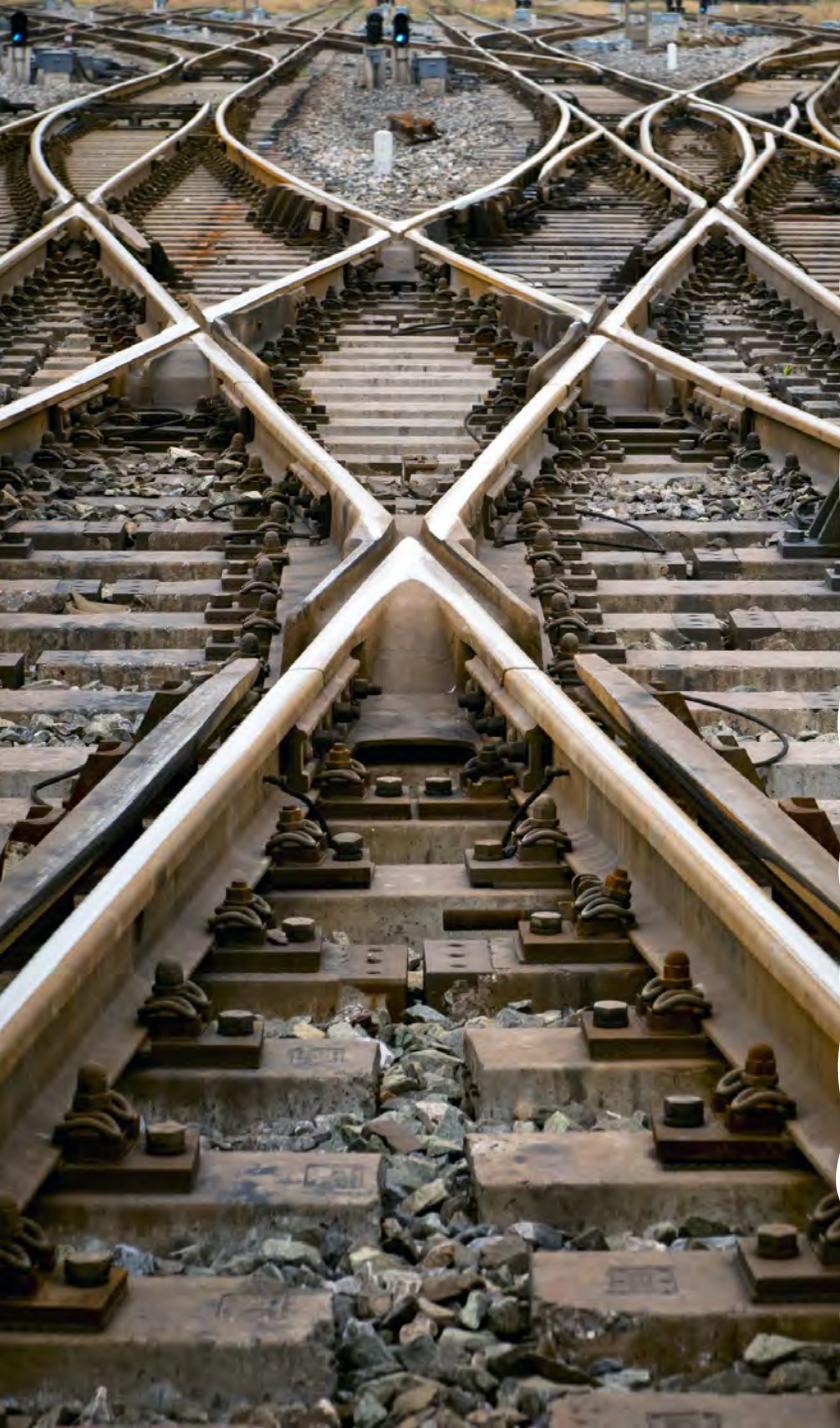




Fear and Failure

Merissa Martinez
Barrister-at-law
Paloma Chambers
0466911086
www.palomachambers.com.au



Outline

- Barristers' Conduct Rules 2011
- Physiology and Psychology of Fear
- Civility
- UCPR Philosophy
- The Business of being Human
- Buddha says
- Thrive v Survive



Barristers' Conduct Rules 2011

Rule 4 Object

The object of these Rules is to ensure that all barristers:

- a) act in accordance with the general principles of professional conduct;
- b) act independently;
- c) recognise and discharge their obligations in relation to the administration of justice; and
- d) provide services of the highest standard unaffected by personal interest.

Barristers' Conduct Rules 2011

Rule 5 Principles

These Rules are made in the belief that:

- a) barristers owe their paramount duty to the administration of justice;
- b) barristers must maintain high standards of professional conduct;
- c) barristers as specialist advocates in the administration of justice, must act honestly, fairly, skillfully and with competence and diligence;
- d) barristers owe duties to the courts, to their clients and to their barrister and solicitor colleagues;
- e) barristers should exercise their forensic judgments and give their advice independently and for the proper administration of justice, notwithstanding any contrary desires of their clients; and
- f) the provision of advocates for those who need legal representation is better secured if there is a Bar whose members:
 - a) i) must accept briefs to appear regardless of their personal beliefs;
 - b) ii) must not refuse briefs to appear except on proper professional grounds; and
 - c) iii) compete as specialist advocates with each other and with other legal practitioners as widely and as often as practicable.



Barristers' Conduct Rules 2011

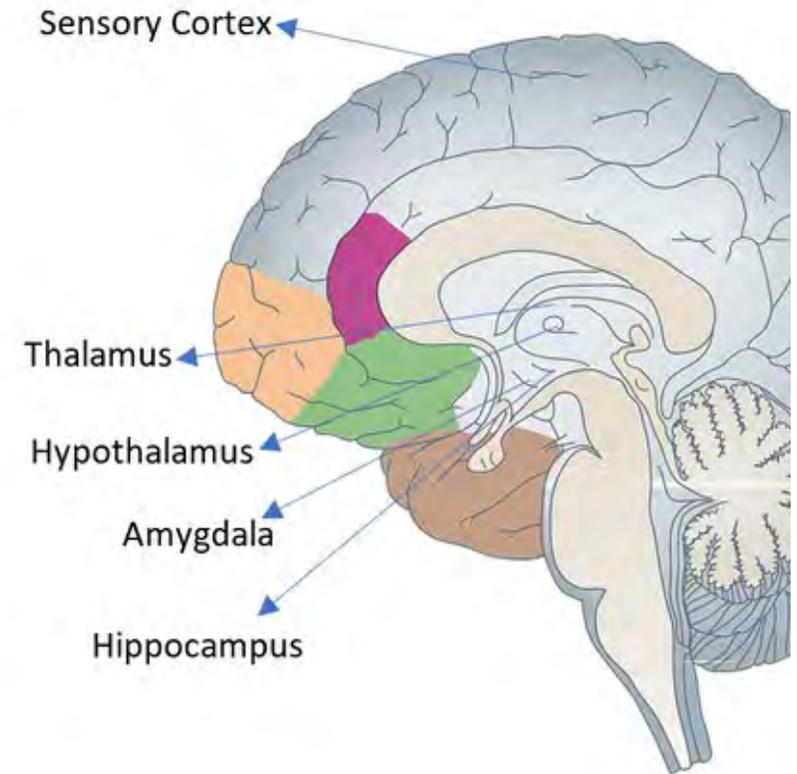
Rule 37

A barrister must promote and protect **fearlessly** and by **all proper and lawful means** the client's best interests **to the best of the barrister's skill and diligence**, and do so **without regard to his or her own interest** or to any **consequences to the barrister or to any other person.**



The physiology of fear

- **Thalamus** - decides where to send incoming sensory data
- **Sensory cortex** - interprets sensory data
- **Hippocampus** - stores and retrieves conscious memories; processes sets of stimuli to establish context
- **Amygdala** - decodes emotions; determines possible threat; stores fear memories
- **Hypothalamus** - activates "fight or flight" response



The psychology of fear



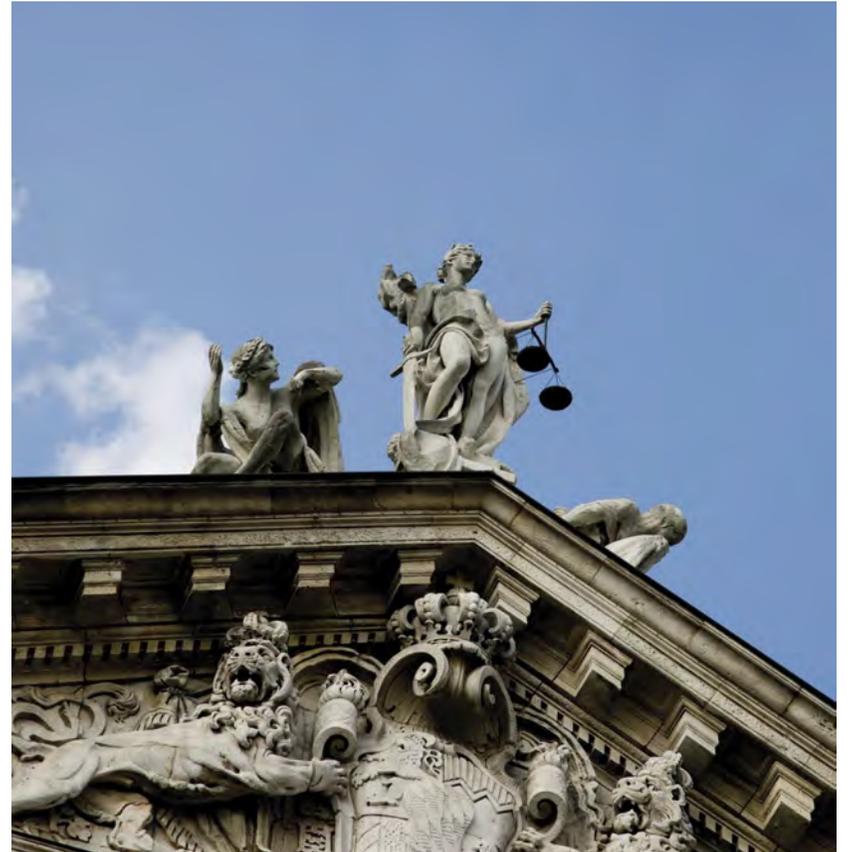
- Fight or flight
- Imposter syndrome
- Fear of public humiliation by competitor or Judge
- Bullies
- Horror movie loving adrenalin seekers addicted to the dopamine hits

Professional conduct - civility

“Civility and the way we resolve disputes goes to the heart of our liberal democracy.

Justice Kennedy of the United States Supreme Court, in an address to the American Bar Association in 1998, said that for the rule of law to thrive, we must insist on three fundamental principles: the responsibility of the individual, rationality in the legal profession and in the courts, and civility. Civility, he said, is “the mark of an accomplished and superb professional but it is more even than this. [It] is an end in itself”.

Damien O’Brien KC, President of the Bar Association of Queensland April 2023, Valedictory Ceremony for the Honourable Justice McMurdo.





UCPR Philosophy

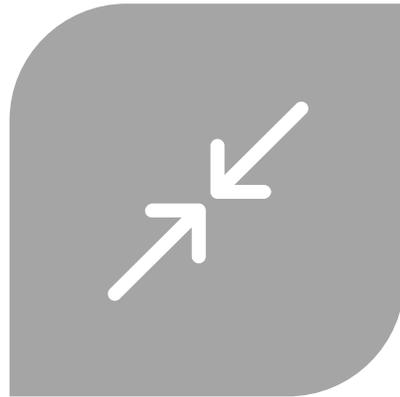
5 Philosophy—overriding obligations of parties and court

- (1) The purpose of these rules is to facilitate the just and expeditious resolution of the real issues in civil proceedings at a minimum of expense.
- (2) Accordingly, these rules are to be applied by the courts with the objective of avoiding undue delay, expense and technicality and facilitating the purpose of these rules.
- (3) In a proceeding in a court, a party impliedly undertakes to the court and to the other parties to proceed in an expeditious way.

The Business of being Human



REPAIR



MAINTAIN



GROW

Failure

What did you fail at:

Today

This week

This month

This quarter



Buddha says

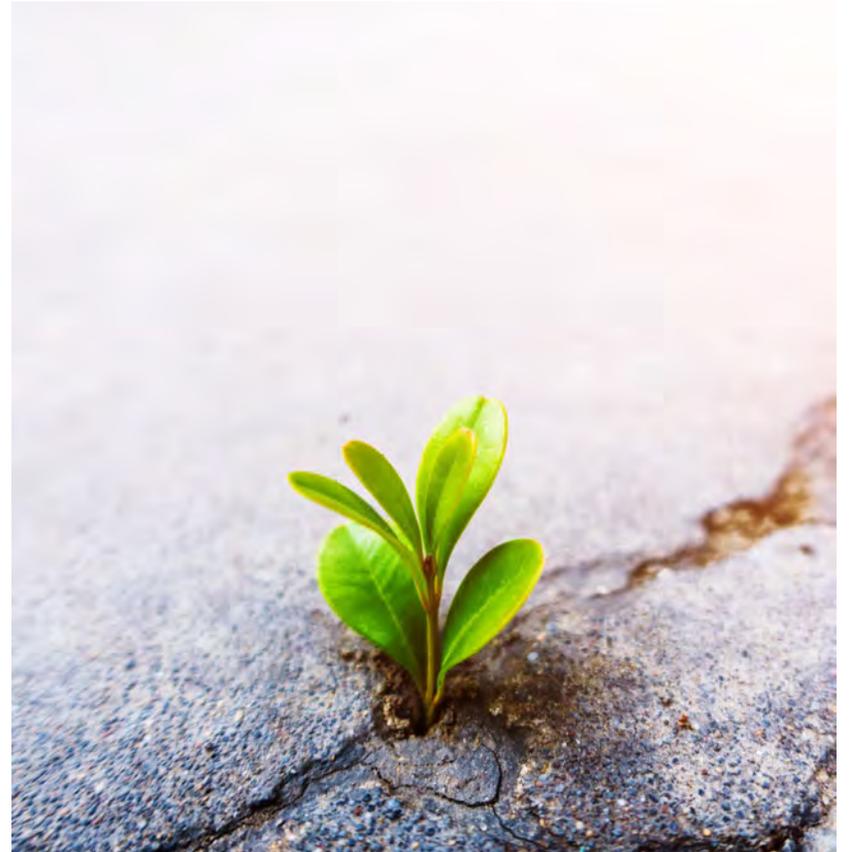
There is nothing so disobedient as an undisciplined mind, and there is nothing so obedient as a disciplined mind.

Thrive v Survive

Preparation

Perspicacity

Perspective





Questions / Comments

Merissa Martinez
Barrister-at-law
Paloma Chambers
0466911086
www.palomachambers.com.au