

Extracts from Part1 of Stage 1 of the Senior Paralegal Course

Stage 1 is in 6 Parts

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How To Benefit From Stage 1

There are a number of aspects to this part of the course that, if taken into account, will enable you to extract the maximum benefit from it.

1. It is important that you appreciate that this is a practical course and not an academic one. It does not require that you must have already studied law, though beneficial.
2. It is work orientated; for example over the 11 years since this course was started 1000's of individuals have used the training to help them get their first job working within the legal world; many never having studied law before. Unlike places such as the USA legal assistants and paralegals can, in the UK, appear before Judges in the lower courts and advocate/defend certain types of court cases.
3. Stage 1 is divided into 6 parts; each part can open up different work opportunities within the legal field, and sometimes in non legal fields.
4. For each part, print out and keep the Tutor's Notes (TN) the Course Material (CM) and the Answer Sheets separate. **It is important that you carefully read the opening paragraphs of your Tutor's Notes.** It contains valuable information and instructions on how to work your way through the Course.

Below are Extracts from the Tutor's Notes

TUTOR'S NOTES

Part 1 (TN-BL1)

- 1 Welcome onto our Paralegal Training Programme.
- 2 The purpose of the programme is twofold. First; it is to provide persons interested in working in the legal field, such as for lawyers as a legal assistant or paralegal, with practical training and insight into the nature of work a person could be called on to carry out during their first weeks and months of work.
- 3 Second; through the training, to give persons confidence to be able to take the skills gained and apply them to other areas, in and out of the work place. For example if a person can confidently interact with lawyers, judges, immigration officers and police officers and not feel intimidated then he or she should be able to deal with almost any situation.

Initial Explanations

- 4 Before you get into the course material we would like to explain how the course works and some of its features.
- 5 The Tutor's Notes (**TN**) are to be read in conjunction with the Course Materials (**CM**), which in the first instance is the Basic Level Part 1 course material, (**CM-BL1**)
- 6 This course was designed primarily for students attending a training centre. It has had built into it numerous opportunities for role playing and spontaneous interaction between students and tutor.
- 7 To compensate for the absence of this in the correspondence course, we have tried to make the tutor's notes as conversational as possible

- 8 Within the tutor's notes you will notice a series of boxes. You should pay close attention to the information contained in them.

PAY CLOSE ATTENTION TO WHAT IS WRITTEN IN THESE BOXES

- 9 **Boxes headed 'ACTION'**; tell you what action should be taken with regard to information contained inside the box. Complete the action before moving on.
- 10 **Boxes headed 'MEANINGS'**, tell you the meaning of legal jargon and phraseology.

Some Changes In Terminology Since April 1999

As a result of a major report by Lord Woolf a large section of County Court and High Court procedures have undergone substantial changes. Some of these changes include a change in terminology. Please see below for some changes in terminology referred to in our training programme:-

Old	New	Comments
Affidavit	Statement of Truth	In some cases affidavits is still used. However, statements of truth do not need to be sworn, just signed. A solicitor can, with the clients permission, and on the clients understanding of the consequences for knowingly stating an untruth, sign the statement of truth on behalf of the client.
Ex-parte	Without Notice	Ex-parte still used in the High Court for certain cases such as family hearings.

Some Changes In Terminology – continued:

Old	New	Comments
In Chambers	In Private	Pre Lord Woolf most hearings held in Chambers were closed to the public. Only the participants could enter. Now it is not where the hearing is held but its designation that determines who can attend.
Plaintiff	Claimant	The same claim form is now used in both the County Court and the High Court. Also, until further notice the term plaintiff will still be used in certain cases.
Pleadings	Statements of Case	None

- 11 **Boxes headed QUESTIONS**, tell you to answer questions and write them on the Answer sheets provided.
- 12 **Boxes headed SUMMARIZE**, tell you to summarize the paragraphs highlighted onto pages in your Basic Level 1 course material (CM-BL1). Although the points to be summarized are already in the tutor's notes repeating the main points in your own words will help you remember them and confirm to yourself that you really understand the key thoughts. Remember to send us copies of the pages you summarize on to together with your answer sheets.
- 13 On completing each course level make sure that you have answered every question before moving on to the next part. When you have completed the whole programme send your answers to our London office, or e-mail your answers to us.
- 14 **The Basic Level Part 1 Course Material, (CM-BL1)**, contains the framework, which together with some of the information from **the Tutor's Notes (TN-BL1)** will provide a good practical grounding in working as a paralegal/legal clerk for legal agencies that require paralegals with litigation (court) skills.

Freelance Legal Clerks/Paralegals

- 15 Freelance clerks/paralegals are common in the London area among the small to medium size firms of lawyers. They are often referred to as Outdoor Clerks as most of their work is outside the office. Working freelance is the quickest way to get started. It builds both confidence and provides valuable experience. However, the same skills will greatly benefit all types of paralegals, e.g. the office based paralegal. We will use Freelance clerks as the model for Stage 1 of this programme.
- 16 When starting work as a freelance paralegal it is normal to register with several firms of lawyers; small to medium firms are best. A brief letter stating your availability is usually enough.
- 17 When a lawyer needs a paralegal he will consult his list of freelance outdoor clerks and try to book one of them for the assignment.
- 18 This is usually done by means of a telephone call. Having confirmed a legal clerk's availability, the lawyer will ask the clerk/paralegal to come into the office and pick up the case file and any instructions.
- 19 Our course starts **'at the Lawyers'**.
- 20 On arriving at the lawyer's office inform the receptionist of your name and who you're 'clerking for' (state the name of the lawyer who booked you and the case name).
- 21 If the case is a civil dispute and the lawyer is there at the time, he or she will normally spend a few minutes going over the history and background of the case.
- 22 Don't be surprised if the speed and delivery of this so called background to the case is fast and furious. Lawyers are often very busy and under a lot of pressure, especially those involved in Legal Aid work.

- 23 Rather than panic or feel the need to keep asking the lawyer to repeat himself, (something they don't like you doing too often), scribble down as much as possible and then when he has finished summarize what was said back to him. If you have missed an important point he will correct you.
- 24 In most cases the point of giving you a background to their client's case is to make you feel a part of the team, and through that to give you a sense of care and concern for their client's legal welfare. Use this opportunity to demonstrate your professional interest by asking discerning questions, questions that clarify. A word of caution, never ask the lawyer that you are working for to explain what a particular legal phrase or word means. He may well conclude that you should have known the meaning and his confidence in you may drop significantly. If you want to know the meaning of a legal word or phrase get a good legal dictionary. Also there are many legal people at the court house, whenever you are there seek a friendly face and ask.
- 25 If more is required of you than just taking notes at the hearing you will be given a set of instructions. The instructions together with any additional comments made by the lawyer will usually be enough to formulate a picture of what is required of you.
- 26 However, before walking out of the lawyer's office there are a couple of things you should never forget to do.
- 27 First, always confirm the court's name and time of the hearing. It is not uncommon for clerks to be sent to the wrong court, and guess who gets blamed!
- 28 Second, ask the lawyer, "is there anything that I need to be alert to or aware of?" The purpose behind the question is to indicate to the lawyer that you are a professional and that you understand that there may be certain things about the client or case that he may not have felt appropriate to state in your instructions but is nonetheless of concern to him.

SUMMARIZE

Paragraphs 20-28 onto page 1 of your CM-BL1.

On the way to Court

29 You are now ready to set off to complete your assignment. Between the lawyers' office and the court house there are a couple of things you need to make sure that you accomplish. The first thing is, you must 'make sure that you know what is required of you'. The journey to the court is not the time to be doing the crossword, planning your holiday or day dreaming. Your assignment should be clear in your head, because sometimes the minute you step through the court house doors things will happen in a rush and it will be easy to make mistakes.

ACTION

Read page 2 of your CM-BL1 and highlight the words 'make sure you know what is required of you'.

30 This is one of the important principles of good clerking and you should have it firmly imbedded in your mind. The reason being that when a lawyer sends you off on an assignment he or she wants to feel confident that he/she can entrust their clients' welfare into your hands. A particular assignment may seem inconsequential yet in fact may carry a heavy penalty if not carried out properly and in accordance with the lawyer's instructions. We will look at a set of instructions in a little while.

31 After making sure of your instructions, summarize/detail them onto your Paralegal/Clerk Day Sheet. We will look at one later.

32 The second thing you should accomplish before arriving at court is to make sure you know what the case is all about. To do this you will need to read the following documents from the client's case file:- a/ Brief to Counsel, b/ Client's Affidavit/Statement of Truth, c/ Witness Statements.

MEANINGS

Counsel: Another word for a Barrister.

Brief to Counsel: Lawyers instructions to Counsel, detailing the case explaining what needs to be accomplished at court on the day of the hearing.

Affidavit/Statement of Truth: A sworn statement.

SUMMARIZE

Paragraphs 29 - 32 onto page 2 of your CM-BL1.

- 33 You may be wondering why Counsel would want to ask you questions about the case. One reason is that sometimes the Counsel in attendance may have just been given the case the previous day and therefore may know very little about the background and lead-up to the hearing. In such a situation, Counsel would be looking to the clerk to provide additional information to what was provided in Counsel's brief.
- 34 Looking over your instructions and reading up on the case are usually done on the way to court; i.e. on the bus or the train. This is something you must get used to. Although you may be able to obtain the case file the night before you will soon learn that it does not make good practice.
- 35 Earlier, we mentioned the need for you to make sure you know what is required of you. This is done by reading carefully over your instructions, and then, after doing that, to detail your instructions & requirements onto the Paralegal/Clerk Day Sheet.
- 36 Let us now take a look at a set of instructions given to a paralegal. Before we do, we would like you to appreciate that the instructions are real. They were given to a paralegal by a London firm of lawyers and can therefore be described as a typical set of instructions. Imagine that you were that clerk.

ACTION

Read pages 3 & 4 of your CM-BL1.

37 Picture yourself sitting on a train going over your instructions. As you check to make sure you know what is required of you, you notice that in your instructions are words and expressions that you don't know the meaning of. Remember what was mentioned earlier, the best place to find out things is at the court house. You will always find willing help if you just have the courage to ask. In the mean time in order to help you fully understand your instructions, let us look at what some of these words and expressions mean.

MEANINGS

Ex parte/Without Notice: An application made to court for a hearing where only one side is represented and no notice is given to the other side before the hearing.

Legal Aid Certificate: A certificate guaranteeing that legal representation to the extent defined on the certificate will be paid for by the government. Sometimes this will not cover all the amount.

Issue the application: To register details of an application for a hearing together with the reasons for wanting the hearing, and a time estimate of how long the hearing will take. With a view to obtaining from the court a hearing date, and for either the court or the lawyer to notify the other side and any other party who has a right to be informed.

To file: To lodge documents pertaining to a case at the court office. The documents, having been lodged, will then be placed in the court's own file of the case. Make sure documentation has case number and the party's name clearly visible.

Claimant: Person who starts an action against another in the civil courts.

Notice of application: A document to the court and to the other side informing of the hearing and the date of the hearing.

Warrant of execution: Court authorization to carry out a court order.

Stay of execution: A court order to temporarily stop a previous order from being carried out.

ACTION

Turn to pages 3 & 4 of your CM-BL1. Cross out the name John Carter and put your name in its place. They are now your instructions. Read through your instructions again, and this time, take your time.

Draw a ring around any specific instruction you feel you are being asked to carry out. When reading through pay attention to detail. Do not for the moment worry about whether or not you understand the instructions being asked or some of the words used. Just concentrate on identifying your instructions.

38 Now that you have read through your instructions do you feel that if this were your very first assignment you would be able to carry out everything being asked of you? Shall we see how well you understand your assignment? Try and answer the following questions.

QUESTIONS

Answer the following questions.

- 1** According to paragraph 1 of your instructions, who apart from Mrs Janos would be the other person who you would need to locate on arriving at court? Why?
- 2** Before getting Mrs Janos to sign the Legal Aid Offer, what things would you ask the interpreter to explain to her? Why?
- 3** According to paragraph 2 and bearing in mind the meaning of the expression 'to issue the application', where do you think the issuing would take place: **a)** at a post office? **b)** Before the Judge of the day? **c)** At the court office?
- 4** Why do you think it mentions you may be charged a fee in paragraph 2? Is it because: a) you must always pay a fee before an application can be issued? b) Mrs Janos has only literally, in the last few minutes, signed the Legal Aid Offer and consequently the court may not consider her covered as at that precise moment in time? c) The court office sometimes charges and sometimes does not?

Write your answers on the Answer Sheet.

39 Now you have answered the above questions it might be a good idea to look at an example of 'issuing an application' referred to in paragraph 2 of your instructions. The example we are going to look at is not related to the same case. However, the layout and information is typical, and will help you in visualising that part of the instructions.

ACTION

Read page 5 of your CM-BL1.

40 What you have just read is a typical covering letter that would accompany an application. To make sure you have understood its contents can you answer the following questions?

QUESTIONS

- 5** In the case of Trout v Trout what type of hearing are you applying for?
- 6** Why do you want it?
- 7** What is the time estimate for this hearing?
- 8** What hearing date is sought after?
- 9** With regard to a hearing date what do you think you should do if the court cannot give you the date you want? Should you: a) Accept any date they give? b) Refuse the date they give and return the file to the lawyers? c) Contact the lawyer, explain the situation and let them know of alternative dates, e.g. 31 Jan or 6 Feb, and if lawyer is not available then make the choice yourself?

Write your answers on the Answer sheet.

41 At times, especially when the time estimate is short, e.g. 15 mins, 30 mins, being assertive, yet polite with court clerks may get you the dates preferred. It is better though to try gentle persuasion.

- 42 Don't be afraid to ask to see the Chief Clerk or the supervisor, and explain the reason why you must have the date asked for.
- 43 The exercise you have just completed should hopefully enable you to visualise more clearly the instructions given regarding issuing an application.
- 44 Now let's continue with paragraph 3 of your instructions on page 4 of your **CM-BL1** course material.

QUESTIONS

- 10 Are the instructions on paragraph 3 in logical order?
- 11 What lesson should this teach you?

Write your answers on the Answer sheet.

- 45 Having understood what is required of you, you are now in a position to detail your instructions onto the Paralegal/Legal clerk day sheet. However, before doing this, we would like to explain what the Paralegal/Legal clerk day sheet is for, and how to make the best use of it.

ACTION

Turn to page 6 of your CM-BL1. At the top of the page write "My Sheet".

- 46 The reason we told you to write 'My Sheet' is because the paralegal/clerk day sheet is for your sole use. It has been designed to help you execute your duties. No one will look at it except you. When you have successfully completed the programme and you receive your certificate, we will also provide you with a master copy of a Paralegal/Clerk Day Sheet. Photocopy a few at a time. Let us explain how to use it.

ACTION

Where it says Date, write '**date of the hearing**' along the line. Where it says Firm: write 'the **'firm name'**'. On the line below that, write 'the **'lawyer's name'**'. On the line below that, write 'the **'Court's name'**'. Where it says Time: write the **'time of hearing'**. And on the line below that, write the **'barrister's name'**.

Immediately below you will see the words **'General Instructions'**, write 'the case name and number' along the line. Under general instructions you will see the numbers 1 - 5. Tick whichever you feel covers your purpose for attending court as per your instructions.

Below that you will see the words **'Main objectives'**: in that section write 'The overall purpose of my assignment e.g. 'Issuing an Application for an Injunction'.

Beside that you will see **'Things to do or remember'**; in that section write 'Step by step instructions to myself, to help me successfully carry out my assignment'.

- 47 Because your paralegal/clerk day sheet will be the only record you will have of your day's assignment, always make sure that in addition to the firm's name you have the name of the lawyer and the case name written down. This is because sometimes you may find that you have not been paid and to chase up payment you will need to clearly identify which lawyer within the firm employed you for that day and on which case.

SUMMARIZE

Paragraph 47 onto page 6 of your CM-BL1. Write your summary at the bottom of the section 'Things to do or remember.'

- 48 At this stage it would be a good idea for you to review all that has been covered so far. Note down everything you consider it is important for a paralegal to remember.

ACTION

Turn to page 7 of your CM-BL1 and write down at least 5 things worth remembering.

At the Court House

- 49 So far, we have dealt with your arrival at the lawyer's office and you're trying to make sure you know what is required of you whilst travelling to court. Now we are going to consider what happens when you arrive at the court house.
- 50 Picture yourself walking through the court house doors with your briefcase in hand. As you step through the doors you notice the immediate area in front of you. It is filled with people sitting, standing or walking about. The first thought that comes to your mind is "what do I do next?" Well, the first thing you want to do is locate the notice board where all the cases are listed for that day.

END OF EXTRACTS FROM TUTOR'S NOTES (TN-BL1)

Below are Etracts from the Course Material

COURSE MATERIAL

Part 1 (CM-BL1)

**Assisting Counsel
In
Civil Trials**

At the Lawyers

Situation

You have collected the clients file and received your instructions.

On the way to Court

Situation :

The first thing you must always do is make sure you know what is required of you.

Then relay your instructions and requirements onto your Outdoor Clerk Day Sheet.

INSTRUCTIONS

TO: JULIAN HUNTE

FROM: LOUISE

**RE: LINA JANOS - 912242 - WILLESDEN COUNTY COURT
EX PARTE APPLICATION - 1ST DECEMBER 1992 -**

COUNSEL: LORNA TAGLIAVINI

DATE: 30TH NOVEMBER 1992

Your cheque for Stewart and Martin is stapled in an envelope inside Ms Janos' file. Many thanks for that and apologies for the delay on Stewart payment.

The Janos case is a very complex one. I am sending you down to clerk Lorna Tagliavini usually on a District Judge's appointment because of the complexity of the case and the number of things that need to be done.

Could you please attend to the following:-

- 1.** In the blue ring binder file under the Legal Aid section you will find behind the yellow marker labelled 912242 defend 36303 a blue offer of Legal Aid Ms Janos must accept this offer of Legal Aid. If she does not her Legal Aid certificate numbered 1 91 36303B will be revoked and all her Legal Aid will be put in jeopardy. There is already a long history of Legal Aid Board problems on this file and I am absolutely certain that if she does not sign the offer of Legal Aid immediately we will not be able to do anything further for her because we will not be able to get Legal Aid to do so. Please ask Ms Janos' interpreter to explain that she needs to sign the offer of Legal Aid and give it to you. I

will send it to the Legal Aid Board. She will then get from Legal Aid Board an instalment payment book and she will need to then start the monthly instalments of £49.50 in the first month followed by 11 instalments of £48.50.

2. Please issue the application. You will find two copies of the notice of application on the top of the file. Counsel already has a copy as do Latima Thobani who act for the Claimant. You may find they charge you a fee and there will be a cheque in the file.

3. You will also find 3 copies of the second affidavit/statement of truth of Ms Janos on the top of the file. Please take her to the Court office and ask her to swear to the truth of the matter. You will need to file the original affidavit/statement of truth at Court. Please note the details of the jurat on the two spare copies and hand one to the other side and keep one in the file for us. You will note that there is a special form of wording on the affidavit/statement of truth which deals with Ms Janos' lack of capacity to speak English. When Ms Janos swears the affidavit/statement of truth Mr Sliwa her interpreter will need to add his address and description i.e. (official interpreter) in the space at the foot of the jurat.

This is an extremely complicated and difficult matter which we have taken as a transfer of instructions from T H Edwards & Co. Ms Janos now has the benefit of an emergency Legal Aid certificate to apply to stay an execution of the Warrant of Possession due to be executed by the Bailiffs on the 2nd December 1992 pending appeal.

You will find to the details set out in Lorna Tagliavini's advice which is in the front section of Counsel's papers in the ring binder. After the order to file a list of documents in these proceedings and failing to comply with that order Ms Janos' defence was struck out on the 19th October 1992.

Only a few days before that, V. Edwards had been advised that Ms Janos' Legal Aid certificates had been revoked and that they could not act for her. Ms Janos appeared on the 19th October 1992 in person with a friend of hers called Mr Cordier. Despite Mr Cordier's attempt to explain to Judge Winkler the reasons for

the delay and the problems with Legal Aid he struck out her defence and made a possession order.

We made an application to set aside that possession order before the District Judge on the 23rd November 1992. That application was dismissed on the grounds that the District Judge had no jurisdiction and we could not then make an application to stay the Warrant of Possession because at that stage no warrant had been issued.

Since then we have had Legal Aid amended to allow for full Counsel's opinion in writing on the case and she recommends that we make an application to stay the Warrant of Execution pending Judge's dismissal of our application to set aside the possession order made on the 23rd November 1992.

Ms Janos may well bring some friends with her to Court. In any case Mr Sliwa her interpreter will be at Court as official interpreter. I should be grateful, if you have time, you could encourage him to let me have a list of his fees and an invoice of his work done to date.

I have advised Ms Janos that if the application to stay the Warrant of Execution fails tomorrow afternoon we are very unlikely to be able to undertake any further work for her.

I am grateful to you for clerking this. Please do not hesitate to telephone me from Court with any queries. I will be in the office all afternoon.

A Lawyers Covering Letter

The Chief Clerk
Uxbridge County Court
12/er/922222

19 December 1992
Our ref.

Dear Sir

Trout -v- Trout Case No 922222

We enclose the following:-

1. Notice of Issue of Legal Aid together with Legal Aid certificate no. LA4596859.
2. Application for Injunction, Form N16A, plus copy for service.
3. Affidavit/Statement of Truth in support together with one Exhibit, plus a copy of both for service.

At present, the Respondent is protected by bail conditions which prohibit the Petitioner from living at the former matrimonial home or having contact with the Respondent.

The bail conditions will cease upon the criminal trial, which was due to take place on 4th December 1992. However, the matter will now be heard on 10th February 1993.

It is vital for the Respondent's protection that an Injunction is obtained and served upon the Petitioner before his bail conditions expire on 10th February 1993.

We would therefore ask that our client's application for an Injunction be listed for hearing on a date in the first week of February 1993, between 1st & 5th February inclusive.

The application will be on notice, and we will be arranging for the Petitioner to be personally served with the papers. We expect that the application may well be contested and would give a time estimate of half a day.

Yours faithfully

Legal Clerk Day Sheet

Date:

Firm: _____

Time:

Lawyer: _____

Counsel:

Court: _____

General Instructions Re:

1. Assisting Counsel. []
2. Statement taking. []
3. Filing documents. []
4. Conference in chambers. []
5. Other. []

Main objectives:	Things to do or remember:

Reminder

Things worth remembering when clerking...

1/

2/

3/

4/

5/

At the Court House

Situation :

You have arrived at the Court House. The first thing you always do is.

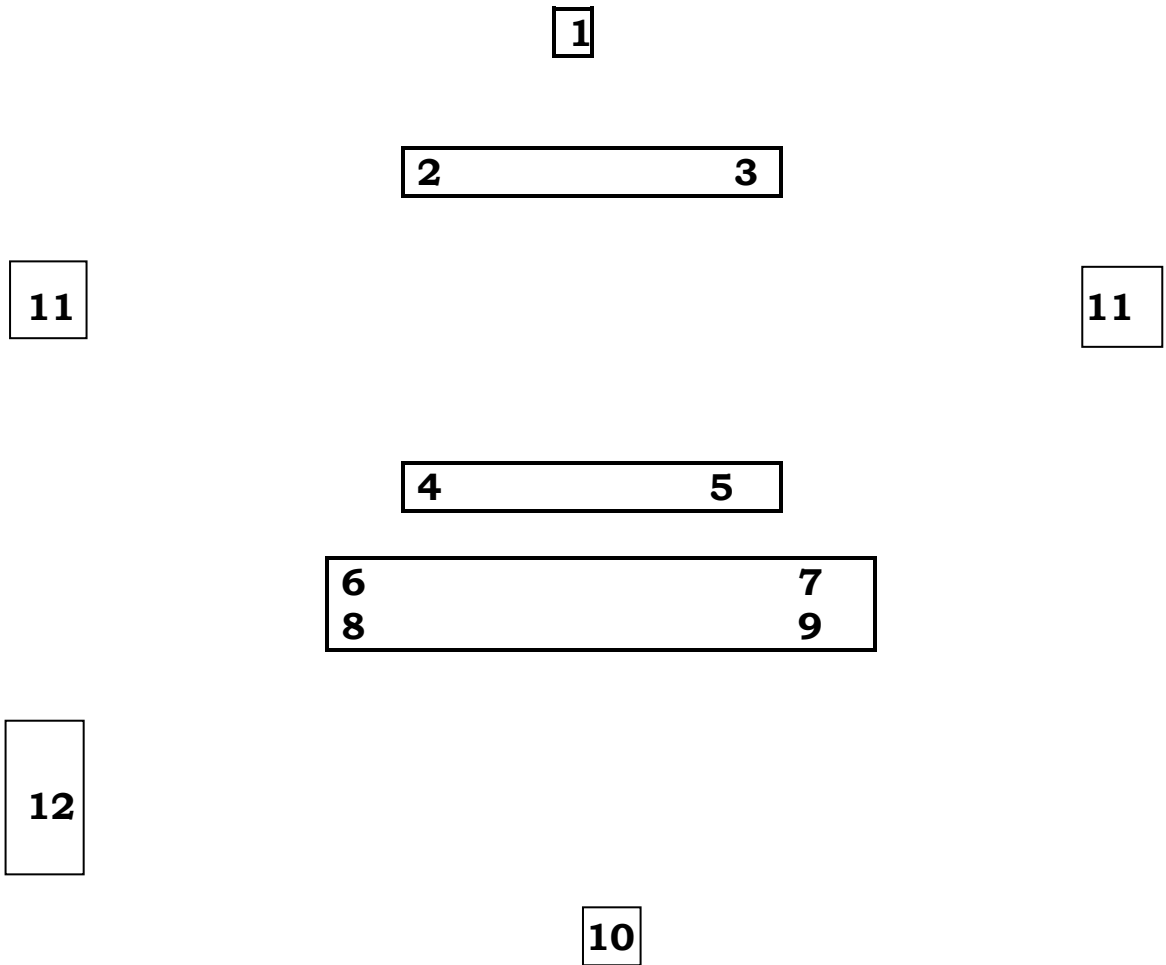
Assisting Counsel at Civil Trial

Situation:

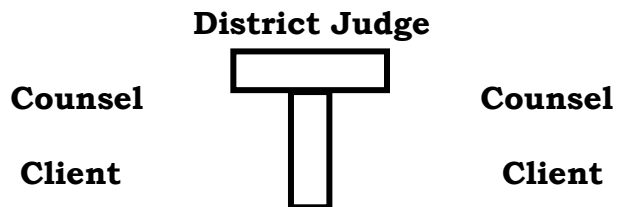
Before the hearing you are sitting with both Counsel and your client.

You are there to assist Counsel and take notes..

Open Court Layout



District Judges Chambers



Note taking at Civil Trial

Situation:

**You have sat down behind Counsel.
The trial is starting. Your client is beside
you.**

**With the file beside you and your trial
notepad before you, you're ready to
begin.**

Legal Clerk Day Sheet

Date: 11.Jan.93 Firm: DANE & HARRIS
Time: 10.30am Lawyer: LUCINDA ROE

Counsel: ANN PETERS Court: CENTRAL LONDON
COUNTY

General Instructions Re: MR ARAVELLA v MRS FATIGATORA

1. Assisting Counsel. [x]
2. Statement taking. []
3. Filing documents. []
4. Conference in chambers. []
5. Other. []

Main objectives:	Things to do or remember:
application for an adjournment	

Mr Aravella v Mrs Samal Fatigatora
Central London County Court
Counsel: Linda Peters
Judge: QC White

Court 1

Arrived Court: 10.15 am

Hearing started: 11.15 am

J Invited CD to open Application

CD App for Adj - Def not here - in Italy-

J Briefly explain situ to me

CD Case a landlord tenant dispute over rent arrears -

claimant seeking possession-

Def has H/benefit problems -

def in Italy due to mother's illness -

def misunderstood directions in previous hearing-

def thought case adj till 22/Feb.-

Housing benefit are holding monies as there appears

some confusion over claim's validity -

It is understood that this money is being held in a frozen account pending outcome of trial or possible court order money held back covers majority of rent owed.

J Why is def not able to attend?

CD Attempts made to contact def. Instructing lawyers have sworn affidavit/statement of truth explaining what has been done to ensure that def present for today's hearing – Here is copy of Lucinda Rowe's sworn statement

J Your observations

CP Sir rent continues to accrue at £520 monthly -

next payment due tomorrow 12/1/93, then again on Feb 14

- housing been ceased Sept. 92 - last payment from

claimant July - when def rec hse/ben there was short fall

£66.00, short fall not paid by def - no payments since July -

Balance never paid -

Bal outstanding: £3000+? -

END OF EXTRACTS from COURSE MATERIAL (CM-BL1)

There are no extracts from the remaining 5 parts of Stage 1.