MANES ORGANIZED ADVOCACY - A MANUAL FOR LITIGATION PRACTITIONERS, by R.D. Manes and V.A. Edwards (Toronto: Carswell, 1988) loose-leaf.

This book is a guide to be used in the organization of a litigation practice. It is divided into three parts. Part I, entitled "Establishing the Solicitor/Client Relationship", consists of three chapters covering the initial interview, retainer and client participation. Part II, "The Proceedings", is comprised of eleven chapters which are devoted to each step in the litigation process from the preliminary interview with the client, through discoveries, trial and post-trial enforcement, and costs matters. Part III, "The Super Structure", consists of three chapters dealing with file organization, managing a case load, and office organization.

The book does not, nor do the authors pretend to, address substantive legal issues, although any book on advocacy must be written with these in mind. Further, the manual is written with the Ontario rules of practice as its basis and the reader must adapt it to use in Alberta. For example, at page 6-3, the lawyer explains to the plaintiff client that the costs claimed in the statement of claim are exaggerated for tactical reasons. In Alberta, it should also be explained to the client that party and party costs are awarded on the basis of the amount claimed in the statement of claim, and that an exaggerated claim may result in increased costs should the action fail.

There are many helpful ideas and forms in the manual for practitioners at all levels. For the beginning lawyer, the chapter on retainers is a must as it provides some very good advice on dealing early on and up front with the often awkward issue of fees. For the more experienced lawyer, there are helpful suggestions, particularly in the area of preparation for trial. The ideas in Part III concerning limitation diary systems and precedent organization could be usefully incorporated into any law practice. Manes Organized Advocacy should be read if only to force the reader to evaluate the organization, or lack thereof, of his or her own practice.

The two criticisms of this book which I have relate to the potential overuse of forms, and to some of the advice on dealing with one's client.

With respect to the use of forms, the manual might also have been entitled "The Practice of Litigation by the Use of Forms", as there are a total of 289 forms in the book. In fact, the book contains more forms than pages of text (146).

The forms must be used with caution, and should never be employed to the point where the lawyer blindly follows them, or the checklists and advice, without addressing his or her mind to issues not covered in the manual. For example, Form 2-16, Motor Vehicle Intake Form, is intended for use at the initial interview of a client who has suffered personal injury in a motor vehicle accident. The form is nine pages long and is reasonably comprehensive in the coverage of its questions but overlooks the possibility of workers' compensation claims or the receipt of no fault benefits from the client's insurer.

In fairness, the authors caution the reader that the book is intended as a guide only and that the forms are not to be slavishly followed.

The more disturbing aspect of the book relates to the recommendations of how to deal with clients. Many of the forms are drafted with a view to protecting one's position vis a vis the client. In fact, at many points in the book the reader wonders whether the real opponent is the client, rather than the opposing party.

For example, the letters dealing with retainers are the only forms that it is recommended be sent by prepaid registered mail. Further, the book sets up a system of forms for corresponding with the client regarding the client's obligation to provide information. For example, as a client, I would find a form such as Form 4-1, "Client To Do", rather insulting. I believe that a personal letter listing the information to be compiled by the client would be a more sophisticated approach. Requests to the client to answer the undertakings given at his examination for discovery are the subject of a similar form. If the client has not responded to his undertakings within a reasonable time, it is suggested at page 11-2 that the lawyer merely send the initial form with a "Please Respond" stamp on it. In my view a simple phone call or follow up letter would be as effective, and would provide the personal touch often lacking in solicitor/client relationships.

By far,the most offensive forms are those where the lawyer has given advice which the client has rejected. For example, Form 5-14, "Client's Rejection of Recommendation by Lawyer to Conduct Investigation", is executed by the client before a witness. Form 7-14, "Refusal of Informal Offer of Settlement and Rejection of Lawyer's Recommendation to Settle", in addition to requiring execution before a witness, appears on paper with the style of cause at the top of the page. One cannot help but wonder if the forms were intended to intimidate the client into accepting the solicitor's advice.

In conclusion, the manual provides many helpful suggestions on the organization of a litigation practice. However, it is a guide only and should not be used without the lawyer assessing the appropriateness of the advice contained therein.

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