

BUSINESS & CAREERS



Lawyers battling addictions

GEOFF KIRBYSON

Chuck Rotenberg's cocaine addiction cost him his marriage, his health, threatened to ruin his relationship with his children and caused his work to suffer—but as far as he was concerned, he didn't have a problem.

Even though his life was in a downward spiral and it was obvious that he needed help, he refused to seek treatment. He had it all under control.

He admits the drugs were probably affecting his job performance long before he realized it—he just wasn't prepared to admit it.

"There are an awful lot of lawyers and judges (with substance abuse problems) who function very nicely and don't recognize the issues," he says.

Rotenberg says while his vice was cocaine, the addiction, whether it's sex, gambling, alcohol or pills, doesn't matter to addicts because in their minds, they're just different coping mechanisms and forms of escapism.

He describes substance abuse as a "very self-centred disease" where the only thing that matters to a user is what's going to make them feel better immediately. Changing that feeling is a life-long process and just because you've passed certain mileposts, it doesn't mean you're cured.

And, of course, buying cocaine or booze isn't cheap. Rotenberg says nobody can indulge their addiction without it impacting their financial lives. He says he knows of lawyers who have raided client trust



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Between 10 to 20 per cent of Canadian lawyers have a substance abuse problem, estimate experts.

accounts to get money to feed the beast within.

Drug and alcohol addiction is a "huge" problem among lawyers, according to John Starzynski, volunteer director of peer support and liaison for the Ontario Lawyers' Assistance Program (OLAP). He estimates the addiction rate of lawyers is three times that of the general public.

"The law is a very stressful job to be in. There's a shopping list of things that lawyers live with every

day that cause stress and translate into alcohol and drug problems. The fastest growing addiction is Internet addiction. That's the portal to gambling and porn sites," he says.

It's hard to pinpoint exactly how many lawyers across Canada have a substance abuse problem but experts estimate it's somewhere between 10 and 20 per cent.

"Law is the only profession in which pessimism is an asset. Pessimism predisposes one to these

kinds of problems," says Derek Lacroix, executive director of the Lawyers' Assistance Program of British Columbia (LAPBC).

He adds mood disorders, particularly major clinical depression, are also prevalent in the legal profession.

He describes law as a very competitive and adversarial field where striving for achievement is richly rewarded. The roots of the stress, however, go back to the first year of law school,

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according to some experts. Lacroix says many lawyers also suffer from a lack of meaning and purpose in their lives so they'll try to fill the "emptiness" with alcohol or drugs.

And if you've got an addiction, chances are good you've also had your share of disciplinary problems, too. Lacroix says more than half of the lawyers that walk in LAPBC's door have been in some kind of trouble with their law society, the partners at their firm or at home.

"Very few people with alcohol problems self diagnose and happily come in and say, 'I'm drinking too much and I need to stop.' Most of them come in because some external pressure has been applied to them," he says.

Further compounding the problem, Starzynski says, is many lawyers think they're "perfect" and their self esteem is tied up in the word, "lawyer."

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E-trials seen as 'essential' for justice in the future

The only one of its kind in Toronto, Courtroom 807 is outfitted for "electronic" trials, a trend many in the legal community see as essential to the evolution of the Canadian justice system.

E-courtrooms aren't new. Room 807 has been "wired" since 1997, costing \$250,000 when it was first assembled, according to Michael Fernandez, manager of court services for Ontario's Superior Court of Justice. "It doesn't cost any more than a regular courtroom to use," Fernandez notes.



HI-TECH

LUIGI BENETTON

Room 807 is clearly no ordinary courtroom. For instance, flat-panel monitors sit at each desk, on the judge's bench and the witness box. During a trial, each screen shows documents displayed by the court registrar as determined by a previously agreed-to road map for the day.

Documents enter the courtroom via physical media, like laptop hard disks and USB memory sticks (a document scanner lets lawyers put hard-copy documents on the screens), since wireless Internet access isn't yet available and the court doesn't (yet) allow usage of its servers to store documents.

(Should this change, documents could arrive via a court-administered e-filing system—which doesn't yet exist).

Handling documents electronically remains the main draw for e-courtrooms. "Doing

trials electronically cuts court time by at least 25 per cent," says the Honourable Justice Arthur Gans of Ontario's Superior Court of Justice.

"I use a lot of paperless technology to prepare for trial, and to have to convert all my documents to paper would be onerous," says Kelly Friedman, a litigator and partner with Davis LLP.

Fortunately, much of the preparation needed starts with ever-more-widespread e-discovery practices. "You're moving seamlessly from e-discovery to e-trial," Gans notes. "It's the next step."

Gans insists anybody can set up an "e-courtroom" for \$1,500. "That buys you a laptop and two monitors (one for the witness, the other for the judge)," he says, noting that lawyers scan their own documents. "They are the main things that help reduce your time in court."

Room 807 also features other technologies. For instance, people have testified in room 807 from as far away as China, Australia and Pakistan, as well as from prisons and other Ontario court-houses, using its "telepresence"

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E-trials exciting idea, but there are pitfalls to overcome

E-trials

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equipment. (Room 708 features similar equipment.)

The remote witness's voice comes through eight concave speakers mounted on the ceiling, which also supports four dark glass security-camera-like bubbles through which the remote witness can see the whole courtroom.

Friedman is of two minds on telepresence. "When you examine

witnesses, you need to look them in the eye and develop a rapport," she says. "You can't do that as easily if you do it remotely."

But she supports telepresence should it prove the only way to obtain testimony. "It could improve access to justice in remote communities," she says. "In some family law cases, I imagine it would be better if certain people were not in the courtroom together."

The Honourable Madame Justice Fran Kiteley of Ontario's

Superior Court of Justice wasn't fond of the picture quality during her trial in 807. "Last September, I saw flat-screen technology at a conference that was just awesome," Kiteley says. "You would think the person was right there."

Lawyers can request and judges can grant Internet access using wired connections at each desk, though not all lawyers will bother asking for it. "I'll just bring my Rocket Stick," Friedman says.

A mobile screen holds four black styli resembling dry-erase markers and a disc-shaped eraser on a blackboard-style ledge. This "smartboard" lets lawyers "mark up" documents on-screen.

An equipment storage area built into the wall to the judge's right contains a number of components, including DVD and video cassette players.

One low-tech vestige sits on the court reporter's desk: a dual-cassette recorder. "That will soon

be replaced by a digital model," Fernandez says.

In fact, digital audio recording (DAR) is coming to all Ontario courts. Improved sound quality and the ability to quickly find snippets of court conversation top the list of advantages over analog.

For all their promise, e-courtrooms have yet to reach a tipping point. As Friedman tells it, fewer cases go to trial and in those that do, clients demand the most experienced lawyers available to represent them. "It's up to lawyers to request e-courtrooms, but senior counsel want to do things the way they've always done them," she says. "Juniors may prepare digitally for a trial, then give senior counsel paper to mark up."

She doesn't think senior counsel are scared of technology. "That's how they're used to doing advocacy," she reiterates.

The e-courtroom implies a steep learning curve, but Gans scoffs at such concerns. "I'll be 65 this year," he says, in an overt use of reverse ageism. "Tom Granger was the first guy to do an e-trial, and he just retired at 75!"

E-courtrooms might crimp advocacy styles. "In paper-based trials, some lawyers like to flip through documents and carry books, adding a small flourish while asking a witness to explain an apparent contradiction," Friedman says.

"Suppose you have an expert witness on the stand who has written a paper on the topic under examination," Kiteley adds. "Under cross-examination, in a paper world, defence counsel asks a question, then asks about something written on a prior occasion, and shows the witness a journal article."

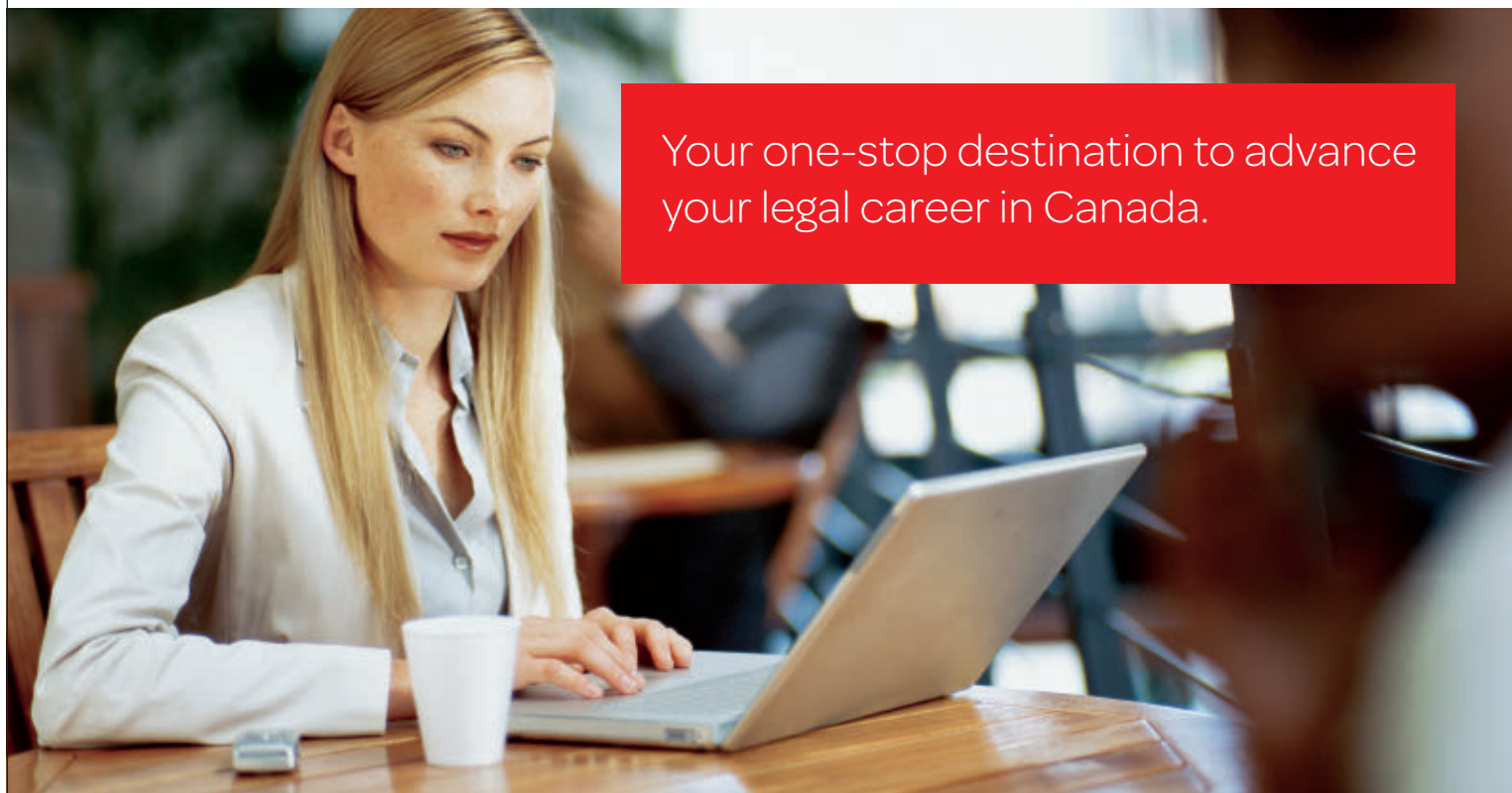
"In a case I was on, the lawyer could not walk up to the witness, who was in Florida. The lawyer had to mail articles in a sealed brown envelope to be opened by the witness when told to, under cross-examination."

Kiteley notes that shared document facilities aren't always available in places where witnesses give evidence. "Reciprocity is very important," she says. "It requires more foresight, more planning on the part of the cross-examining lawyer."

Friedman, who also chairs the Sedona Canada steering committee, admits she has yet to litigate in an e-courtroom like room 807. "But I'm chomping at the bit," she asserts.

"If we get shorter trials and reduce time worked by judges, court staff and lawyers, it pays for itself quickly," she adds. "And if 807 is used, there will be more funding to convert more courtrooms." ■

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