

BY MARTIN COLE

Health Check

"If you can keep your head when all about you are losing theirs ..."
— *If*, by Rudyard Kipling

When I was a young associate, there was a senior partner in the firm who was winding down his active practice, but still loved to come into the office every day. He often would pass by my office and those of other new associates. He invariably would smile and awkwardly inquire, "so, how's the law biz been treating you?" "Uh, just fine, sir," was my normal response. Occasionally, he would ask some of us to lunch with him — at his expense. On such days the "law biz" seemed to be treating me pretty darn well.

Based upon my discussions with lawyers, lately the "law biz" has been unsettling to many. Young associates in large law firms now make well over \$100,000 annually, but may no longer have time for a mentoring lunch. Many lawyers dislike the constant pressures to generate new business at night or on weekends while still producing a high volume of quality work all day. Economic factors recently led to the closing of a respected downtown Minneapolis law firm. Are there others who will follow? Where will the lawyers from such firms end up?

Staff shakeups and management issues at two major government law

offices have dramatically played out in the media headlines and been a regular source of blogger buzz. Whatever the cause or ultimate result, as a fellow public lawyer and agency director, I have read those stories with dismay. It could take more than just a lunch invitation to make many of us feel good about the current health of our profession.

What about your personal health? How's the "law biz" been treating you lately? Many things in life are beyond our individual control. Yet lawyers by nature like to feel in control of all situations. That disconnect can be extremely stressful. Stress is an undeniable aspect of practicing law: long hours, deadlines, emergencies, client requests or demands, marketing obligations, and striving to maintain a semblance of a personal life can combine to take a toll on a lawyer's physical and mental health. Add some unsettling facts or situations into the mix, such as a family crisis, or that a friend's or your career has been affected by one of the recent headline stories or by some other event, and it may overwhelm even the most stable practitioner.

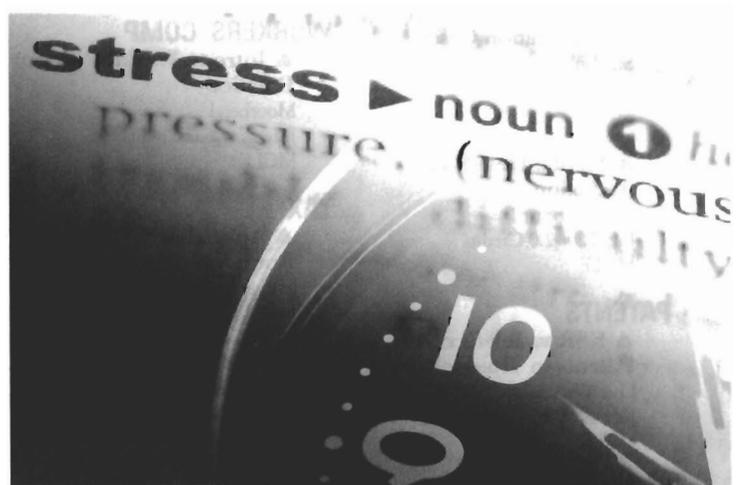
MAJOR STRESS ISSUES

Information provided by Lawyers Concerned for Lawyers (LCL)¹ indicates that lawyers are far more likely to suffer from alcoholism, drug abuse, depression or anxiety disorders than the population as a whole. Suicide rates for attorneys are among the highest for any studied occupation. Some studies indicate that law as a profession is self-selecting of individuals prone to chemical dependency or psychological problems. If that is so, then certainly the daily job stress that can affect even normally healthy individuals can severely impact already afflicted or potentially afflicted lawyers.

What can we do to deal with the stressors of practicing law? Those having extreme difficulties coping should seek professional assistance, be it their own physician or mental health professional or the services of an organization such as LCL. As difficult as it may be to make that initial contact asking for help, the price of not seeking help is far more damaging personally and professionally. Being chemically dependent or having mental health issues is not a basis for dis-

cipline; but professional misconduct is, even if alcohol or depression played a significant role in causing the misconduct. If a phone call can save a life or just avert a disciplinary problem, it's a call worth making.

Attorneys who have drug, alcohol or mental health-related problems long have been involved in public discipline matters, from criminal convictions for drug-related offenses to misappropriation of client funds to a pattern of neglect and lies to clients. Intuitively, we accept that chemical or mental health problems may cause or contribute to misconduct such as neglect. Far less clear is that

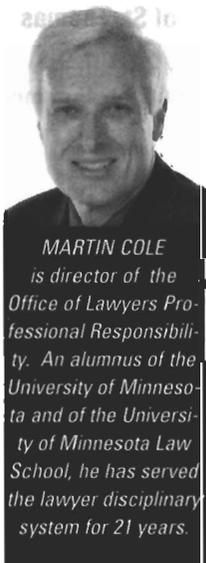


chemical or mental health problems are the cause of acts of dishonesty. Other attorneys have received private discipline for lesser acts of misconduct, often in the form of probation, a condition of which may be to undergo treatment or counseling. Just as treatment is not always successful the first time, some probationers fail, but often a career has been put back on track without the need for public discipline.

PERSONAL STRESS ISSUES

Fortunately, most of us deal with stress on a daily basis without excessively turning to drugs or alcohol, or committing professional misconduct. Are there mechanisms available to the rest of us short of an intervention to assist in maintaining good personal and professional health?

Within your own law practice, what causes you stress? Reducing the causes of



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stress is the best way to prevent it from becoming a problem. You don't need to be a healthcare professional to be aware generally that regular exercise is an excellent stress reliever, as are healthy nutrition and eating habits. Maintaining a reasonable balance between work and family and outside activities is useful. We shouldn't be afraid to take an occasional vacation.

You may not be in a position yourself to control an office closing or all staff morale problems. You can, however, control your own time management and communication skills, both with clients or work partners, associates and support staff. Be aware that chronic procrastination by even one attorney in an office likely affects numerous other individuals who have to deal with the "fallout" from the one person's problems.

For example, a constant stressor in litigation practice is the nature of the adversary system itself. While some lawyers may truly enjoy the adrenaline-based approach to resolving disputes, many more do not and clients often find it confusing and draining. Thus the rise in alternative dispute resolution mechanisms is not surprising. Even among experienced litigators, few enjoy the manner in which far too much litigation is enacted. I don't mean zealous advocacy that can be fair yet tough. That's expected and

what we as lawyers owe to our clients. It's the overly aggressive, rude, sarcastic, "in your face" tactical approach that some lawyers employ that wears people down.

The Director's Office receives a distressingly large number of advisory opinion requests that essentially complain about the conduct of an opposing counsel.² I've always counseled lawyers to try their best to not "get down in the mud" with an obstreperous opponent, since that lawyer is no doubt better at slinging mud than you are, and is just hoping to bring you down to their playing level. Rarely if ever is it in your client's best interests to engage in purposely dilatory or obnoxious tactics. And it is even less beneficial to your own well-being. Maintaining an even keel will prove better for your health; it might also frustrate that difficult opposing counsel.³

All lawyers should give their careers and lives an occasional health check. Try to recall why you became a lawyer, or what parts of practicing law you enjoy ... or loathe? How close or far from your ideals is your current situation? If stress is interfering with your practice or life, take steps to remedy the problems, seeking assistance if needed. The "law biz" may be stressful or frequently unsettling, but taking steps to control those personal stressors that we can influence will make a difference. ▲

Notes

¹ Lawyers Concerned for Lawyers (LCL) services are partially funded from the attorney registration fees paid by all licensed attorneys. LCL has individuals available to assist lawyers in need at all times, 24-7. Contact with LCL is confidential. See Rule 8.3(c), Minnesota Rules of Professional Conduct (MRPC). LCL can be reached at (651) 646-5590, toll free at (866) 525-6466 (LCL-MINN), or through their website: www.mnlcl.org.

² Advisory opinions are available from the Director's Office by calling and asking for the advisory opinion attorney, or by an email link from the Office's website: www.courts.state.mn.us/lprb. Opinions concerning the conduct of another attorney are not available, nor are answers to "hypothetical" inquiries. Answers to questions concerning an attorney's obligation to report another attorney's misconduct under Rule 8.3(a), MRPC, are available, and no doubt some of these questions are in fact attempts to have our Office opine on another lawyer's conduct.

³ The Minnesota Supreme Court has adopted Professionalism Aspirations for lawyer conduct. A copy can be found at: <http://www2.mnbar.org/committees/professionalism/aspirations-final.htm>. The American Bar Association has very similar litigation guidelines for lawyers' conduct (civility standards) that include civility pledges: www.abanet.org/litigation/conductguidelines.

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