

LAWPRO

magazine

SEPTEMBER 2015 VOL 14.3

Finding your blue sky

Wellness and balance in
a demanding profession

PLUS:

Protecting the team

10 tips to better manage your inbox

Taking parental leave? You have options!

upcoming events

recent events

September 25, 2015

Ontario Trial Lawyers Associations (OTLA)
New Lawyers Division – 2015 Conference
Quarterbacking the case: How to shape the insurer's and client's perceptions of the case's value
Ian Hu presenting
Toronto, ON

October 23, 2015

Ontario Bar Association
Everything You Need to Know About Insurance Law
Liability limit conundrum
Ian Hu presenting
Toronto, ON

August 14, 2015

Canadian Bar Association
Canadian Legal Conference
Protecting client information in the digital era
Tips and tricks for happier healthier lawyers
Dan Pinnington presented
Calgary, AB

September 26, 2015

Federation of Asian Canadian Lawyers
FACL 9th Annual Conference
Paving the way
Ian Hu presenting
Toronto, ON

October 27, 2015

Toronto Lawyers Association
Practice Management for New Lawyers
Practice management for new lawyers
Ian Hu presenting
Toronto, ON

September 2, 2015

Ontario Bar Association
Excelling at Articles and the Law Practice Program 2015
Introduction to LAWPRO
Ray Leclair presented
Toronto, ON

October 9, 2015

Ontario Bar Association
TECHxpo 2015
Tech tips to improve client service and productivity
Ian Hu presenting
Toronto, ON

November 5, 2015

Hamilton Law Association
Emerging Issues in Real Estate
Destruction of files/file retention
Ray Leclair presenting
Hamilton, ON

September 11, 2015

County of Carleton Law Association
The Essentials Summit: The 411 for the 613
Now you have your licence: What next?
Ian Hu presenting
Ottawa, ON

October 14, 2015

Osgoode Professional Development
11th Annual Update – Personal Injury Law & Practice
Solicitor's negligence claims in personal injury cases: What every litigator must know about avoiding, addressing or fixing problems
Ian Hu presenting
Toronto, ON

September 17, 2015

Toronto Lawyers Association
5th Annual Articling Students Head Start Program
Risk management and practice management
Ian Hu presented
Toronto, ON

LAWPRO and the practicePRO and TitlePLUS programs welcome invitations to speak about professional liability insurance, risk management, title insurance and other topics within our expertise. Interested in arranging for a speaker? Please contact us at practicepro@lawpro.ca, or call us at 416-596-4623.

LAWPRO
magazine



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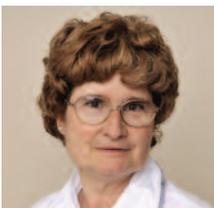
LAWPRO employees give back

Donating blood saves lives

On July 9, a group of four LAWPRO employees made the trip to the Canadian Blood Services during lunchtime to donate blood. Many LAWPRO employees are regular donors most notably Debra Rolph, LAWPRO's Research Director, who has donated blood over 143 times.



LAWPRO employees Lorne Shelson, Michael Kortez, Victoria Crew-Nelson, and Sarah Van Schepen.



"I have O- blood which means I am a universal donor, it is flattering to have at least one feature that is 'high demand,' even if it is only a blood type." Blood donations are just one of the many ways that LAWPRO employees give back to the community.

Our new video:

Ever wonder what happens if you die without a will?

As part of LAWPRO's public awareness efforts to promote the role of the lawyer, we have produced a video *Ever wonder what happens if you die without a will?* It emphasizes how preparing a will can avoid a lot of headaches. We will be promoting this video through social media and other channels, and you are welcome to use it to promote your own services, including posting it on your firm's website and social media feeds. You can view the video on LAWPRO's YouTube channel.



Key dates

September 15, 2015

File your LAWPRO Risk Management Credit Declaration by this date at lawpro.ca to qualify for the \$50 premium discount for each LAWPRO-approved CPD program (to a maximum of \$100) completed by this date.

On or about October 1, 2015

2016 Insurance Renewal Application filing begins: The online filing of Professional Liability Insurance renewal applications with LAWPRO for 2016 is expected to begin. If you wish to file a paper application instead of filing online, please note that paper renewal applications will not be automatically mailed out, but it is expected that you will be able to download a 2016 pre-populated paper renewal application from our website starting on or about October 1, 2015.

October 31, 2015

Real estate and civil litigation transaction levy filings and payment (if any) are due for the quarter ended September 30, 2015.

November 3, 2015

E-filing deadline for renewal applications: For 2016 Professional Liability Insurance renewal applications filed online with LAWPRO on or before this date, a \$25 per lawyer e-filing discount is expected to be applied against 2016 insurance premiums (subject to Program approval by Convocation).

November 10, 2015:

Renewal application filing deadline: For 2016 Professional Liability Insurance renewal applications received by LAWPRO (online or otherwise) after this date, a surcharge equal to 30 per cent of the base premium is expected to be applied against 2016 insurance premiums (subject to Program approval by Convocation).

New appointment at LAWPRO

Lisa Weinstein has been appointed as Vice President, TitlePLUS. As Director, National Underwriting Policy TitlePLUS since 2007, Ms. Weinstein has overseen the underwriting of LawPRO's TitlePLUS title insurance program that complements the work of the lawyer in a real estate transaction. In her new role, she will continue to oversee the underwriting as well as focus on strategic direction and growing the subscriber base to meet future challenges. Ms. Weinstein holds an LL.B from the University of Toronto and was called to the bar in 1980.

In memory of Sara Chaupiz



LAWPRO lost one of its most loyal and beloved colleagues, Sara Chaupiz this past March to ovarian cancer. Sara was a cherished daughter, sister, wife and friend – as well as an employee and dear member of the LAWPRO family. To commemorate her life, members of the LAWPRO community are joining together to raise funds for cancer care at Trillium Health Partners, Credit Valley Hospital where Sara received care.

e-briefs Don't miss out – have you seen our recent emails?

Webzines



Rule 48.14 transition toolkit now available

August 11, 2015

Resources to assist lawyers manage litigation files through the transition to the new administrative dismissal rule.



Bringing critical thinking to real estate deals

July 7, 2015

How registration fraud affects mortgage priorities; what title insurers expect from

lawyers; avoiding fake title insurance policies; security requirements for deposit releases under the *Condominium Act*; and a Real Estate Claims Fact Sheet are explored in this webzine.



Year in review: how LAWPRO met its mandate in 2014

May 7, 2015

In this issue of *LAWPRO Magazine*, we report on the company's annual financial results and claims experience.



Wills and estates lawyers: Ask questions! Have answers

April 21, 2015

Information for wills and estates lawyers including a number of articles about claims

trends, run-off coverage and the critical questions to ask to head off will challenges.

Insurance news



Verify your LAWPRO exemption status: File online now

June 24, 2015

A reminder for lawyers who are currently exempt from the payment of insurance premium levies under the Law Society of Upper Canada's insurance program to verify their status for professional liability insurance purposes for the coming year.



First quarter transaction levy filings overdue

May 28, 2015

A reminder that the deadline for submission of levy filings relating to transactions completed between January 1, 2015 and March 31, 2015, was April 30 of this year.

Who needs resilience?



The traditional perception is that, as a lawyer, life will follow a straight, upward trajectory from law school to articling at a wonderful firm, followed by personal fulfillment and financial success – with no bumps along the way.

That's the kind of thinking I've often heard expressed by lawyers, and what causes young Canadians to continue to apply to law school in droves. Essentially, the mantra, "resilience is for failures. I'm fine" is absorbed early in the process. But even if it is true at the outset, I don't think many people feel that "fine" as their years in the trenches of legal practice increase.

Lawyers take pride in being strong, fearless, and confident. In fact, it's a perceived professional strength not to show emotions or hesitate, nor give the impression one is surprised by an unexpected turn of events. In the courtroom and in client meetings, we are the all-knowing experts who can solve problems with the stroke of a pen or a clever turn of phrase – even if we're dying inside: petrified, exhausted, unsure, or wondering what's going on at home or the long term care residence. The most important thing is to act like a success: we have all heard the career advice, "fake it 'til you make it."

Resilience means coping positively with stress and adversity. But if nothing ever goes wrong (supposedly), who needs it? Better to count on being lucky, do the right thing by keeping up a good front, and everything will be fine.

Lawyers may think they are resilient if they just act like they are ok, or hide, while all is falling to pieces around them. But that's not resilience: that's overconfidence at best and denial at worst.

It doesn't help when professional friends and colleagues on Facebook and LinkedIn (and increasingly some trade publications) show off their recent adventures climbing mountains, running marathons, and working to erase world hunger. Where exactly do they get the time, energy, and motivation? When did it stop being enough to do a great job as legal counsel, with integrity and patience? It seems to me that a carefully executed file or well prepared client is enough to declare the day a success and worthy of feelings of satisfaction as the sun goes down. Otherwise, worrying that you are lacking balance and richness in life (read: achievements that give bragging rights to top those of other people) can itself add to your misery. We are in a spiral of projected over-achievement that never seems to stop growing.

So, do you need to be resilient? Yes, you do. Far from life being a heady round of adventures worthy of a copywriter's efforts and professional photography, we all experience disappointments, unexpected frustrations and bumps in the road. I have found that I need to actively find ways to manage my feelings and stress in a positive way, and humbly help others to do so as well, on occasion. So, to me being resilient means accepting that there will be bumps along the road, when not everything runs perfectly, and then finding resources to help manage those difficulties.

This issue of *LAWPRO Magazine* focuses on the unique stressors faced by lawyers and law firms, some of the repercussions of not dealing with these factors and strategies to address them. Read about ways lawyers and law firms can access help, or change their approach or their environment, so that they can offer their best selves to clients, family and friends. And if that includes climbing a mountain, running a marathon, or "just" doing a really good job of looking after a client, that is great, too.

Kathleen A. Waters
President & CEO





The day-to-day stresses & challenges of being a lawyer

A sole practitioner and single mom is locked in a room in her house. Her young autistic son, outside the room, has put a chair up against the door to prevent it from opening. There is a lot of yelling and screaming. She calls 911 and the police arrive. One of the constables happens to be her client – adding to her embarrassment. He talks to her through the window from outside and, eventually, the dust settles. But like any other day, she still has to go to work.

This lawyer shared her story with *LAWPRO Magazine*. She is not alone, as can be seen from the comments other lawyers shared with us. Being a professional in the midst of personal and professional storms is challenging. And as you will see from the articles in this issue of *LAWPRO Magazine*, sharing and acknowledging our problems is key to managing them.

Conflicting home and work priorities

Each practice area requires unique sacrifices. Real estate lawyers say goodbye to summers as long sunset walks on the beach give way to nights in the office to ensure closing dates are met. Litigators and family lawyers lose days if not months preparing for and conducting hearings. Business lawyers work on multi-day 24 hour clocks to close deals with tight deadlines. Running a law practice can seem like running a marathon with regular uphill intervals.

Small firm real estate lawyer Cesia Green finds that the practice can be “overwhelming in the summer when it’s busy. Both lawyers and

staff are working long hours just when friends and family are free to spend time with you. Relationships suffer. You must look after all aspects of the practice no matter the season of life.”

Young associates may struggle with juggling the competing demands on their time. Deborah Glatter, Cassels Brock’s director of professional development says, “Young associates deal with a combination of stressors. They are at the bottom of the food chain and have to get the work done under strict time pressures. The work can come at unpredictable times and sometimes conflicts with previously scheduled family events. They end up disappointing their spouses, family, and friends. If you’re isolated from your community, this can snowball into isolation and depression.”

Similarly, a Bay Street partner “must hire and fire, manage budgets, and make decisions that will affect hundreds of lawyers and staff,” says Glatter. “In doing so, the partner may have to wrestle with other partners and deal with a lot of different personalities. And it doesn’t stop at the office. A partner goes home having to potentially take care of ailing, elderly parents.”

Family life can play havoc on rest time, demanding your time and energy just as you return home and anticipate rest. Glatter says, “Let’s say you just finished an intense transaction, a 3 day marathon, on very little sleep. Keen to get home, you return to a crying baby and an exhausted spouse. Your spouse hands you the baby and says, ‘your turn’. You’re dinged on both ends.”

Running a business and a law practice at the same time

Sole practitioners and firm partners juggle the business side of law almost as much as the practice itself. “I have to make sure the firm is alive and well on a day-to-day basis,” says sole practitioner Michelle Allinotte. “This includes human resources, budgeting, marketing, and networking. I am looking after everything from cleaning charges and rent to being a coach for everybody. I delegate what I can, but this is my business.”

Being responsible for the client list means time must be taken outside of the practice to stay viable. “I have to make a living completely

based on my ability to find realtors, mortgage brokers, financial planners, and professionals willing to refer clients to me. These are all personal relationships,” says Green. “There are days when you have a networking event and the last thing you want to do is go. But then you wonder where the next client is coming from. This is your livelihood.”

Damaging behaviours can lead to addiction

Firm culture can unwittingly enable addictive personalities to engage in damaging behaviours. Clients may celebrate wins extravagantly and expect lawyers to participate. Networking lunches can balloon into drinking affairs. Building relationships can take its toll. The “profession has a lot of drinking opportunities. That becomes a problem for the person who is susceptible to it,” says Homewood Health psychologist for the Member Assistance Program (MAP), Doron Gold. “Lawyers that cope by engaging in damaging behaviours can become addicted to alcohol, gambling, or drugs, among other things.”

When technology doesn’t help

Technology has increased the pace of practice. While increasing efficiency, the constant flow of new products and applications can create just as much anxiety. The key is to use technology – don’t let it use you.

Here are a few examples of how technology has complicated legal practice, and what you can do to cope:

- **Unlimited accessibility: limit email and cell phone use.** Thanks to emails and cell phones you are now more accessible than ever. During working hours, productivity may suffer because emails constantly interrupt workflow. Clients expect you to stop everything and reply or call back on-demand. Take control of how and when you check your email and cell phone. Turn off automatic notification when emails come in. Turn off the phone or put it on silent during working hours. Clearly state in your cell phone mailbox that you only respond immediately to urgent matters. When you go on vacation, put your phone away and don’t access the internet. If you must, limit your access to once a day.
- **Information overload: organize and execute.** Every lawyer is familiar with the barrage of emails that come in through the day. Only some are urgent tasks. Use this tip from Stephen R. Covey’s *The 7 Habits of Highly Effective People*: Break up your task list into four kinds of tasks: (1) urgent and important, (2) urgent and not important, (3) not urgent and important, and (4) not urgent and not important. Use practice management software to keep track of the daily task list, or keep a running list on a notepad. Organize your tasks into manageable

chunks and execute the ones with highest urgency and importance first.

- **Adapting to new technology: train up.** Like any tool, technology is only useful when you learn how to use it effectively. Whether you are installing a new application, going paperless, or using a new telephone system, learning new technology is stressful. Mastering technology takes time and energy. Train up by taking (often free) online tutorials, attending bar association tech shows, and tuning into app-makers’ blogs. Ensure your staff are trained properly, too.
- **Communication isolation: step out of the office.** You can find yourself isolated if you spend more and more time communicating with others through digital media. Emotions are rarely communicated well by email and telephone. Skype does not replace the human need for face to face contact. Schedule lunches and coffees with colleagues, clients, and mentors. Place yourself into situations that force you to engage with people face to face.
- **Keeping up with the Joneses: stay focused on yourself.** Facebook, LinkedIn, Twitter, and other social networking sites have made it easier than ever to see what your friends and peers are up to. People tend to present themselves in the best possible light. It is tempting to want to keep up with the Joneses even if this causes you stress and embarrassment. The face presented in social media does not necessarily reflect reality. Stay focused on what you need to do. The rest will take care of itself.

To err is human – but tell that to a lawyer

Perfectionism is one of the most common personality traits found in the profession. “There is a fear that a mistake can cost thousands or even millions of dollars, a client’s custody of a child, or a client’s freedom. This is powerful. You don’t want to tell anyone you are less than perfect because you don’t want to look weak,” says Gold. “You fix people, you don’t get fixed. You don’t ask for help. And if you do, you wonder: will you get hired back? Will you be kept on? What will this do to your reputation? You are led to believe you need to display supreme confidence.”

The need to appear invulnerable may be especially troubling for older lawyers. Glatter notes that older lawyers “grew up in an era where nobody discussed wellness and stress. You were expected to soldier on. You might have decades of wear and tear without any real awareness of how it’s affecting you emotionally and physically.”

Bay Street lawyers are often loathe to look vulnerable. Glatter says, “Clients are not interested in whether we are stressed or fearful. They need confidence in us. Partners make calls on significant complex matters. The buck stops with them.”

In the worst chapter of their lives, criminal law clients need their lawyers to be strong, as criminal lawyer Gerald Chan explains. “The gravity of the cases can wear on you. The client’s freedom is at stake. You need to look and act strong to carry the client’s worries and anxieties. You want to be a hero, come in and save the day – it can keep you up at night, worrying about whether you’ve done everything you can.” No matter the practice area, clients expect their lawyers to be a pillar of strength and to be perfect.

Pessimism, collegiality, and difficult clients

Pessimism is another dominant characteristic found in lawyers. Trained to look for problems, lawyers tend to look at the world from a negative perspective. This helps with making legal decisions, as pessimism guards against making mistakes and uncovers hidden motives. But it also means lawyers can be less accepting and less trusting of others. Colleagues and partners can be difficult to deal with. And if lawyers take pessimism home with them, it can hurt their relationships.

Pessimistic lawyers contribute to a lack of collegiality. When facing each other, pessimistic lawyers already in adversarial relationships can distrust each other even more. The distrust comes out in unpleasant emails and letters, unnecessary motions, and failed negotiations. This contributes to the stress and frustration felt throughout the profession.

Difficult clients also make lawyers more pessimistic. Dishonest, angry, or vengeful clients make unreasonable demands. Clients who are unwilling to accept advice risk both their files and their lawyers’ reputation. Exacerbating the problem, lawyers may have

already invested time and money into these files, which leads to a lose-lose situation: losing the client can be just as costly as keeping the client.

Vicarious trauma

Being immersed and invested in the pain a client experiences can cause vicarious trauma. For judges, and for lawyers practising in areas like “child protection or criminal law – although no one is immune no matter the practice – they can see unimaginable abuse,” Gold says. Whether the lawyer sees or hears about broken marriages, torpedoed business deals, abused children, injured body parts, or damaged dead bodies, the trauma can transfer from client to lawyer.

When the lawyer experiences vicarious trauma, “it can change the way you see the world and your sense of normalcy can shift. Suddenly the world is much more dangerous,” says Gold. Most people go through life without seeing what a lawyer sees in one case. It is hard to re-calibrate in such circumstances.

You are not alone

Lawyering is a meaningful profession. We serve our clients and help them navigate treacherous terrain. But we “are not inherently stronger simply by virtue of the occupation. We are human beings,” says Gold. “We are not impervious to pain. We can and should ask for help.”

The Members Assistance Program (MAP) at Homewood Health, which is financially supported by the Law Society of Upper Canada and LAWPRO, provides confidential and professional advice, along with peer counselling services.

Mentors, friends and family can also guide you. Lawyers of all stripes, at any age, can suffer at any time from the stressors that we face from outside and inside the practice of law. As Gold says, “it is normal and ordinary to feel stress, and even trauma, while practising law.”

We can be hard on ourselves but the fact is those around us are likely to be sympathetic. Being open and honest about the pressures you face is helpful in dealing with them. The other articles in this issue of *LAWPRO Magazine* offer you advice on coping strategies for dealing with the stresses of practice. ■



Ian Hu is Counsel, Claims Prevention and practicePRO at LAWPRO.

Self-assessment: DO I NEED help?

Lawyers are used to helping others with their problems. This can lead to viewing others – not ourselves – as the people with the problems. But lawyers are actually more likely than the population average to experience addiction or suffer from mental illness.

Many worry that there is a potent stigma attached to being a lawyer who “needs help.” But before dismissing the possibility that you could use a little support, consider that wellness (mental or physical) is not a yes/no state, it’s a continuum. Nearly everybody can improve his or her quality of life. No lawyer would think twice about seeking professional advice for a sore shoulder or knee: many non-physical issues can be of the same scale and equally susceptible to help if addressed early.

The following exercise¹ can help you, on an informal basis, identify some threats to your wellbeing. To complete it, place a checkmark next to the options that apply to you in each column below. A check in a “red zone” suggests that you would benefit from the assistance of a counselor, family doctor, or mental health specialist.

Checkmarks in the “yellow zone” represent areas of your life in which you may be at risk. If these problems persist or worsen, they could lead to a mental health crisis, job loss, relationship problems, and malpractice claims, among other consequences.

While this self-assessment can help you begin the process, there are many other resources available that provide for more detailed self-analysis. As a first step toward improving your quality of life, why not review the free resources offered by the lawyer Member Assistance Program (MAP) to explore new ways to tackle the challenges in your life? See the links on the next page for more help, or make an appointment to talk with your family doctor. ■

¹ This exercise is in no way meant to replace professional analysis and advice. Readers should consult their own accredited health advisor(s) before taking any action based on the results of this exercise.

	GREEN ZONE	YELLOW ZONE	RED ZONE
<p>At work I'm... (check all that apply)</p>	<ul style="list-style-type: none"> <input type="radio"/> Engaged <input type="radio"/> Challenged <input type="radio"/> Valued <input type="radio"/> Productive <input type="radio"/> Learning 	<ul style="list-style-type: none"> <input type="radio"/> Bored <input type="radio"/> Uninspired <input type="radio"/> Stuck <input type="radio"/> Unliked/without allies <input type="radio"/> Overwhelmed <input type="radio"/> Overlooked <input type="radio"/> Underperforming 	<ul style="list-style-type: none"> <input type="radio"/> Feared <input type="radio"/> Bullied <input type="radio"/> Subject to discrimination <input type="radio"/> Sexually harassed
<p>In my personal life I'm... (check all that apply)</p>	<ul style="list-style-type: none"> <input type="radio"/> Supported <input type="radio"/> Present <input type="radio"/> Loved <input type="radio"/> Valued <input type="radio"/> Relaxed 	<ul style="list-style-type: none"> <input type="radio"/> Overwhelmed <input type="radio"/> Burdened by eldercare demands <input type="radio"/> Challenged by children with special needs or behaviour problems <input type="radio"/> Lonely <input type="radio"/> Not available to my family 	<ul style="list-style-type: none"> <input type="radio"/> Isolated <input type="radio"/> Depressed or anxious <input type="radio"/> In serious debt <input type="radio"/> In poor health <input type="radio"/> Subject to physical or emotional abuse
<p>I cope with negative feelings by... (check all that apply)</p>	<ul style="list-style-type: none"> <input type="radio"/> Confiding in friends or family <input type="radio"/> Exercising <input type="radio"/> Walking outdoors <input type="radio"/> Meditating <input type="radio"/> Spending time with family pets <input type="radio"/> Reading or enjoying hobbies 	<ul style="list-style-type: none"> <input type="radio"/> Blaming or criticizing others <input type="radio"/> Losing sleep or sleeping too much <input type="radio"/> Over-exercising <input type="radio"/> Under-or-overeating <input type="radio"/> Spending time in the office to avoid home <input type="radio"/> Spending money that I regret later <input type="radio"/> Getting lost in the internet or "trolling" 	<ul style="list-style-type: none"> <input type="radio"/> Engaging in violence toward family members or others <input type="radio"/> Drinking excessively or using drugs (including overusing prescription drugs) <input type="radio"/> "Freezing up" and not being able to finish anything <input type="radio"/> Cutting or other self-harm <input type="radio"/> Taking excessive risks <input type="radio"/> Lying about the status of my work

Useful resources:

Homewood Health stress self-assessment:
homewoodhealth.com

The Mental Health and Wellness in the Legal Profession online course from the Canadian Bar Association, the Mood Disorder Society of Canada and Bell Let's Talk offers powerful video testimonials from lawyers and law students as well as group reflections which make the program rich and interactive. Find it at cba.org/wellness and learn about causes, symptoms and treatment options.

Mental health self-assessment from Psychology Today:
psychologytoday.tests.psychtests.com

Ementalhealth.ca (by the Children's Hospital of Eastern Ontario (CHEO)) has screening tests for adult substance abuse:
ementalhealth.ca

Sunnybrook hospital over-exercising questionnaire:
health.sunnybrook.ca

How unhealthy lawyers affect client service



Almost all lawyers experience stress, but unless it becomes toxic, there is little risk to the client. Occasionally things get truly out of control. That's when important deadlines are missed, communication with the client diminishes (or ends), and files languish. In extreme cases, the lawyer 'pretends' to practice by misrepresenting to the client that work has been done when it hasn't been.

Valerie Edwards, experienced LAWPRO defence counsel, Torkin Manes LLP



With proper treatment and effective management, lawyers with mental or physical issues can and do thrive in legal practice. But left unchecked, unhealthy lawyers can put client files at risk. Mental issues, whether caused by stress or illness, can result in a lack of judgment, memory loss, and concentration. A constant sense of danger can permeate daily life, along with feelings of inadequacy. Symptoms can manifest physically in the form of fatigue, muscle tension, pain, impaired sleep, and heart palpitations. Lawyers suffering from addiction can ignore everything in search of the next high or become completely immersed in damaging behaviours. And lawyers unprepared to deal with debilitating physical illnesses may find themselves suddenly incapable of simple tasks. To say nothing of how their daily lives are affected, these symptoms can result in poor client service and ultimately malpractice claims. Below are some examples of how lawyers can fail to deliver good client service when their problems are not addressed.

Depression

Depression is one of the most common types of mental illness from which lawyers suffer. Research has shown that lawyers, as a group, have a greater tendency to depression than the average person. Depressed lawyers can cease to take an interest in practising. Sapped of the energy to communicate legal information to clients, depressed lawyers can fail to advise of important legal consequences, for example, when negotiating contracts and settlements. Steps that need to be taken to investigate a file, such as conducting corporate searches and requesting reports, are summarily dismissed, and the lack of action is rationalized as saving money and time.

Depressed lawyers may choose only to work on the files that attract their interest on that day – leading to procrastination on other files and ultimately severely delayed files. Clients that are not liked receive the cold shoulder just when they are most in need. Depressed lawyers may also be more likely to accept retainers where there is a conflict of interest, especially where they cannot find the strength to break bad news to their clients.

¹ MAP is available online at myassistplan.com, or call 1-855-403-8922

Physical illness

While some physical illnesses can creep up slowly, traumatic events can suddenly disable healthy lawyers. If a contingency plan is not put into place, files can be left untouched for weeks, months, or longer, depending on the lawyer's recovery progress. To compound matters, coming to terms with a physical disability can be difficult. Often serious physical illnesses are associated with depression, anxiety, or other mental illnesses.

Addiction

Addiction to alcohol and other damaging substances or behaviours can be caused by an inability to cope. Lawyers may self-medicate or choose to compensate for the lack of ability to control their circumstances by drinking too much or playing video games at all hours, among other things. A lawyer suffering from addiction may ignore the needs of clients and their files in favour of the addiction. If the lawyer is addicted to a damaging substance like alcohol or drugs, the problem is compounded by the side effects caused by the substance, such as impaired judgment, paranoia, and anxiety. Every aspect of a file is in jeopardy.

Maintaining good client service and reducing the claims risk

A support system can lessen the claims risk. Mentors, friends, and family are all resources that can step up in times of need. The Member Assistance Program (MAP)¹ provides resources including a health risk assessment, information on stress, depression, anxiety, separation/divorce, and psychological challenges, and peer counselling. A few small steps can go a long way to improving the lawyer's ability to cope and to keep the practice claims-free.

Lawyers should implement a firm policy to handle unexpected work interruptions should a lawyer's health go sideways. LAWPRO sees, all too frequently, claims that occur when lawyers suddenly "disappear" for health or other reasons and files are left in the wind. This may trigger a cluster of administrative dismissals, for example. All active files should be monitored by more than one person so that they can be transferred when necessary.

Every one of the top four sources of claims – communication failures, inadequate investigation, missed deadlines/poor time management, and conflicts of interest – present even greater risks when a lawyer is unhealthy. Whether lawyers suffer from addiction, mental, or physical illness, or less severe forms of stress, client service often suffers and once again, the risk of claims rises. Taking steps to stay healthy will help you be a happier and better lawyer. ■



Where to look for help

The Member Assistance Program (MAP), offered by Homewood Health provides a wide range of services and resources to lawyers, judges, paralegals, law students, and other legal professionals, as well as their families.

Perhaps you're stressed, not sleeping, dealing with marital strife or suspecting you drink too much. Or you may be searching for more information before deciding whether you need to speak to someone about stress, relationship problems, depression, or substance abuse. Whatever leads you to reach out for help or guidance, lawyers often report they felt that "something changed" as soon as they took that step.

Below are some of the many services offered by MAP. Visit myassistplan.com for the full list of services and resources.

Health Risk Assessment

Login to take this survey about your lifestyle and general health. It takes about 10 minutes and you get a report on actions you can take to improve your health. The survey asks questions about your eating and drinking habits, your weight, how much exercise you get, your blood pressure, how well you can relax, and other aspects of mental and physical health. The resulting downloadable report gives detailed explanations of your "scores" and advice on how to make improvements in areas of concern.

Counselling: in person, telephonic and e-counselling

When you contact MAP, you have the opportunity to speak with an experienced counsellor, including one who is a former lawyer. You can also be connected to a peer volunteer who is a member of the profession. Your conversations are completely confidential, and there is no waiting list. You can speak to a counsellor immediately in a number of ways: arrange an in-person visit, speak on the phone, or take advantage of secure and private e-counselling.

e-counselling can be done in two ways:

- **Private Conversations** are similar to email, so you can compose and edit your messages (or save as drafts to revisit later) and receive replies within 2 business days, or
- **Chat** is a secure and confidential instant messaging "chat room" format.

MAP resource library for legal professionals

The library offers an extensive selection of articles on childcare issues, caring for aging parents, financial health, relationships, and other life challenges that can add to the stresses of a legal career. An additional series of wellness articles are aimed at those who manage others to help guide them through such issues as job loss, illness or losing a loved one.

Below is a selection of articles and studies featured on the main MAP site:

- Stressbusters: Sanity Savers and Practical Tips
- Lawyer Distress
- Strategies for the At Risk Lawyer
- Why Lawyers are Unhappy
- Guidelines for Legal Practitioners with Suicidal Colleagues
- Depression and Anxiety in Law Students

The health & wellness library

Looking for information you can trust? The health and wellness library is an updated collection of articles and other resources written by qualified experts in their field. It includes information designed to improve health and wellness, and assists you in improving your work-life balance. The library provides you with a wealth of exclusively Canadian content and has information on drugs, disease, natural products, tests, procedures, and general health.

e-counselling

Homewood offers a number of e-learning courses that lawyers can do from their desks. They are designed to improve personal health and well-being and/or workplace effectiveness, and deal with such topics as stress, workplace change, improving resilience, and preparing for retirement. Each course contains an interactive audio/video component, written exercises, and links to additional information on that topic.

Completing a Homewood e-learning course qualifies for one \$50 LAWPRO Risk Management credit per policy year.

To get a sense of what the courses are like, see the reviews of "Taking Control of Stress" and "Embracing Workplace Change" on the AvoidAClaim blog. ■

Tim Lemieux is Claims Prevention & Stakeholder Relations Co-ordinator at LAWPRO.



Reading the signs:

Stepping in when a colleague needs help

As adults in the workplace, we usually strive to respect our coworkers' privacy and autonomy. But it's important to understand the difference between being nosy and being responsive. The taboos that accompany mental illness, substance abuse and interpersonal problems can make it difficult for workers to seek help when they need it. By reacting sensitively and early to concerns about coworkers, not only can we help overcome taboos, but we can also help them access assistance earlier and avoid practice problems.

What are the signs that a colleague is struggling? Here's a non-exhaustive list:

- New pattern of lateness, absences, including unexcused absences
- Suddenly working longer hours than usual or having very high energy, unusual talkativeness
- Personality changes
- Missing meetings
- Forgetting assigned tasks
- Decreased productivity or problems with work quality
- Client complaints about the colleague/employee
- Complaints from the person's colleagues
- Newly disorganized workspace or decline in personal grooming or hygiene
- Bruises, broken bones or other possible signs of domestic violence
- Lying/making excuses
- Unwillingness to delegate work, collaborate or accept assistance
- Excessive or inappropriate delegation



What should I do?



Don't delay: once signs are evident, the employee may be seriously troubled; and it can be less intrusive to offer help casually, when symptoms are mild, than to wait until the problem is severe



Persevere: if the colleague says he or she is okay, offer help again when you observe new signs. It can take several offers of help before a person takes action



Ask in private: avoid embarrassing the person and maximize the chance he or she will confide in you by offering help in private



Offer resources, not advice: if you're not trained to deliver mental health services, stick with suggesting resources or offering practical help, like time off to visit a counselor, or cab fare to an appointment



Focus on performance, not character: if you are the struggling worker's supervisor, be sure to offer empathy; but express criticisms in terms of problems with work performance, not the person's character



Don't enable: while empathy is in order, don't make excuses for your colleague or excuse behaviour you wouldn't tolerate from others



Learn about the issue: make an effort to educate yourself about the particular problem your colleague is facing, so that you can avoid perpetuating stereotypes about mental illness, substance abuse, or other problems

When you're responsible for a struggling colleague's work

Being legally responsible for a colleague's work, either through an employment relationship or via partnership, adds an extra wrinkle to the decision about when to intervene. Lawyers who supervise the work of others may ultimately be responsible for claims that result from juniors' errors and omissions, and partners may in some cases be liable for the negligence of their partners.

Where you have a duty to ensure that another person's work is competently done, it's essential to take timely steps to determine whether health problems are affecting that person's performance, and to correct the problem, either by offering additional support, redistributing client files to other lawyers, or taking on tasks personally that you would otherwise delegate. When you know a colleague is struggling, it's prudent to check in regularly to ensure he or she is coping with the workload, and to develop a contingency plan should the lawyer or staff member require time out of the office to recover.

Helpful resources:

"Helping a Troubled Employee" from Homewood Health, provided by the MAP: homewoodhealth.com

From Mental Health Works, a national initiative of the Canadian Mental Health Association "When an employee has an addiction problem": mentalhealthworks.ca/employers/faqs/addiction-problem

"Check up from the neck up": visit mooodisorders.ca and see especially, fact sheets about mood disorders and lists of signs and symptoms.

Canadian problem gambling resource site "Know Your Limit": knowyourlimit.ca/?page_id=190



Happier where you are, or getting to a better place

How to improve satisfaction and reduce stress wherever you are

Lawyering is stressful. Lawyers expect to handle the pressures of solving individuals' high-stakes, emotionally-charged problems.

What lawyers don't necessarily anticipate is that they may suffer stress from being stuck in a work situation that is not their first choice. Competition for jobs may mean that a lawyer needs to accept work outside his or her preferred area of practice, work for a difficult boss, or work in a high-pressure, long-hours environment.

The ultimate cure for this kind of stress is to find another career that is a better fit. But if there are good reasons for sticking it out for a while, there are steps you can take to be happier where you are.

When work is uninspiring (or outside your preferred area)

During articling or in the first few years of your career, you may need to accept work in an area of practice outside your main area of interest. You may even have to do rote or low-autonomy work. After putting

Strategies to help you cope

Feeling overworked, under-challenged, or unappreciated? Try these strategies to improve the quality of your work environment:

- Set a time limit by which you'll make a move if things don't improve
- Learn a new skill or try a new technology – even if the current context you use it in is uninspiring
- List the aspects you like best – and least – about your current work, to gain insight about how to steer your career in the future
- Find ways to use the skills you don't use at work in other areas of your life – for example, volunteer on a residents' association executive, or coach kids' sports
- Study and practice the Buddhist principle of non-attachment or other spiritual discipline or philosophy that helps you improve emotional and mental balance
- Impress yourself: take new risks; or set a "personal best" standard for a task (for example, drafting a lease agreement, negotiating a price) and strive to beat it
- Find an inspiring mentor outside the organization
- When your workload feels overwhelming, aim to do the work while rejecting the stress – consciously choose your reactions
- Identify and reaffirm the reasons you've chosen a legal career
- Address your lifestyle so that you can better cope with work: eat well, exercise, spend time outside, reconnect with friends.

in the effort to obtain a legal education, this can be very discouraging. In the interests of reducing your student debt and feeding yourself and your family, you may have decided that you need to stay put until something better comes along. What can you do to find meaning in uninspiring work?

Hone general skills

Regardless of the context, there are certain skills you can hone in almost any legal environment. You can gain proficiency with unfamiliar technologies. You can work on your writing style, aiming for clarity and effectiveness. You can develop your listening skills. Improve whatever skills you can, so that when the right opportunity comes along, you're more likely to be an excellent candidate for the job.

Practice self-analysis

Make an effort to learn from your frustration. What are you looking for, in a career, that you feel is lacking in your current work? Do you crave one-on-one interaction with clients? The authority to make important decisions? Variety in the legal issues you encounter? Identifying the features of the right work for you can help identify what you would like to do instead, helping you to steer your future career development. In the meantime, if you feel you can have a positive conversation with your current co-workers/practice leaders, let them know how you would like to grow. They are busy, too – maybe they have not turned their minds to your aspirations, and there could yet be a win-win outcome achieved.

Find your inspiration elsewhere

Work need not be the sole source of personal fulfillment. If your work doesn't offer opportunities to use skills that you value, you can try using those skills in other parts of your life.

If you enjoy public speaking but don't get to do it at work, you could look for opportunities to do so in your community, perhaps in connection with a hobby. If you enjoy being a leader but are very junior in your workplace, you might seek leadership roles in community organizations. If you find fulfillment in making a difference for people in need, but your area of practice does not align with that personal value, you can donate your time and skills to charitable organizations that inspire you. Instead of letting an uninspiring job sour your overall attitude to life, use the mental energy you retain by not being challenged at work to build a more satisfying personal and community life. You may also develop competencies that serve you well in your next – more inspiring – work environment.

Put a limit on it

If you are truly miserable in your current situation, mitigate your negative feelings by treating your current position as a time-limited experiment. Determine how long you are willing to stay, define what needs to change and which strategies you are willing to employ to effect those changes, and commit to moving on if you don't see progress. In the meantime, maintain your network of contacts and your positive relationships with coworkers; in other words, no "checking out."

When you have a difficult supervisor or colleague

Interpersonal problems can add an enormous amount of stress to work life. A recent Danish study¹ found that much more so than a heavy workload, a feeling of being treated unfairly by one's boss is likely to lead to worker depression. What can you do to minimize the impact of a difficult supervisor on your mood and mental health?

Practice non-attachment

The most powerful thing you can do to minimize the impact of a supervisor's actions on your mental health is to actively resist taking those actions personally. It's important to give appropriate consideration to feedback and to put effort into finding ways to collaborate, but when a supervisor or colleague's demands or criticisms are unreasonable or excessive, they can generate counterproductive stress. Everyone starts out wanting to impress a new boss, but once it becomes clear that a supervisor or colleague's support and approval are being unreasonably withheld, it's emotionally healthier to practice "non-attachment" – a concept embraced by Buddhist practitioners, among others. Non-attachment involves letting go of one's desires, including one's investment in particular outcomes, such as winning the approval of others.

Non-attachment can help you weather a wide range of challenging situations and emotions. The article "Let it R.A.I.N. – a journey into mindfulness" on titleplus.ca offers a four-step process for handling difficult emotions.

Another clever technique to avoid taking a colleague's actions personally is to imagine yourself as an actor playing a role, and to "watch" yourself enduring an unpleasant interaction, rather than feeling yourself enduring it. What do you have to say for yourself? What are the feelings you observe? What is your facial expression? Seeing yourself from the perspective of an outside observer, and making adjustments to your own behaviour can help you feel like you have some control over the situation.

¹ The findings of the study were published in three articles in the scientific journals *Occupational and Environmental Medicine*, *Psychoneuroendocrinology* and *The Scandinavian Journal of Work, Environment & Health*. See a summary at: sciencenordic.com/boss-not-workload-causes-workplace-depression

Fail better

Doron Gold, Staff Clinician and Presenter with the Law Society's Member Assistance Program (MAP)², notes that particularly in the early years of their careers, many lawyers have a sense of irretrievability: they believe that if they make a mistake they will never recover. The truth is that there are very few permanent mistakes. Working in an environment in which it feels like you can't do anything right may be a golden opportunity to take risks that help you learn and grow. If you're going to be criticized no matter what you do, why not take bolder risks? Fail bigger and better – propose the strategies and defend the positions you truly support.

Impress yourself

If there is no way to impress the boss, at least you can impress yourself by practising according to your personal convictions. Learn how to generate internal motivation and a strong sense of self-worth. This kind of personal development will serve you well throughout your career.

One of the dangers of a difficult boss is that a steady diet of criticism can lead you to doubt your own abilities and to undervalue your skills when it comes time to look for new work. Try to keep a sense of perspective on your skills and protect your self-image. Got a compliment from a judge, a colleague or a client? Remember it, and give it at least as much weight as you give to the negative feedback you are receiving.

No mentors? Look further afield

Instead of stewing about the lack of role models within your organization, look outside the organization for mentors in the profession at large. As long as you are respectful of their time, many senior lawyers will be happy to teach you a thing or two. Our “Managing the mentoring relationship” booklet, available for download from practicepro.ca, provides tips about how to structure the mentoring relationship so that it's safe and rewarding for both mentor and mentee. It is a common misconception that acting as a mentor exposes a lawyer to a greater likelihood of a professional liability claim. In fact, LAWPRO rarely sees claims arising out of mentoring relationships. We believe that mentoring can reduce claims. And to encourage mentoring, we will waive any deductible and claims history levy surcharge for a claim made against a mentor and arising out of a mentoring relationship, provided some simple guidelines have been followed (see page 20 of the booklet).

When the hours are long or the pressure is high (or both)

Depending on the nature of your legal career, the hours may be long, unpredictable, or both. Feeling tired in the face of a grueling schedule is normal; feeling hopeless and depressed is not. Don't

ignore symptoms and thoughts that go beyond the normal stress associated with a demanding job.

Rethink your reactions

It's a cliché, but there is some truth to it: life is 10 per cent about what happens to you, and 90 per cent about how you react. Consider trying to change how you think about your workload. After all, the work will still be there whether you feel stressed or calm in the face of it. See the passage on page 15 about non-attachment, and remind yourself that feeling stress is not the only possible reaction available to you.

Be clear about the “why”

When your workload is high enough to cause you significant stress, it's important to reflect on why you have chosen your particular career. There are areas of practice, locations, and organizations in which you can practise law without working extremely long hours. If you find yourself in an especially high-pressure work situation, consider whether the sacrifices are worth it.

When asked how they cope with very long hours, many lawyers explain that they feel that the work they do aligns with their values and gives them a strong sense of purpose. Feeling as though you are making a difference and doing work that has value can greatly reduce your stress. If, on the other hand, you *don't* experience this sense of personal reward, long hours are harder to justify.

Live well outside of work

If you have no power over your work schedule, you can improve your life satisfaction by working on things over which you do have control. In other words, make sure the rest of your life is ship-shape.

To cope better even on stress-filled days, be sure to take the time to eat properly, get some exercise, prioritize sleep, and get out in the fresh air and sunlight. Many people find that meditation, mindfulness practice, or yoga help them feel calmer and more centred. Finally, take the time to nurture existing relationships with family and friends, and strive to build new ones. Having a supportive social circle can reduce your stress, make your days feel more meaningful, and even improve your physical health.

Invest in yourself

Hardly anyone spends their entire career in his or her “dream job,” and many lawyers will work in less-than-ideal settings. Invest in the best version of yourself by taking steps to be happier where you are, and you will be ready when opportunity finally knocks. ■

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² The Member Assistance Program (MAP), co-funded by the Law Society of Upper Canada and by LAWPRO, can be reached at 1-855-403-8922 (TTY: 1-866-433-3305). Online resources can be accessed at myassistplan.com

Find your blue sky

Some lawyers seem to thrive, having found their ideal practice, while others still search for their blue sky. Discovering your values is a journey. As children we are brought up with the values our parents instilled in us. In early adulthood we may have experiences that challenge those family values. Attending university and unfettered from the bonds of parents, you may have even broader experiences that cause you to re-evaluate old belief systems. We embrace new friends, new music, new styles, and new ideas. In middle age we grow into our professional selves and develop deeper bonds with family and friends. As we enter the twilight of our careers we can be freed from obligations once held so dear.

When you look back at your journey, did you live the way you wanted? Did you come to know yourself and pursue a meaningful and satisfying life and career?

On your legal journey you will also face winds of change and the stage of your career may impact your values and how you see things. A young lawyer may seek to make a contribution to the world and the community. A lawyer well into the first or second decade of practice may find meaning in mastering an art. And an established partner may take the most joy in establishing a legacy and mentoring. Across generations, you may find your professional values changing with the vicissitudes of life.

Apart from the wisdom gained from experience, it is not uncommon to have an epiphany mid-career or a life event that resets your outlook. Changed values can cause you to take joy in new experiences and, at the same time, find painful what was once pleasurable. The excitement of closing a deal or preparing for trial can give way to boredom or dread. You may no longer wake up wanting to go to work, lose sleep over your files, or wonder why you do it. Perhaps this is a passing phase, a winter in a seasonal practice – or have you experienced a fundamental change in values?

The birth of a child, death of a loved one, divorce, or simply maturing can cause unhappiness in your practice. With the birth of a child you may find that you now deeply value providing for your family and need to arrive at a higher socioeconomic level. Conversely, you may be compelled to spend more time with your family instead of spending all hours at your practice. A death of a loved one or a divorce can free you from responsibilities and allow you to pursue your dream, or cause you to evaluate if you have been living your life the way you should.

Life events can serve to solidify your values. Finding them immutable, you may take even greater joy in your practice. Or, if you find yourself unhappy on one path, you may take the opportunity to blaze a new trail.

Each practice area, type of firm, or legal position presents a match with a certain set of values. Entrepreneurial spirits may find practising as a solo or in a small firm to be invigorating. Attracted to the big deals? Bay Street is the answer. Still others enjoy the intertwining of business with law as in-house counsel. Understand the options out there and find your blue sky.

Craving a challenge

Those craving a challenge often find practising on Bay Street satisfying. The legal work is complex, the route to making partner difficult, and the hours are long. Meet the challenge and the rewards may include significant compensation and prestige. Mergers and acquisitions, banking, cross-border transactions, securities, and large-scale litigation work dominate the field.

The “work hard, play hard” philosophy is prevalent. Firms often set billable hour targets for associates from 1,800 hours per year and up. Extra hours are needed to develop business, attend board meetings, bar association events, and community events. Especially intense are the days and weeks conducting trials and leading up to closing deals.

Working your way up to partner is an achievement. The attrition rate can be high. Junior associates typically have narrow roles defined

by executing carved out tasks such as research and drafting. As a cog in the wheel, juniors may find that there is simply not enough time for senior lawyers to walk through the big picture on every multi-million dollar transaction or piece of litigation. Given what is at stake, there are typically fewer opportunities to engage in multiple aspects of a file and interact directly with clients. But as the firm's confidence in a lawyer grows, so does the role.

Have it your way

Settle into a community, see your clients around town, work with the same lawyers on transactions, and face familiar opposing counsel when you litigate – these are the hallmarks of solo and small firm practices. Areas include real estate, family law, and estates, personal injury and small business. These kinds of practices favour the lawyer who treasures autonomy.

No matter how trivial, tasks must be executed across the board, from drafting documents and conducting research to negotiating deals and attending motions and trials. Solo and small firm lawyers must see the big picture on every file and take steps according to his or her own strategy. There is typically no robust precedent directory to draw from, no flock of students at one's beck and call, no juniors to rely on. But the local bar association is (hopefully) friendly and accommodating. And as the sole lawyer on a file, the pleasure of receiving thanks typically comes directly from the client for a job well done.

The high level of autonomy means work-life balance is more under your control (although the balancing act is always challenging). Time can be set aside for family and friends, or to enjoy other life endeavours. Or a laser focus can be spent on growing the firm. Since spending time in the former takes away from the latter, it is all too easy to let the needs of the firm take priority.

Entrepreneurs are drawn to solo and small firm practice. The extent of legal and marketing success directly impacts profits. Happiness, for these lawyers, is watching the planted seed grow into a tree.

Helping those in need

Should you value helping those in need, you may find satisfaction in public interest law. Ranging widely, public interest law can include human rights, immigration, government, and poverty law. These lawyers stand on the front lines of the battle to provide access to justice for all. Perhaps because there is often a match between the lawyer's values and the work pursued, research has shown that lawyers in public interest law consistently report the highest ratings of happiness in the profession.

Empathy and patience are assets to the practice. Unsophisticated clients dealing with government boards, tribunals and the courts

require significant education and support. Administrative and regulatory law can be frustrating, as successes may be few and far between. Sometimes getting a hit one out of every three times is good enough.

While most of the work happens under the radar, some cases reach the highest levels of court. The outcomes can affect (and reflect) society's mores and “change the world.”

The trusted advisor

In-house lawyers serve one client and fill the role of trusted advisor. The position often suits lawyers who value work-life balance but want to maintain the legal work they are used to doing. The typical route to go in-house is to pursue private practice for several years before making the switch. In-house practices vary widely, as positions can be found in local, national and international enterprises, and virtually any industry.

The breadth and depth of work varies. Some in-house counsel find the practice can be narrow, especially where expertise in a certain area coincides with a large-volume business need. Others find a broadening of the practice as multiple business groups call on the lawyer to fill in the gaps. In-house legal work can bring you into the inner machinations of doing business and free you from the need to docket. On the other hand, working within the corporate machine can mean navigating more red tape and office politics.

Unlike private practice, promotion is less obvious in-house. There are a number of employees for every one manager, and only one General Counsel. Career development requires some gymnastics as you may need to develop new skills and find a way to market what you bring to the table. Neither will your year of call dictate your salary (as it does in some settings), as you trade that in for the world of the “salary band.” In-house counsel work also differs from private practice in that the position presents a cost to the company and does not act as a profit-centre. Nonetheless, freed from the need to develop business, job security is perceived to be better and positions often come with robust benefits packages and a pension.

Discovering your values

Finding the right practice area, law firm, or legal position requires introspection and, perhaps, trial and error. Learn what is important to you. Wherever you are on your journey, life experience can cause your values to be re-calibrated. And actually living and breathing inside your daily work is the only way to know if you have found your place in the legal world. Discover your values, and live and work according to them. ■

Ian Hu is Counsel, Claims Prevention and practicePRO at LAWPRO.

Protecting the team – a firm’s most valuable asset

Tips to keep the team healthy and sane-ish.

There are certainties in life. Death. Taxes. A person who is well, physically and mentally, is more productive than if he or she is not well.

That last truth should be self-evident; if it isn’t, it might be proved by the wealth of material published on wellness. A Google® search produces 393,000,000 hits. That said, people being people, they often act in ways that put their health and wellness at risk, never mind their failure to take steps to actively improve their condition. If you think of the many ways to promote health and wellness as water, then most people are horses – you can lead them right to it but you cannot make them drink. Or can you?

Of course the primary responsibility for wellness rests with the individual – but nothing is more important to a law practice than its lawyers and staff. The “firm” – BigLaw or a solo practice – can do nothing without people; the better those people feel, the more productive they will be, and the more profitable the firm will be. It follows that a firm has an interest in helping its people be healthy and well.

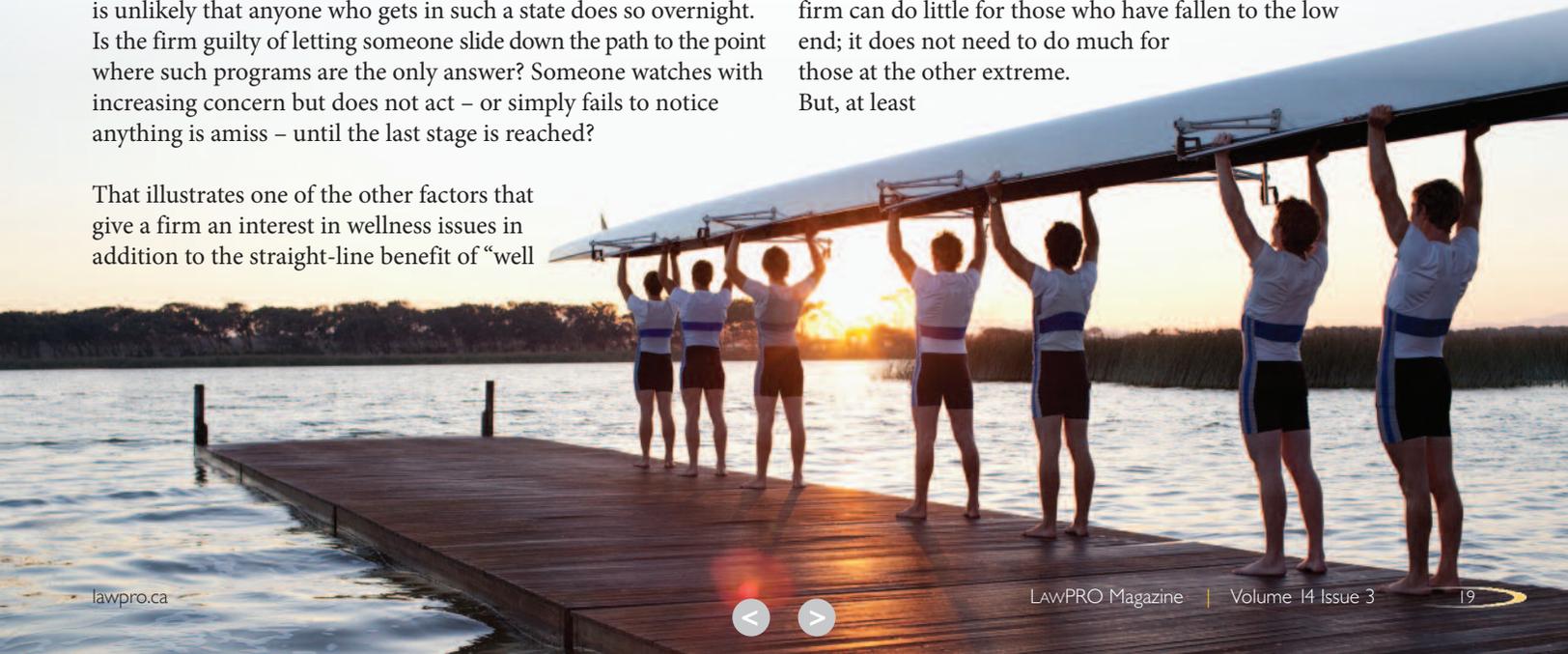
Many firms tend to categorize health and wellness issues in two radically different categories. The first category, rarely mentioned other than in hushed tones, is where a person is failing miserably due to physical or mental conditions that prevent them from functioning, period. There are special programs for such folks but, obviously, they are no longer a productive member of the firm. It is unlikely that anyone who gets in such a state does so overnight. Is the firm guilty of letting someone slide down the path to the point where such programs are the only answer? Someone watches with increasing concern but does not act – or simply fails to notice anything is amiss – until the last stage is reached?

That illustrates one of the other factors that give a firm an interest in wellness issues in addition to the straight-line benefit of “well

equals more productive”: the cost of doing nothing. Back in 2006, one commentator estimated it would cost \$300,000 to replace a senior associate. No firm can afford to let an associate collapse due to health issues if the firm can prevent it. As well, anyone who has been involved in recruiting staff will agree that replacing someone who is already contributing to the firm’s success, be it a lawyer or non-lawyer, is an expensive, time-consuming and chancy process. Hire three to get one keeper? The firm needs to prevent the loss in the first place.

The other category is often dismissed (especially in the hard-nosed, focussed world of law) as being New Age-ish or capital T – Trendy. Team Spirit! The Walmart® cheer! Unworthy of anything other than token notice by serious people. But based on what modern generations are telling their employers that they want out of life, no firm can afford to be so dismissive of a desire to work in a place that gives priority to the wellness of its employees. The current and future participants in the workforce are not going to be satisfied with toughing it out, drudging uphill in a stressful and perhaps strife-full workplace. A firm cannot eliminate all the stress but it can mitigate it. If one firm doesn’t do it, another will.

In truth, health and wellness issues lie on a sliding scale. At the low end of that scale are those who have collapsed under the weight of physical or mental burdens. At the other end of the scale are people who are perpetually happy, sometimes annoyingly so. The vast majority of us fall somewhere near the mid-point of those boundaries. A firm can do little for those who have fallen to the low end; it does not need to do much for those at the other extreme. But, at least



on an intellectual level, most people probably wish they were nearer the bright and shiny end of the scale even if they are not doing anything to get themselves there. What can a firm do to help them?

How to help?

If budget was not an issue – or more precisely, if budget *was* the answer – firms could, and some do, offer benefits that are clearly intended to promote health and wellness. These are over and above the basic benefits of pension, dental, vision and disability insurance, etc. BigLaw firms who are actively recruiting in today’s market are offering fitness memberships, in-house day care, child-care vouchers, nap rooms, flexible hours, loans for holiday travel, budgets for staff entertainment, exclusive event discounts, and access to corporate hotel rates. And, of course, access to health and wellness consultants. But horses and water, right? Firms have to do more.

Reduce stress

Some stress is inherent and necessary in a law practice. Reducing unnecessary stress, however, will have a positive impact on health and wellness. A feeling of “not being in control” is a major source of stress and is frequently both unnecessary and avoidable with proper communication. For example, when giving work assignments, the lawyer should give clear instructions as to what the recipient is to do and by when; don’t make the recipient guess or stressed by mentioning the next day you needed it by 5:00 yesterday. Don’t dump work on someone’s desk if you don’t know what is already there – all it takes to avoid that stress is communication.

Have firm-wide policies on internal response times. People can get more work done in an hour or two of uninterrupted time than in a day full of interruptions. If you give an associate or assistant a plate full of important assignments, then expect them to answer every email – no matter how trivial – from a partner within ten minutes, you are not promoting health and wellness – just the opposite. Allow lock-down times.

Help your lawyers with a firm-wide policy for managing client expectations. The client only has one lawyer but the lawyer has many clients. If every client expects to manage the lawyer’s time by getting an instant response 24/7, that lawyer will be facing excessive stress and some disappointed clients. The firm should insist on setting the clients’ expectations on communications and response times in an engagement letter so the lawyer can live (a bit more) happily ever after.

Promote vacations

How often have you said, or heard it said, that you need a vacation just to recover from the stress of getting ready for that vacation? Vacations are not just a mandated employment obligation; they

are critical to keeping everyone fresh and engaged. The firm needs to ensure a vacation reduces stress, not causes it.

Begin by making sure that the firm truly recognizes that holidays are a normal and valuable part of work life. The firm should keep those who will be affected by someone else’s absence aware that a vacation is in the offing. Lawyers should not end up panicked (bad for the lawyers’ health) if they discover Friday that their assistant’s vacation starts Monday. Do not permit them to load up the assistant’s desk when they realize that person is going on holidays – not only bad for the assistant’s health but also proves the firm does not truly value vacations.

Do more than “permit” holidays – encourage them. The firm should monitor who has yet to take holidays and encourage them to get those dates in the calendar. If the firm fails to pay attention, everyone will be stressed as the year-end approaches and the “use them or lose them” policy might kick in. On that note, policies, like rules, are made to guide the intelligent and bind the stupid. If a firm wants to keep its people happy, someone has to exercise a sensible level of discretion to ensure a specific policy does not hurt a specific person in specific circumstances.

“ A firm cannot eliminate all the stress but it can mitigate it. ”

The firms’ busiest and most productive people are the ones who most need the vacation and yet may be the ones who have the most stress about taking that vacation. The firm should sit down with such a person and discuss how to make it happen. Determine who can assist with that person’s work in the lead-up to the vacation and handle it during the absence (we have all experienced the stress of thinking what our desk is going to look like when the vacation is over because nobody did anything while we were away). If need be, assure the vacationer – and mean it – that deadlines for work will be pushed back and there will be time given to catch up upon return.

Nudge your people to health and wellness

Wikipedia defines the *Nudge* theory as “a concept in behaviour science, political theory and economics which argues that positive reinforcement and indirect suggestions to try to achieve non-forced compliance can influence the motives, incentives and decision making of groups and individuals, at least as effectively – if not more effectively – than direct instruction, legislation, or enforcement.” This is how you get the horse to drink the water.

The firm has to demonstrate that the health and wellness of its people is truly a Firm Value. Putting that in the firm’s Statement of Values



is purely superficial; the firm needs to live it. Example – flu shots are a good idea – so either bring somebody in to give everyone a shot or give everyone time off to get the shot. Do not leave it up to the staff to be bold enough to take that time (they won't if they think the firm was kidding); the firm's management has to put it in the calendar.

Encourage activities that can lead to better health. If you have enough people, sponsor them in a Dragon Boat race or give them time off to build a house with Habitat for Humanity. Register a team in intra-mural hockey, volleyball or slow-pitch. Pay for the uniforms. Get out and cheer for them.

Celebrate every chance you get. A firm should pay attention to the accomplishments of its people and not just for marketing purposes. Somebody's child graduates with Honours? A client thanks an assistant for his or her extra attention to the matter? Close a big deal? Someone has been with the firm five years? Celebrate – and mean it.

A firm can get everyone involved in celebrations. In a previous life, my firm's office administrator, Shanna Hapko, implemented an idea like this. Get some toy action figures – some Supermen and Wonder Women, for example. Print up "Nomination" forms. When you see someone in the firm go above and beyond the basics, put an action figure on that person's desk with a nomination, filled in with the donor's and recipient's names and a brief explanation why the recipient would be a super hero that day: "he stood up for me when a client was verbally abusive," "she saw I was over-loaded and did some files for me without being asked," "I had to leave suddenly because my child was sick and she covered my calls for me," "she noticed I mis-read an email and told me before I was embarrassed," "he saw I was panicking and took time to talk me through it." At the end of the week, the figures go back in the queue and the Nominations go into a prize draw. Once a month, one lucky donor and one lucky recipient get a prize (a random gift certificate, an afternoon off, movie tickets, whatever). Corny? No, even cynical lawyers were strutting when they got to be Superman for a day. Any firm of any size can do it; it's the celebration that counts.

Keep watch

It is easy for a firm – a collection of lawyers focussed on their own files – to forget those individuals it depends upon. That creates the risk that individuals will be or will feel isolated. The firm will not spot someone who is sliding towards the low end of the wellness scale if it isn't watching. A firm needs to subtly monitor the health and wellness of its people.

In this area, communication is the key. For instance, people who are left in the dark will automatically create a story about what is going

on. The story will almost certainly be wrong and negative. Tell your people about what is going on before they start to wonder. Firms, or practice groups if the firm is too large, can have a weekly stand-up five minute meeting – here are the big files we took on, here are the administrative changes we are considering, who won the Wonder Woman last week? It doesn't have to be earth shattering news, it just needs to make people feel like they are on the same team; that they are not isolated.

Make it a two-way conversation. What news do your people want to share with the firm?

The firm should engage in some Management by Walk-Around. The person walking around should be looking at the people behind the desks, not just the desks; eye contact is the best way to make a connection. Do not assume that a closed office door always means the lawyer behind it is beavering away. From time to time, check to make sure the door isn't closed to hide the sound of weeping.

Each lawyer has a secret belief that he or she is the busiest lawyer in the firm – carrying the heaviest load. Resentment is not a healthy emotion. How do they know what the others are actually doing; indeed, who the others really are? Perhaps TGIF should happen more often than once a month, as it does in some firms – and it doesn't have to happen at the end of the day when it causes stress to those junior lawyers who would rather get home to their toddlers than share a beer with a senior partner. A firm might consider (for instance) no client meetings between 11:00 a.m. and 2:00 p.m. on Wednesdays – no emails or calls either – but come and go for sandwiches and chitchat in the lunch room.

The hardest part?

Leadership; that is the hardest part. The firm says holidays are important – but the partners don't take them? Associates are encouraged to block dedicated work time – but a partner yells if an email goes unanswered for ten minutes? The firm values its people – but doesn't even know their names? [A recent survey, reported in the Harvard Business Review, listed communication issues that prevent effective leadership. Number six (at 36 per cent) was *Not knowing the employees' names*. Seriously? "Hey, you", will not convince an employee that you value their contribution to your success. By the way, Number one (at 63 per cent)? *Not recognizing employee achievements*.]

Any firm, big or small, can take steps to encourage – nudge – its people to a better level of health and wellness. To do it requires only some thoughtfulness, a plan, and an honest desire to do it. ■

Bjorn Christianson, Q.C. is Managing Partner of the Christianson TDS offices in Portage la Prairie, MacGregor and Gladstone.



10 tips to better manage your inbox

Our article *The day-to-day stresses and challenges of being a lawyer*, found on page 5, discusses how technology contributes to today's frantic pace of practice. And if there is one technology that adds to the stress of a harried lawyer's day, it's their email inbox. Clearing out emails often feels like Hercules cleaning out the Augean stables.

If you want 45 days from next Wednesday, type "Wednesday+45d." This also works for weeks and months (+45w or +2m).

Here are 10 tips to help you both better manage and reduce the number of messages in your inbox. Some tips apply to specific programs, and some are universal.

1. Sort your inbox by column

Many email programs including Microsoft Outlook® and Lotus Notes® allow left-clicking on any column heading to sort the messages in your inbox by the contents of that column. Most people already have their inbox sorted chronologically but you can also order your emails by sender, subject, or file size. Clicking a second time on the same column will sort the messages again in reverse order to the initial sort.

If you want to further sort by a second or third column in Outlook (e.g. alphabetically by sender, and then by received date from each sender) just hold the shift key down before clicking the second or third column.

2. An easier way to add a date to a task item

The practice of law often revolves around deadlines, but it can be a hassle to figure out the exact date of "60 days from tomorrow." Outlook can save you from having to count days on your calendar by allowing you to simply type the number of days until the deadline.

For instance, typing "tomorrow" or "Wednesday" in the Due Date field of the task item will enter the actual date. It will populate once you click on another field.

3. Distinguish between the to: and cc: fields to cut down on replies

If you put multiple names in the to: field, then chances are that many of those people will feel obliged to respond. If you only needed a response from one, and the others were only included as an "FYI", then put their names in the cc: field.

4. Drag and drop items of one type to create another

Sometimes you will get an email from a client triggering the need to have an in-person meeting. This requires the creation of an entry in your calendar. In Outlook, you can save time and avoid re-entering all the information in the email by dragging the

email message to the taskbar Calendar icon and dropping it there. All the information from the original email will automatically be transferred to the new calendar entry – no need to retype it. Make any necessary edits and save the meeting entry.

5. Banish the new email pop-up

If your computer has a “new message” pop-up, “ding,” flashing light, etc. every time an email message arrives, turn it off. It’s hard to be productive when you’re being side-tracked checking new messages. You’re going to check your inbox reasonably regularly anyway, so perhaps you don’t need to know the instant when something arrives.

6. Delayed delivery

Outlook allows you to schedule the sending of an email at a later date. There could be any number of reasons you’d wish to do this: you might be travelling or in court on the day you wish to send the email to a client, or you’re composing on a Sunday but don’t need to send it until later in the work week. Delayed delivery saves you from having to create a task to remind yourself.

Click Options in your New Message and under Delivery Options you’ll see the ‘Do not deliver before...’ field. The email will remain in your Outbox until that date when it will be delivered automatically.

In the meantime, if circumstances change and the email needs to be edited, or is no longer required, don’t forget that it’s sitting in your Outbox!

7. Redirect your email replies

If you are sending an email on a matter in which you want someone else to manage the responses, set up your message to redirect replies to that person (or people).

In Outlook, click on the Options tab of the New Message window, click the Direct Replies To button. In the Dialogue box that opens, look under Delivery Options and click the Select Names button. That will open your Address Book and you can select the appropriate person or people to receive the replies.

8. Second (and Third) Email Accounts

Keep your office email account as “clean” as possible by keeping non-client matter related emails out of your work inbox. The easiest way to do this is to open an alternate account which you use to sign up and direct all email that is important, but not directly related to client matters (this would be a separate account from your personal account). Examples of these types of emails could be notices from legal newsletters, professional associations, etc. (but not LAWPRO notifications!)

You could set up yet another email account just for sites that fill your inbox full of travel deals, store sales, two-for-one coupons, etc.

Among the free email programs, Gmail appears to do the best job of filtering spam so that may be the best option.

9. Create “canned” emails for frequent responses

If you find yourself typing the same email on a regular basis, you can save yourself a lot of time by creating a template with the body of the message already written. You just need to populate the “To:” field and hit send. Note that this is different from a draft email, which disappears when it is sent.

These templates go by different names in different programs, but the common first step is creating a new message and typing in the text you wish to save.

- Outlook: Depending on which version you have, the process will vary. Recent versions allow you to compose an email

and Save As a template, while versions prior to 2010 have a somewhat different process. A quick search online should direct you to some easy-to-follow instructions for your particular version of Outlook.

- Gmail: To turn on this function, first click the “cog” button (the wheel shaped icon), select Settings, then the Labs tab. Look for Canned Responses and click “enable”, then save your changes. When you compose an email, you’ll now be able to click on the arrow on the bottom right and save it as a Canned Response.

10. Open a new window

Sometimes it can be frustrating in Outlook to have to switch back and forth between Inbox and Calendar, or between two mail folders. A solution to this is to open your calendar or other mail folder in a new window. This is ideal for those with two monitors, but it works with one monitor as well by resizing your two open windows.

Right click on Calendar Group or Mail Group and select “Open in New Window.”

The Golden Rule of Inbox Management

A final tip: if you want to receive less email, send less email. Sometimes a call or face-to-face chat can be faster, more informative, and less prone to the misunderstandings that can come with email.

For additional reading on email, the practicePRO Lending Library has *The Lawyer’s Guide to Microsoft Outlook 2010* and *The Lawyer’s Guide to Microsoft Outlook 2013*, by Ben Schorr. The books contain a wealth of information and tips on all aspects of using Outlook in a law office. For more information on the books and how to borrow them, visit practicepro.ca/lendinglibrary ■

Tim Lemieux is Claims Prevention & Stakeholder Relations Co-ordinator at LAWPRO.

Taking parental leave? You have options!



Planning for parental leave might seem overwhelming when you are thinking about leaving your practice for an extended period, particularly if you've never taken leave before. You may have questions about the process of taking time off and how this will impact your professional liability insurance. Do I still pay premiums? What if someone steps in to handle my files? Can I still do legal work while on leave? What happens when I return to practice? What can go wrong with my files while I'm on leave? Below are answers to some of the more frequent questions you may have about your professional liability insurance.

Exemption from payment of insurance premium levies

Lawyers going on parental leave may be eligible for exemption from payment of insurance premium levies, if for the applicable period they:

1. will not engage in the practice of law in Ontario;
2. are on a temporary leave of absence (which may be up to 5 years for family or illness related reasons); or
3. are acting only as estate trustees, trustee for *inter vivos* trusts, or attorney for property who will not otherwise engage in the practice of law in Ontario.

Lawyers who claim an exemption under category (1) or (3) as described above are provided with Run-Off Insurance (standard limit being \$250,000 per claim and in the aggregate) at no charge, including Innocent Partner Coverage. See the 2015 Professional Liability Insurance for Lawyers Program Guide for details on eligibility criteria and coverage.

Lawyers who apply for the category (2) temporary leave exemption (e.g., parental leave) at the outset of the policy year are provided with the full limit coverage of \$1 million per claim/\$2 million in the aggregate provided under the base program.

Exempt lawyers can also apply to increase their insurance coverage by:

- increasing or “buying-up” their Run-Off Coverage limits;
- increasing their Innocent Party Coverage Sublimit;
- securing Excess Insurance Coverage; or
- purchasing the standard insurance coverage.

Locums

A *locum* is a lawyer who stands in for another practitioner while he or she is away from his or her practice, whether for parental or any other type of leave. It is the *locum's* responsibility to ensure they have E&O coverage that properly accommodates their *locum* work, as well as their own law practice. The *locum's* policy coverage would respond to claims arising from *locum* work. Under LAWPRO's optional Excess program, *locums* and their *locum* work would be expected to have coverage under the excess policy carried by the “contracting firm” (the firm that hires the *locum*). How *locums* are treated under excess policies will differ depending on the insurer. If planning on taking a temporary leave of absence, lawyers should confirm what, if any, excess coverage is available through their firm and if the

policy extends coverage to firm lawyers on leaves of absence.

Pro Bono work

In general, lawyers under exemption cannot provide professional services while on leave. They may, however, do certain *pro bono* legal work while under exemption. If the lawyer has applied for exemption and also provides *pro bono* professional services through a LAWPRO approved PBLO program¹, the policy would apply to *pro bono* professional services the insured provides while on exemption.

If you provide *pro bono* professional services for a not-for-profit organization (not associated with one of the approved PBLO programs), you should contact LAWPRO as you may qualify for exemption. However, unlike the LAWPRO approved PBLO programs, you will not be insured for these *pro bono* professional services.

Part Time Practice Option

Practicing on a part time basis may appeal to lawyers wishing to ease back into practice from parental leave. Lawyers eligible for the Part Time Practice Option benefit from a discount equal to 50 per cent of the base premium, up to a maximum of \$1,675, and still receive the standard coverage.

¹ For a list of LAWPRO approved PBLO programs: lawpro.ca/insurance/pdf/LawPRO_approved_ProBonoProjects.pdf

The Part Time Practice Option is available to lawyers who:

- restrict their practice to 20 hours per week on average for each week actually worked and 750 hours per year of “professional time”;
- have gross billings of \$75,000 per year or less; and
- have not reported a claim under the LAWPRO liability insurance program with a repair and/or indemnity payment in the last five years.

Common claims relating to parental leaves and how to avoid them

The claims experience shows that lawyers taking extended leaves of absence face increased vulnerability to claims as a result of inadequate file supervision or transfer procedures and missed deadlines.

Develop and follow procedures for seamless transfer of files

Failing to follow firm file transfer procedures can lead to unnecessary confusion. For example, when a lawyer went on maternity

leave she inadvertently left one of her files off her list of files to be redistributed. A status notice arrived at her office and the office receptionist forwarded the notice to another lawyer in the office. The other lawyers in the office ignored the status notice and eventually an Order Dismissing the Action for Delay arrived at the office.

Not all files will be in perfect order at all times and occasionally lawyers procrastinate tackling burdensome files. When going on leave, make sure to be frank with the successor lawyer or the lawyer who will be assigning the files as to why the matter is in the state that it's in, and what steps need to be taken.

Write detailed file transfer memos

Disorganized files can result in important details being missed. For instance, a lawyer had been negotiating a tolling agreement with opposing counsel. The terms of the agreement were oral or contained in emails that the lawyer had printed and placed on the correspondence spike but not diarized. The first lawyer's undertaking wasn't identified by the firm, the terms of it were breached and significant damages resulted. A good practice is to include a detailed file transfer memo to each file.

Ensure employees are appropriately supervised

In another unfortunate instance, a lawyer on leave let her office remain open while the lawyer's long time clerk handled all of the real estate transactions on her behalf. The lawyer allowed the clerk to use the lawyer's Teraview® Personal Security Package (PSP), sign the lawyer's name on documents or cheques, and conclude numerous real estate transactions in the lawyer's absence. Besides being a clear contravention of the *Rules of Professional Conduct*, this put the clients at serious risk.

Lawyers should not be relying solely on staff to handle files in their absence: At the end of the day it is the lawyer who will be facing a malpractice claim.

The good news

With the proper planning and the right coverage in place, you can manage the risks of claims associated with extended leaves of absence and enjoy a less stressful parental leave. ■

Bayly Guslits articulated at LAWPRO in 2014-2015.

Parental leave preparation checklist

- Ensure that your tickler system is effective, is being populated properly, and that staff have been well-trained in the use of the system.
- Consider using your tickler system or the “inactivity reports” or warnings that many law office accounting or practice management programs have to identify files in which nothing has happened for a specified period of time.
- Train staff to recognize status notices, and to bring them to the attention of counsel without delay.
- Ensure junior lawyers, clerks and staff are appropriately supervised; and pay attention to signs that suggest they are overwhelmed and at risk of missing deadlines.
- Be prepared for a planned parental leave by already having an action plan in place for unexpected work interruptions or emergencies.
- Keep your office and files organized so that the lawyer(s) taking over your files in your absence will be able to locate the information they need and understand what work remains to be done.
- Draft detailed file transfer memos that explain any upcoming limitation dates or other important dates in the file.
- Communicate with your clients about your absence well in advance. Tell them who will be handling their file while you are away. Put this conversation in writing, either in a letter or detailed notes to file.
- If you are going to be covered by Run-Off insurance while on leave, consider buying-up your coverage.
- Confirm your firm's excess insurance coverage will extend to you during your leave.
- If there is the potential for a malpractice claim, contact LAWPRO promptly.

Don't slip down that slope!

Don't let personal issues lead you to bend the rules

At least two of the Law Society of Upper Canada's discipline decisions in the last few months referenced a lawyer's "loss of moral compass." Even honest and well-intentioned lawyers have, when under pressure or when suffering from illness, addiction or a personal crisis, succumbed to the belief that it's perfectly fine to bend the rules "just this once."

Unfortunately, bending rules and getting away with it has the effect of weakening a lawyer's scruples over time – especially when the pressures that led to the first transgression persist. Preserving your integrity will help you steer clear of serious threats to your career.

Here are a few of the first steps on a path to embarrassment and claims – or even ruin:

- "Borrowing" money from a trust account, client, or petty cash
- Telling a colleague or client you have completed something that you are still working on (or haven't begun)
- Padding dockets or legal aid billings
- Allowing non-lawyers to do legal work without appropriate supervision
- Lending out your Teraview® Personal Security Package (PSP)
- Exaggerating evidence, credentials, or experience
- Misstating the opponent's position to your client
- Taking heavy-handed "inspiration" from others' written works without attribution
- Selective memory
- All acts of forgery
- Cheque tricks (post-dating, kiting)
- Back-dating anything
- Billing disbursements before they're incurred

How can you avoid being the victim of temptation? Learn to recognize the factors –

pressure from clients, economic instability, ego, stress – that lawyers typically cite when forced to explain their actions in the wake of a claim or complaint. Know yourself and make an effort to steer clear of the situations that challenge your judgment. For example:

- Don't take on clients who intimidate, bully you, or make you their pawn
- Take steps to deal with financial difficulties (financial counselling, debt consolidation, move out of a too-expensive office)
- Don't run off at the mouth. To avoid embellishing facts, be concise. People who talk less are often viewed as more intelligent than people who say more
- Never lie about the status of a matter or your progress on it. The initial lie will beget further, more serious lies
- Don't take on more work than you can responsibly accomplish or supervise

When lawyers look back on an act of dishonesty, they can usually identify the turning point when a dangerous decision was made. Often a lawyer lies to avoid a potentially embarrassing situation: having to admit to a client that work is incomplete or that a negotiation or motion turned out badly, or lying to family or colleagues about trouble meeting financial obligations. Lawyers who are perfectionists may be particularly vulnerable to these kinds of lies. Think about how you present yourself to clients, colleagues, and other people in your life. Do you cultivate an air of infallibility?

While it can feel good to be viewed as a superstar, maintaining this image at all costs can lead to slippery-slope behaviour. If,



instead of bragging, you encourage clients to form realistic expectations about the outcome of their matters, you will avoid losing face should you encounter problems down the road. Remember, your clients are workers, too: they don't likely hold their own work up to a standard of perfection. Chances are they also don't expect perfection from you (and if they do, you've taken on the wrong clients). Do your best, but don't misrepresent your abilities or the strength of a case. You don't need that kind of pressure.

Also, consider your stress level. Stressed human beings are more vulnerable than usual to both error and bad decisions. Attend carefully to your physical and mental health. Try our self-assessment on page 9, and take steps to regain your balance.

Finally, remember that lawyers are not the only ones capable of acts of dishonesty. Staff can slip up, too. Pay attention to signs that employees are feeling undue performance pressure, or are facing personal financial challenges. Establish appropriate oversight for office finances, check in with staff regularly about the progress of their work, and strive to build an office culture where it's comfortable for all workers to ask for help or to take time off to deal with health challenges.

Integrity is a practice, not a fixed trait. You will have dozens of opportunities to exercise your integrity over the course of your legal career. Maintain good judgment and keep your stress under control. Your reputation will reap the benefits. ■

Nora Rock is Corporate Writer and Policy Analyst at LAWPRO.



Don't worry about minor differences in title insurance policy terms – if you choose the right policy

We know that it is important to review the coverages, exclusions and specific exceptions in title insurance policies with clients. However, with respect to standard policy coverages (provided they are not affected by any property-specific exceptions), lawyers should be aware that the nature of Legal Service Coverage in TitlePLUS policies¹ makes differences in these coverages largely irrelevant.

TitlePLUS “Legal Service Coverage” includes the following as Risk (4):

This POLICY insures you if you suffer an ACTUAL LOSS in the TRANSACTION because your lawyer:

...

(4) commits an error or omission in providing legal services for the TRANSACTION for which liability is imposed by law.

This is a broad, sweeping layer of coverage for the insureds and provides protection even regarding the lawyer's choice or recommendation of title insurance.

What does this mean? If a lawyer recommends a TitlePLUS policy and a claim is later made by the insured client that the lawyer should have recommended a different title insurance policy because some coverage in the other policy was noticeably better (and the client would not have suffered a loss if the lawyer had obtained the other policy) – the lawyer's lack of judgment would be eligible for coverage under TitlePLUS Legal Service Coverage.

In the case described above, the TitlePLUS claims team would make a determination as to whether the lawyer acted negligently in recommending TitlePLUS insurance. Even if it is concluded that the lawyer was negligent, there would be no Errors & Omissions deductible or claims history levy surcharge against the lawyer, because the matter would be handled under the TitlePLUS policy.

TitlePLUS Legal Service Coverage:

- Insures all the services the lawyer provides for the transaction, if the lawyer commits an error or omission in the transaction for which liability is imposed by law
- Means that the client cannot be worse off by obtaining TitlePLUS insurance than he or she would be if obtaining a lawyer's opinion
- Means that the client is insured for the lawyer's choice of title insurance, in the event that the lawyer chooses negligently
- Applies regarding environmental and aboriginal rights issues, to the extent liability is imposed by law

If you have any questions about the TitlePLUS policy or underwriting requirements, contact the TitlePLUS Customer Service Centre via email at titleplus@lawpro.ca or call 1-800-410-1013.



There will be no Errors & Omissions deductible or claims history levy surcharge against the lawyer



¹ Based on the sample TitlePLUS Version 2.0 policy, excluding OwnerEXPRESS® and Québec policies.

Access to justice: Limited scope representation

More and more frequently, the delivery of legal services is moving away from the full-service model. Small practitioners and larger firms alike offer limited scope or “unbundled” representation, which let clients pick and choose when (or for which tasks) they want to engage a lawyer during the life of a transaction or piece of litigation. For example, a self-represented client can retain a lawyer simply to draft a Statement of Claim, appear on a motion, or assist with negotiating a settlement. The client handles the rest of the steps in the matter without the assistance of a lawyer. Limited scope representation can provide greater access to justice, as clients need not retain a lawyer for the whole life of a file, and can instead save money by ordering from a “menu” of legal services.

When you offer your client limited scope services, you should be extra clear on which tasks you are undertaking for the client, and which you are not. Miscommunication claims can easily arise in this context when the lawyer doesn’t deliver something the client expects. While a retainer will help

clearly specify the work that is to be done (and under the *Rules of Professional Conduct* are required for limited scope services), a good additional step is to have your client look at the checklist of tasks and sign off on what exactly will and will not be done. Such a checklist can then be appended to the retainer as a schedule. Check practicepro.ca/limitedscope for sample limited scope retainers, checklists and client information brochures.

Also, make sure your client understands the consequences of failing to fulfill, or fulfilling inadequately or inappropriately, the tasks which he or she is undertaking to perform. You do not want to face a claim from the client at a later date for lack of informed consent, based on an allegation that the client would never have agreed to undertake a given task if the possible outcomes of mishandling it had been fully explained.

Follow best practices to avoid any landmines. If you have only known the full-service model in the past, you should be aware

that limited service representation is more than just offering bits and pieces of your legal skills to clients. For example, you cannot provide a research memo to your client and expect your client to write a factum. Some complex legal matters should only be handled by a lawyer. Clients that are not as learned as you will need extra help. Similarly, clients with limited capacity or language barriers are unlikely to be good candidates for limited scope representation. Simply because you have clearly set out the borders does not mean you are absolved of your duties as lawyer. You still must adequately represent your client and take steps to make sure your client is making informed decisions, as described above.

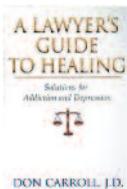
Limited scope representation may help you grow your business as it helps you cater to a different market. With the right tools you can kill two birds with one stone: provide access to justice and improve your bottom line. ■

Ian Hu is Counsel, Claims Prevention and practicePRO at LAWPRO.

BOOK REVIEW ■

Two books for better health

The practicePRO Lending Library has two great books on wellness issues that you can borrow.



If you are looking for help in finding more balance in your life, *The Lawyer's Guide to Balancing Life and Work*, by George W. Kaufman, is just for

you. Kaufman, who was a successful and seasoned partner for 40 years at a large U.S. law firm, goes beyond the usual review of steps you can take to reduce stress. Using personal anecdotes and stories, he takes the reader through a deep and personal journey of self-discovery.

The practicePRO Lending Library

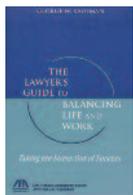
We have books on these topics:

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- Wellness & balance issues
- Solo & small firm issues

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The book walks you through your life and work choices, making you reflect on what you find is positive about the practice of law, and how the practice of law affects you in negative ways. The book will help you identify the sources of stress in your life, and give you tools and strategies to cope with them.

As Kaufman puts it, the book asks “how the law fits in you, not how you fit in the law.” This will, in turn, help you understand how and where you need to change, whether it means changing how you practise, shifting your practice to something different, or leaving the law altogether. The last chapter helps you build a personal action plan for change. The practical advice in Kaufman’s book will help you find more balance in life and work.



The second book, *A Lawyer’s Guide to Healing: Solutions for Addiction and Depression* by Don Carroll, former director of the North Carolina Lawyer’s Assistance Program, examines how addiction and depression manifest in the legal profession in different ways than in the general population, and the treatment options best suited to lawyers.

Carroll believes there are traits prevalent in a lawyer’s personality (e.g. perfectionism, control, idealism) that make them thrive in the work-heavy, adversarial environment of the law, but can also make lawyers more prone to addiction and depression. The same traits can also make it difficult to admit there’s a problem. Drinking or drugs can (temporarily) help deal with the fear of losing a case, the bitterness when justice isn’t seen to be done, and the need to feel in control despite drowning in workload.

The book explores the treatment options available for addictions and depression. Carroll advocates treating the mental and spiritual aspects of the problem, not just the physical. So in addition to describing the physiological causes and treatments of addictions and depression, he strongly believes counselling and peer supported programs like Alcoholics Anonymous are crucial to addressing other underlying issues.

Carroll’s book will have a narrower audience than Kaufmann’s, but will be helpful for someone looking to better understand the options lawyers have for getting help for addictions and depression.

The practicePRO Lending Library has more than 100 books on a wide variety of law practice management topics. Ontario lawyers can borrow books in person or via e-mail. A full catalogue of books is available online (practicepro.ca/library). Books can be borrowed for three weeks. LAWPRO ships loaned books to you at our expense, and you return books to us at your expense. ■

Tim Lemieux is Claims Prevention & Stakeholder Relations Co-ordinator at LAWPRO.

Social media profile:

Ian Hu



Ian Hu

Claims Prevention and practicePRO Counsel



Ian Hu’s mandate is to help lawyers avoid malpractice claims and succeed in the practice of law. Prior to joining LAWPRO he practiced as a litigator and worked at various sizes and types of legal firms, including in-house, a medium-sized litigation boutique, and plaintiff-side personal injury. A graduate of Osgoode Hall Law School, Ian has been active on LinkedIn for over seven years. As Claims Prevention and practicePRO Counsel, Ian is the voice of the practicePRO Twitter channel.

Target audience:

- Lawyers and others interested in law practice management and risk management
- Stakeholders and others interested in issues impacting lawyers and the legal profession
- Legal press and social media influencers

Topics of interest:

- Law practice management
- Risk management
- Claims trends
- Diversity issues
- Technology trends
- Leadership
- Bar Association events
- Mentoring
- Outdoor activities

When asked about why social media is important to new lawyers, Ian Hu said:

“Young lawyers can use social media as part of a complete marketing plan to complement their on the ground marketing efforts. A successful social media presence typically has a compelling theme to help you distinguish yourself. It can be a chance to show a fun and interesting side to your personality. Social media often acts as your introduction to employers and colleagues, and keeps them updated about your goings-on, so it is important to keep a professional online presence.”

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