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## *Should lawyers always practice 'by the book'?*

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I recall as a kid growing up in Montreal, we had difficulties with a next-door neighbor. Among other things, Madame Poirier owned a large mut, Roger, which she allowed the run of the land. This included Roger doing his business on our land. It often led to confrontations with my mother, as Madame Poirier insisted that Roger was just doing what dogs do.

One autumn morning, both women were out raking leaves when Roger decided to pay our yard a visit, dumping a large calling card next to a prized tomato bush. This did not sit well with my mom.

An argument ensued, with my mom pointing to Roger in an accusatory manner with her rake. Madame Poirier then unapologetically retaliated by taking a swing at my mother with her rake. Fortunately, my mother ducked quickly, avoiding a potential decapitation.

Roger, who to this point was seated comfortably observing the melee, joined the confrontation, scooting toward my mom and barking. My mother responded by tossing her rake at Roger like an Olympic javelin gold medalist. The rake missed its mark, but Roger decided that discretion was the



*Marcel Strigberger.*

better part of valor, and he darted home, tail between his legs.

My dad rushed out and thought that it was best to avoid escalation and to get my mom into the house, thereby preventing a duel by rakes. He then called the police.

Two officers arrived, one being significantly older than the other. The younger officer took a statement from my mother, who was quite histrionic. She described Madame Poirier's rake like a samurai sword and Roger like a Tasmanian devil. I don't recall the whole conversation, but I would say her categorization of Madame Poirier was a ringer for Lady Macbeth.

The younger officer made frantic scribbles into his notebook, nodding his head and uttering a few well-timed "hmm"s. My mom no doubt expected the police to charge Madame Poirier with attempted murder.

The older officer, who was listening with a sheepish grin, had not said too much so far. He told my mom that he would speak to our neighbor and return. After about 15 minutes, he came back.

He told my mother that Madame Poirier had a different version of the event, claiming self-defense. He said she could possibly lay an assault charge against Madame Poirier but cautioned that doing so could lead to more neighborly acrimony. The officer, Laforme, said he cautioned Madame Poirier to avoid provocative actions.

He recommended to my mom that she see a lawyer for advice and then let him know whether she wanted him to "go by the book." I did not quite understand the meaning of this expression.

My dad was ambivalent about pushing this matter further, but my mother urged him to see a lawyer. We set up a consultation to which my parents took me along, as they deemed me to be an important witness.

The lawyer, a gray-haired gentleman by the name of Horowitz, who wore a three-piece suit, listened to my mother relating the tribulations of the event. She now focused on whether we could have Roger impounded and removed.

I visualized the scene in the *The Wizard of Oz*, where Almira Gulch pays a visit to Dorothy Gale's house with a sheriff's order allowing her to remove Dorothy's little dog, Toto. This relief that my mom sought regarding Roger was in addition to taking legal action against our neighbor over the rake, which she now described like a weapon of mass destruction.

Horowitz concluded that some action might be possible from a criminal and/or civil angle, if my mother wanted to pursue her rights in accordance with “the big book.”

I thought about what that officer Laforme had said about “the book” and wondered whether that book was different from “the big book.” Was the book that Horowitz was referring to larger?

The lawyer cautioned my parents that legal proceedings—especially between neighbors—can turn ugly. He said involvement in a criminal proceeding would be stressful, and launching a civil action would be costly in addition to taking a while to resolve. My parents said they would think about it.

Within a few days, my parents received a bill from Horowitz for \$50. This was about in the range of my father’s weekly salary as a tailor. I recall my dad lighting up a cigarette and puffing it profusely as he scanned the bill.

My parents soon opted not to “go by the book.” Neither one—big or regular. Maybe the bill had something to do with it. My dad actually often encouraged me to become a lawyer, saying “lawyers make a lot of money,” though I cannot say that Roger was a catalyst for me pursuing this noble profession.

I do recall the subject of “the book” coming up while in practice. After getting called to the bar, I was fortunate to work under the wings of a seasoned litigator and mentor named Hank. One evening, we both attended a dinner for retiring police officers. Near the end of the evening, one of them named McKenzie asked whether anyone could give him a ride to the subway station. Hank readily volunteered. In fact, he passed the subway station and drove McKenzie all the way home, even though it was out of the way for us.



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I asked Hank why he didn’t just drop the gentleman off at the subway station as he had requested. Hank replied, “While in practice, you will run into situations where you have some discretion and choices. Whenever possible, give people more than they expect. There will be many situations where it will be best not to be a stickler, even when you are in the right. I could have just taken him to the subway station, and that would have been fine, according to Hoyle, ‘by the book.’”

Not long afterward, I had to visit a client who was a prisoner at a local Toronto jail. Visiting lawyers

had to sign in and were ushered in according to arrival. For some reason, there were delays for lawyers getting into the interview area. I was near the end of the queue. To my surprise, I heard someone calling me. It was McKenzie. He said, “You’re the guy who works with Hank?”

Looks like McKenzie had some sway in the jail, and he got me in almost immediately. I thought of Mark Twain, who said, “Do the right thing. It will gratify some people and astonish the rest.”

I am not sure what I did right, but McKenzie certainly did the right thing. I was happy that he did not “go by the book.” Any sized book.

Oh, yes, as for my parents, to our surprise, the situation calmed down. For some reason or other, the neighbor decided to curb her dog.

Is it best, even for lawyers, to sometimes not “go by the book”? Nay or yea?

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*Marcel Strigberger, after 40-plus years of practicing civil litigation in the Toronto area, closed his law office and decided to continue to pursue his humor writing and speaking passions. His just-launched book is Boomers, Zoomers and Other Oomers: A Boomer-biased Irreverent Perspective on Aging (<https://marcelshumour.com/books>). For more information, visit [MarcelHumour.com](https://MarcelHumour.com) and follow him at [@MarcelHumour](https://twitter.com/MarcelHumour) on X, formerly known as Twitter.*

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