Litigants in person – navigating the judicial minefield
A discussion in dealing with litigants in person

This paper is intended for educational and information purposes only and is not intended to be relied upon partly or solely as advice.

Introduction

1. Lawyers fearlessly and ferociously protect their client's interests in the form of drafting documents, being involved in conveyancing transactions or even litigation. In performing those functions, lawyers do so within the confines of their ethical and professional obligations to their clients, courts and tribunals and to third parties. Lawyers undertake years of training and experience to master their craft. Critically, lawyers undertake their role adhering to their high standards expected of them by their peers, their clients, the judiciary and the community at large. Lawyers take their obligations very seriously lest they be attended upon by the dreaded yellow letter. In doing so, the wheels of the administration of justice remain well lubricated and moving.

2. Sometimes, dealing with other lawyers can be trying, difficult and frustrating.

3. We have all had that moment when we receive that letter (or email) or see that lawyer and we roll our eyes.

4. Enter the litigant in person …

5. Sometimes, dealing with litigants in person can be trying, difficult and frustrating.

6. We have all had that moment when we receive that letter (or email) or see that litigant in person and we roll our eyes.

7. I do not intend to provide an exhaustive coverage of all aspects of dealing with litigants in person.

Litigant in person – what should lawyers do?

(Commons:Village pump/Proposals/Archive/2013/07)

The lawyer's obligations when dealing with a litigant in person

8. I should say from the onset, this paper is concerned with matters in the civil jurisdiction.

9. Both the Law Society of New South Wales[1] (**the LS Guidelines**) and NSW Bar Association[2] (**the Bar Guidelines**) have published guidelines on dealing with the "self-represented litigant." I will at times refer to the Bar Guidelines. To a certain extent, some of those references are applicable in the solicitor's own dealings with litigants in person.

10. The Family Law Council and Family Law Section of the Law Council of Australia have released their own guideline – "Best Practice Guidelines for lawyers doing family law work". (**the Family Guidelines**)[3]

11. The LS Guidelines identifies three categories of litigants in person:

    a. the 'direct' self-represented party, where the party receives little if any legal advice;
    b. the 'unbundled' represented party, where the party retains a legal practitioner only on certain aspects of law or procedure, or at a particular stage of the case. The legal practitioner may be retained on a paid basis or through a Community Legal Centre or self-representation service; and
    c. the client of a directly-briefed barrister, which will depend on the terms of the retainer. [4]

12. The LS Guidelines identify the paramount consideration for the solicitor:

    1.1 The Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015 (Uniform Solicitors' Conduct Rules) and the Law Society's Statement of Ethics require solicitors to act fairly and honestly towards courts and tribunals, the profession and third parties, including opposing parties representing themselves in contentious and noncontentious matters.

[1] Guidelines for dealing with self-represented parties in civil proceedings, December 2016.
[2] Guidelines for Barristers on Dealing with Self-Represented Litigants, 2nd Edition, 14 November 2011.
[3] 2nd Edition, October 2010.
[4] The LS Guidelines, paragraph 2.1

1.2 *Solicitors acting in a matter should always explain to any self-represented party that they act in the best interests of, and advise, their own client. Solicitors should be clear that they are neither acting for nor providing advice to the self-represented party.*

(references omitted)

13. Similarly, the Bar Guidelines identify the duties of barristers:

2. *Subject to their paramount duty to the administration of justice, a barrister's primary duty is to their client. A barrister should, however, exercise their own forensic judgment and give advice independently and in accordance with their paramount duty to the administration of justice, notwithstanding any contrary wishes of their client. The import of these guidelines is that the long term interests of barristers' clients are best served by the facilitation of a fair hearing. There is little or no point, for example, in achieving a successful result for a client which is set aside on appeal for want of natural justice or procedural fairness to a self-represented litigant.*

3. *Several of the barristers' rules may give rise to potential problems for barristers in proceedings involving self-represented litigants. For example, there is general prohibition restraining a barrister from conferring or dealing directly with the party opposed to the barrister's client. Further, a barrister must take reasonable steps to avoid the possibility of becoming a witness in the case. Very real difficulties may arise where, for example, a barrister deals directly with a self-represented litigant in relation to settlement negotiations and an issue later arises as to what was or what was not said in the relevant discussions and whether or not an agreement was reached in those discussions.*

(references omitted)

14. The Family Guidelines at paragraph 2.1 state the following:

Lawyers owe duties of fidelity and confidence to their clients and a duty of honesty to the court. They do not owe specific duties to the other party beyond those already owed to the court. This combination of duties may not provide a clear answer to all the questions arising when acting against self represented litigants.

15. One can find the extent of the solicitor's and barrister's duty of honesty in the following:

a. Rule 19 of the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* (NSW); and

b. Rules 23 to 34 of the *Legal Profession Uniform Conduct (Barristers) Rules 2015* (NSW).

16. Section 68LA of the *Family Law Act 1975* (Cth) deals with the role of an independent children's lawyer. In particular, section 68LA(5) states the following:

> *(5) The independent children's lawyer must:*
>
> *(a)* ***act impartially in dealings with the parties to the proceedings;*** *and*
>
> *(b) ensure that any views expressed by the child in relation to the matters to which the proceedings relate are fully put before the court; and*
>
> *(c) if a report or other document that relates to the child is to be used in the proceedings:*
>
> *(i) analyse the report or other document to identify those matters in the report or other document that the independent children's lawyer considers to be the most significant ones for determining what is in the best interests of the child; and*
>
> *(ii) ensure that those matters are properly drawn to the court's attention; and*
>
> *(d) endeavour to minimise the trauma to the child associated with the proceedings; and*
>
> *(e) facilitate an agreed resolution of matters at issue in the proceedings to the extent to which doing so is in the best interests of the child.*
>
> (emphasis added)

17. It is said that the role of the Independent Children's Lawyer outlined in section 68LA(5) "to be that of an honest broker who acts impartially in dealings with parties to the proceedings."[5]

18. There are no different or additional obligations imposed on lawyers (be it as a solicitor or barrister) when dealing with litigants in person. One would be forgiven for thinking otherwise.

---

[5] *Welsh & Riggs* [2017] FCCA 3315, [129].

What should lawyers do when dealing with a litigant in person?

19. Act ethically and professionally as you would do with any other lawyer. Be tolerant, patient and understanding. It is appreciated that at times this can be a tall ask. There is no doubt that a litigant in person can add to the costs, workload and stresses of performing legal work.

20. One of my earliest experiences in dealing with a litigant in person was during the second year of my career at the bar. I was briefed to appear on behalf of the Mother at an interim parenting at the Parramatta Registry of the Federal Magistrates Court. The Father represented himself. Prior to my appearance, the Independent Children's Lawyer informed me that the Father intended on making an application to adjourn the hearing of the Mother's interim parenting application. In context, the matter had been listed for quite some time for interim determination and the Father had my client's documents in his possession for a long period of time as well and there were quite serious allegations of family violence raised by the Mother. Armed with those "procedural" facts on my side, along with a sense of duty to inform, I introduced myself. I explained that I understood his application, I was instructed to oppose that application and that my client sought her costs of the adjournment. Without disclosing the extent of the exchange between the Father and I, one could discern the following:
    a. the Father was most disagreeable with my instructions; and
    b. security became aware of the Father's disagreement was present in the court room.

21. Unrelated to the Father's foreshadowed application to adjourn, the judicial officer required a report to be prepared and stood the matter over. My application for costs (albeit that the Mother's costs be reserved) was dismissed. Both outcomes irritated me immensely.

22. I learnt a number of lessons:
    a. from the Father's perspective, I was an extension of the enemy and his words (to the effect) "typical f&#kwit, smarta!*e lawyer". I cannot recall if he said lawyer or c%nt but to him, it probably amounted to the same thing;
    b. every situation requires a degree of analysis;

c. far less is far more. Put another way, it was probably unnecessary to approach the Father;
d. security is never too far, although it might be too late; and
e. the Court works in mysterious ways.

23. The greatest lesson that I took from that experience was a measured approach is the best approach.

24. The LS Guidelines identifies a number of considerations in dealing with a self-represented party (without repeating all of them), the solicitor:
    a. should try to encourage the self-represented party to at least try to obtain some free legal advice, for example from a Community Legal Centre. When this occurs, it should be recorded in any settlement agreement;
    b. should deal with a self-represented party to the same standard as they would with a represented party;
    c. should explain to the self-represented party that they will advance all points, take all objections and make all submissions reasonably open to them in advancing their client's case;
    d. may require that an independent third party be available when negotiating a settlement;
    e. should confirm before any settlement that the self-represented party understands the terms of settlement and their effect, and have this noted on the record of transcript, orders or other document containing the terms of settlement;
    f. should confirm communications in writing, using plain language;
    g. should provide the self-represented party with authorities prior to the hearing; and
    h. should not burden a self-represented party with unnecessary material; and
    i. should, in interlocutory applications, provide self-represented parties with a copy of the orders that will be sought prior to the date of the interlocutory hearing or directions hearing.[6]

25. The Bar Guidelines offer some practical advice. I have listed some of that advice below:

[6] LS Guidelines, paragraphs 2.6 and 2.7.

a. where there is a failure to comply with case management/procedural orders:
    i. the non-compliance should be brought to the court's attention sooner rather than later;
    ii. the barrister should firstly arrange for their solicitor to notify the self-represented litigant in writing of the orders which have been made, the alleged noncompliance, the impact of it on the litigation (both in respect of the barrister's client and the court program), and that costs will be sought against the self-represented litigant and the quantum of those costs; and
    iii. such communication should be by way of an open letter.[7]

b. anticipation/notification of issues which may arise at hearing:
    i. avoid any suggestion, let alone reality, of a 'trial by ambush';
    ii. Common sense would dictate, however, that a trial judge is likely to grant an adjournment where a particular submission or issue, when raised, catches the self-represented litigant by surprise. In that regard, it must be remembered that many submissions or issues will be 'new' or unfamiliar to the litigant in person. In order to ensure that the hearing proceeds as expeditiously as possible, a barrister should anticipate such an adjournment application by providing the self-represented litigant with reasonable advance notice of any major matters that the barrister anticipates may arise at trial. If, for example, a barrister intends to refer to an authority in the hearing, it is suggested that he or she should have their solicitor provide a copy of it beforehand to the self-represented litigant, with a view to forestalling the otherwise almost inevitable adjournment application to enable the self-represented litigant to consider the authority.[8]

c. likely non-appearance of self-represented litigant:

[7] Bar Guidelines, paragraphs 28 to 30.
[8] Bar Guidelines, paragraphs 31 and 32.

i. consideration should be given by the barrister to seeking appropriate machinery provisions as part of any final orders made by the court. For example, it may be wise to seek an order appointing a registrar of the court to sign documents on behalf of the other party in the event of that party's default. In that event, it would be particularly advisable to notify a self-represented litigant of any proposed amendments to the final orders sought to include such machinery or enforcement provisions, as well as the effect of such orders, well in advance of the trial and be able to prove service of that notification at the trial.[9]

d. adjournment applications:

i. A barrister opposing an adjournment application made by a litigant in person should be prepared to argue the merits of the application, in terms of: the notice that the self-represented litigant has had of the proceedings; any non-compliance by the litigant with the requirements to file their evidence; and the prejudice to the barrister's client that is likely to arise from the granting of any adjournment.[10]

26. I would hasten to add, act cautiously, avoid controversy and try to have a witness present. Nothing excites a judicial officer when a litigant in person makes an allegation attacking the good name of the lawyer just doing his or her job and the poor hapless lawyer falls into the trap of biting. Unless the comment is perverse and prejudicial to your duty to the client or is at odds with your duty to the Court, sometimes it is best to say nothing or say "far less":

"Unless your Honour requires me to do so, I do not intend to address that allegation."

"It is sufficient for me to say that allegation is unfounded and does not require me to take any more of the Court's time."

[9] Bar Guidelines, paragraph 34.
[10] Bar Guidelines, paragraph 47.

"I'm not sure that proposition is quite correct."

"That proposition requires careful scrutiny."

27. As infuriating as it is, never forget, a litigant in person is not bound by the same rules and standards as a lawyer. So … don't bite back.

28. What about mediations and settlement conferences?

29. Mediations can be particularly difficult from a number of perspectives:
    a. most self-represented litigants have very little knowledge about the mediation process;
    b. from a represented party's perspective, there may be a perception that the mediator is not maintaining his or her impartiality. The self-represented litigant will often view the function of a mediator as a source of information. It is therefore incumbent on the mediator to clearly explain their role;
    c. confidentiality is often an issue which rears its ugly head, especially in family law matters. It is not unusual for a litigant in person to insert content into an affidavit (or even offer it orally) regarding matters which transpired during the course of a mediation; and
    d. conduct of the individual participants. If someone is going to muck up at a mediation, I doubt it matters whether the party is represented!

30. The Bar Guidelines provide some helpful guidance in regard to settlement negotiations:
    a. A barrister should ensure that a solicitor or clerk is present during any settlement negotiations with a litigant in person and that a careful record is kept of what was said in the discussions. There are particular difficulties in this area where a barrister appears on a direct access brief.
    b. If there is any doubt about the self-represented litigant's understanding of the situation or where, for example, it appears to the barrister during settlement negotiations that there are misunderstandings as to the terms or any implications, it is suggested that the barrister raise those matters before the terms are approved, so that the basis of the self-represented litigant's understanding can be recorded on the transcript.

c. A barrister should be aware, however, that a trial judge may be disqualified from further hearing the trial if a settlement on the proposed terms outlined in court ultimately breaks down. The barrister should also be aware of the need to draft terms of settlement in clear and unambiguous (and, if possible, lay person's) language, particularly where one party is a litigant in person.

31. In 2012, I had the opportunity to appear on behalf of a client at the Local Court of New South Wales on a direct access brief. My client was the defendant. The essence of the dispute was that she failed to pay her strata fees. The co-defendant was my client's former spouse. He failed to appear. After some time, I negotiated (what I thought) was a favourable outcome – without prejudice to her rights in respect of the co-defendant. I took careful file note as to the negotiations and my discussions with my client. I hand wrote the agreement. I explained the agreement to her. I confirmed that terms I had drafted accorded with her **precise** understanding of the agreement. My client signed the document prior to providing it to the Plaintiff to sign. In addition, I obtained written instructions from her confirming her instructions to settle the matter on those terms. My first and last appearance in the matter. The only issue was that the strata committee had to ratify the agreement. Based on my discussions with the Plaintiff's solicitor, this was not a problem as the solicitor had been in contact with members of the strata committee. The essence of the agreement was that my client had twelve months to pay the strata arrears and had to pay the strata levies as and when they fell due. I explained to the client that she had to pay the sums due to the Plaintiff as she was liable in any event and had no viable defence to the Statement of Claim. So far, so good.

32. IT BLEW UP!!!!! Some six or so months later, my (now) former client contacted me for the purposes of providing an affidavit. The client alleged that the Plaintiff had engaged in some sort of fraudulent conduct regarding the agreement and as such refused to pay the amounts due under the agreement – despite it having been ratified. My response was simply, "well you reached an agreement". The client wanted me to give evidence regarding the making of the agreement and the so-called fraudulent conduct of the Plaintiff's solicitor. My response was two-fold:

    a. if you would like me to attend court to give evidence, you will need to issue a subpoena; and

b. if you would like me to give evidence in regard to the surrounding circumstances of reaching the agreement, then you will likely need to waive privilege because I will need to provide copies of my file notes and your written instructions to enter into that agreement.

33. The next thing that happened was very strange … it has been close to 7½ years and I have not heard from her since.

34. In 2019, I appeared on behalf of the Independent Children's Lawyer. Regrettably, the Federal Circuit Court judge who was docketed to hear the matter simply did not have the time to hear the case – even though it would have taken about ½ day. The dispute was between the Mother and the Paternal Grandparents. The Father was nowhere to be seen. The tension between the active parties was quite hostile. Counsel for the Paternal Grandparents was an experienced mediator. The case, from my assessment, could not be settled. Within the space of four hours, with some involvement from me, had settled. Not only had it settled, the Paternal Grandparents ended up with a better deal than they would have received if the matter proceeded. Without revealing too much of the magician's tricks, the Mother had a particularly negative perception of Counsel's instructing solicitor. Counsel used that to his advantage to show that he was the voice of reason in his camp. If anything, the Mother was quite "fixed" in her views.

35. On one view, the only difference (in the negotiation sense) between dealing with a represented party and a non-represented party is the representation. The advantage of the lawyer is that they provide a comfortable buffer, sometimes.

What are the Court's duties/obligations to a litigant in person?

36. We have all been in Court when the judicial officer takes the time to carefully explain the process of a hearing or grant an adjournment when (on the face of it) an adjournment was not warranted. Sometimes we form the view that the litigant in person appears to be receiving favourable treatment, much to the ire of the lawyer and their client. To any judicial officer reading this paper:

a. my comment is an observation and not intended as a criticism; and

b. for the reasons that follow – there is more than meets the eye.

37. Central to any court hearing, the obligation upon the court is to ensure a fair hearing and yes, it cuts both ways. Judges often remind us that procedural fairness applies to everyone.

38. The Full Court of the Family Court in *Re: F Litigants in Person Guidelines* (2000) 27 Fam LR 517 outlined the "duties" of trial judges involving self-represented litigants. At [253] the Full Court said the following:

> *Finally, we think it useful to list the set of guidelines as altered by our consideration of them above.*
>
> 1. *A judge should ensure as far as is possible that procedural fairness is afforded to all parties whether represented or appearing in person in order to ensure a fair trial;*
>
> 2. *A judge should inform the litigant in person of the manner in which the trial is to proceed, the order of calling witnesses and the right which he or she has to cross examine the witnesses;*
>
> 3. *A judge should explain to the litigant in person any procedures relevant to the litigation;*
>
> 4. *A judge should generally assist the litigant in person by taking basic information from witnesses called, such as name, address and occupation;*
>
> 5. *If a change in the normal procedure is requested by the other parties such as the calling of witnesses out of turn the judge may, if he/she considers that there is any serious possibility of such a change causing any injustice to a litigant in person, explain to the unrepresented party the effect and perhaps the undesirability of the interposition of witnesses and his or her right to object to that course;*
>
> 6. *A judge may provide general advice to a litigant in person that he or she has the right to object to inadmissible evidence, and to inquire whether he or she so objects. A judge is not obliged to provide advice on each occasion that particular questions or documents arise;*

7. *If a question is asked, or evidence is sought to be tendered in respect of which the litigant in person has a possible claim of privilege, to inform the litigant of his or her rights;*

8. *A judge should attempt to clarify the substance of the submissions of the litigant in person, especially in cases where, because of garrulous or misconceived advocacy, the substantive issues are either ignored, given little attention or obfuscated. (Neil v Nott [1994] HCA 23; (1994) 121 ALR 148 at 150);*

9. *Where the interests of justice and the circumstances of the case require it, a judge may:*

    - *draw attention to the law applied by the Court in determining issues before it;*
    - *question witnesses;*
    - *identify applications or submissions which ought to be put to the Court;*
    - *suggest procedural steps that may be taken by a party;*
    - *clarify the particulars of the orders sought by a litigant in person or the bases for such orders.*

The above list is not intended to be exhaustive and there may well be other interventions that a judge may properly make without giving rise to an apprehension of bias.

39. In *Laremore & Speidell* [2019] FamCAFC 215, the Full Court said the following at [11]:

> *A failure to comply with the Re F guidelines does not automatically establish error. That is because the guidelines are only informative of the overarching obligation upon a primary judge to conduct the hearing in a way which affords each party a fair trial, and particularly, to provide a self-represented litigant with the opportunity to fairly present their case. The provision of that opportunity may require such a litigant to be appraised of information in order for them to make informed choices, including whether to call evidence, cross-examine upon evidence, or make submissions, as to one or more issues. Error will only be established if the failure to provide such information,*

either at all, or at the appropriate juncture, meant that, in the particular circumstances of the case, a fair trial did not ensue. However a new trial will not be ordered if it can be shown that the primary judge's decision was inevitable despite the procedural irregularity, in that it could have had no bearing on the outcome.

40. Handley JA in *Randwick City Council* (1996) 90 LGERA 380 at 2:

> *In my respectful opinion, this irregular procedure ought not to be followed when litigants appear in person. The appropriate course is for the judicial officer to explain to the litigant that he or she is entitled to read and rely upon any affidavit that has already been filed on their behalf, and where appropriate they may give sworn evidence in the witness box of any additional facts they wish to place before the Court in support of their case, the evidence being either sworn to or affirmed as the litigant prefers. The litigant should also be made to understand that if that course is followed, he or she will be exposed to cross-examination to test whatever they have said by way of evidence, and it would not be inappropriate for the judicial officer to assist the litigant in person on matters of form when he or she is giving evidence. The litigant in person should also understand that he or she is entitled to make submissions to the Court about the evidence without having to do so from the witness box. This is a difficult distinction for most litigants in person to understand or observe. However this course is preferable to litigants in person being allowed to give unsworn evidence from the bar table without being subject to cross-examination where it is not clear what is submission and what is evidence.*

41. In proceedings under the *Family Law Act 1975* (Cth), there are mandatory provisions which require a party whom intends to cross-examine another party (in certain circumstances) to conduct cross-examination of that party via a legal practitioner. I have reproduced the full text of section 102NA:

> *(1) If, in proceedings under this Act:*
>
> *(a) a party (the examining party) intends to cross-examine another party (the witness party); and*
> *(b) there is an allegation of family violence between the examining party and the witness party; and*
> *(c) any of the following are satisfied:*

(i) either party has been convicted of, or is charged with, an offence involving violence, or a threat of violence, to the other party;

(ii) a family violence order (other than an interim order) applies to both parties;

(iii) an injunction under section 68B or 114 for the personal protection of either party is directed against the other party;

(iv) the court makes an order that the requirements of subsection (2) are to apply to the cross-examination;

then the requirements of subsection (2) apply to the cross-examination.

(2) Both of the following requirements apply to the cross-examination:

(a) the examining party must not cross-examine the witness party personally;

(b) the cross-examination must be conducted by a legal practitioner acting on behalf of the examining party.

Note 1: This section applies both in the case where the examining party is the alleged perpetrator of the family violence and the witness party is the alleged victim, and in the case where the examining party is the alleged victim and the witness party is the alleged perpetrator.

Note 2: This section does not limit other laws that apply to protect the witness party (for example, section 101 requires the court to forbid the asking of offensive questions and section 41 of the Evidence Act 1995 requires the court to disallow certain questions, such as misleading questions).

Note 3: To avoid doubt, a reference to a party in this section includes a reference to a person who is a party because of the operation of a provision of this Act (for example, sections 92 and 92A, which are about intervening parties). This section only applies to an intervening party if the intervening party is involved in the allegation of family violence, whether as the alleged perpetrator or as the alleged victim.

(3) The court may make an order under subparagraph (1)(c)(iv):

(a) on its own initiative; or

(b) on the application of:

(i) the witness party; or

(ii) the examining party; or

(iii) if an independent children's lawyer has been appointed for a child in relation to the proceedings--that lawyer.

42. It goes without saying that the provision applies regardless of which court that the party intends to cross-examine appears. Division 12A of the *Family Law Act 1975* (Cth) gives the trial judge almost unfettered powers to control a hearing. A trial judge can impose limits on cross-examination and submissions, be it time or even topic areas. If a litigant in person is, for example, harassing a witness, the judge can shut this down.

43. A judge may object to evidence on behalf of a self-represented litigant, rather than simply advising that litigant of their right to take objections to that evidence. (*National Australia Bank v Rusu* (1999) 47 NSWLR 309 at 311).

44. Section 132 of the *Evidence Act 1995* (NSW) states the following:

> *If it appears to the court that a witness or a party may have grounds for making an application or objection under a provision of this Part, the court must satisfy itself (if there is a jury, in the absence of the jury) that the witness or party is aware of the effect of that provision.*

45. The aforementioned provision generally used in conjunction with claims of legal professional privilege or the privilege against self-incrimination.

46. Different courts have different mechanisms to deal with litigants in person.

47. Rule 7.36 of the *Uniform Civil Procedure Rules 2005* (NSW) provides for matters under certain circumstances for a litigant to be referred to the Registrar to a barrister or solicitor on the Pro Bono Panel for legal assistance.

48. It is the usual practice of the judicial officer in making an order under Rule 7.36 to limit the scope of the referral. For example, it may be that the lawyer is required to give advice as to prospects of success or assistance in drafting pleadings.

49. However, it must be borne in mind that a referral under the rules is no guarantee for legal representation.

50. The High Court has the power to hear applications for special leave "on the papers" (see Rule 25.09 of the *High Court Rules 2004* (Cth)).

As an advocate

51. As an advocate, I offer the following titbits of advice:

    a. Use language so as not to confuse the litigant in person.

    b. Avoid any conduct or language that tends to show familiarity with the judicial officer. This is a mandatory in the *Legal Profession Uniform Conduct (Barristers) Rules 2015* (NSW).

    c. Follow your duty.

    d. Do not mislead the Court or withhold documents or authorities which may detract from your client's case. (*Giannarelli v Wraith* (1988) 165 CLR 543 at 556.)

    e. You have no obligation to assist a litigant in person nor are you required to make submissions on behalf of that litigant. However, there may be an overlap with your duty to the Court and client.

    f. Be professional and courteous.

Luke T. Fermanis
Edmund Barton Chambers
Ph: (02) 9220 6100
Email: luke.fermanis@ebc44.com

20 March 2020