Judiciary of England and Wales

COMMERCIAL COURT AND LONDON CIRCUIT COMMERCIAL COURT

PRACTICE GUIDANCE

JUNIOR ADVOCACY

1. Practice Note 39PG.5, issued on 8 November 2023 by the Lady Chief Justice, Master of the Rolls and the Heads of Divisions, notes that allowing junior counsel to participate in oral argument supports their continuing development as advocates and directs judges to enquire, in all suitable cases involving leading and junior counsel, whether a speaking part for junior counsel has been considered.

2. The experience of the Commercial Courts is that the appropriate use of junior advocates (counsel or solicitors) to conduct parts of the oral advocacy in hearings – including trials and major substantive hearings – has been very successful where it has occurred. It can contribute to the more effective presentation of the client's case or application as a whole. Junior advocates have, for example, conducted interlocutory hearings (including, but not only, Case Management Conferences) in cases where leading counsel is also instructed in the case more generally, or they have undertaken discrete parts of such hearings; and at trial junior advocates have examined or cross-examined particular witnesses of fact or experts and presented portions of oral opening and closing submissions. As well as contributing to the presentation of the client's case or application, effective use of junior advocates supports continuing professional development and helps the court in due course to make fairer and more comprehensive assessments of candidates for appointment as King's Counsel.

3. It should also be borne in mind that, in accordance with ordinary principles of costs assessment, the court will always consider, when asked summarily to assess the costs of applications, whether the paying party should have to bear the cost of advocacy that could have been undertaken competently and effectively by a more junior advocate.

4. The Commercial Courts recognise that it is ultimately always a decision for the client whom to instruct at a trial or other hearing. However, as already noted, the intelligent deployment of junior advocates has potential benefits for the client and the advocacy team as a whole, as well as for the individual advocates, and is accordingly encouraged.

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5. Where a junior advocate is to be instructed to take on a portion of the oral advocacy, it is vital that this is planned sufficiently far in advance to enable them to do so effectively. As regards trials, parties should consider by the time of the Pre-Trial Review what, if any, parts of the oral advocacy are likely to be conducted by junior advocates, and the court may enquire whether that has been done.

8 July 2025

Andrew Henshaw

Mark Pelling

Mr Justice Henshaw, Judge in Charge, Commercial Court

His Honour Judge Pelling KC, Judge in Charge, London Circuit Commercial Court

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