



Indispensable People: Joys and Risks

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This is a true story. A precautionary tale. It was shared with me by two solo attorneys who share office space and staff. Each is the emergency back-up for the other. They work in the same practice area, but perform conflict checks so as to ensure that if one has to step in for the other, no issues arise. They disclose this arrangement in their respective engagement agreements.

A long time ago they practiced in a larger firm setting, where they were part of a practice group including other attorneys. When they originally set out on their own, they were 3 solos sharing space and staff. The staff person had been their assistant at the prior firm for two years. So everything went seamlessly in departure, set-up, and for another seven years. Eventually one of the three retired. The remaining two experienced a high quality of life at the office. They each had sufficient work, and a high-caliber assistant who transparently took care of all the day-to-day details of running the office, while assisting them in providing exemplary client service. Life was good.

In April, 2014, their staff person came to work in pain. She thought she had pulled a muscle in her back while sleeping. A week later, with the pain persisting, she had an xray. It revealed that the non-smoker had advanced lung cancer. A full body scan a week later revealed that the cancer had already spread to the brain and bones. From the time of her diagnosis, the assistant tried to return to work whenever she could, but managed to put in not more than 8 hours total. Her symptoms advanced quickly, and her treatments were intense. She died in early August.

From a personal perspective, this was a devastating loss for the two attorneys. The assistant was family in every sense of the word, except familial. However, they were discovering, almost from the date of diagnosis, that there would be little if any time for grieving.

In the first week of the assistant's absence they experienced the start of their ensuing panic. They were out of postage, and had no idea how to refill the meter.

The assistant patiently tried to walk them through the process over the phone, from her hospital bed. By the second week, one of the solos was arriving at the office at 6:00 a.m. each day to try to do the tasks the assistant had been doing. For example, she needed to open a new file, and realized she didn't know how to use the label maker. Ok, she thought, magic marker will tide us over until our assistant returns to make it "right". Then she realized she had no idea where the actual file folders were stored. After a search of the office left her empty-handed, she had her first good cry. Both solos would have many more.

Because their assistant "Susie" was so great with clients, and took care of all the management details with aplomb, they never really paid attention to these details. Susie opened files, did conflict checks, billing, secretarial work, courthouse runs. And more. She was so good, the attorneys admit, that they never really even used their computers.

They didn't — emotionally couldn't— advertise for a replacement. They felt that doing so meant they were giving up hope for Susie's recovery. They tried to use college students and relatives to fill in where they could. But the level of support they got under the circumstances was limited. Even if they did hire someone, they knew, they were unprepared to train a replacement.

One solo recalled that it took her hours trying to type a simple letter. When that was finished, she realized she had no idea how to print an envelope. She had to go online to find the printer manual. Figuring out what and where the auxiliary tray was proved a daunting challenge. It took 2.75 hours to print that envelope. She was determined!

Here is a short list of some of the things we don't think about, but proved to be major impediments to their ability to get work done:

- Determining how and who to order office supplies from, and what they were using
- How to do filings at the courthouse from a procedural standpoint
- Opening files physically and in Amicus, including how to run a conflict check



- Closing files and sending them to storage properly labeled, as well as the procedure to identify and retrieve files from the storage company
- Where the Christmas card mailing list was located, how current it was, and how to print the labels
- How to use the scanner
- How to do payroll
- What needed passwords, and what they were

The solos dispensed with “formalities” like cover letters. Instead, once they learned how to use the scanner, they scanned in everything and emailed it. Creating the certified mail labels was something they were never able to master. So they stopped, and instead hired a constable to serve documents. Even though they learned to print regular #10 envelopes, the label printer proved too difficult. So all large envelope addresses were hand written.

Something which turned out to be a lifesaver was Amicus case management software. Under the pressure of their vastly increased workload, each was able to work outside of the office, as time became available, with all client case data available on a laptop. Without it, the trade-off would have impacted family life, client service, or both.

Another small positive is that each solo was forced to create better form documents for improving work production. Ultimately it improved the bottom line; they became more computer proficient and self-sufficient, and only needed to replace Susie with a part-time person.

Throughout this turmoil, the solos felt disadvantaged in terms of their solo status, for the first time. There was no back-up personnel. And they never had time to learn administrative “stuff.” It just wasn’t a good use of their time. In retrospect, they say they should have had “key man” insurance on Susie. But because Susie was just 65 and in good health, the thought of her dying never crossed their minds.

Throughout her decline, Susie was regretful that she was too sick to return to the firm to show them some of the administrative details. She kept trying to make it happen, until they finally told her in no uncertain terms to stop trying, and stop



beating herself up about it. Susie had always meant to document the details some day, so that when she retired, it would be a smooth transition. But as is often said, man plans and God laughs.

The good news is that they survived. And eventually had time to grieve the loss of Susie. No malpractice was committed, although a ton of otherwise billable time was lost, and there were many sleepless nights.

In closing the telephone interview, I had but one last question, “How much of what the new staff person is doing is being codified?” Silence on the lineMy final suggestion was that every instruction, and every chore, be documented by the employee. Slowly. Over time. Updated regularly. That way if new Susie is hit by a bus, they will not find themselves in the same situation. They were thankful for the sound advice. What about you? Is there a Susie in your life?

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