

More addicted lawyers seeking recovery?

By JEROME I. BRAUN

“M

ore Lawyers Ask Help for Alcohol Drug Abuse” was a July 18 headline in the American Lawyer Daily. Since accurate statistics respecting addiction — whether alcohol or drugs — historically are, at best, imprecise, there is no way other than intuition to authenticate the headline. Indeed, the article states: “but record keeping ... is inconsistent at best.” However, intuition seems to corroborate the claim. So is it true?

At the threshold, let’s acknowledge the lawyer incidence of alcohol and drug addiction — e.g., 17 percent in California and 22 percent in New York — is nearly twice the 8 to 10 percent estimated for the general population. And if the governor of Vermont, Peter Shumlin, is to be believed, both his state and the entire country face a pandemic of drug addiction.

And let’s recognize that the two most prevalent causes for addiction are genetics and chronic, extended use to the point that the brain, in the words of Dr. Raymond Anton of the South Carolina Medical School, is “re-sculpted” into that of the genetically caused addict.

Assuming, however, the headline to be true, the focus here is why. One way responded: “It’s the economy stupid!” Out of the mouths of babes — this may be as close to accurate as one can get. So let’s start at the beginning: with the law schools.

Law schools have been much in the news since the inception of the recession in 2008, severely testing the old bromide that “you can do anything with a legal education.” In the last four years, law school enrollments have declined by about one-third, while during the same period student loan debt increased geometrically. Law school graduates are finding it difficult to find jobs as firms bruised by the recession have scaled back hiring and laid off associates without

replacing them. And many finding work do not need their law degree — only about 65 percent of the graduates found law jobs requiring bar admission. Thus, it is no surprise that more law students and recent graduates, both women and men, are finding their way to recovery programs such as the “Other Bar,” a twelve-step recovery program for lawyers, judges, paralegals, administrators, law students and “friends.”

So much for the law schools and their recent graduates. In what milieu do lawyers, both new and seasoned, find themselves? Not a pretty one. Volumes have been written about the impact of the recession on law firm life and one can extrapolate from that literature its impact on addicted lawyers. On the positive side, most law firms provide assistance to addicted lawyers seeking help, particularly through residential and outpatient recovery programs, mandatory MCLE programs on substance abuse, and by availing the firm and the afflicted lawyer of anonymous twelve-step recovery programs such as the Other Bar or the California State Bar Legal Assistance Program (whose charge is the assistance of lawyers with addiction or other mental health problems).

Of course, often there is considerable resistance by both the afflicted lawyer and the firm to address addiction issues. The lawyer fears disclosure with possible attendant professional stigma and career impediments. The law firm may be reluctant to intervene unless the addictive behavior is impacting the firm internally or externally with clients, other lawyers, the courts and the general public.

But back to the recession. Lawyers and their firms face many issues as a result of the recent economic downturn, some of which are relevant to addiction and its causes and aggravation. Law firm growth has been flat, associate hiring has decreased, associate and partner layoffs have been common, and layoffs either have not been replaced or have been replaced by lateral hires. Moreover, replacement hiring has been in some measure

impacted by advances in technology, making paraprofessional and other administrative personnel adequate substitutes for what previous tasks were performed by lawyers.

Perhaps the largest single impact of the recession was the general decline in growth due to fee and rate controversies with major corporate clients. Those same clients brought more work “in house” or sought new, less expensive outside firms.

While this economic analysis is superficial at best, it does demonstrate an unsettled and unsettling legal climate capable of generating much anxiety at all levels of the lawyer ladder, which likely has increased stress levels resulting in increased use of alcohol and drugs and perhaps an increase in recovery services. Indeed, why did 50 percent of lawyers in an American Bar Association poll respond that, if they could, they would choose some other profession? Stress.

So what causes that stress for lawyers? Some of the most prominent elements are:

Client expectations and demands. It is beyond the scope of this column to discuss client control and the expectations of clients — but the point is obvious. The scope of the services to be rendered and what a client should reasonably expect should be spelled out clearly in an engagement letter along with the fee arrangement. While this may not eliminate all bases for client-generated stress, it should help in controlling and minimizing it.

Competition, both internally and externally. Whether in litigation or transactional work, stress is endemic. Internally, there is competition for recognition, advancement and approval. Externally, combat with opposing counsel, whether in litigation or for business, is too well known to require lengthy discussion.

Billable hours. Lawyers often are expected to log a minimum number of hours, and the pressures to reach those goals can generate considerable stress — particularly if a lawyer overall is not performing well as a result of her or his addiction. The pressure to meet

billable hours quotas can, in turn, result in “padded” time sheets, billing issues internally, and with clients who all too frequently complain that bills are too high.

Pro bono pressures. Pro bono is much in vogue these days and lawyers at all levels within a firm, as well as solo and small firm practitioners, are under pressure to bill a certain amount of free or reduced hourly fee work in the public interest. A lawyer with billable hour minimums who is expected to perform pro bono work while under pressures to meet quotas, take administrative responsibilities within the firm, be active in the community, and be a loving spouse and parent is a recipe for high stress.

In conclusion, we end with the same question with which we started: Are more addicted lawyers seeking recovery? Statistics don’t necessarily support that conclusion. But the post-recession state of the legal market and law practice certainly point to an intuitive conclusion that the need for recovery services is definitely not declining and suggests fertile soil for an increased need in and to recovery. To quote Omar Khayyam’s “Rubaiyat,” “The moving finger writes and having writ, moves on...” “Whatever past successes we may claim, it’s not too late for more and better recovery successes.

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