

# The ElderLaw Report

## The Case for Law Practice Coaching: Sometimes You Can't Make It on Your Own

By Jan Copley

Most attorneys practice in solo or small firms (or as part of small departments within larger firms). We rely on our personal, individual intelligence and energy to run and grow our businesses. We are rugged individualists!

Sometimes that's not enough. Our law school curriculum didn't include classes on how to manage our time or cash flow. We may know the applicable labor laws, but we don't necessarily have the skills to hire and keep stellar team members. We're not sure how to market ourselves. And, we get so busy that we never make or find the time to figure out what we really want our businesses—and our lives—to be like.

As much as we are loath to admit it, we may need help. With apologies to U2's Bono, "sometimes you can't make it on your own."

If you are stuck in your practice, you might consider a practice management coach to move you forward. Think about it—professional athletes have coaches. All professional golfers do; the Los Angeles Dodgers' Web site lists 16 coaches; the Denver Broncos have 19. Why do we, as lawyers, think we don't need coaching from time to time?

To continue the sports analogy, working with a practice management coach is similar to having a personal trainer. You know how *that* works: if you don't have someone to report to, it's not as likely you will make it to the gym. If someone isn't pushing you, you probably won't have as intense a workout. It's easier to quit on your health program if no one is around to hold you accountable. Somehow, just having the coach gives you the motivation to push yourself and accomplish more. Of course, if you actually do what your trainer says to do, you will be healthier and happier for it.

Good business coaching will do the same thing. You'll be working with someone who has skills and tools to help you and who is not a competitor. Having someone hold you accountable means it's more likely you will finally write up that business plan. Then, your coach will push you to actually implement it! You may not know where to start to move your business forward; your coach will have some suggestions. If you have

lots of ideas, your coach will help you evaluate and prioritize them.

### *A Coach Made the Difference for Me*

Why am I such an advocate of coaching? Because working with a coach improved my practice and my life. I practiced law for 29 years, 17 of them as a solo practitioner, with the last dozen years focused on estate planning. I spent the first eight or so years in my practice just getting by, not knowing how to market, working with so-so clients, and not making very much money. But, in 2001, I joined a coaching program.

It made all the difference. For instance, my gross revenue for 2005 was double that of 2003. I developed the courage to raise my prices and to say no to potential clients who weren't a good fit. I learned how to market effectively. I found myself working with a wonderful team. And, finally, coaching gave me the clarity to formulate and accomplish the goal of selling my business.

I very much enjoyed working with a coach, as well as the whole coaching process. In fact, I thought my experience was so valuable and enjoyable that, upon completion of the sale of my business, I decided to become a law practice management coach myself! I am now a certified practice advisor with Atticus; my job is to work with successful lawyers who want more money and more time off. (See "How I Built a Successful Estate Planning Practice and Sold It for a Tidy Sum," *The ElderLaw Report*, July/August 2011.)

### *How Can Coaching Help You?*

Here are eleven ways coaching helped me—and can help you—in your business:

**1. Time-Management Skills.** Many, many attorneys complain that they don't have enough time. That's probably true.

I'm not a big fan of the "work smarter, not harder" slogan. *But*, I've found that nearly everyone can do a better job of managing his or her time. We tolerate too many interruptions. We do too much stuff that

## Pennsylvania Backs Off Community Spouse Home Sales Rule

Pennsylvania officials are distancing themselves from a Medicaid rule that negatively affected recipients whose spouse sold a house. Although the rule, which conflicted with federal law, is still on the books, the state agreed to settle a recent case that challenged it, reports the blog of the elder law firm Marshall, Parker & Associates.

The Pennsylvania rule requires that if a community spouse sells a house, the entire value of the property is counted as a resource for the institutionalized spouse even if the property was titled in the name of the community spouse only. The rule—issued in a policy clarification in June 2011—conflicts with federal law, which prohibits states from attributing the community spouse's resources to the institutionalized spouse once the institutionalized spouse qualifies for Medicaid.

In a case brought in the U.S. District Court for the Eastern District of Pennsylvania, *DeMarco v. Alexander* (Docket No 11-6444-RBS), a husband living in the community sold his house and put the proceeds into an account in his name. The state discontinued his institutionalized wife's Medicaid due to excess resources. She sued the state in federal court, and the state signed a settlement stipulation that agreed that the proceeds from the sale of the husband's home belong entirely to the husband and have no effect on the wife's Medicaid eligibility.

someone else should be doing. We spend our time dealing with emergencies—which may have arisen because we haven't managed our time well—rather than the stuff we want to work on. We do things under pressure at the last minute, and make mistakes as a result. We work nights and weekends.

It doesn't have to be that way. A coach can give you tools to get the work done and be home in time for dinner. Your coach can work with you so you have a schedule that gives you the time to concentrate on the legal work you need to do while still having time for equally important things, such as marketing.

I've also discovered that effective time management makes life easier for your team. If you set aside specific times for specific activities, your staff members will know when not to interrupt you. They can tell people who call when you will return your phone messages. And they can get *their* work done, so you don't have to do it for them.

**2. Focus-Management Skills.** Another skill most of us lack is how to manage our focus. How is focus

management different from time management? Well, not only do we need to manage our time to get stuff done, but we should manage our *focus*, too, so we complete the things that *should* get done. In other words, we need the ability to prioritize things so we do what we need to do to grow our businesses, make money, and service our clients. It also means structuring our lives so we can focus on the important things that can get lost when we are mindlessly busy: marketing, billing, planning, following up.

How can a coach help you with this? First, by teaching you the skills; second, by reminding you what your priority activities should be; and third, by holding you accountable for those activities. I've had a number of my coaching clients report to me that they've done things they should be doing—tracking their billable time, for instance—because they didn't want to admit to me that they hadn't been doing it. Of course, the end result for these clients is that they are making more money.

**3. Team-Building Skills.** I don't know about you, but, when I was practicing, I found that leading my team was one of the hardest parts of my job. You hire one person, and suddenly you need a whole human resources department. And, although you may have taken labor law in law school, applying the principles in real life is something completely different.

A good coach can be enormously helpful with this. If you need to hire someone, your coach will help you decide the kind of person you are looking for and give you suggestions about how to find that person. Coaches can give you screening and interviewing skills to help you avoid hiring the wrong person.

Then, of course, after you've hired someone, what do you do with him or her? A coach can help you put together a training syllabus and create performance benchmarks. A coach will prod you to do the employee interviews you dread and give you some hints about and how to conduct them.

And, finally, your coach can be enormously helpful when an employee isn't performing well. We invest so much effort—both financially and emotionally—in our employees that it's very hard to come to the conclusion that someone is not a good fit. Your coach can help you with this by being aware of your concerns about your employees and help you decide when it's time to end a relationship.

**4. Marketing Skills.** Very often the thing that has brought a coaching client to me is the attorney's perception that he or she doesn't know how to develop his or her business. I can certainly sympathize; I had absolutely no idea how to market my services when I opened my own firm.

The good news is that even if you're not a natural marketer, you can still learn marketing skills and use them effectively. Your coach can work with you on this. He or she can walk you through the kind of image you

## Vacant Lot Yields Hidden Treasure for Massachusetts Medicaid Officials

Cash-strapped states are leaving no stone unturned when it comes to recovering from the estates of deceased Medicaid long-term care recipients. Still, few would think to search in vacant lots, but that's where \$178,496 was found that a Massachusetts judge recently ruled belongs to the state as reimbursement for Medicaid payments to a nursing home resident who died a decade ago.

The cash was in a safe that had been dumped in a lot located in the city of Lawrence. The safe had once belonged to Sally Daher, a local shoe store owner who spent her last five years in a nursing home.

The safe ended up in the lot because a shoe repairman who rented Ms. Daher's old store wanted to get rid of it, believing it was a target for burglars. Apparently assuming Ms. Daher had emptied the safe of its contents, the repairman paid a tow truck driver \$200 to haul it away. When the driver couldn't sell the safe for scrap, he dumped it in a lot next to his home.

There it lay until Lawrence firefighters noticed it in November 2008. After an hour of work, the firefighters managed to pry the safe open. Inside they found \$178,496 in cash packed in plastic shopping bags from Ms. Daher's old store. The newest bill was from 1982.

Several people laid claim to the cash, including Ms. Daher's relatives and the tow truck driver. But when Massachusetts Medicaid officials learned that the safe was linked to Ms. Daher, they filed a claim to recover Medicaid funds they had spent on her while she was in the nursing home.

A superior court judge recently ruled that the cash found in the safe belonged to Ms. Daher and that it was part of her "probate estate." This means, the judge said, that the safe's contents are now the property of the Massachusetts Division of Medical Assistance as repayment for medical bills Ms. Daher incurred.

Ken Daher, one of Ms. Daher's surviving children, told the *Eagle-Tribune*, a local newspaper, that the family would not contest the judge's ruling.

"I am ecstatic. This is the best Christmas present I could get," said Mr. Daher. "My mother wouldn't have wanted money owed or a handout in a million years . . . My mother did not live like that."

want your firm to have. You can work on defining the kinds of clients you want and who bring in profitable work. You can develop a marketing plan, deciding if you want to generate work through public advertising, referral sources, and/or current clients, and how you are going to do it.

Then, a good coach will do two more things to make your marketing more effective. First, he or she will tell you to get out of your chair and go market. Second, I've found many attorneys are terrible at following up on marketing opportunities. Your coach will teach you how to do this and push you to actually do it.

**5. Moneymaking Skills.** Why did you go into law? For that matter, why did you go into business? Although practicing law provides the satisfaction of helping people or getting them out of difficulties they've gotten themselves into, my guess is that you work in your business to make a living. And, given the amount of education, expertise, and liability exposure you take on in order to do your job, you should make a *good* living. Do you?

Unfortunately, many lawyers don't make the kind of money they need or deserve. No one ever taught us how to do it! We don't know how to set prices; we don't know how to communicate the value we bring to our clients; we don't know how to manage the money that comes in. We're forever chasing cash flow, rather than actually making money.

That's no way to run a business. Working with a coach, you can create your own cash flow management system. You will take a look at what you do and learn how to set prices so you make a profit on what you do. You will create plans and systems to get more money in sooner, and take more of it home. You will create dashboards to see how your business is performing at any given time.

**6. Learning to Think Big.** This was one of the biggest benefits I got from coaching. When you run your business alone, without an outside perspective, it's too easy to think only in terms of getting through the next case, the next day, the next payroll, the next quarterly tax deposit. That's certainly what I did. I didn't have a vision—much less a large one for my business—so my work was not particularly profitable or fulfilling.

If you don't have a large vision for yourself and your life, no matter how hard you work, the results will always be small. Is that what you really want? It doesn't have to be that way. If you, too, want a bigger life and future, a coach can help you find your big goals.

So, what would your goals be? Do you want to have the pre-eminent elder law firm in your community? Do you want to be seen as an expert's expert? Do you want to write the definitive treatise in the area? Or are your true goals outside the law? A good coach will prod you to answer these questions.

**7. Goal-Setting.** Goal setting is an extraordinarily important skill. And, to a certain extent, that's what

practicing law is all about, isn't it? A client comes to us with a problem; by talking to the client, we figure out what he or she wants to accomplish. Once we determine what the client's goal is, we come up with a solution and a process to get the client where he or she wants to be.

But you probably don't use these skills for your life or your business. Have you thought about what you want your business to look like? How much money do you want to earn next year? How much of it do you want to take home? How many new cases, and at what price, will it take you to get there?

If you have a good coach, he or she will help you find your goals. Goal setting can be challenging; coaching enabled me to really think through and identify goals, with both short- and long-term timeframes. Your coach may also suggest you consider important goals you may not have thought of—for instance, what are your goals for having fun over the next 12 months?

**8. Planning for the Future.** Practicing law involves lots of details and keeping many balls in the air at the same time. When I started my own firm, I was so busy juggling things I didn't take the time to look around and think about what I really wanted to accomplish with my job, my practice, and my life. Coaching changed that. In my case, I thought about how long I wanted to stay in practice, how much I wanted to take out of it, and the terms of my exit.

So, what do you want *your* future to look like? Is the purpose of your work to provide a legacy for you and your family? Do you want your children to continue to run the firm when you choose not to? Do you want to sell it? If so, what's your timeframe? Working with a coach will help you answer these questions. And, once you have your answers, you can structure your business and your life so you meet those goals.

**9. Living Proactively, Not Reactively.** It seems to me that being "busy" is considered a badge of honor among attorneys. In many ways, that's a good thing. It means you have work to do.

But being busy can be blinding. You can be *so* busy that the only thing you do is react to the crisis *du jour*. And this can be a terrible trap. The work that's keeping you so busy may not be great and may not be profitable. There's no opportunity for strategic planning, either for your clients or for you. It means that because you are spending all your time and energy working *in* the business (i.e., solving problems), you never have time to work *on* the business (i.e., building it). And that means your business will never improve.

A coach can help you with this. Coaching certainly helped me get off the "busyness" treadmill. I learned to be more selective about my clients and to look for the kind of people I wanted to work with, rather than accepting any kind of work that might come in the door.

I learned to think about what was the highest and best use of my time—marketing and *real* legal work—and how to focus my time so I used it proactively, rather than scrambling to meet a deadline. I learned to delegate as much as I could. I learned to set prices so I made money.

**10. A Partner to Discuss Ideas/Issues.** One problem with practicing law is that it can be isolating. Especially if you're a solo, there's no one to talk to about the practice management issues you are facing. Most bar associations and the CLE courses they provide are focused on legal-technical education, not on how to run a business. Answers to questions posted on a listserv may or may not be useful.

If you work with a coach, you will be talking to someone focused on *you* and the issues *you* face. A good coach will get to know you and be aware of *your* business concerns. He or she will help you brainstorm about how to improve your practice, and will give you measured responses to your ideas (including telling you something is a bad idea, if necessary). And, with that type of relationship, you and your coach can use your joint brainpower to improve your business.

Another drawback to working by yourself is that you can lose inspiration. There were times when I was a solo practitioner that I was so tired, it was hard to summon the energy to think about a problem, much less come up with a good solution. Your coach, as an objective party, can help you here. He or she might see a resolution that you do not. If your coach doesn't have an immediate answer, the two of you can brainstorm to come up with a creative solution that neither of you would have reached on your own.

**11. Accountability.** Are you like me—do you keep all the promises you make, except the ones you've made to yourself? Are there things you know you should be doing, but just don't? And, although your coach may teach you to think big and set goals, your thoughts and your goals are worthless unless you actually do something about them.

A coach can help you with this. He or she can hold you accountable for the things you should be doing and for reaching the goals you have set for yourself. Your coach may ask you for periodic reports. If you don't do what you said you would, your coach can gently prod you to get things done, or, alternatively, call you on the carpet for your lack of integrity. Just think how much you will accomplish if you *let* your coach hold you accountable! I know that without someone to report to, I would have let way too many things slide—and I wouldn't have reached my goals for building and selling my practice.

### ***Is Coaching for You?***

Coaching is not a gimmick and not a panacea. Working with a coach, as with working with a per-

## Economists Say Tightening Medicaid Asset Rules Would Have Little Impact on LTCI Demand

Two professors of economics have estimated that tightening Medicaid asset rules would do little to encourage the purchase of long-term care insurance (LTCI) policies. In an article published in the Fall 2011 issue of the *Journal of Economic Perspectives*, Jeffrey R. Brown of the University of Illinois and Amy Finkelstein of the Massachusetts Institute of Technology, estimate that a \$10,000 decrease in the level of assets an individual (and their spouse) can keep while qualifying for Medicaid would increase private long-term care insurance coverage by 1.1 percent.

“To put this in perspective,” they write, “if every state in the country moved from their current Medicaid asset eligibility requirements to the most stringent Medicaid eligibility requirements allowed by federal law, this would decrease average household assets protected from Medicaid by about \$25,000. This, in turn, would increase the demand for private long-term care insurance by only 2.7 percentage points. While this represents a large increase in insurance coverage relative to the baseline ownership rate, the vast majority of households would still find it unattractive to purchase private insurance.”

Overall, Brown and Finkelstein are pessimistic about the prospects for encouraging more Americans to buy long-term care insurance unless Medicaid is completely restructured or done away with altogether. They note that LTCI is a poor deal, particularly for men, who get back only about 33 cents on the premium dollar they spend, and that for a 65-year-old man of average wealth, 60 percent of the private insurance benefits would have been paid by Medicaid.

But the authors say that even if the implicit Medicaid “tax” on LTCI were eliminated, “other factors could still prevent the market for long-term care insurance from developing.” These factors include the availability of informal insurance provided by family members, the liquid assets in the home serving as a “buffer stock of assets,” and the difficulty many individuals have in “making decisions about long-term, probabilistic outcomes.”

To read the article, go to: <http://bit.ly/rJGYpW>

sonal trainer, requires hard work and a willingness to change things. But, if you commit to the coaching process, coaching will give you the clarity and the boost you need to grow your practice and improve your life.

I don't know a successful attorney who has not had some kind of coaching during his or her career. Is

being successful part of your business plan? Do you want a life you love? If so, help is out there.

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