number of mock motion-court sessions and also expanding the base of trainers, across all levels of seniority and demographics.

Annandale SC has placed a particular premium on building a sustainable infrastructure for training, assisted by a motivated committee comprising Warren Shapiro, Paul Wallis, Alan Boule, Vishalan Naidu, Feisal Abraham and Sandile Kuboni. Annandale SC conceived of and ran the first "train the trainer" local workshop for AFT in 2016, with pleasing results.

Durban's trainer base now includes three newly-qualified trainers, Mpume Sibisi, Perlene Bramdhew and Michelle Ngqanda.

Shapiro runs the local programme, pairing newer trainers with those more senior so that trainer development continues apace. There are a number of Silks who continue to train frequently, including Broster SC, Troskie SC and Mullins SC. The advanced trainers, Wallis, Boule, Alan Lamplough, Lisa Olsen and Stewart Hoar make it their business to train as often as possible and spend time after sessions with pupils who require assistance or counselling. Naidu will hopefully be sent on the next advanced teacher-training course further to hone his keen skills.

Our pupils benefit from our trainers who have been invited to train nationally

and internationally, and who thus bring added insight and skills from other jurisdictions.

Shapiro and Wallis introduced the idea of including past pupils in the training sessions, who act as helpers and witnesses. This improves skills transfer and also encourages interest in advocacy training in the junior Bar.

Together with the hugely committed group of trainers, sessions in the first half of the year are run fortnightly. They focus on different competencies, including trial skills, and arguing opposed motions and appeals. The sixteen pupils are divided into two groups, each of which is helmed by three or four trainers.

After the Bar exams, training moves closer to the real world, with mock motion-court exercises based on actual briefs, presided over by a Judge in a real court, with everyone fully robed. Each session addresses a specific area of practice: bank work, liquidations, general practice and family law.

The KZN Bar's advocacy training committee is very happy to enjoy the enthusiastic encouragement of Judge Jappie, the Judge President, who supports the programme and allows the use both of his courts and of the judicial services of his colleagues. The Bench includes longstanding trainers such as Judges Gorven, Lopes, Vahed and Olsen, who continue to give tirelessly of their time and expertise. They willingly preside in the mock motion courts and sacrifice some of their recess to train on the various training courses countrywide.

One cannot forget the contribution of Judge of Appeal Wallis, who also remains involved both in training as well as giving talks to the pupils. Judges Kruger, D Pillay, Lopes and Ploos van Amstel have also offered their time and expertise, showing that the imperative of proper training for counsel is an objective shared by Bar and Bench for the good of both.

Under the auspices of the GCB, regional pupillage courses were run over 4 days at Bonamanzi in Hluhluwe, in 2016, and at Pumula, in 2017. This has been a very welcome innovation. The pupils benefitted hugely from these residential courses. They were exposed to a top-flight international and local faculty, while also being taught traditional dancing by Jannie (Clegg!) Van der Merwe SC from the Cape Bar. That these courses comprise predominantly local faculty demonstrates how far advocacy training has come in the region and in the country more broadly. It speaks to a great future for training at the KZN Bar.

Too often, advocates (and more especially pupils) focus on the *whats* – what work am I going to get, in what court will I appear and, of course, what will I be paid? Seldom is attention paid to the "how", as if getting the work is an end in itself and the actual performance is less important.

Advocacy training seeks to strike a balance between the "what" and the "how", so that our junior colleagues are as competent as possible in "how" they perform "what" they have been given.

In KZN, advocacy training has truly taken off. **A**

## IN PIETERMARITZBURG WE ARE ALSO OK

By **Spicko Dickson SC**

The account by Warren Shapiro about the resurgence of advocacy training in the humidity of the coast is indeed true and is heartening. Congratulations must go to those who have had anything to do with it, especially Annandale SC.

Inland – at Pietermaritzburg – we carry on in much the same way. We hold weekly advocacy-training workshops through the first six months and annually we try to have an excursion to either the SCA or the Constitutional Court. The pupils always regard this as the highlight of the year.

After the examinations, we arrange full-

dress appearances before our High Court judges who have been trainers or who are still involved with training. We are fortunate that our pupil contingent is only six to eight pupils, which allows for personal attention.

However, the most important innovation, in my view, has been the GCB regional advocacy training course for all our Kwa-Zulu-Natal pupils, which takes place over four days.

Last year, this was held at Bonamanzi and, this year in July, it took place at Pumula on the South Coast. These were both large gatherings of experienced trainers

from South Africa, overseas judges, overseas trainers and an invaluable contribution by our trainer judges under the leadership of Judge of Appeal Malcolm Wallis. He was one of those personally involved in starting advocacy training in this country. Indeed, it is noteworthy how many of the first wave of trainers are still attending courses.

These courses were concentrated and ran for an intense four days, finally capped off with a dinner.

The pupils find it most beneficial and, in my view, it is the best improvement to the system since I started training in 1996. **A**

### THE UPS AND DOWNS OF TRAINING AT PORT ELIZABETH

By **Mechelle Beneke**

Traditionally, advocacy training for pupils in the Eastern Cape Society of Advocates had alternated annually between Port Elizabeth and Grahamstown, with only the pupils of those two groups benefiting.

The entire programme encompassed only a weekend course held jointly by the PE and Grahamstown components. This weekend tried to teach all aspects of advocacy. In 2003, I was a beneficiary of that weekend course.

About 6 years ago, I took over from Gerard Wolmarans as the pupilage advocacy-training convenor for Port Elizabeth. For the first two years, we abided by that old system. We did, however, invite pupils from the Mthatha and Bhisho Bars to join us in 2011 through 2013.

In 2012, having benefited from my attendance at the Advanced Advocacy Training Workshop at the Wallenberg Centre in Stellenbosch, I came to realize that the single weekend of training was hopelessly inadequate.

We then began gradually restructuring the Port Elizabeth advocacy-training programme for pupils. At the outset, I tried to co-opt trainers and other members of the PE Bar to follow the pupilage prescribed workbook closely. The workbook calls for practical advocacy training to take place every Friday. Individual exercises are prescribed for every Friday of the first two terms. With the limited number of trainers and no budgetary allocation, the attempts to follow the workbook in 2012 proved impossible.

At the end of that year, we again had a weekend course, in Grahamstown.

In 2013, the workbook training progressed somewhat and that complemented the year-end weekend, that year held in Port Elizabeth. By then, I had realized fully that more was required.

Therefore in 2014 we implemented a new system. In the course of the year, we held 4 workshops in Port Elizabeth. They effectively replaced the year-end weekend that would have been held in Grahamstown.

The pupils from the Mthatha and Bhisho Bars were also invited. These pupils did not, however, attend that year. It was apparent that it was inconvenient



Unathi Gcilishe and Ntwanano Mashava, both of the Cape Bar, celebrate the end of the advocacy-training course for pupils in Stellenbosch, in July 2017. Aiding and abetting them is Weiner J, one of the stalwarts of advocacy training in South Africa.

for the pupils of the other Bars to travel to Port Elizabeth. This was also marked by significant travel costs. Nevertheless, those aspects were overshadowed by the increasingly positive feedback from the pupil beneficiaries.

Yet, it seemed ideal to us that the training workshops moved around the Eastern Cape. From 2015, approximately 4 workshops were held every year. There was, however, a fundamental difficulty with that idea. Since 2008, when I had first become involved in advocacy training, the interest of PE trainers, generally, and of those from beyond PE, in particular, fell off dramatically. Whilst the trainers still accepted invitations to train, it became increasingly difficult to obtain commitment from them.

At the AGM of the Eastern Cape Society of Advocates, in 2015, Wolmarans raised this problem. He had good reason to do so. In 2015, it had become apparent that there was insufficient buy-in from the other Eastern Cape Bars for workshops encompassing all four localities in the province. A number of Grahamstown trainers expressed the view that they would not train if the workshops were held in PE. PE trainers were loath to travel outside of PE. No commitment was received from trainers from Mthatha and Bhisho.

Accordingly, from 2015, Grahamstown, Mthatha, Bhisho and Port Elizabeth have all run separate pupil advocacy training workshops. In PE, there are a number of dedicated senior trainers –

namely Van der Linde SC, Rorke SC, Euijen SC, Dyke SC, Wolmarans, Mey and Veldsman – who consistently volunteer and assist our pupils, together with more junior trainers, namely Ayerst, Naran and Van Rooyen.

During 2015 through 2017 PE has run between three and five workshops a year encompassing at least applications, trials and appeals. Each workshop is approximately 2 days long and commences on Friday afternoon. They usually end on Sunday at lunchtime. Lectures on the topics of the workshop are provided a fortnight in advance to allow the pupils the time to assimilate the information for their preparation. A number of written exercises accompany each workshop.

Since 2015 the National Advocacy Training Committee has provided training for the Eastern Cape pupils at workshops held during the July recess. Initially, this took place in Port Elizabeth. This year, however, the Eastern Cape pupils were split between the Cape Town and Kwa-Zulu Natal training. The feedback from all of the Eastern Cape pupils with whom I have had the opportunity to engage after those workshops has been positive. Those pupils who have not had the training provided at the PE Bar have all expressed the wish that there be something similar at their Bars. I have even had pupils from Mthatha seek to arrange to travel to PE at their own expense for as little as a morning of additional training. The PE pupils consistently report that they benefit so much more from the

## A NEVERENDING STORY

By **Michelle Morgan**,  
Port Elizabeth Bar

**M**y first encounter with formal advocacy training was during my year of pupillage, 2014. At the Port Elizabeth Bar, advocacy training is spearheaded by Méchelle Beneke, who was a guiding light during those “dark” days of pupillage.

She arranged several training sessions and practical workshops which covered case analysis, motion court, appeals and trial presentation. The pupils in my year were also fortunate to be trained by Olav Ronaasen SC on the topic of legal writing.

The training we received during pupillage was extremely practical and useful. In that simulated court environment, we pupils were provided with the tools to step comfortably into practice.

Then, in my third year of practice, in January 2017, I attended the GCB’s intermediate advocacy-training course at the Wallenberg Centre in Stellenbosch, which was an incredible experience.

The opportunity to be taught by the calibre of trainers to which we were exposed at Wallenberg, is not to be missed.

Upon returning from Wallenberg, I immediately felt that it had a positive impact on my practice. I had more confidence to deal with more complex matters than before.

There are many advantages to formal advocacy training. I mention only the most obvious ones.

An advocate’s practice is outcome-focused and, while one could be successful in a matter, one’s advocacy skills may be lacking. In the normal course of things one does not receive an objective evaluation of one’s court performance.

Advocacy training provides a proactive forum where the focus is on identifying one’s strengths and weaknesses, providing practical and tactical tools and building confidence. The knock-on effect is that once you are removed from the advocacy training forum, you continue to apply the principles taught there.

You are taught to analyse each of your court appearances objectively, to identify the problem areas and improve during your next appearance, either by reflecting again on the lessons learnt during advocacy training or obtaining the advice or guidance of a senior colleague.

Refining one’s advocacy skills is a consistent and neverending process. However, with formal advocacy training, one is able to enhance one’s advocacy skills and transcend to a new level of competence. **A**

national workshops because they already have a proper foundation in the method and standard of training from our local workshops.

A number of members who as pupils had undergone the advocacy training since 2014 have expressed an interest in continuing with advocacy training both as participants and as trainers. This gives me the great hope that, within the next five years, there will be a turnaround in the fortunes of advocacy training at the PE Bar. I hope to capitalize on this and expand the interest to the remaining centres in the Eastern Cape.

It is imperative, and I simply cannot emphasize this enough, that we give our pupils proper training. It is not only our contractual obligation, but also a fundamental obligation owed to society at large and to the concept of justice which we so often espouse.

In light of the difficulties experienced in the past few years, I have identified a number of middle and junior juniors to attend training to become pupil advocacy trainers. I further intend to seek an allocation in the ECSA budget for advocacy training for pupils and juniors. We also intend to widen the offering of advocacy training to our junior juniors, many of whom have expressed an interest in this.

It is my hope that, with the new stock of juniors who have undergone pupillage advocacy training recently, the Eastern Cape will begin to see a resurgence in interest in advocacy training and continuous professional development. **A**



Kathy Mhango (Johannesburg), Donovan Pitt (Bhisho) and Michelle Morgan (Port Elizabeth) live it up at the intermediate advocacy-training course at Wallenberg, in January 2017.

### THE CAPE BAR'S ADVOCACY-TRAINING PROGRAMME IS LOOKING TO THE FUTURE

By **Kyle Felix**

The Cape Bar's advocacy training programme plays a crucial role in preparing pupils for a career at the Bar.

Our Bar ensures that the programme is mostly complete before the pupils write the final examinations, in August each year. This, it is generally accepted, has contributed to the high pass rate that the pupils at the Cape Bar have historically achieved.

The programme aims to put pupils in the hot seat from the beginning of the year, by giving them opportunities to cut their teeth - without losing any.

In the first and second court terms, training exercises run once a fortnight. By performing in front of high-calibre trainers – members of both the Bar and the Bench – the pupils experience the thrills and spills of presenting cases.

With the guidance and assistance of these trainers, in an environment built upon sustained mentorship and the transfer of skills, the pupils are from day one compelled to think analytically.

Moreover, before the exams, they get many opportunities to apply in practice what they had been taught in tutorials. By the time they write the final exams, they have not only substantially improved their advocacy skills but their improved ability to analyse also assists them in the examinations.

In this context, the Cape Bar welcomed the four-day high-intensity pupillage training course held at the Protea Hotel in Stellenbosch in July 2017. It was organized by the GCB, which put together an impressive programme run by a team of high-quality

trainers comprising counsel from various Bars in South Africa and England. Moffat-Campbell J from the Hong Kong High Court and retired Judge Kriegler (aka the king of cross-examination) added lustre through their participation. Judges Rogers and Binns-Ward also presided over some of the mock trials in which the course culminated.

The course director Emiel van Vuuren and Jacky de Gouveia, the GCB's advocacy training administrator, are to be commended for organizing this successful event from which the pupils benefitted hugely.

Indeed, the pupils' feedback was very positive. They enjoyed being trained by, and rubbing shoulders with, counsel and judges from different jurisdictions. The demanding nature of the course will stand them in good stead as they prepare for life at the Bar.

After the oral examinations that some pupils must take, two further training sessions are planned. The one will focus on performance. Pupils' performances will be recorded and then reviewed by the performance coach Michelle MacDonald, who has for several years been involved in advocacy training for the GCB.

The second session will focus on life (or survival?) skills at the Bar, dealing with everyday practical matters, like invoicing, etc.

In total, the Cape Bar has sixty-four members trained up and active as advocacy trainers. Six judges on the Cape Bench are too.

This year, only two slots at the GCB's workshop for trainee-trainers held, in

January 2017, at the Wallenberg Centre, in Stellenbosch, were allocated to the Cape Bar. The trainees were Arina du Toit and Adiel Nacerodien.

In the near future, the Cape Bar aims to increase its pool of trainers by training trainers locally in collaboration with the GCB.

In the process of such locally based training, junior members of the Cape Bar, in the 0-5 year category, will participate as assistants, witnesses and observers. Such members will also be invited to be observers at future sessions where pupils are trained. This, it is hoped, will expose them to the mechanics of training before they are themselves formally trained as trainers. At the same time, this will provide them with the opportunity to improve their own advocacy skills.

At committee level, the Cape Bar's Advocacy Training Committee consists of an executive committee, comprising Rudi van Rooyen SC (chair), Kyle Felix (vice-chair and local pupillage training co-ordinator), Bronwyn Wharton (motion court, national training and work shadowing for university students), Peter Corbett SC (co-ordinator: judges) and Jannie van der Merwe SC (intermediary with the GCB). Then there is a group of eight weekly co-ordinators or assistants and twelve training assistants who, under the guidance of Felix and Tanya Rudman, assist with training. Lastly, there is a motion court section that, under the guidance of Wharton and Wynand Jonker, is responsible for motion-court training sessions. **A**

### CONFESSIONS OF A PUPIL

By **Guguletu Samkange**, Cape Bar

I have to admit I was not enthusiastic about attending the advocacy-training course, at the Protea Hotel outside Stellenbosch, in July 2017. We were torn from our study schedules, shipped out to Stellenbosch and forced to attend advocacy training, less than a month before the knell of our final pupillage exams.

I even considered orchestrating a rebellion, but my cowardice prevailed. Reluctantly, we prepared the exercises, we packed our bags – and parted from our

loved ones. We arrived at the hotel to picturesque vineyard views, fifty pupils taut with nerves – and the gladiators in the legal arena tasked to train them.

Every last minute was accounted for, opening and closing addresses, applications, witness handling, plenary talks, ethics, legal writing and case analyses. Although we were there for only four days, we learnt many skills all at the same time. It was amazing how even socialising in that environment was a reinforcement that helped us master these new skills better.

They say you become who you spend time with. Just being around the calibre of

trainers and judges that surrounded us, we improved. By some strange legal osmosis, their talents seemed to seep into our thoughts, and quality of work.

They wanted us to improve, and we wanted to be better.

The sessions were gruelling, practical and effective. Our groups were intimate, comprising eight trainees and every pupil and trainer participated actively.

We were training with the best of the best, and it was hard work – Bruinders SC, Van Rooyen SC, Duminy SC, McCurdie SC, Thabani Masuku and Paul Manyame, to name a few. The variety of trainers and



Guguletu Samkange and Zanne-Mari Labuschagne, both of the Cape Bar, express their gratitude to Justice Johann Kriegler at the conclusion of the advocacy-training course for pupils in Stellenbosch, in July 2017.

their unique advocacy styles meant that we had the opportunity to identify the kind of advocacy that resonates best with our personalities and make them our own. It was also really special having Adrian Strong and Simon Mallett from the Leeds Bar training us.

If a picture can express a thousand words, then a video is worth a million. Every presentation was recorded on our smartphones, played back and assessed in a one-on-one session with a trainer. Observing on the small screen our posture, tone, gestures, and facial expressions, we learnt to use our body as another tool to support our argument.

I learnt the art of commanding a courtroom. This was not just a by-product of well-prepared papers, but the result of a well-conducted symphony, controlled by the advocate on his feet. Thank you, Judge Campbell-Moffat.

There was so much new information. It was exhilarating and exhausting at the same time. After 12-hour days, I would amble back to my room, cradle a glass of wine and prep for the next day's sessions.

Most lessons are not taught but observed. Our trainers, judges and speakers were formidable, approachable and personified collegiality. We pupils were treated as equals. Spending time with people who have so many accolades but their feet firmly on the ground reminded me of Kipling's adage *Walk with kings, but never lose the common touch*. This is a valuable lesson in this profession. Justice Kriegler and his wife Betty bear this out. Nothing worth having comes easily, this was no different. We triumphed – and the feeling was indescribable.

I have so much more to share about our pilgrimage to Stellenbosch, but my tutor on the course, Mark Euijen SC, said a good advocate is concise, and let me try to be just that. **A**

## JOHANNESBURG AND PRETORIA GO FROM STRENGTH TO STRENGTH

By Jean Meiring

Owing to the weight of numbers, the Johannesburg and Pretoria Bars have traditionally been advocacy-training powerhouses. 2017 has been no different.

The Johannesburg advocacy-training leadership cohort is Christopher Whitcutt SC, Emiel van Vuuren, Bennie Makola, Grace Goedhart, Naomi Manaka and Adam Berkowitz.

They are supported by tens of committed and experienced trainers.

2017's advocacy-training programme included an introductory workshop, four substantive training sessions in the first half of the year, and a three-day advanced workshop at the close of the pupillage year.

The first session addressed unopposed motion practice: pupils prepared for several simple applications and argued at least one: substituted service, edictal citation, provisional sentence or summary judgment.

The second session simulated an urgent interim interdict in a defamation matter. The third focused on opposed summary judgment.

Pupils were exposed to practical trial preparation and witness handling in two further, lengthier workshops.

Before the pupillage examinations, trainers led a day-long workshop on an action for negligence arising from a vehicle collision. Its object was to develop basic aspects of style and strategy in opening and closing statements, examination-in-chief and cross-examination.

After the examinations, a three-day workshop integrated further training in opposed motion practice with written submissions with practical skills in case analysis, opening and closing statements, witness handling and oral argument on appeal.

Applying the Method, trainers were expected to offer feedback in a structured manner and to provide pupils with space to repeat and refine their performances. Pupils also evaluated the consistency and quality of training after each workshop.

These endeavours always depend on effective administrative and logisti-

cal support. The JSA staff were integral to the programme's success. Particular thanks are due to the advocacy-training manager, Jacky de Gouveia, who brought together the many disparate moving parts.

In Pretoria, 64 pupils commenced pupillage in 2017.

The Pretoria Bar has about 80 current members that have, since the mid-nineties, received training from the GCB as Method trainers.

About 20 are today active in training. This year, trainers who have been inactive were asked to sit as judges in the workshops in an attempt to reactivate their participation as trainers.

Gerhard Naudé SC, the convenor of the Pretoria Bar's training committee, says: "The Pretoria Bar would appreciate more trainers being trained and exposed to the current training methods."

Pretoria trainers are actively involved in GCB's advocacy-training courses, both at Wallenberg and in Midrand, Port Elizabeth and KZN.

What is more, in collaboration with the University of Pretoria, in July the Pretoria Bar presents a certificate course in trial advocacy for final year LLB students. Over four days, the trainers are involved in both the lectures and trial-advocacy training of the students. The course introduces students to all facets of advocacy culminating in a mock trial and gives them a taster of what life at the Bar is like.

Naudé SC concludes: "The Pretoria Bar appreciates the opportunities to send members to the GCB advanced advocacy training courses.

"The training committee has identified the need to present further advanced advocacy courses involving experts locally. Senior training committee members have been approached with a view to identifying the material and experts. No dates have, however, yet been set.

"The continued success of training at the Pretoria Bar is a result of members and staff making worthwhile sacrifices. The committee records its thanks." **A**



## GCB ADVOCACY-TRAINING COURSE TAUGHT ME LIFE SKILLS

By **Francisca Chinwawadzimba**

Francisca Chinwawadzimba, of the Zimbabwe Bar, with Justice Johann Kriegler, on the stoop at the Wallenberg Centre during the GCB's intermediate advocacy-training course, in January 2017.

Advocacy is not so much about knowing the law, but about the way you think.

When I joined the Zimbabwe Bar, in Harare, in January 2016, I was clueless about the most basic requirements of practising as an advocate. More often than not, I got mixed up with irrelevancies.

I was advised by my pupil master to attend the advocacy training course offered by the GCB in South Africa.

In January 2017, I attended the Intermediate Advocacy Course at the Wallenberg Centre in Stellenbosch.

At the start of the course, the practicality of the training sessions struck me. I appreciated my lack of skill in trial preparation and case analysis. I faced a real challenge to my person and my practice and I was motivated to learn the skills.

Yes, I knew where to find the law, but

I realised my case-analysis skills were lacking. Sometimes at court in Harare, a judge would ask me questions I had difficulty answering.

In one of the sessions at Wallenberg, Judge Campbell-Moffat from Hong Kong said to me: "You must develop a line of thought that questions everything."

I applied this theory in my performance during the course. I was surprised to see that my case-analysis skills improved beyond my expectations. It is now a thing of the past that a judge asks me a question I cannot answer.

Among the other shortcomings I felt I had before attending the course was that I did not have the temperament of a trial lawyer and that my cross-examination skills might be better.

During the first training session devoted to cross-examination, I had a conversation with the witness rather than

eliciting facts from him that were in my client's favour. When I did the re-play of that cross-examination exercise, it did not last five minutes because then I knew how to put the correct propositions. Also, I had learnt that when you hit the oil, you must stop.

I took to heart everything I learnt. I now know how to place my story before the court in a seamless chronological way and, of course, how to charm the judge.

Apart from the training, I also had an opportunity to interact with other participants and trainers. The best was the interactions I had with judges, even taking photographs with them. I must confess this kind of interaction is rare in Zimbabwe.

The training I got at the Intermediate Advocacy Course was not just advocacy training. I learnt a life skill. **A**