

By Charles L. Woody

ABSENCE *and Leave*

The impact of losing a spouse is profoundly difficult not only for the survivor but also for a law firm.

The Kanawha County Bar and Kanawha County Circuit Court have a great tradition at the opening term of court. There is a eulogy for those members of the Bar who passed away. I was privileged recently to speak about my partner, Randy Cox. The experience has also caused me to remember my spouse's sudden death due to a heart attack and to distress over other friends and members of the State Bar who have lost their longtime spouses.

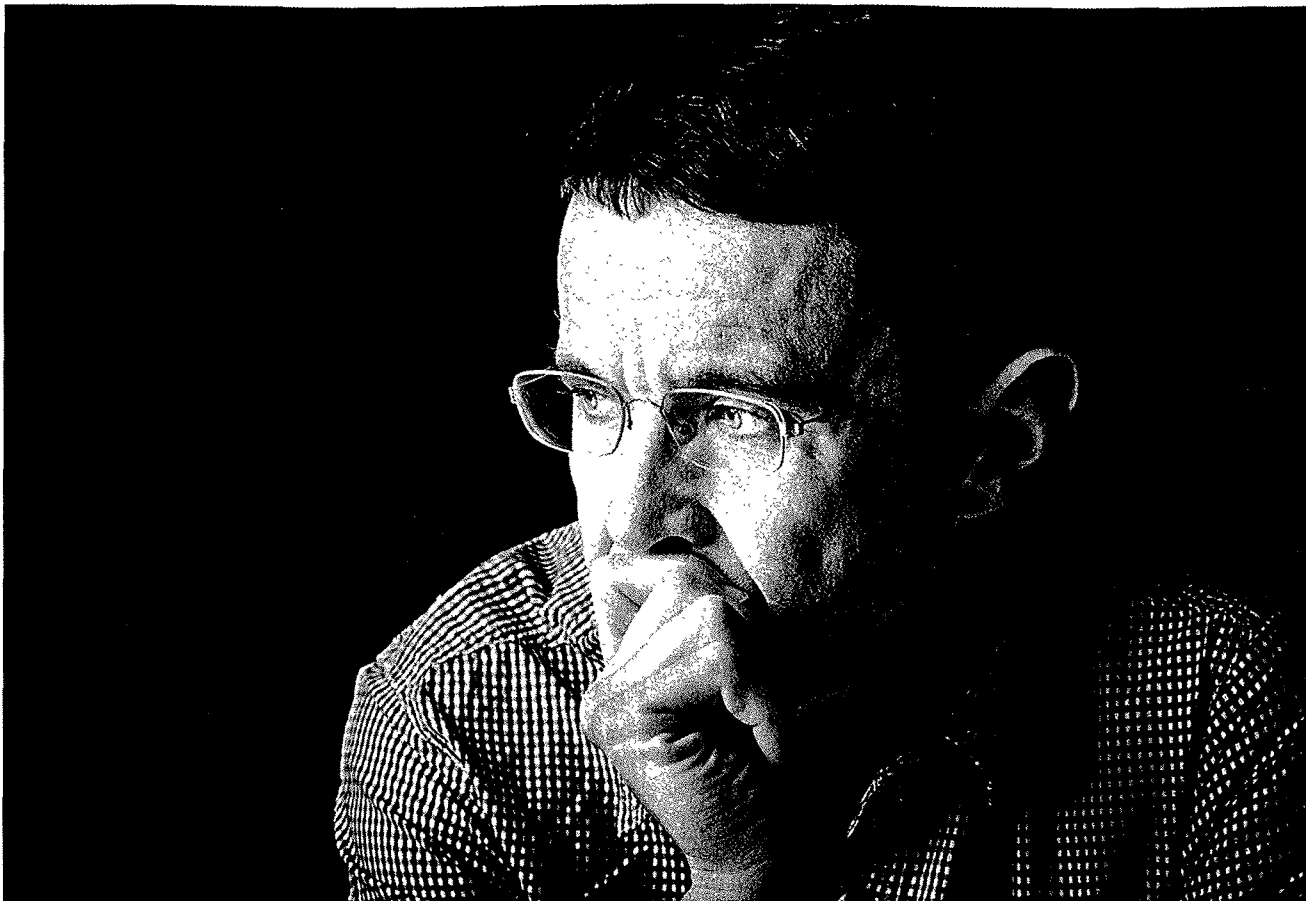
The impact of losing a spouse is profoundly difficult not only for the survivor but also for a law firm. A spouse's support of a member of a firm is invaluable. How do the firm and the lawyer cope with the loss of a lawyer's spouse? The absence of a spouse changes everything; what the surviving lawyer suffers is not an illness which can be addressed by a leave of absence.

According to the American Bar Foundation statistics, there are one-quarter million lawyers 55 years or older. The likelihood of a lawyer over 55 losing a spouse is in the offering. Here is what may happen to the lawyer, who experiences the loss. There is depres-

sion, and there is an immune deficiency which causes the survivor to be continually physically ill after the spouse's death. There is sleep deprivation because the brain is churning over the loss of a loved one. There is lack of concentration at work. The survivor can also experience memory loss and actual physical pain. There can also be a lack of energy; judgment can be affected by the loss.

After the spouse's death, it can be completely jarring to the survivor to have a benefits clerk ask the survivor to change the beneficiary on a firm retirement plan. The first time that the firm asks the survivor to fill out a form innocuously calling for checking a box about being married or widowed is trauma for the survivor. A casual inquiry by a caring staff member about the survivor's wellbeing can cause a disaster for both the staff member and the lawyer, simply because of the survivor's reaction to an exhibition of kindness.

And there are practical matters to address. Clients should be informed about the lawyer's situation. In my case, the litigation department quickly held a meeting and divided up my cases among a number



of lawyers. Courts were contacted and asked for an indulgence. But no one knew how long it would take me to “return.” The firm should have a realization that there is no reserve energy available to the surviving lawyer. The lawyer can hardly help himself or herself, much less clients or others within the firm. It takes a great deal of patience to wait for the rebound.

The survivor may fixate on tasks dealing with the loss of a spouse until such time as those tasks are concluded. This means all the thank you notes are written, and the probate is started. The firm, which may feel there was emotional progress with the lawyer’s coping with a loss by the passage of time, may find that six months after the death the survivor has a complete downturn. The surviving lawyer has concluded the tasks associated with the death; but, now there is a void or absence of work associated with the spouse, and work is what lawyers do best: the reality of the loss may set in well after the date of death.

There needs to be coordination between the surviving lawyer and the firm. There are a number of stages of grief: shock, anger, refusal to acknowledge the loss,

or abject depression – all of which affect work product. Every work product produced by the surviving lawyer should be vetted by another lawyer before it goes to a client, opposing counsel or to a court. Before advice is given by the surviving lawyer, it should be tactfully discussed by him or her with others in a collaborative effort. The firm should watch the lawyer’s appearance: is appearance declining because of grief, alcohol abuse or legal prescription drug use? And there may be new and wholly unexpected stress factors for the surviving lawyer such as paying bills or dealing with maintenance issues. For me, if an appliance malfunctioned it was Armageddon. It is true you have to wait most of a day for a repair person to show up. A best friend of the survivor should be appointed by the firm as a watch-over person.

Travel, which is a typical escape for many who have lost a spouse, should be encouraged by a firm. A three-week bike trip I took to Vietnam was the best physical and mental resuscitation I could have engaged in. (Unknown to me, my firm had a pool with a \$5 entry fee, about how quickly I would

become lost given my geographical abilities: first day, second day...)

Different size firms, of course, have different assets available to help with these situations. A solo practitioner will have a difficult time managing the personal side of a loss and his or her practice. Perhaps the best course of action is to enlist the help of other lawyers with the legal tasks and not to worry about the economic ramifications. To place your health first at such a time is paramount.

With a firm's benevolence and help, the strength of friends and the support of all with whom you work on a daily basis, the professional drive and interest will

return. Some years after my wife died, I met the widow of a lawyer and was married. The first time that I was three hours late (of course due to work demands) to meet her to leave on vacation, she was not the least bit angry. Her first lawyer husband trained her well about what we do. She thought I was early getting home. **WVL**

Charles L. Woody is a member of the law firm of Spilman Thomas & Battle, PLLC and is engaged in the practice of labor and employment law. He is also an Adjunct Professor of Law at Washington and Lee University Law School where he teaches employment practices.



In attendance were (from left to right) A. Andrew MacQueen III, Sean P. McGinley, Frank M. Armada, Rudolph L. Ditrapano, James T. Daily Jr., Anita R. Casey, Guy R. Bucci, Deputy Consul General Peter Ryan, Honorable Thomas E. McHugh, Jennifer N. Taylor, John H. Tinney, T. Patrick Maroney, Charles F. Donnelly, Patrick K. Maroney, John H. Tinney Jr., George A. Daugherty, and James E. Garvin.

Supporters of West Virginia's Irish community met with Peter Ryan, deputy consul general for economic and public affairs in Ireland's New York City Office. Ryan was in Charleston meeting with the Irish community to thank them for promoting good relations as well as brief business and political

leaders in the state. Ryan advised that the economies of Ireland and West Virginia are about the same size and shared details on the amount of people American companies employ in Ireland. Ryan feels that there are great opportunities to build on business links between West Virginia and Ireland.