

Lawyer Assistance Committee, the Law Practice Management Committee, the Attorney Professionalism Committee and the Electronic Communications Committee

Thursday, January 24, 2013
Hilton New York
1335 Avenue of the Americas, New York City (Between 53rd and 54th Streets)
“The Trouble with Larry: Dealing with a Problem Partner”
9:00 a.m. – 12:00 p.m.
Nassau Suite “B”, 2nd Floor

IMPORTANT INFORMATION

Under New York’s MCLE rule, this program has been approved for a total of 3.0 credit hours of ethics. This program is applicable for all attorneys, including those newly admitted.

Discounts and Scholarships: New York State Bar Association members may apply for a discount or scholarship to attend this program, based on financial hardship. This discount applies to the educational portion of the program only. Under that policy, any member of our Association who has a genuine basis of hardship, if approved, can receive a discount or scholarship, depending on the circumstances. To apply for a discount or scholarship, please send your request in writing to Barbara Mahan at New York State Bar Association, One Elk Street, Albany, NY 12207.

“The Trouble with Larry: Dealing with a Problem Partner”

Panelists will assess and respond to “problem partner” scenarios from the perspectives of LAP, LPM and Attorney Professionalism. After examining the many faces of “Larry,” the problem partner, the second half of this program will address several possible ways to help Larry including training, coaching, counseling, confrontation, intervention, peer review or possible termination of a partnership interest (firing). Panelists from different disciplines will discuss the pros and cons of these different approaches.

Program Agenda

- 8:30 a.m. Registration**
 - 9:00 a.m. – 9:15 a.m. Welcome and Introductions | A Tribute to Gary Munneke**
 - 9:15 a.m. – 10:30 a.m. Dealing with a Problem Partner | Scenarios and Ethical Considerations**
(1.5 Credits in Ethics)
 - 10:30 a.m. – 10:45 a.m. Break**
 - 10:45 a.m. – 12:00 p.m. Solutions to Protect Your Practice and Assist a Problem Partner Ethically and Practically | Partnership Detoxification**
(1.5 Credits in Ethics)
 - 12:00 p.m. Adjournment**
- Panelists:**
- Marion Hancock Fish, Esq.**, Hancock Estabrook, LLP
 - Thomas C. Grella, Esq.**, McGuire, Wood & Bisette, P.A.
 - Marian C. Rice, Esq.**, L’Abbate Balkan Colavita & Contini, LLP
 - Philip H. Schaeffer, Esq.**, General Counsel, White & Case LLP
 - Patricia Spataro**, Director, NYSBA Lawyer Assistance Program

This program is about Larry. Larry is by all accounts a successful lawyer. He is an equity partner in a respected law firm in Anywhere, New York. Since graduating from law school with a record good enough to get hired by his firm, he has developed an expertise, and over the years he has been successful bringing in new clients and serving existing clients. Larry has been active in bar associations and supports a number of community activities. Outside the office, Larry socializes with other partners and their families.

But there’s something about Larry that doesn’t add up. The storybook persona depicted above doesn’t describe the Larry that Larry’s partners know. For them, there is a darker side of Larry - a Larry who causes them to huddle furtively when Larry isn’t around and ask themselves what they should do. The truth be told, Larry’s partners would rather not deal with “the Larry thing,” for fear that confronting it would upset the proverbial apple cart, so they have done nothing.

The following scenarios present variations on Larry. The panel recognizes that these descriptions do not exhaust the possibilities of Larry issues. In some cases Larry might be a combination of two or more of these toxic Larry’s.

This program is broken into two parts: during the first part panelists will explore these Larry scenarios, with an eye toward recognizing and assessing the problems. Panelists will provide their insights into how to get beyond wringing their hands privately, but doing nothing publicly. After a short break, the panel will return to offer some specific approaches to dealing with the Larry problem meaningfully and sensitively. Sometimes it just doesn’t work out in the end, and partnership termination will also be discussed.

Narcissist Larry

Larry is charming, good looking and so-o-o full of himself. In Larry’s mind he can do no wrong, and the world is his personal oyster. It is impossible for Larry to see anyone else’s point of view, because he just can’t imagine that anyone besides himself can have a worthwhile idea. Moreover, his plans, ideas, advice, solutions always favor (you guessed it) Larry. Whether it involves the representation of a client (like whether to settle a case or not), dealings with his partners (like how to distribute bonuses), or carrying his weight at the firm, Larry seems to believe that his mere presence should be contribution enough (even if other folks do all the heavy lifting - literally or figuratively). Larry will say pretty much what he has to say to get his way, and truth is the sacrificial lamb on the altar of Larry’s agenda. In the past, the partners thought of Larry’s egotism and self-serving behavior as quirky, even amusing, but as the years have passed they find him increasingly annoying. More recently, with the weak economy, they now believe Larry is taking money out of their pockets by skewing all financial decisions about partner compensation in his favor. There is also a growing concern that Larry’s large ego may blind him from seeing his own legal mistakes, and no one wants to defend against a malpractice suit, because of Larry’s problem.

Larry Past His Prime

Larry is a bastion of the legal world, a mentor to younger lawyers inside and outside his firm, and a fountain of information about the practice of law. Unfortunately most of his stories took place 25 or 30 years ago and they have been embellished with each telling. What is more troubling than Larry’s long-windedness is the fact that Larry seems to have lost his edge in the courtroom. Associates who work with him complain that he is unfocused and even at time confused. Cases that would have been slam-dunks just a few years ago never seem to end favorably for his clients. At partnership meetings Larry is prone to ramble incessantly about topics of marginal relevance to the questions at hand, and it is not uncommon for Larry to lose his train of thought. His nickname at the office is “professor” because of his absent-minded ness. His secretary of thirty years jokes that if it were not for her Larry would never get to court. When Larry actually missed a hearing, the partners started to get nervous, but when the oversight was pointed out to Larry, he became defensive and belligerent. In the end, a call to the judge’s chambers got Larry’s appearance rescheduled, but the partners now wonder aloud whether they will be as lucky the next time. The firm does not have a retirement policy, mandatory or otherwise.



Larry, the Screamer

Most of the time Larry is a mild mannered kind of guy who goes about his work and doesn't say much to subordinates. But Larry just doesn't deal with stress well, and sometimes - like Bruce Banner turning into the Incredible Hulk - Larry just explodes. He screams and curses like a sailor; he is sarcastic and condescending. He has sent associates running for the door and reduced paralegals to tears. If this were not enough he rants to the other partners that they have hired "a bunch of idiots" and that he is "just not going to take it anymore." After these episodes, he returns to his Bruce Banner self and acts like nothing has happened. This behavior is not new, and Larry goes through secretaries at a rate of one every six months to a year. Associates refuse to work with Larry, and several have left the firm rather than be assigned this cases. Three receptionists have quit after his meltdowns, and the firm has even lost clients when Larry went off on them. Although he usually does not explode around his partners, there have been notable exceptions, including Larry's infamous diatribe attacking the managing partner for hiring so many "idiots." Even when Larry is in his Bruce Banner state, everybody in the firm walks around on eggshells to avoid setting him off.

Good Time Larry

Larry is the life of the party. He loves good food, good drink and good times. One of the fun things about working at the firm is that Larry always knows how to get the party started. More than anything, Larry loves a good poker game more than anything. The late night games in his basement man-cave are legendary, as are the weekend junkets to Vegas. When Larry plays, he plays big, challenging the odds in hopes of making the big score. Larry bets on football games and basketball games, and even handicaps the ponies. Larry's partners have seen him lose thousands on a single hand of Texas Holdem. When the firm was flush back in the early 2000s nobody cared how much Larry lost, but when the economy tanked in 2008 the firm didn't make as much money and partner draws dipped. Larry hasn't slowed down; in fact, he visits a local casino almost any day, although in recent months he almost always goes alone. The managing partner has noticed that Larry's individual line of credit on his partner drawing account is maxed out, and now the firm is getting phone calls from credit card companies about his accounts.

Larry the Problem Drinker

Similar to the Good Time Larry, Larry the Problem Drinker is the life of the office holiday parties and summer picnics. Larry stretches out his weekends by often failing to show up for work on Mondays and leaving at noon on Friday. But even when he's at work he misses deadlines and neglects clients. Several partners have covered for him while many of the partners are fed up with Larry getting away with not carrying his weight. His drinking at firm events and his declining work performance were discussed with him several months ago. He denied having a drinking problem and promised to fix the work concerns. However, his work performance hasn't improved and the firm doesn't know what to do. Recently, a partner met him in court and his speech was slurred and he had the smell of alcohol on his breath. This past weekend he was arrested for DWI, which was prominently reported in the local press.

Ethically Challenged Larry

Larry just can't seem to see ethics problems, even when they are right in his face. Conflicts do not exist in Larry's world, where he frequently takes on clients in matters adverse to other clients. Once, while representing two adverse clients, he avoided a trial by getting everyone together in one room and working out a deal. "The clients were happy," was his only response when someone mentioned the conflict. Larry doesn't bother to get client consent. When conflict situations arise, and he never checks for conflict when he takes on new clients. It doesn't stop there. He will go to any end to hustle a new client. He will "accidentally" call represented parties to get information helpful to his case. He will pad his bills and double bill his clients "because they can afford it, and they don't read the bills anyway." He will also charge law firm general office expenses to client accounts. And the managing partner thinks Larry uses cash earmarked for client trust accounts to advance himself funds when he is short on cash; Larry apparently delays depositing the trust funds in the trust account for a few days, so he can use it in the interim until he can access his personal funds.

Larry Liar, Pants on Fire

Larry is one of those people who seems to lie about everything. His motto might be: never tell the truth when a lie will do. From white lies to whoppers, Larry makes up the facts as he goes along, always sure that he can stay one step ahead of the next guy. Most of the time his prevarication doesn't cause any harm, but once he almost got his head served on platter when he lied to a judge about critical facts in a case, which Larry dismissed as a lack of memory. Larry's secretary complains to anyone who will listen that she is tired of lying to Larry's wife about his whereabouts, his clients for why he hasn't returned their calls and to her for just about everything.

Misogynist Larry

There is no doubt that Larry likes the ladies. Thrice divorced, Larry is always on the lookout for the next love of his life. When he is with the guys, he is quick to assess the physical attributes of women in the crudest of terms. Whenever he is in the company of women, whether they are lawyers in the firm, clients, lawyers he faces in court, firm secretaries and paralegals, waitresses, or women he meets on the street, Larry is quick to engage them in conversation - and quicker still to share a little sexual innuendo. No one seems to mind, because Larry is so ebullient and charming. Then there is the touching. Larry grew up in a culture where people hugged and kissed each other, and Larry is no exception. He does not have a conversation without touching the other person - man or woman - on the arm or shoulder. Some people react to his effusive contact by pulling back; at least one secretary has told the managing partner that she finds Larry's touchiness "creepy." Larry thinks people shouldn't be so stuffy; "I don't mean any harm by it. Besides the women love that stuff; they just like to play hard to get."

Larry Later

Larry never met a project he could not put off 'til tomorrow. There is no deadline that does not receive the last minute of Larry's attention; sadly every minute before the last one is filled with self-created crises. Larry always shoots from the hip, because he never has time to prepare. Most of the time his shots from the hip are on target, but sometimes he says thing that border on gibberish. Larry has dropped so many balls, he can't count them all. He is always late for meetings, appointments, and of course court. He counts on his gift of gab to mollify offended judges and ward off threatened sanctions. He apologizes to clients that he is so-o-o busy or something came up on a really big case he is working on. He tells his partners and his family that they should be glad he is so busy, because that is what pays his bills. Larry drives like a madman, because he never gives himself enough time to get where he is going. And he avoids doing anything he doesn't want to do, like paying his bills or filing his taxes. Larry's response: "It all gets done - eventually."

Register online www.nysba.org/LPM, or www.nysba.org/TroublewithLarry.



Accommodations for Persons with Disabilities: NYSBA welcomes participation by individuals with disabilities. NYSBA is committed to complying with all applicable laws that prohibit discrimination against individuals on the basis of disability in the full & equal enjoyment of its goods, services, programs, activities, facilities, privileges, advantages, or accommodations. To request auxiliary aids or services or if you have any questions regarding accessibility, please contact Kathy Heider at kheider@nysba.org



For overnight room accommodations, please call the Hilton New York at 1-800-445-8667 & identify yourself as a member of the New York State Bar Association. Room rates are \$239.00 for single/double occupancy. Reservations must be made by Friday, December 21, 2012. You also can reserve your overnight room on the web at www.nysba.org/13accomm



For questions about this specific program, please contact Kathy Suchocki at 518-487-5590 or ksuchocki@nysba.org. **For registration questions only, please call 518-487-5621. Fax registration form to 518-463-5993.**

NEW YORK STATE BAR ASSOCIATION

2013

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