



## From the Bar Vocational Course to the Bench....

*Kimberley Caines*

I think if such a leap ever happened, that would be the biggest upward mobility move in a while, maybe even history. Imagine, a young non-practicing Barrister, freshly called in London bypasses a career in law and goes straight to the bench to render judicial decisions. Either, I must be legally brilliant (which is possible) or...okay I digress - none of that happened, but I did get to sit on the bench, albeit temporarily. I was afforded the opportunity to do so through the Marshalling Scheme, which is jointly offered by the Supreme Court of Bermuda and the Bermuda Bar Association.

Surprisingly, the Marshalling Scheme (the “Scheme”) has been available to local Law students for many years but the first marshal to apply was in 2007; since which there have only been 7 marshals (yours truly included). The Scheme is open to all Bermudian Law Students who have finished their Law degree or have completed the BPTC or LPC and would like to shadow a Supreme Court judge for a day or up to two weeks. The Scheme, however, must be completed before the commencement of one’s pupillage. The Marshal also has the option of choosing to observe different areas of law namely civil, commercial or criminal; you indicate your interest on your application form. Your time marshalling can be in one area or it can be a mixture of the three areas.

In early September 2010, I shadowed three of the five Supreme Court judges for the full 10-day period. During my time, I marshalled with Mr. Justice Greaves who sat during the monthly arraignments; this for me was an amazing experience. I’ve attended arraignments before during my mini-pupillages but seeing it from the Bench was fantastic. Monthly arraignments occur at the beginning of each month and are when all criminal matters are up for mention. All Counsel are robed and wigged and the Courtroom is usually quite full. During arraignments, matters are set down for mention or defendants apply for bail or enter pleas in the charges the Crown has brought against them. Counsel will also have the opportunity to make submissions to the judge, which allows you to see the different styles of the art and skill of advocacy at play.

Later that day, I observed a sentencing with Mrs. Justice Simmons where Counsel for the Crown and the Defendant made submissions on the appropriate sentencing for the Defendant who had been found guilty of an offense. One of the things, I realised in that moment is that as an advocate who defends, your client’s freedom is in the balance and you are charged with making persuasive submissions that would persuade the judge to give a more lenient sentence to your client. Conversely, if you’re a Crown counsel and you are representing the victim and the State you are charged with the responsibility of ensuring the sentence you argue for is appropriate and serves its purpose of deterrence and justice. There are many factors at play and as a judge you have to weight up all of these considerations when handing down a sentence.

The majority of my experience was spent with Mr. Justice Kawaley in the new Commercial Courts. During my time, I saw an array of interlocutory applications in civil matters, some public law matters and commercial matters. I also had the opportunity to observe a short trial in an employment matter. After that

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employment matter, Mr. Justice Kawaley asked me to try my hand at writing a judgment. I had to weigh up all the evidence and apply the relevant law (legislation and cases) and ultimately make a decision. That process gave me a better appreciation for constructing arguments, which again would persuade the judge to find in favour of my client and not the other party.

One of the benefits of participating in the Scheme is that the Judges also get to meet the new legal talent that is up and coming. Further personal benefits for the Marshal are that you get to see what advocacy looks like face on; observing it from the Bench is much different than observing it from the Public Gallery or even the jury box.

I would especially recommend the Scheme if you desire to be a Litigator. Each advocate has a different style and as a Marshal you get to see these styles being made to the judge and you. Through observing you can determine which styles you feel are more effective and might want to incorporate into your own style. In no way am I condoning mirroring someone else's style, but I do believe that certain nuances or techniques can be effective and if you deem it worthy of inclusion into your own style then by all means do. Furthermore, during the Scheme you also have the opportunity to discuss the matter with the judge and ask any questions you might have of the law or issues that arose. The judges also value your opinion so feel free to be honest and share with them your thoughts on what you have observed.

In 2009, I marshalled Mr. Justice Coleridge (Family Judge) at the Royal Courts of Justice in London and the common thread between both of my experiences in the UK and here in Bermuda is that the judges are more than willing to share their experiences with you and offer you advice because after all they all started where we do, in Law school with the same stresses. If you have a day to spare or even two weeks, I encourage you to apply. I believe that the time you spend Marshalling will leave an indelible mark on your legal journey.

For more information on the Marshalling Scheme visit the Bermuda Bar's website ([www.bermudabar.org](http://www.bermudabar.org)) to download an application form. Also, please ensure that you have an up-to-date CV as you have to submit that with your completed form.