

FRIDAY, FEBRUARY 23, 2024

PERSPECTIVE

## Navigating the workplace with compassion when a colleague is grieving

By Tricia A. Bigelow

I left the CAALA Installation and Awards Dinner and was standing in line with two friends waiting for my car to be brought out by the valet. Making conversation, I turned to one friend and asked, "How's Kelly?" (The name is changed for privacy.) The second friend said something that I couldn't hear. When the first friend didn't answer my question, I assumed he also couldn't hear over the cacophony of those waiting in line for their cars, so I re-asked the question. "How's Kelly?" My other friend spoke a little louder, and this time I heard what he said: "Bad question."

Kerplunk. Just then, I remembered that my first friend's wife had struggled with cancer. I now realized that she must have died. I had no idea. I extended my sincere condolences to my friend, who now had watery eyes.

As I drove away, I thought to myself, was my friend right? Was it a bad question? Should we avoid the topic of a colleague's spouse's death? Is it even possible to do so, when, like me, you don't know that the spouse died?

It was exactly the right time for me to ponder this question. I had lost the love of my life, my lawyer spouse Fred Bennett, just over a year ago. Did I want people to avoid the subject? Did I want people bringing it up? As I thought about it further, I realized that counting me, four Presiding Justices on the Second District Court of Appeal



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had lost their spouses in approximately four years. Another associate justice lost her husband just a few years before that. Presiding Justice Epstein recently passed, leaving his spouse - also a judge - a widow. My dear friend, retired Judge Lance Ito, lost his wife of 40 years less than three years ago. Yee gads! The deaths are rampant.

So, what is the best way to deal with a colleague who has lost a spouse? It is now 16 months since Fred's death, and I truly enjoy and treasure talking about him and sharing memories of him with those who practiced with him or knew him. But was I ready for such a conversation earlier? The

answer is unequivocally no. Fred's death was preceded by a traumatic pulmonary embolism causing a heart attack and a six-month hospital stay. I had stepped down from my position as Presiding Justice of Division 8 because Fred and I had planned to spend our retirement years together; now where and what was I going to do? In the weeks immediately after his death, I lost myself. Completely. I went through intensive grief treatment, away from my home - to try to regain a semblance of myself. The point being, I suppose, it's a long process. The further the widow or widower is from their loved one's death, the easier it should be to

talk about it. Conversely, the more recent the death, the less likely that the surviving spouse will be able to handle a question about the loss of their loved one - certainly not with any veneer of professional composure.

How is a well-meaning person making casual conversation, such as myself at the CAALA event, to know when and what to say to a grieving colleague? I decided to turn to some experts in grief for guidance.

It should be no surprise that the initial return-to-work, post-bereavement leave is a tender time. According to Dr. Eric Bui of Massachusetts General Hospital, while grief is

a natural response to loss, it isn't something we are generally prepared for. It is important to give colleagues who come back to work after a death the space they need to process their loss. Instead of making them relive the grief by asking questions such as "How did it happen?" and "Is it hard for you right now?", it's far better to give them time to navigate the impact of their loss. "Let them approach you when, and if, they are ready. You can show that you are ready and willing to offer an ear by saying something simple like, 'I'm thinking of you,' or 'I'm happy to take something off your plate if that helps, or just sit with you while we both sip on our coffee.'" (Harvard Business Review, "Your Colleague Is Grieving. How Can You Help?" Sonika Bakshi, Oct. 7, 2021.)

On the other hand, etiquette consultant Jodi R. R. Smith says, "I'd rather have them say something potentially wrong than not say anything at all ... Just a simple 'how are you, I'm thinking of you, just wanted to let you know I heard what happened' will get the conversation going." If you have a more distant relationship with the person, Smith suggests sending a card to the person's home or leaving it on his or her desk and saying, "I heard about what happened and wanted you to know you're in my thoughts and prayers." Overall, she says, "follow the mourner's lead to see how much you should ask about it." ("Grief At The Office: When A Coworker Loses A Loved One," Laura Shin, June 8, 2015.)

According to Empathy, an app designed to assist those who have lost loved ones move through the grieving process and deal with its concomitant tasks, there are certain "dos and don'ts of helping a grieving coworker." One of the best is to "[r]efrain from making comments such as, 'everything happens for a reason,' or 'glad you're moving on.'" These statements "are invalidating and minimize [the grieving person's] pain." Hear! Hear!! Same for comments such as "He's in a better place, you should be happy for him," or "Aren't you over it by now?"

The Hospice Foundation of America offers practical responses: "Can I pick up anyone at the airport who

is coming for the funeral?" Or, my personal favorite, "I'll bring a carry-out dinner for you and your family, is that okay? What night is best?" After Fred's death, I often forgot to eat and rarely thought about cooking. My girlfriends, colleagues, and fellow church members generously brought meals early after my loss, and this was truly a lifesaver. I highly recommend the offer of a great meal to someone who has lost a loved one. So many restaurants now deliver that it's an easy way to give.

As time goes on, speaking about the deceased spouse should become easier for the widow or widower, but there are still potential pitfalls. Avoid asking about whether they are dating. Don't offer an unsolicited opinion on the timeliness of moving on or not. If they want to share that information with you, they will do it without prompting.

There is no universal time frame for when to start dating. Some people are ready to date just weeks or months after a loss; others wait years. Some will never date again. A "friend" told me I'd better hurry up and get back into the dating game before I got "too old." Really? Not only was this not helpful, but it was also genuinely hurtful. In the same vein, don't ask when they are going to stop wearing their wedding ring. They will take it off when they are ready.

Grieving is personal, and no one can quantify the significance of the relationship to the surviving spouse. Iman summed it up well on an episode of the TODAY Show Radio on SiriusXM last October when she was asked about her deceased spouse David Bowie. "I think of him all the time ... Don't call my husband late. He's not my late husband. He's my husband, and he'll always be." In sum, stay out of the grieving person's journey.

Beyond what to say and when, how can employers help? As of Jan. 1, 2023, all private employers with five or more employees must grant an employee's request for five days of bereavement leave from work following the death of a spouse, child, parent, sibling, grandparent, grandchild, or parent-in-law. (Govt. Code, § 12945.7) Is that enough? It wasn't for me. Fred's death hit me very hard. It felt as

though my world abruptly turned completely upside down. I'm forever grateful to the principals at Signature Resolution, who didn't blink at my request for a four-month leave.

In retrospect, I probably needed more time, and I'm sure they would have allowed me to take it. I think a liberal bereavement period is easier for an independent contractor such as myself, but it may not be so easy for every small business. Even without extended time off, there are measures employers can take to help their grieving employees. Allowing an employee to work remotely could be hugely beneficial, as could giving them unpaid time off, temporarily reduced work hours, or a temporary change in job duties.

It behooves employers to help out at such times because it garners employee loyalty. Further, grieving employees are not operating at top form. Providing flexibility in work hours gives them the ability to work when the worst of their emotions are at bay and ensures quality work. A supervisor or a Human Resources representative might reach out to the employee to find out how or whether to share the news with co-workers. Putting out a statement on behalf of the grieving employee could help get in front of the issue. Something as simple as "Joe lost a close loved one and will not be in the office for a few weeks/days" should be sufficient.

If you haven't experienced a big loss - yet - you will one day. Unfortunately, it's part of life. Until you experience it for yourself, you can never truly know the roller coaster of emotions, the intense sorrow, pain, longing, and pining for the deceased person, the confusion, irritability, anxiety, and inability to concentrate. I don't wish it on anyone.

At another legal function, I met a lawyer who was also a widow. She described how she had to force herself to get out of the safety cocoon her house provided in the months after her husband's death. I looked at her and said, "Oh, so you know." She responded, "Yes." Nothing more needed to be said. It was then that I realized being widows made both of us members of a club we never wanted to join. She understood.

As a legal community, we can and should learn from each other. We can strive to understand our colleagues' losses and make a real effort to demonstrate appropriate empathy to those experiencing loss around us. It starts by saying the right things or avoiding the wrong things, being present, helping in meaningful and practical ways, and providing workers with the time and space they need to heal.

*Grief support groups can provide critical resources for those who have experienced a loss. The LA County Department of Mental Health offers resources and a 24-hour helpline at (800) 854-7771. As an added resource, the local, state, and national bar associations offer wellness and assistance programs. For a list of such services go to <https://lacba.org/?pg=Lawyer-Well-Being-Project>. Additional resources can be found through the LA County Department of Public Health. In Orange County and San Diego County, bereavement support can be found through the counties' websites.*

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**Tricia A. Bigelow** is a neutral with Signature Resolution. She served as a Los Angeles Municipal Court and Superior Court Judge prior to her appointment as an Associate Justice and then Presiding Justice of the California Court of Appeal, Second Appellate District, Division 8. Bigelow was married to Fred Bennett for four years before his untimely death in late 2022. He practiced law with Gibson Dunn and Crutcher in 1974, and then joined the law firm of Quinn Emanuel, where he served as the Global Vice Chair of the firm's International Practice and U.S. Chair of their arbitration practice.

