

Gearing Down Gracefully

By Tish Vincent

Driving east toward Traverse City on Highway M-72 in Leelanau County, you will notice a short gravel driveway at the bottom of a steep hill that appears to go nowhere. As you near it, there's a sign that reads "Runaway Truck Ramp." The apparently pointless driveway stands ready for a heavy truck barreling down the hill to divert its path in the event its brakes fail.

A fully loaded tractor-trailer weighs approximately 80,000 pounds. If a semi speeds down this steep hill and the brakes fail, catastrophe will ensue. I was in Traverse City in the 1980s when a semi loaded with cherries lost its brakes coming down the hill just past the runaway truck ramp. I happened on the scene and saw the truck in West Bay, the cherries bobbing on the water like a million tiny buoys.

Three Ways to Stop the Truck

A heavy vehicle traveling faster as gravity assists its descent down the hill can stop one of three ways: functional brakes, a runaway truck ramp, or crashing into something—another vehicle, a building, or West Bay.

The descending truck is a metaphor for attorneys or judges who have enjoyed busy and successful careers and earned the respect of their peers and clients, the status of a professional position, and generous compensation, and find themselves facing the need to retire for emotional, physical, or mental reasons.

Under this scenario, legal professionals will wind up their careers in one of three ways. Some started retirement planning early in their careers, culminating in sufficient retirement investments and a succession plan. Others cobble together Social Security benefits and insufficient savings

and rely on family to help out, and transfer their practices to the first person willing to step into their professional shoes. Still others suddenly abandon their legal practices after suffering an emotional or medical illness and throw themselves on the mercy of public programs for medical care, making do for basic needs such as housing, food, and clothing.

Functional Brakes

Some individuals seem to have retirement in mind when they begin working. These are the new attorneys who start contributing to a 457(b) or 401(k) plan in their first legal position. Perhaps they have an undergraduate business degree and understand the mysteries of compound interest or grew up in a family that taught them the value of financial literacy.

Others consult a financial adviser or go out of their way to learn the value of retirement planning. They have the discipline to save and to leave those savings alone. Retirement accounts and college funds for any children that come along are regularly funded, and the reserves slowly and steadily grow. These individuals are likely to purchase disability insurance and have adequate malpractice, life, and health insurance as well as other forms of insurance that protect their savings and income.

Attorneys in this group who are stricken with a physical or mental illness are in a secure position to pay their bills, get necessary health services, and still provide for their dependents. They also have given thought to a succession plan for their legal careers, and often have arranged for a transition that will allow them to keep earning while selling a business or staying on in an of-counsel position.

Using our descending truck metaphor, they have functional brakes. The descent may be steep and the speed is increasing, but they won't lose control of their vehicles.

Runaway Truck Ramp

Other folks find themselves in different circumstances. This group reads articles about saving for retirement but keeps putting off transferring money into their retirement accounts or college funds because of current pressing financial needs. Perhaps they are repaying student loans, earning less than they envisioned, or struggling to pay living expenses even though they are employed.

These individuals are often employed by a business or a small- to medium-size firm. They have health insurance as a benefit and could contribute to a 401(k) or other investment vehicle, but don't because of monthly expenses. They may have survived personal

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or professional setbacks, gone through a costly divorce, or been downsized out of a better-paying position into a less lucrative job. They may spend as if they are earning the income they dreamed of when they applied to law school. Some individuals with high earnings manage to spend every penny on an enviable lifestyle without realizing they will not always have this income.

When physical or mental illness hits an individual in these circumstances, it can be quite alarming. He may or may not have disability insurance. He probably has some savings, but not enough to be off work for six months to a year or to retire. His run-away truck ramp might be a spouse that is still working, coupled with savings, his spouse's health insurance coverage, and the ability to perform a less-lucrative type of work. He nervously does the math to see when he can collect Social Security benefits and qualify for Medicare.¹

If she is a solo practitioner or partner in a small firm, she may quickly seek someone who can step in and fill her shoes. Any business agreement she draws up may be less than ideal as her judgment may be clouded by the anxiety she feels about her circumstances. Her brakes were shoddy, but she was able to steer her vehicle onto the run-away truck ramp.

Crashing

Sadly, there are individuals who consistently struggle to earn sufficient income to provide for themselves and their families. They often feel great shame about their struggle and manage to keep it hidden. This is the crowd that hopes next month they'll be able to pay the health insurance premium and disability policy, and hopefully hire an accountant or a financial advisor for help. But next month never arrives.²

Retirement planning never happens. When physical or mental illness strikes, the effect on these individuals can be devastating. They seek help but have no means to secure it. They are headed for a crash, but their crash won't involve a cherry truck submerged in West Grand Traverse Bay. It may be a substance overdose, a third drunk-driving offense, a serious professional grievance, a heart attack or stroke, or abruptly

walking away from a law practice while deep in debt. The stress of living without sufficient income and struggling to keep their heads above water financially is bad for their physical and mental health.

As the program administrator for the State Bar of Michigan's Lawyers and Judges Assistance Program, I am aware of this crowd. A week does not go by where I don't hear about someone in this predicament. There is a stigma for anyone struggling with mental illness or substance abuse, but there is also a stigma in our culture for people

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struggling financially. This stigma keeps many from reaching out for help; sometimes it keeps them from calling an anonymous source for assistance.

We need to educate people about this problem. Attorneys need to know that some of their peers are struggling financially and are too proud to admit it. Silence allows dysfunction to grow.

As part of the SBM's wellness initiative, we are developing programming to help people with financial concerns. We welcome your input on these issues.

If a financial crash is looming but your truck is not yet in the bay, get creative. The August 2012 *Michigan Bar Journal* contained the article "How Attorneys Under-earn" by Ann Guinn,³ who described the problem eloquently and made recommendations to address it.

A basic crisis aversion plan could look something like this:

- Keep detailed financial records of income and expenses for a three-month period.
- Keep business and personal money in separate accounts.

- Think of yourself as the employer and the employee. Don't let the employee talk you into a higher salary than you, as the employer, can afford.
- Take your records to a friendly banking institution and see if you qualify for a small business loan. If the answer is no, get a solvency job to cover health and disability insurance and have a regular cash flow as you build your legal practice. When your earnings from your practice increase, you can decide on your next step.

Retirement Arrives

Whether we plan for it or not, we all eventually retire. If you're prepared, wonderful! If not, it is never too late to start preparing. The resources cited in the endnotes to this article can serve as a guide. Make it a priority to read one of these resources and do one thing differently next month to make the future a little brighter.⁴ ■



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ENDNOTES

1. See generally Long, *Lawyers at Midlife: Laying Groundwork for the Road Ahead* (Seattle: DecisionBooks, 2009).
2. See generally D'Agnesi & Kiernan, *The Money Book for Freelancers, Part-Timers, and the Self-Employed: The Only Personal Finance System for People with Not-So-Regular Jobs* (New York: Three Rivers Press, 2010).
3. Guinn, *How attorneys underearn*, 91 Mich B J 58 (August 2012), available at <<http://www.michbar.org/journal/pdf/pdf4article2066.pdf>> (accessed July 11, 2013).
4. See Mundis, *Earn What You Deserve: How to Stop Underearning & Start Thriving* (New York: Bantam, 1995). This is an old book, but full of creative ideas for facing the difficulty of underearning and how-to information for increasing your earnings.