



## **SURVIVING PERSONAL CATASTROPHE**

Ellen Freedman, CLM  
© Freeman Consulting, Inc.

---

On June 10<sup>th</sup> I had the honor and pleasure of participating in a very unique seminar presented by PBI entitled “*Conquer Catastrophe: Reviving Professionally and Healing Personally.*” The original concept for the seminar came from course planner Neil E. Hendershot, an attorney from Serratelli, Schiffman & Brown in Harrisburg. Jennifer L. Ellis, (formerly with PBI and now my partner in Freedman Consulting), co-planned the seminar. My kudos to both for a highly successful course.

Neil has had significant experience with catastrophic events. Probably more than most attorneys. In February, 1999 a medical misdiagnosis nearly cost him his life from a burst appendix. Life-saving internal surgery saved him. Again, in July, 2009, an accident left him with a broken neck and the need for reconstructive spinal surgery. His return trip to a state of recovery covered a long and winding road, with ups and downs, and led to a great deal of personal growth.

Neil explained at the opening of the seminar that his experience, particularly in 2009, left him searching for resources to assist him in both his personal and professional recovery. He found scarce resources that collectively addressed the myriad of issues that lawyers in particular may face.

Neil pointed out that the very thought processes which guide lawyers on a day-to-day basis: time management, rationality, advocacy, and judgment, are at odds with those associated with catastrophe: admission of performance disability, lack of control, uncertainty as to outcome, extended recuperation, and dependency upon others. In addition, he acknowledged that the knowledge and skills necessary to address recovery from a personal catastrophe are not taught in law school or learned through ones professional work.

Based upon my participation in this course, and the little time I was afforded to get to know Neil on a more personal basis, I believe that development of this course was a final step in the healing process for Neil. The fact that two of his children were there to support him and witness the culmination of his efforts in assembling an impressive faculty with a wealth of information, attest to that. A

conversation I had with his son confirmed it. Healing from a catastrophe isn't just a medical or physical issue. Healing, as this course revealed, is a holistic process encompassing spiritual, psychological, medical and other areas.

My role in this seminar was relatively minor. I concentrated on the technological tools available to enable lawyers with disabilities to service their clients. I must admit that I was totally amazed at the depth and breadth of tools available. There was so much available, in fact, that my limited time slot, which I shared with Trisha Torrey of Every Patient's Advocate ([www.epadvocate.com](http://www.epadvocate.com)), only allowed me to present a sampling of tools for different types of disabilities: hearing, sight, physical mobility, and speech were my focus. I took the opportunity, however, to create a resource which I believe will be very helpful to attorneys—and the people they care about—who experience catastrophe, well into the future. I hope you never need it, but if you do, it's ready to send upon request. In addition to the resource I created, PBI recorded the seminar for future availability.

As many of you already know, I have frequently presented two seminars in the past which address aspects of this topic in other ways. Perhaps I did one for your county bar. One is entitled "*Disaster Prevention and Recovery*" and addresses catastrophes which affect an entire firm, such as flood, fire, theft, vandalism, and so forth. It covers the necessary steps to take to restore a firm's ability to service its clients, and maintain client confidence while doing so. Perhaps more importantly, it addresses prevention strategies, as well as what it takes to create a disaster recovery plan, so that a firm is adequately prepared for unexpected events.

The other course is entitled "*Survival 101: Emergency Planning for Your Law Office.*" This course was originally entitled "*Practicing Dead or Alive,*" and I was privileged to serve on the original faculty with Pittsburgh lawyer Virginia Cook, who was the driving force behind the seminar. Although this course addresses many of the issues in the first course, it focuses in detail on how to continue to run a solo practice when the attorney is sick, injured or disabled, or how to run the practice as part of the administration of the attorney's estate. With attorney Cook's blessing and materials, I have continued to present this seminar for counties throughout Pennsylvania for many years. The requests for both seminars ebb and flow, but it's undeniable that requests increase following local or global disasters.

As I listened to the impressive, comprehensive, and frequently touching presentations of the other faculty members at the Catastrophe course, I experienced a distinct feeling of déjà vu at many points. No matter what the course title, nor who presents the material, there are points which are always touched upon.



In our day-to-day lives, we rarely think about the prospect of a catastrophic event touching us or the ones we love or work with. Sure, we buy disability insurance, health insurance, and life insurance, maybe even buy-sell insurance if we can afford it, but that doesn't mean we really anticipate or dwell on the possibility of catastrophe happening. For that reason, we rarely do more than buy, or consider buying, insurance.

Statistically speaking, there's a good chance that you or a loved one or coworker will be the victim of catastrophe at some point in time. We don't even think about all the eventualities. I guess if we did, we'd all need Xanax or a stiff drink just to get through the day. But statistics also show that businesses which do no advance disaster planning (75% of businesses) are less likely to recover, at least from a business perspective. In fact, 50% of unprepared businesses which experience a significant disaster will fail within two years. Attorneys have the distinct disadvantage of experiencing catastrophe from both a personal and business perspective.

Personal catastrophe comes in many forms. What each has in common is that it is totally unexpected. During my most recent research on this topic, I uncovered countless stories of courageous attorneys who struggled to overcome personal catastrophe and return to active practice. One in particular burned especially deep into my memory. An attorney's son shot his wife to death, and then shot his father twice in the head, leaving him for dead. The attorney ultimately lost one eye, but miraculously recovered and managed to fully return to his law practice. He faced other aspects of the catastrophe by bravely taking the witness stand at his son's trial.

Unfortunately, others are not so "lucky" in that there is no chance of recovery. I remember a lawyer who called me on the hot line about his father and mother, both lawyers who practiced together many years, who had just died together in a car crash. In the original *"Practicing Dead or Alive"* course, Virginia Cook told the story of her good friend, an attorney with a solo practice, who was diagnosed with brain cancer, and subsequently died.

In all of the catastrophic events I have read or heard about, it seems there is always a common thread — lack of any preparation in anticipation of the unthinkable. Ok, right about now you're probably wondering just what you should be doing. You know that's where I'm heading, right? So let's get to it.



Too many small firms operate without any type of written partnership agreement. You need to have one which spells out clearly what will happen if a key partner dies, becomes disabled, or even more importantly, becomes incompetent to practice. When will salary and benefits cease? What will a deceased attorney's estate be entitled to? If an attorney becomes incompetent — medically, psychologically, from substance abuse etc — how will the firm protect itself and the attorney's clients? What legal and ethical obligations exist? Do you know?

What “*road map*” have you created which would enable someone to keep your practice running in the event of an extended disability? Have you executed a Power of Attorney? Who will write checks? Who will have authority to sign checks? Who can deal with your escrow account and disburse payments if necessary? Who will make sure that your rent and insurance premiums are paid? Who is designated to step in and temporarily handle deadline work for clients? Are they cleared for potential conflicts? Who will pay your staff and if necessary deal with the media and/or notify clients on your behalf?

Have you made an arrangement with another attorney to cover your practice in an emergency? That's a critical step if you're a solo. But even if you are in a firm where other partners can step in, determine whether they can get to your calendar to anticipate deadlines, and whether in fact all the deadlines are recorded. Can they access all documents or are some passworded, or hand-scribbled and indecipherable? What if you need to get to your pension money; is someone authorized to process the paperwork if you're not capable?

When I get to this point in one of my seminars, I usually see a “*deer in the headlights*” panicked look on faces in the audience. And rightfully so. Are you feeling a bit of fright at this point? Good. Use that fear as motivation to do something useful.

It's not all that hard. Ok, maybe creating a partnership agreement is something you've purposely avoided. But it's necessary. And there are lots of resources to make it easier to accomplish. Maybe writing your Will is something you don't like to think about. I know it's unpleasant for some, but it's necessary. So is the Power of Attorney. So is adequate insurance. So is documenting your office procedures and looming deadlines, and so forth. None of this is any less important than backing up your computers daily.

Now, let me offer one final thought on this topic. There is one and only one thing which you should *not* do, under any circumstances, as a result of reading this



**article. What is it? Nothing. Doing nothing is the only thing you should not do. Do something, anything, to take a small step in the right direction. Progress is always made in small steps — continual small steps — made in the right direction. Remember, reaction after the fact is no substitute for planning beforehand.**

© 2011 Freedman Consulting, Inc. The contents of this article are protected by U.S. copyright.. Visitors may print and download one copy of this article solely for personal and noncommercial use, provided that all hard copies contain all copyright and other applicable notices contained in the article. You may not modify, distribute, copy, broadcast, transmit, publish, transfer or otherwise use any article or material obtained from this site in any other manner except with written permission of the author. The article is for informational use only, and does not constitute legal advice or endorsement of any particular product or vendor.

