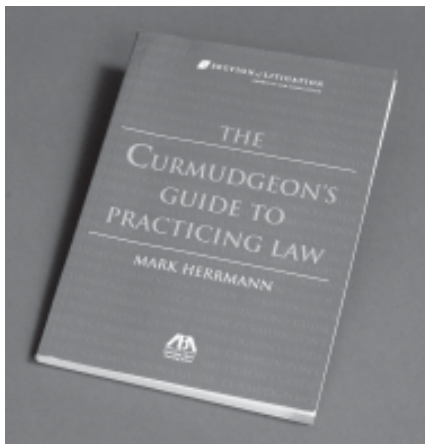


The Curmudgeon's Guide to Practicing Law

By Mark Hermann

Reviewed by Thomas R. Jayne



I don't know what came over me. Mark Hermann of Jones Day in Cleveland, full-time lawyer and part-time author, asked me to read and review *The Curmudgeon's Guide to Practicing Law*. Well, Mark has done a few things for me, so I agreed. What was I thinking? It's not like I have trouble sleeping, or don't have enough things to do with my day. After all, how interesting can this subject be?

Imagine my surprise; I really enjoyed the book. It captures common sense ideas and presents them clearly and humorously. I have recommended it to clients. Our firm ordered a copy for

each of our associates. Well, at least Mark owes me another favor.

The guide is an instruction manual for new lawyers, a "law practice for dummies." It is a fitting supplement to previous works on how to succeed in law school.² While it is written from the experience of a big-firm lawyer, it has application to anyone struggling to keep a boss, client or partner happy. Further, it delivers the message with humor and the subtlety of a sledge hammer.

Mark covers subjects you should have learned in law school, but didn't. For example, he explains the critical nature of getting along with secretaries and other support staff, a lesson that must be remembered when dealing with court clerks, court reporters, client secretaries, and others fortunate enough to have avoided law school. He does this by introducing the Curmudgeonly Secretary:

I've seen associates come, and I've seen associates go; I've been a secretary at this firm for longer than you've been alive, and I have some advice for you. Now, I know you're probably thinking that you're much smarter than I am. And you're probably thinking there's nothing I can tell you that you don't already know or can't figure out on your own. Get over it"

The Curmudgeonly Secretary explains that mutual respect is critical for working with others. While this is something I learned early in my career, I have watched many lawyers make their lives more difficult because they are so

impressed by their own law school accomplishments that they forget their manners and common sense.

There are many useful texts on legal writing. *Curmudgeon* repeats most of the same messages in those books: write in short sentences; avoid the passive voice; keep the brief short; explain why your client should win. On this limited subject there are more thorough and technically accurate sources to learn our trade – in fact, I have two or three such books in my office. I plan to finish reading them some day. *Curmudgeon's* descriptions on the process of writing and thinking are priceless, and you *will* finish *this* book.

Curmudgeon provides funny and classic advice on preparing a "draft" for a boss or a client. First, the obvious: Make sure you respect her schedule and demands. Don't provide your work at 5 p.m. the day before it is due. Don't expect your client to work over the evening or weekend because you didn't get your work to her on time.

Curmudgeon continues with this story:

A young aide brought (former-Secretary of Defense Robert) McNamara a memo. Two weeks later McNamara summoned the aide to his office and demanded, "Is this the best you can do?"

The aide apologized profusely. He revised the draft for more than a week and left the new version on McNamara's desk. Two days later McNamara again called the aide: "Is this really the best you can do?"

The aide apologized even more profusely this time. “Oh, no, Mr. McNamara, it’s not the best I can do. Let me get you another draft.”

The aide worked furiously on the memo all weekend. He polished the draft until it glittered. On Monday morning the aide left his jewel on McNamara’s desk. That afternoon McNamara called again: “Do you *really* mean to say that *this* is the best you can do?”

The aide exploded: “Yes, dammit that’s the best I can do! That’s the best I can do! What do you want out of me? That’s the best I can do!”

McNamara nodded. “Okay, now I’ll read it.”

Curmudgeon continues: “This is a joke. Sort of.” In other words, don’t burden a partner or a client with work that is a “draft.” Take responsibility for your work by making sure it is “final” before you share it with a client or a partner. You can be certain that more than a few bosses and partners will have read this story and think they have discovered a great management technique.

Finally, I should comment that a chapter called “The Curmudgeon’s Law Dictionary” is a great reference source for those who write speeches or like to tell stories. “Judges, appointed: a judicial system designed to thwart the will of the people. Judges, elected: A judicial system designed to respond to

the people’s current whims.” I leave it to your conscience whether and how you choose to attribute any of these quotes.³

FOOTNOTES

1. American Bar Association Section of Litigation, 2006.

2. “Would you like to help the less fortunate? Would you like to see liberty and justice for all? Do you want to vindicate the oppressed? If so, you should join the Peace Corps. The last thing you should do is attend law school.” Gordon J., *How Not to Succeed in Law School*, YALE LAW JOURNAL, Vol. 100, 1679 (1991).

3. Inexplicably, *Curmudgeon* doesn’t provide much guidance on how to end a brief or memo. Therefore I share the following suggested ending: “Suddenly, everyone was run over by a truck. The end.” From “How to Write Good” by Michael O’Donoghue; illustration by Joe Orlando. *National Lampoon*, March 1971.