

Taking a Charge

By Jim Calloway

With the Oklahoma City Thunder NBA franchise now in our state, many Oklahomans are now a lot more familiar with the rules and practices of professional basketball.

Oklahoma City Thunder Forward/Center Nick Collison is quite versed at taking a charge. For those of you who are not familiar with the game, taking a charge is a situation where a defensive player gets planted solidly in position in front of an offensive player with the ball who is usually “charging” towards the basket. If the maneuver is successful, the defender gets run over and knocked backwards by the offensive player, but the referee will call an offensive foul creating a turnover. (If the offensive player scores, the basket will not be counted.)

Doing a Google search for ‘taking a charge in basketball’ yields an amazing 44 million plus hits. There are videos to watch, coaching exercises and all sorts of information about this sacrificial basketball play. Taking a charge is not limited to the pro ranks, we see this at all levels of basketball. But the power of pro players exceeds that of youngsters playing in middle school. There is, without a doubt, a certain mental toughness involved in accomplishing this maneuver. It takes concentration to stand absolutely still, with the intention

that a charging 250-pound athlete is about to level you.

Obviously, this is not a play for the faint of heart. Falling over backwards onto a hardwood floor is not something most of us would willingly want to do, whether or not we were assisted by the charging athlete. In fact, a popular team-building exercise is a trust exercise, where people close their eyes and allow themselves to



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fall over voluntarily backwards, trusting on other participants in the exercise to catch them and lower them gently to the floor.

So, what possible reason could I want to write a law practice tips column about a basketball maneuver? One reason might be that this column was written during NBA play-off season, and there is a lot of excitement about the playoffs around here.

Actually, taking a hard charge is an apt metaphor for what a lot of attorneys find themselves having to do very frequently. A lot of the stress associated with the modern practice of law is that lawyers often have to metaphorically “take a charge” on behalf of their clients.

Many legal matters are quite stressful, and the participants, and sometime their counsel, can get emotionally engaged.

I recall, when I had been working at the OBA for a couple of months, someone asked me what the major difference was between working for the bar association and practicing law. Without even thinking about it much, I shot back, “Well here, hardly anybody ever calls to scream at me or curse me.”

While the response was intended to be humorous, the sad truth is the screaming call

is not an infrequent event for lawyers.

Generally speaking, most matters that justify a lawyer's attention are fairly high-risk, high-reward, and there will frequently be some stress associated with it.

Family lawyers are often used as the example of lawyers who deal with stress and conflict on a regular basis. In fact, I once heard a family lawyer describe her practice as "primarily conflict management." People have intense focus and strong emotions where their marriage and children are involved. Some can be just as emotionally committed to their retirement plan or stock brokerage account. So the stress that a typical family lawyer might have to endure might seem to be greater than the stress of a lawyer who does primarily real estate title examinations. But I would imagine that having to break the news to a couple that they are not going to be able to close on their dream home on the date they intended carries a certain amount of stress as well.

We hear a lot of discussion in our profession about the lack of professionalism and civility. No one likes to deal with an angry lawyer and, with rare exceptions, no one wants to be an angry lawyer either. Lawyers get to receive a lot of emotions and, sometimes, anger during the course of doing their professional duty. Society as a whole often seems to involve more tough talk these days. It is easy for even the best lawyer to lose his or her temper when frustrated by improper actions or a perception that an agreement has not been honored.

Most lawyers greatly enjoy their work and their profession.

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Unpleasant and direct conversations are often part of the territory. We've all had to deal with lawyers who have a hard time maintaining their decorum and civility when they are stressed or angry.

A distraught client calls, very angry about what the other side has just done. It is easy to absorb that anger and pass it along to others, like opposing counsel, particularly when you had advised the client that this action was prohibited by a court order. As lawyers all understand, while there may be consequences for willful violation of court orders or injunctions, they do not serve as self-enforcing mechanisms. Parties will still behave as they wish, and it is often a part of being a good counselor at law to convince the client not only that the court has ordered a certain action or lack of action, but that complying with that court order is not only the right thing to do, but better for the client's long-term interest.

Most lawyers can generate their own stress internally, without outside intervention, in any event. We all give lip service to the truism that no one is perfect. But the law seems to expose imperfections

in a very unforgiving way. Obviously there are different ramifications between failing to file before a statute of limitations date passes and a settlement package proposal that goes out a day later than promised. But it is still easy to beat yourself up over any minor failures. It is sometimes easy to convince yourself that you only have two standards of care — perfection and malpractice.

So, a primary point of this article is that, we should all remember that the practice of law is a stressful profession, and we should all endeavor not to make it more so. Sometimes, this will involve recognition of our own weaknesses and attempts to do better in the way we deal with others. Other times it will involve gently reminding opposing counsel that there is no need to raise their voice in a conversation between two professionals about the law, the facts and each client's best interests.

One of the challenges of our profession is burnout. This particular column was not prompted by the NBA playoffs, although the author shamelessly admits that starting with the NBA was perhaps seen as a good way to entice a few more readers into starting to read the article.

The real motivation for this column was an excellent article that appeared in the May-June, 2012, issue of *Law Practice Magazine*. I would strongly recommend all OBA members read "Burnout: Avoidable, Not Inevitable," by Meloney C. Crawford and Douglas S. Querin, two attorney counselors with the Oregon Attorney Assistance Program who counsel lawyers, judges and law students on mental health, addiction, and stress related issues. You can

find the complete article online at <http://tinyurl.com/6vcanf5>.

We've all heard the phrase "burnout" used at various times and in various ways. But it is true, according to the article, that burnout in the legal profession is greater than that of many other professions. The textbook definition of burnout basically involves the stress that results between job demands and resources, contrasted with the results that an attorney demands of him or herself. The authors outline a three-step process to coping with burnout, or burnout on the horizon.

These steps are:

1. Recognizing the situation and the signs leading up to it

2. Reverse the tide by reducing your stress and seeking support

3. Find resilience by building up your "stress hardness," by developing physical, emotional, and spiritual resources.

More helpful information is contained in the "Burnout" article.

We lawyers often perceive the primary cause of our job stress as having too much to do and not enough time to do it. But having too many unpleasant, loud conversations, arguments and negotiations is likely a more significant cause. Sometimes we cannot do much about the stress that we receive. What we can do is deal with our response to it. Take

care of yourself or you will not be able to take care of your clients — and your family.

If you are truly suffering from stress or you feel like you are headed for burnout, then call the OBA Lawyers Helping Lawyers crisis hotline, a strictly confidential program that is professionally staffed by qualified counselors. They can be reached at 800-364-7886.

Mr. Calloway is director of the OBA Management Assistance Program. Need a quick answer to a tech problem or help resolving a management dilemma? Contact him at 405-416-7008, 800-522-8065 or jimc@okbar.org. It's a free member benefit!

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