

Problem Partners

By Nancy Byerly Jones

Short Version: Partners sometimes disappoint each other. If one of your partners has a legitimate and serious problem such as alcoholism or anger management issues, face it squarely and quickly. Take all necessary steps to ensure clients are not hurt or otherwise neglected because of the attorney's issues. If you don't care enough about your partner to take these steps in a prompt and appropriate manner, then you must accept the fact that you are equally responsible for any harm caused to firm clients. You must also face the fact that if you really don't care, you are in the wrong partnership and possibly the wrong profession as well.

Longer Version: I am writing this column while my husband and I in the midst of keeping a twenty-four hour watch over one of our pregnant horses that has had some problems with labor. This will continue until she finally delivers what we hope will be a healthy foal. We don't mind our sleep-depriving vigil because our animals are an invaluable part of our lives and hearts. We voluntarily committed to caring for them starting the moment they were purchased and we take that responsibility very seriously. This reflection on my personal life is used to demonstrate what commitment means when talking about an owner's responsibility to their animals or the responsibilities as a lawyer and partner.

The "What If's": If a partner was suffering with serious personal problems, would you rearrange your schedule to help out however you could, insist that she get the proper medical or other help needed, assume interim responsibility for her cases and administrative responsibilities (or help ensure they are assigned to the appropriate attorney), initiate a quality control audit to ensure her clients' matters are in good order? My bet is that you answered "Yes" to all these questions. If not, I would recommend that you figure out *why* not?

Heads in the Sand: Far too many attorneys turn their heads away from their partners' problems when they concern issues such as alcohol or drug abuse, sexual harassment, chronically poor client relations, repeated broken promises, steady decrease in fees generated and sloppy work product. They hope someone else will step in to help or that the problem attorney will one day instantly snap out of their destructive pattern and things will be like "they used to be."

Back to our 24/7 foal watch – we do it because we care deeply about our animals, appreciate the value they bring to our lives and also because it our responsibility. If you choose to have partners with whom you share successes and risks then you no doubt care about their physical and mental well being. Likewise, you value and appreciate their contributions to the firm. Partners expect each other to treat all firm clients and their cases with the highest level of respect and competency. And, if a partner suffers serious problems, his or her partners should promptly help to resolve the issues and to minimize any negative consequences of the situation in any way they can. Several management tools can assist them in doing so, one of which is discussed below.

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Resolution Plan: Do you have a written partnership agreement? Does it cover how to handle suspected problems such as substance abuse, client neglect, sexual harassment, poor work quality, inadequate or improper staff supervision, etc.? Are problems addressed in compliance with your partnership agreement or differently each time?

If you have no partnership/shareholder policy that covers how to handle problematic firm attorneys, how have you addressed such issues? Were they dealt with promptly and successfully? Was a partner left hanging out on a limb to handle the matter on his or her own or was it a joint effort?

I consider detailed provisions in partnership agreements regarding how to handle problem attorneys absolutely essential in multi-attorney firms. The need for one is no less important than the reasons behind advising our clients to detail their buy/sell, separation agreements and other contracts in writing. Like the cobbler's kids with no shoes, however, we often don't take the time to document our partnership/shareholder arrangements much less how we will handle potential problems.

Typical problem partner issues ignored by firms rather than faced include: declining quality in work product; client neglect (coupled with an increase in client complaints); alcohol abuse or other addictions; demeaning treatment of staff; repeatedly breaking promises made to clients and partners; straight out lying to clients, partners and others; and an ongoing failure to communicate in a timely and proper manner.

Why are these and other potentially harmful issues ignored? First, it's awkward and uncomfortable to point an accusatory finger at a partner. Second, it takes enormous amounts of time and energy to face these issues; and third, many attorneys want "someone else" to do the dirty work. They are willing to keep their heads in the sand while waiting for the "fix it" fairy to appear and work her magic.

The Bottom Line: In multi-attorney firms, the buck starts and stops with each partner. Partners *are* the "someone else" who should do the dirty work. There are always farm chores to be done, but the required labor is far outweighed by the smiles and joys our animals give us. In the right partnerships, the "messes" are dealt with responsibly, swiftly and courageously and the tough times are far outweighed by the many rewards of a healthy and strong partnership.