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# A Response to Thomas Steele

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# A Response to Thomas Steele by Gary Munneke

**by Gary A. Munneke***

I asked myself to comment on Tom's remarks, because I have been teaching a course in law practice management since 1982. For over twenty years now I have pursued this personal quest. I wanted to offer several comments, but before I do that, I have to tell you that I am the liberal arts major, and my reactions are anecdotal. I have no surveys, no statistics, to back up anything I say. I can say, Tom, that you have a little bit of a librarian left in you, because you know how to find those figures.

When I first came to Pace in 1988, I met Janet Johnson, who was Dean of the Law School at the time. I told her that I had previously taught a course on law practice management, and I would really like to do the same thing here. She replied, "We'll, take it to the Curriculum Committee and faculty. We've never had anything like that here. It sounds like a good idea, but they can be kind of strange about these things."[1] As we talked, we came up with the idea that we would present this proposal as essentially a course in applied ethics. The course should deal with how lawyers actually address a number of ethical issues in practice—managing client's money, getting the job done in a timely way, showing up on time for court, protecting confidences, and avoiding conflicts of interest. If you go through the rules of professional conduct, you can see that many of the

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1. Interview with Janet Johnson, Former Dean of Pace University School of Law, in White Plains, NY (Aug. 1, 1988).

rules covered in Rule 1 of the Model Rules of Professional Conduct deal with the lawyer/client relationship and managing the lawyer's practice.[2] When the faculty heard that there was a connection to something they saw as important, there was no problem getting the course approved.

Many law schools have not responded so positively. When the idea of teaching practice management is brought up, many faculty members think of teaching students how to help lawyers fill out forms, or how to help lawyers make more money. When the course is presented this way, it inevitably strikes a discordant note in the ears of curriculum committees and faculties. Thus, part of the problem is how to present the course to individuals who do not understand it or even have misconceptions about it.

Tom is right on target when he says that if you examine the people who populate the law school faculties, many of them have no background in business, management, finance, or technology. Most of them have never been in the position of managing a business or a law firm, and really came to legal education, even if they did practice, because they wanted to get out of the business aspects of practicing law. So we are not likely to find many people already on law school faculties who are qualified to teach the subject of law practice management.

Every law school has a limited number of faculty positions; when recruiting new people, every department in the law school needs more people—the tax lawyers, the international faculty, the clinicians, and the constitutional law scholars. Everybody wants to recruit new talent for their own discipline, so you sort of have to get into the queue in order to get new people. Given this dynamic, hiring a professor of law practice management is likely to be the lowest priority at many schools.

The problem with adjunct professors teaching a course in law practice management is that they really are not in a position to think and write about the big issues, the way that full-time faculty members are; they generally have full-time responsibilities in a law firm. The law practice management field loses something valuable when so many of its teachers are part time. Although these professors bring practical experience to

2. *See* MODEL RULES OF PROF'L CONDUCT R. 1.0-1.18 (2002).

the classroom, they do not contribute in a larger way to the law school curriculum as a whole, or to the literature of the legal profession.

I hope that over the next decade, more of us who are teaching in this and related areas will take time to write about law practice management. My own scholarship has focused less on true practice management issues, and more on professional liability and the legal profession.[3] Maybe I should get back to my roots.

It may not be as bad as Tom says when he describes a flat line over the past ten years, because I think (with no research to back me up), that most schools have increased their emphasis on practice management. Again, I look at my experience at Pace. Within two years of my arrival at the law school, I was asked to audit the Environmental Litigation Clinic and the John J. Legal Services Clinic to make recommendations to them on how to implement management systems. Over the past decade, our clinics have all made efforts to integrate topics like timekeeping, document assembly, and other management functions into the learning process. Thus, if you look at the clinics around the country, and there are more of them now than a decade ago, you will find that they are engaging in more practice management education, and using an increasing number of management tools.

Practice management is also being taught in a number of different settings that may not even hit the radar of Tom's survey. People are incorporating elements of practice management into a variety of different courses, and they are calling these courses by different names. I got an e-mail just this week from a gentlemen at the University of Michigan Law School, who says that he teaches a course on law firms for University of Michigan students, and although there is no mention of management in the name, it is essentially about what life in the law firm is like, in other words, managing the practice. There is a similar course taught at Columbia, and Columbia Law School

3. *See, e.g.,* Gary A. Munneke, *Dances with Nonlawyers: New Perspectives on Law Firm Diversification,* 61 FORDHAM L. REV. 559 (1992); Gary A. Munneke & Ann L. MacNaughton, *Practicing Across Geographical and Professional Borders: What Does the Future Hold?* 47 LOY. L. REV. 665 (2001).

also offers a clinic on Lawyering in the Digital Age, which draws upon elements of technology in practice management.[4]

To the extent that a course examines law firms, including their economics and structures, or the delivery of legal services, that course is dealing with law practice management. Many of the questions addressed in these other courses are the same questions I talk about in a different way in my Law Practice Management course. So, it is my sense that there is more going on than Tom's survey suggests. I think we are teaching law practice management by the pervasive method.

It is also important to remember that there are really three different levels of practice management education.[5] The first is what I call "Management of the Organization." In some schools they call this course "Law Firm" or "Law Office Management," which suggests that the course is about teaching people how to be managers of firms, or in some cases, to manage their own firm. Not every graduate is going to go into a law firm and be a manager, although I would argue that every law student who goes to work, whether it is in a law firm, corporate legal department or government agency, ought to know how that organization works, in order to know what they need to do to succeed.

The second level of management is what I call "Management of the Legal Work Product." This includes how to deliver legal services to clients, how to supervise staff, how to get work done in a timely way, and how to communicate with clients. There is an entire set of skills that goes into delivering legal work, and our clinics and other skills courses teach this form of management. My Law Practice Management course deals at least partly with service delivery, and I tell my students that every lawyer is a manager, whether it is the junior associate or the senior partner.

The third level of practice management is what I call is the "Management of the Lawyer as a Professional Person." There are a number of personal management skills, such as the ability to organize deals, to structure complex issues, to understand fi-

4. COLUMBIA LAW SCHOOL, COURSE WEB, *available at* https://coursewebs-3.law.columbia.edu/coursewebs/cw_03F_L9269_001.nsf/PublicDisc-Frameset?OpenFrameset (last visited Dec. 27, 2003).

5. *See* GARY A. MUNNEKE, LAW PRACTICE MANAGEMENT: MATERIALS AND CASES 21 (2d ed. 2002).

nancial matters, to master technology, and to handle people. Being able to work with other people in, and contribute to, a team may be the most important skill of all. All of these personal management skills are critical to becoming successful as a professional person. Even the lawyer who leaves the practice of law and goes into some other field still uses personal management skills in the non-law field.

Perhaps the biggest shortcoming of the 1992 MacCrate Report[6] was that it really did not capture all of the management skills necessary for competence in practice. Even the long list that Tom posted on his slide, which expands the number of skills beyond the ten identified by MacCrate,[7] only touches the surface of financial, technology, marketing, organization, human relations skills, and does not touch upon skills in innovation and adaptability. And all of these skills contribute to the making of a successful lawyer. Although these skills all fall under the rubric of MacCrate Skill 9—Organization and Management of Legal Work,[8] it is time to flesh out this Skill 9 to a greater degree than either the MacCrate Task Force or scholars over the past decade have done.

6. A.B.A., LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992).

7. *Id.* at 135.

8. *Id.* at 199-202.