



Sudden emergency

Handling illness, injury, or time away from your practice



Cooper

BY MILES B. COOPER

The lawyer, out on a friendly charity bicycle ride, began the descent. Quick up the hill, but typically more cautious down, he felt pressure from behind – other riders wanting to speed down the steep one-way road. Against his better judgment (but goaded by ego), he picked up speed. Attempting to channel his inner Peter

Sagan, he went into a turn at 30 mph. Peter Sagan he was not: the lawyer lost traction, slid out, and landed on his left side. His helmet, shoulder, and hip bounced on the ground a couple times before his body slid, then finally came to a stop. He got up, his helmet cracked, gravel buried deep into its shell. And what was that odd deformity between his neck and shoulder? That uncomfortable grating bone sensation when he moved? All told, the damage included surgical collarbone fractures, a cracked rib, epic hip bruising, and road rash. The bike? Barely a scratch.

The world keeps turning

At some point in one's practice, most of us will face an unexpected period away from the office. It could be an injury, an illness, or having to take care of a loved one. Since most of us are control freaks, we harbor the inflated belief that the world will end if we're out of pocket for more than a few minutes. One will find this is not the case. The practice will survive. The plaintiffs' community is amazing – colleagues offer help. Most opposing counsel will be understanding (but not all – more on that later). One cannot rely on kindness alone, though.

Build elasticity into the system

Sudden events are harder to deal with if one's practice is running at 110 percent – maximum caseload, trial call every week, four depositions a day (otherwise known as any given in-house insurance defense lawyer's schedule). Building in elasticity helps. That's easy to say but harder to do, so I'll offer additional reasons for elasticity. It allows one time to strategize cases rather than simply push forward. It provides opportunities to develop the practice and plan.

Achieving goals is much easier when one has time to set them. And it gives one room to take on that monster battle – or monster case – when the opportunity arises. Elasticity is good across the boards. A simple example? I keep a pre-written column on hand. If I'm stuck in trial (or crash my bike), I have an article available to fill this space.

Develop a triage system

Even with elasticity, we can't do it all. We can't heal and deal with every email, phone call, or problem. Figure out what must be dealt with (the trial continuance request for the immediate trial) and what can be pushed out (updating the firm Website).

A good assistant completely changes this landscape. As gatekeeper and apologist, the assistant helps triage the unending inbound flow. A great assistant might even pick one up from the hospital after surgery if one's family is out of the country when one crashes.

Accept the helping hands

The level of help that is immediately offered when something happens is astounding – both in its quantity and its sincerity. Partners, colleagues, suitemates, and friends – they all step forward. When they do, one can either try making court appearances, in pain, or one can accept the help. Try not to let pride override. Illnesses and injuries resolve when one can focus on healing, not when one is stressing about making an early morning case management conference. Accept the help. While healthy, remember to donate into the favor bank. This includes being gracious whenever possible with opposing counsel. One never knows what disaster lurks around the bend.

Beware the opportunists

A miserable minority – litigation sociopaths – will attempt to turn misfortune to their advantage. These are the types where you need to memorialize everything in writing and every interaction is a battle. Avoid disclosing specifics as best as possible to these joyous folks. If they figure out the issue and become predatory, use the helping hands to seek court intervention. Courts tend to be understanding when bad things happen. Most courts also dislike bullies.

Duty to the clients

Don't forget the duty to fight for your client. If it is going to take a long time to recover from your situation, consider whether one needs to refer out or associate in to protect the clients' rights. Our colleagues will pitch in – and will usually consider one's situation when discussing the appropriate fee splits.

Outro

That lawyer in the introduction? It was me. Shocker, I know. Fortunately, the helmet did its work. The important components upstairs escaped unscathed. The collarbone is healing and my practice downtime was minimal. My ego? Still bruised. A shout-out to the fellow charity riders from Kecker & Van Nest who mounted the salvage operation and got me home. Next time, you folks lead the descent.

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