What Will Happen to Your Legal Practice if You Become Disabled?

By Timothy P. Crawford, CELA, CAP

To keep your practice running, these are questions you need to answer before a sudden disability occurs. Attorneys go about their daily business of helping their clients without much thought as to what is going to happen if he or she becomes disabled. Do you have a plan in place? Many NAELA attorneys are solo practitioners. Some practice alone with no staff. Others practice alone with one or two staff.

What Every Lawyer Needs to Think About Regarding a Sudden Disability

Let’s think about what would happen if you had an extended stay away from the office because of a disability. The disability could be sudden. It could be a car accident that leaves you unable to return to work for weeks to follow. What plan do you have in place? Many of us never think about it. Who will answer the phone? Who will take the clients’ calls? More importantly, who will prepare the legal work that your clients will need when you are laid up. Maybe you will only be physically disabled. What if you are mentally disabled — you are unconscious from the car accident or you have brain damage? What if it’s a massive stroke? What if you are not going to recover and it’s a long-term, permanent disability? What if you must permanently close your practice? Who will do it? Who has the legal authority to do it? We are lawyers. We think of other peoples’ problems and we solve them in advance. Have you put together a plan to handle this problem? What if you died as a result of the car crash or your massive stroke? Are you prepared today for this to happen to you tomorrow?

Short-Term Disability

You are planning to have surgery and you will be away from the office. You have time to prepare. You may handle this like you do a vacation, knowing that you will be away for only a short time. You’ve had time to plan for this. You are available if staff needs you. You feel comfortable.

Now change the situation and the disability happens suddenly and immediately. A car crash while you are traveling to a client’s home. You do not make it to the client’s home. Your staff does not know where you are. You are in an ambulance on the way to the hospital. You are not conscious. What does your staff do when the client calls and says you did not show up? Hopefully, the hospital will notify your emergency medical contact. Do you have information in your wallet or purse that would tell the hospital who to call? Your office gets a call that you are in the hospital and unable to communicate. What is your staff to do at that point? Is there someone they should call? What immediate action needs to be taken? Have you developed a checklist for what staff should do at that point?

Now would be a good time to develop such a checklist for what they should do in the short term and what they should do in the long term. Now would be a good time to make arrangements with another attorney so that your clients’ legal work can be done. Being a good lawyer, you have a personal financial power of attorney in place. However, the person you selected, likely a family member, probably does not have a legal degree, and thus would not be able to do the legal work. You have issues of client confidentiality. Do you have a business-type Power of Attorney authorizing another attorney to step in and take over your clients’ legal needs that may be immediate and can’t be pushed off? What about the files that you were going to work on later that day or later that week? What can be postponed? What do you need to take action on immediately? What deadlines are you up against? Your well-trained and informed staff may be able to assist with much of this. What do you do if you have no staff?

These are things you need to think about in advance. Does the staff know what attorneys they should call if they need help? Is it one attorney? Is it different attorneys for different types of matters? Are they informed?
Do they know who they are? Has a compensation arrangement been made? Have the ethical issues been thought about and addressed? Have you talked to these attorneys in advance? Do you have an agreement or understanding with them in advance?

**Longer-Term Disability**

The auto accident may result in a longer-term disability. Will the above arrangement that you provided on a short-term basis extend to a long-term basis? Will it extend to a permanent failure to return to work? What if you are incompetent or unable to communicate with anyone? Obviously, if you are competent you may be able to function somewhat remotely from your hospital bed, your nursing home bed, where you are in rehab, or from your home.

Will you be efficient in doing legal work under these circumstances? What will happen to your overhead? Will it continue? Will it increase? What will happen to your income? Generally, you could predict that your income would decline. Have you thought about insuring this financial problem by having overhead replacement insurance to allow income to come in to cover overhead? Will this be short-term coverage? If so, for how long? What about disability income for yourself? Will you insure it only for the long term? Will you have it insured for the short term? Where does your family's income come from when you are unable to provide them that income because all cash flow from the office is needed to pay office overhead? Do you personally have an emergency reserve? Have you lined up in advance a line-of-credit arrangement with your business banker? Does your staff have the ability to sign? Have you given any kind of Power of Attorney in writing to your staff? Will your banker and others honor it? We plan for others; do we plan for ourselves?

**Plan Ahead Now**

In the above, I have given you many ideas to think about. I would suggest that you think about them now. Work out as many of these problems in advance as you can. Make sure that you have appropriate Powers of Attorney prepared so that the right people will be authorized to take action. This is so important if you are not capable of taking action yourself after your auto accident, stroke, or other form of immediate disability.

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