



**I am writing to ask a delicate question of you, viz., should I write a strongly worded letter to *Bar News*? I am a regional barrister, from Chambers in Newcastle that, on the face of the report on Regional Practice (Spring edition 2018 at page 107) doesn't exist. More pain came from an extract of 'impermissible cross examination' (ibid at page 15) for which yours truly was Counsel at trial. Do I stay under the radar, or thrust myself into the spotlight of notorious obscurity?**

What joy! At last! The Furies have been asked by a disgruntled reader about *Bar News*' failure to acknowledge the existence of certain regional chambers! Joyful, because you must be real! We had come to suspect that the questions we feverishly answered were not occasioned by actual professional angst, but were the result of a desperate editor's desire to fill an awkward back page. This had led to us feeling an existential angst of our own, but with no obvious person to advise us, as to whether, if unacknowledged, we exist, which brings us to your (obviously real) query.

Let us first address the article in which you say you featured<sup>1</sup>. There are two classes of advocates: the infallible and the fallible<sup>2</sup>. You may feel relegated to the latter. This is a good thing. Pity the infallible advocates who possess the unfortunate flaw of not being able to learn from their mistakes. We certainly do. Apart from never seeking our advice as you have done – presuming we and you both exist – infallible advocates, being perfect, cannot conceive of the need to second guess, continually, their strategy or to adapt that said strategy to the unfolding trial or to self-excoriate, post-trial, when said strategy has not worked with a view to employing a better one next time.

However, that does not mean that we, the fallible, must lend a loud speaker to our missteps and inadequacies. On the contrary, our clients, like aircraft passengers listening to the calming tones of a pilot before take-off, desire assurance that their case is in a safe pair of hands; they do not want to read, in the in-flight magazine, about their pilot's history of impermissible manoeuvres.

So, by all means, write a letter to *Bar News* about the importance of the due recognition of regional chambers, but not in such strong terms as to cause further complaint about your manner and style. And you may wish to do so in the proud tradition of complaint writers everywhere: anonymously.

<sup>1</sup> 'Impermissible Cross Examination', *Bar News*, 2018 Spring Ed. p 15.

<sup>2</sup> Depending on your political persuasions and view of history, these two classes may or may not correlate to the namesakes for two sets chambers omitted from the *Bar News* report and which, according to Find-a-barrister, also operate in Newcastle: Sir Owen Dixon Chambers and Lionel Murphy Chambers.

**It is your mother's 80th birthday on Sunday and a family lunch is planned on the harbour. Your solicitor says that all hands on deck are required on Sunday to finish affidavits due on Monday morning. What do you do?**

You say your mother's 80th birthday on the harbour is 'a family lunch' that has been 'planned'. This suggests a significant degree of organisation by you, your siblings and respective partners and, given the age of your mother, the likely coordination between event-filled family diaries to ensure the date does not clash unduly with the

sporting finals, interstate dance competitions or music recitals of various grandchildren. Likely also, the venue has been booked well in advance given the surprising lack of good value eating establishments on the harbour foreshore large enough to accommodate the extended family of an 80 year old matriarch. No doubt, too, there has been significant angst over the choice of gift, the fair allocation of its expense and the burden of purchasing it. If the get together is a surprise party, then triple the logistics and degree of difficulty.

By contrast, the 'all hands on deck' call from your solicitor sounds like a last minute scramble by a 'hands-off' partner with zero organisational skills and an over-reliance on dependant-free millennial graduates hoping to overcome a billable hour deficit before their yearly pay review.

Unless you can bend the space-time continuum in your favour<sup>3</sup>, you have the following choices.

First, you can eschew the family event to the everlasting resentment of your mother and those organising it (whether that be yourself or others) and, instead, come to the aid of your instructing solicitor. As a result, you may be rewarded with more briefs and, therefore, more opportunities to disappoint your near and dear in the pursuit of your career. Of course, when it is your 80th birthday and you face an empty table and the apologies of your offspring, you will have the bitter satisfaction of knowing you have passed onto them those same self-centred values, masquerading as self-sacrifice, by which no family can thrive.

Secondly, you can tell your solicitors that you cannot possibly work as you have a family event that requires your attendance on Sunday and that you will not be available until Monday morning, possibly late, because you may be on clean-up duty for the post lunch party back at yours. As a result, you will be deprived of future briefs, providing you with more opportunities to perform unpaid domestic work. Of course, when it is your 80th birthday, and you face a full table of children and grandchildren, you will have the bitter satisfaction of knowing that you have selflessly given them the most productive years of your life before you return to the caravan park in which you live because your superannuation, which was never going to be enough, has run out.

The third option is that you tell your solicitor that you expect the final draft affidavits to be ready by 4:00 PM on Sunday, at which time you will attend their offices to settle them on the understanding that the witnesses will be available to review and sign the affidavits first thing Monday morning<sup>4</sup>. Your solicitor will be grateful and you will have attended your mother's birthday lunch.

Your choice.

<sup>3</sup> We understand that some infallible advocates also claim to be able to do this.

<sup>4</sup> This option assumes many things: seniority typical of a forty-something year old barrister; domestic care arrangements Sunday evening (to be reciprocated); proximity of lunch venue to solicitor's offices and restrained consumption of alcohol at lunch being just a few.

*If you have a question you want the Bar's agony aunts to answer send it to: [ingmar.taylor@greenway.com.au](mailto:ingmar.taylor@greenway.com.au)*