



# *Custody*

Installment Two  
November 2023

## Custody

*( At the end of last month's installment, we left Myles Lowry with his lawyer and conflict resolution specialist calculating what to do about challenging his daughter's custody and visitation arrangements, expiring little more than 5 hours later the same day. Over at his ex-wife, Rosalyn's, law firm, there was a quandary: what to do about the unexplained disappearance of their client and her daughter, and how to represent them at the same custody hearing just hours away. )*

=====

22

Myles Lowry would have enjoyed his lunchtime sandwich—Virginia ham with lettuce, tomato, Swiss cheese, and mayonnaise on white bread—much better if he hadn't started off with such a bad taste in his mouth. Sitting in a Manhattan conference room with his lawyer, Ned Hegerman, and the firm's associate specialist in conflict resolution, Karidja Soro, was not promoting his midday appetite in the least. Before the take-out food was brought in, their last conversation highlighted how his wife, Rosalyn, had as good a chance, if not better than Myles, of being granted custody of their daughter, Linda, for years to come. If the old legal adage "possession is nine-tenths of the law" held true, Myles was eyeing a child-deprived future, since Linda currently lived with Rosalyn in a New Jersey apartment.

Across the table from Myles, Attorney Hegerman stopped picking with a white plastic fork at his meager fruit salad. He moved the cardboard bowl off to the side with the back of his hand. His diet ginger ale was missing the rye he might have had in it at a client luncheon in a restaurant on a better day. The two ladies at the facing ends of the table, stenographer Gabriella Costa and Karidja Soro, were taken aback at Hegerman's menu choice. They quietly dispatched their unfinished tacos when they saw their boss was done and ready to continue their preparations and planning.

Ned did not wait for his client to finish eating either, before he started in with his opening statement. "Okay, Myles. Since the hearing's going to hinge on last night for the most part, please give us as clear a picture of your birthday visit to Linda that you can." Myles was too busy with finishing his

own lunch and looking at his scratch pad on the table to notice the body language of the room. He reacted to his lawyer's sudden call-to-meeting and bit down too hard on his sandwich end. Mayonnaise dribbled onto his vest. Glad his jacket was hung on the back of his chair; he did the best to catch the white runnel before it stretched too far. Karidja eased up quietly and wet a napkin at the coffee bar and gave it to Lowry to complete his cleaning.

Myles tried to summarize objectively. But it was a lost cause. He became emotional right from the start, half provoked about the mayonnaise and half about his wife. "It started off poorly because she lied to me about the party."

Hegerman asked, "Who lied? Your wife or your daughter?"

Karidja spoke up before Myles could answer. "Myles, please remember that you will have to be precise in what you say. And be in control of your emotions, as we discussed."

Gaby took notes and Myles nodded. "Rosalynd lied. She invited me over for 5 o'clock to see Linda on her birthday. The party went from two o'clock to five o'clock. She embarrassed me in front of the parents and kids who were leaving as I arrived right on time. And that made Linda think I was late and missed her party."

Ned asked pointedly, making a note on his legal pad, "So Rosalynd invited you to come over?"

"Yes, when she came to my office on Thursday. I thought I told you that already." Myles was impatient, thinking his lawyer had forgotten. He thought Hegerman looked a little "off" today.

"Slow down, Myles. Yes. You did tell me that. And I have not forgotten it. But please remember I am trying to get you ready for later today. When I re-ask a question, it's to give you a chance to answer factually—with a simple yes or no most of the time. What I am doing by asking you that way, Myles, is making sure the judge doesn't miss what I want him to consider an important point. Can I trust you to realize this and cooperate? The last thing we want is for the judge to think you're a hostile respondent to your own lawyer. That's simply not going to play well for you." His lawyer looked tiredly across the

table at his long-time, beleaguered client, who replied in the affirmative, somewhat unconvincingly.

“Before you go on, Myles, may I ask a question?” It was Karidja who spoke evenly and without an edge. “I’d like you to think back to Thursday in your office, please. And here is my question: Did Rosalyn invite you specifically to a party? Can you remember what she said?”

Lowry felt caught in between. “So, good cop with the napkin and bad cop with the questions?” He asked, only half-joking. He elicited simply a smile from Karidja. Myles tried hard to go back in time. “I think what she said was she was inviting me to dinner. That Sunday was Linda’s birthday and she wanted her to see me.”

Karidja spoke softly and politely as she questioned their client. She knew this new line of discussion would be jarring for him. “So, if I were Rosalyn’s lawyer and I pressed you by saying Rosalyn in fact did not lie. That you were not invited late to the party. You were invited for something entirely different—for dinner at 5 o’clock. Would you have to agree with him?”

Myles was thunderstruck. “Is she that clever or is it her lawyer who’s put these ideas in her head? Is it him I should be punching in the face and not her?”

Ned asked him, almost in a panicked voice, “What went on there between you two? I thought you said you were going to spend time with your daughter.”

“I did. But she—Linda—told me some scary things. I challenged Rosalyn to tell me what she knew about a man that approached Linda outside the apartment. My little girl called a freight train drifter her ‘gentleman caller.’ That’s right out of her mother’s *Glass Menagerie* playbook. What was I supposed to do?”

He was talking and gesticulating so fast that the others in the room could not follow. “She was listening to music and reading and ignoring that I was trying urgently to talk to her.”

Karidja asked him calmly, "When you spoke to her, how did she respond? If I may ask."

"She pushed the cassette player button and the music stopped. But she kept right on reading her goddamn book—"

Hegerman cut in, "What book?"

Myles kept on going anyway, "—so I grabbed it out of her hands and threw it across the room onto an empty chair." He turned slightly, "What did you say, Ned?"

"I asked you what book."

Gabriella transcribed furiously, keeping up with the speed of the talk, as it approached being more noise than words.

"A paperback. Let me think . . ." he tried to stop his hands from shaking, but they were dangling and wiggling from his wrists he was so distraught.

Karidja said, "That's not good."

Then Myles remembered the book cover. "Oh, yeah. It was *Kramer vs Kramer*. The one they made a movie of with Hoffman and Streep."

Hegerman shook his head and let out a moan. "Ohh. That's not good."

"I don't know how good it is. I didn't read it." Myles was so far off the mark. He thought Karidja was repeating herself.

She said, "That's really not good."

"I heard you the first time," snapped Myles.

"No. Myles. I said two different things. Remember I told you about having to listen? The first time I spoke about your grabbing a book out of Rosalyn's hands. That was very provocative."

She gave him a second. Now all three of them were looking at her. “The second time I spoke, it was about the book itself. If Rosalyn thinks she is Joanna Kramer, then she may actually be contemplating fleeing. We study that book and the Kramers’ relationship in conflict training.”

They all took a moment. Looked around the table at each other. The clicking of the steno keys caught up with them and stopped. But Gabriella Costa did not. “Excuse me. I know I’m just supposed to be taking notes. And I know I am not supposed to be knowing what’s going on. Objectivity and plausible deniability and all. That’s my job. And you know I’m good at it. But I want to make sure you don’t miss something.” She finally paused in her nervousness. She pushed her glasses back up onto the bridge of her narrow nose, her telltale nervous habit. The brown frames matched her hair color, and they sat closer to her hairline that way. Most people in the office thought she wore them down to see the steno machine. But Karidja had figured out it was a nervous tic that prompted the adjustment, because she had seen Gaby push them up many times before talking in lunchtime conversations. “You know, in case it’s important.”

“What is it, Gabriella?” asked Ned Hegerman. It was hard to read his reaction to her unprecedented interaction. He couldn’t recall ever hearing her in a deposition or pre-trial session, except to ask for a clarification about her notetaking.

As if she knew she had only one chance to get it right, she spoke directly to the client—another “first.” “Mr. Lowry, did you hear the tape player stop working, or did you only hear the music stop?”

“Wow.” Exclaimed Karidja.

“What’s the difference?” quizzed Myles, curious but impatient.

“Well, sir, Mr. Lowry,” Gabriella was the only one addressing him by his surname, “I am wondering if your wife—if Rosalyn—only turned the music off, or if she pushed the RECORD button and has the entire encounter on tape. I think of these things when I am permitted to record some types of meetings, so I can check my transcriptions later. It’s a natural inclination for me to be careful about that RED button.”

In the silence that gripped the room in the aftermath of Gaby's observation, Karidja stood up and went to the door. Opening it slightly, she made a beckoning motion with her hand. She opened the door to allow Eleanor Quatrane to enter. Karidja asked her, loudly enough for her tablemates to hear. "Eleanor, please send Charlie quickly over to Blockbuster on the corner. Have him rent *Kramer vs Kramer* on DVD, get it back here right away, set it up on the cart with the DVD player and a monitor—and please let me know when it's ready to bring in here for us to study a segment." Eleanor scanned the faces in the room, nodded, and left.

When she sat down, they knew they would have the *Kramers* to review. But as far as the potential for a tape recording of the Lowrys, well that was another thing, altogether.

Ned Hegerman broke the spell. "Let's take five minutes. Get these lunch things out of the way. Collect ourselves and be back in five. We've a lot to do. I want to check with the clerk of the court." Looking at his watch by habit, "It's already a quarter to one. We may have less than an hour before we have to leave for the hearing."

The clickety clack of the keys finished. All Gabriella saw was their backs as they were heading for the door. She decided to do something that might ingratiate her to the group again. She picked up the lunch plates and placed them in the trash receptacle. She was glad she did not smoke, as some of her steno friends did. Kept at it in this room for so long, she was sure she'd be a wreck by now.

Gaby went back to her chair. Eleanor rolled in the DVD player and monitor on the cart. She placed it in a corner of the room out of the way. "Gaby, this way we'll only have to bring in the DVD. Less disruption. They didn't look like it was going well when they just came through. I thought this would be best." Gabriella hoped so, too. She didn't want to take the hit for another audio-visual disaster.

Danny Hart ran through his mental checklist before starting his car outside Rosalyn's apartment. The parking was parallel to both sides of a

short, straight dead end that gradually sloped toward the top of the railroad ravine, and ended at a stout metal guard rail, anchored perpendicular to the two curbs. There was enough room for five cars along each curb, sufficient space for the customary needs of the apartment dwellers in the building. Parked cars facing the tracks exited to the main street by making either a three-point turn first or backing out into the road. Those parked facing the street, could simply unpark, pull out, and drive forward. That's how Hart had parked, facing the main road. Now that he had reviewed everything and made a quick last note of the time of his departure, 12:45, he was ready to leave. Edging past the bumper of the car in front of him, Danny nosed out into the open portion of the dead end and was starting to accelerate. Only his quick reflex to crunch down on his brake pedal prevented a head-on collision with Paul Meadows, who rushed a turn off the main street and entered the dead end at speed.

Meadows left his vehicle askew in the middle of the dead end, hopping out of his car, and holding a portable cassette player above his head in one hand and signaling for Hart to stop with his other hand flailing in the air. "Man, you have to hear this," was all Danny Hart heard as he propelled himself out of his car.

They were both back up in Rosalyn's apartment moments later after getting their cars back into parked positions. Hart was on the phone with Godfrey Mellon. "Yes, sir. That's what I'm saying. Mr. Meadows came right back and caught me before I was driving off. Here, let me have him talk to you."

"Hello? Yes, I'm Paul Meadows." He waited through Mellon's greeting. "Linda told her mother she wanted the kids to play musical chairs at her party. Rosalyn asked me for help. So, I brought along a mixed tape I had of party songs and a cassette player. I pushed the buttons on and off to start and stop the cassette. It worked fine."

Mellon loudly interrupted him. "I'm in a rush for court here, Mr. Meadows. Can I ask you to get to the point, please?" Hart heard his voice in the phone and thought to himself: *Ever the self-important prick. I hope it bends back and gets him in his own ass someday.*

"Yes, sir. I left the player at her apartment after the party. I just retrieved it ten minutes ago on the way out with your investigator. I thought



I'd play it in my car, to hear some music going back to work. I rewound it a bit and started it up. A song played and the next one was abruptly cut off. All I could hear on the tape was Rosalyn and her husband arguing. Pretty ugly. So, I raced back here to give it to Mr. Hart."

"What for? Why specifically are you thinking I want it?" intoned cross-examiner Mellon.

"They are making threats. Both of them. What if he's done something to her? What if the boarding school story is fake, made up? I'm very concerned for her. So naturally I thought you would be, too." He caught his breath. "But if not, well I'll just take it to the —"

"No. No. You're right. What you did was good. Of course, we're concerned." Mellon thought. "If you give the tape and the cassette player, just as they are, to Mr. Hart, I'll ask him to whisk it over to me right away." Not really apologetic, but it was the closest he ever got.

"Oh, and Mr. Meadows." Rethought the lawyer. "I can do even better for Rosalyn, if you'll help me. I can't force you to do so, and there's no time for me to get a court order—"

Now it was Meadows who broke in, "What? What are you talking about?"

"What I'm asking is this . . . Could you please give Hart the key to the apartment and the mailbox key? Hart's going to be keeping an eye on the place to make sure nothing becomes of Rosalyn and Linda . . . that Lowry doesn't show up or send somebody there . . . and that we get to see any notes that are sent or left for her . . . in case it helps us find them."

Meadows acceded to the not-quite-a-demand-request. He handed the phone receiver back to Hart and walked over to look out the window toward the street. He didn't want to hear what came next. In fact, he didn't even wish to hear that lawyer's voice again. But that was a wish that would eventually go ungranted.

"Well, Danny, I guess you and I are not done yet today." His disingenuous tone made Hart think of honey that had gone rancid by exposure to the elements. "Please get that player and tape over here to

Manhattan ASAP. I already told him you would. If you hold the line, I'll have Miss Hayes give you the court location. Don't bother coming here to my office. Go right there. Goodbye. See you later." Mellon's father's voice came to him. He realized he had asked someone to do something, and he had not asked for the request to be repeated back to him. Because Hart was an independent, the lawyer almost skipped over the second chance his father always promoted.

"Wait, Hart. Listen, I need you to stay there in the apartment when Miss Hayes comes on the phone. I need you to play the recording over the phone so one of our stenos can transcribe it. They can get me a printed transcript to study before court much sooner than you can get there from Jersey." And, then quickly, "And, Danny, get the keys for the place from Meadows. I already told him you would take them." Hart got his honeyed do-list without so much as a 'thank you.'

Meadows spoke as soon as Hart hung up the phone. "I'm supposed to give you these for the door. I think they keep the mailbox key in the kitchen junk drawer. I'll show you." They found it there on a fob with a little USPS logo the Post Office gave out one holiday. "We should take another look around if I'm not coming back. Don't you think?"

"Okay. But I should make it quick, bec—" Danny didn't finish.

"Yeah. I know I could hear the ungrateful bastard from across the room. How do you work for that guy?" Paul shook his head.

"I convince myself to think that I work for his clients who need him. Him, not so much. His dad was a great guy, though. That's who I started working for over there before I moved to Jersey to get out of the City. It became too easy for the wrong type of people to recognize me over there, between the courthouses and the jails." That answered the question for Paul, but not for Danny. He'd reflected upon the fact that he had been asking himself that same question, more and more recently.

There was nothing left that caught Paul's eye to take with him. He shook Danny's hand. "Call me if you hear from . . . if you hear anything. And call me if you need my help." They left the apartment and the dead end together, without incident.

A bit better for the respite, Ned Hegerman began the rejoined conference room session. “The court clerk said she would call here at one-forty-five after the judge returned from lunch at one-thirty. We’ll know then if we are to leave by two for the courthouse.”

He cleared his throat. “That gives us about an hour to make sure we—and you, Myles—are ready. Recap for us, please, Karidja.”

The conflict resolutionist did so. “We are affirmed that Myles is not going to seek an extension of the current custody and visitation agreement. We are going to request the judge to set a date for a custody challenge hearing. We are doing so proactively to move the discussion forward. We hope this will make yesterday’s visit a moot point. So, we have an hour for Ned to set up the way he wants to go about this.” She looked to everyone. “Does everyone agree that’s where we are?”

“What about the Kramer thing?” asked Myles, without answering that he agreed that’s where they were.

Hegerman turned to Karidja and extended his left hand, palm up, to signal she had the floor.

“The only thing about the Kramers is for us to be aware of what key phrases might be triggers to set Rosalyn off. We want to avoid them, so the hearing doesn’t get out of our control. We also want to know what Rosalyn might say that gives us an insight into whether she is considering running away with Linda again.” Karidja waited for Gaby’s clicking to stop. “But that’s second place. First order of business is getting you, Myles, straight with Ned’s direction.”

“Okay, then I agree that’s where we are. And I’m ready,” affirmed Myles.

Hegerman began by lifting one finger in a counting gesture. “We want to assert that Rosalyn is of sound mind. Trying to do differently fell on deaf ears two years ago. And we still have no expert witnesses to the contrary.”

Myles bristled and was about to speak. His attorney turned his hand, the palm facing his client and friend, "Wait. I'm not finished."

Hegerman added a second finger. "We want to draw a picture about Rosalyn that suggests her attorney has been coaching her activities leading up to the completion of the two-year agreement and today's court hearing. But we can not accuse him of that outright."

Now another finger and the word, as he moved his hand inward over the table. "Three. We have to convince the court that Rosalyn is a calculating woman, who is more interested in retaliatory power over men in general—and her husband in particular—than she is of being a mother and caring for her child. And, as such, has demonstrated that she should not continue as primary caregiver with custody of Linda."

Nobody cut in when Hegerman placed both hands, palm down on the table. "Now, these are my jobs. Anyone of us to whom I address a question in the hearing, including hypotheticals I pose and answer myself, must not elaborate. Just answer exactly what I ask and nothing else. No speculation. If you do, you may redirect the court's attention away from where I want the judge to go. And to where I want to prohibit the other side from going. Myles, as Karidja had said to you many times, you must remember to be patient and you must control your emotions, most especially anger. And you must not display any aggressive, or even excessive, body language." He searched the faces in the room, even Gaby's for good measure, and practice. "Myles, do you understand?" His client nodded. "Remember, I can only help you if you let me do my job. That means you are going to have to trust me, even when—no, especially when—you either don't understand or agree with what it appears I am doing."

Ms. Quatrane must have been listening outside the door. Because just as Hegerman stopped talking, she rapped lightly and listened for permission to enter. When she heard Karidja, she opened the door, walked quietly to the cart in the corner, inserted the movie DVD, walked back to leave, pausing at the head of the table only to hand Karidja the remote device to operate the machine.

"Advance it to where you want us to watch, please," said Hegerman. "We are ready for that now. Then I'll continue."

Karidja started the player. She fast forwarded the movie to the first part she wanted them to see.

It was Meryl Streep as Joanna Kramer. In the movie, Joanna was leaving her husband, Ted, and boy, Billy. She says leaving is her fault, that Ted married the wrong person, she has no patience and is a terrible mother, she will commit suicide someday if she doesn't leave. Karidja stopped the movie. "Now, here's our problem. We don't know if Rosalyn watched this film."

Hegerman asked, "What does that matter?"

"Myles only saw the book she was reading." Karidja held up her personal copy of the book and told them, "In the book, the wife doesn't say she'll commit suicide. She only says she's suffocating and has to leave. She says a woman has to be her own person. Those are the key triggers we have to avoid saying: the word *suffocating*, and the phrase *a woman has to be her own person*. And if she says them, we should be alert to the fact she might run away again with Linda. Or worse yet, she might flee without Linda and without Myles knowing where Linda is. Because that's what Joanna Kramer does. And if Rosalyn is becoming, or has become, Mrs. Kramer in her own mind, we need to be aware of these things. Watch for them. And not provoke them."

Karidja added, "There's more. The son gets a letter from his mother, who has left home. Here's Dustin Hoffman, his father who has custody, reading it to him." They watch together.

Karidja stopped the video and continued her explanation. "In the book and the movie this event is essentially the same, though as you saw in the movie, the boy doesn't want to hear the end, so we don't either. This maternal admission is key for us. I'll read it to you from the book:" *I have gone away because I must find some interesting things to do for myself in the world. Everybody has to and so do I.* Karidja re-emphasized, "I'll say it again, let's not trigger this and let's be alert if she's signaling a readiness to flee." After a pause, she asked Hegerman, "Does any of this so far conflict with any plans or preparations you have made?" He shook his head and motioned with his hand for her to keep going, but quickly.

Karidja told them there were two more critical scenes for them. “The Kramers meet in a restaurant and the wife says she’s ready to take her son back again and live in New York. The situation in our case is different, I know, but we must be careful that we—and you, Myles—see that in this scene Mrs. Kramer learns about her husband’s willingness to fight to maintain custody. So, two things. First, Rosalyn is going to be watching that Myles hasn’t become Ted Kramer. That is, that Myles doesn’t act or speak like Mr. Kramer. If you do, Myles, you’ll encourage Rosalyn to think her assimilation of Mrs. Kramer identity is right and justified.” Karidja was aware her available time was passing. But this was crucial. “And second, the book and the movie are different. If Rosalyn read the book only, then she will think today is the decisive moment to unleash her lawyer on Myles to win custody of their child. Since we are at the end of Myles’s and Rosalyn’s custody and visitation agreement’s twenty-fifth month, our family is at the same point—though the Lowrys got here along a different road than the Kramers. If, however, Rosalyn also saw the movie, then she will still be pleading her case about why she left and she will be bemoaning the fact that, in the words of the movie dialog:” . . . *all my life I’d either been somebody’s daughter, or somebody’s wife, or somebody else’s mother.*

“But today in court with us, if she has only read the book, then we need to be prepared that Rosalyn-as-Joanna and her lawyer are coming after Myles this afternoon and will be satisfied with nothing less than full and permanent custody. And for Myles, different from Ted, perhaps without the visitation rights that Mrs. Kramer professed a willingness to allow.”

Now Karidja went faster and with an urgency. “The last scene for you to see now is Mrs. Kramer’s court testimony.” Karidja hit the advance, stopped the tape, and pushed PLAY. They watched Meryl Streep speak in anguish and with resolve as she answered her lawyer’s question about why she was asking for custody:

*Because he’s my child . . . Because I love him. I know I left my son. I know that’s a terrible thing to do. Believe me, I have to live with that every day of my life. But just because I’m a woman, don’t I have a right to the same hopes and dreams as a man? Don’t I have a right to a life of my own? Is that so awful? Is my pain any less just because I’m a woman? Are my feelings any cheaper? I left my child —I know there is no excuse for that.*

*But since then, I have gotten help. I have worked hard to become a whole human being. I don't think I should be punished for that. I don't think my son should be punished for that. Billy's only six. He needs me. I'm not saying he doesn't need his father, but he needs me more. I'm his mother.*

Karidja paused the film for its very silent audience, and said, "But in the book, which we have more confidence is the source of Rosalyn's identity assimilation—or substitution, if you wish—Mrs. Kramer is more forceful in her accusations and less remorseful than in the film version you just watched. Let me read to you from the book, how Joanna testifies:

*My predicament was overwhelming. If my husband had been open to my having my own interests, I would not have been in such despair.*

*Everything became one—the marriage, my husband, the pressure, the child. It was all one to me because it was one. My husband had cut off all my options.*

Karidja looked up from the page and emphasized, "In fact, in the book, Mrs. Kramer denies she gave up her child:"

*No, not my child per se—my marriage, my husband, my frustration, and my child. I was leaving this entire package my husband had tied up so tightly.*

Karidja made her final pitch as a resolutionist preparing her boss and his client. "And in court within the hour, we must be ready to face either personality—or perhaps a blending of both into a new and more complex individual in Rosalyn. If we aren't prepared for whom we are facing, we stand a good chance of being caught off guard. We can't allow ourselves to slip into stereotypes or presumptions. If we do, Myles, you will lose—your appeal and your child."

Myles could only stare. "God save me. And I thought I knew what I was doing by reading *The Glass Menagerie* and learning about Amanda Wingfield. But Rosalyn has moved on to being a new person. I understand where you

are coming from, Karidja. I thank you. I only hope I can understand what you are telling me to think and do.”

25

Ned Hegerman was momentarily drained in mind and body by Karidya’s ‘Kramer presentation.’ He felt that exploring the unique fissures and folds and grooves in the brain to find the way into the mind of a person as confused as Rosalyn Lowry could itself be a confusing journey. But Karidja Soro had used her resolution training skills of understanding one’s opponent or adversary. She had made sense of Rosalyn for them, as an experienced guide does for tourists who would otherwise get hopelessly lost in the maze of twisting, turning streets in a strange city. Ned was very grateful for her expertise and presence. He smiled at her and gave her a nod. He checked down the table to Gabriella, “Are you okay for more?” She let him know she was. He looked at the clock. He thought about how best to use his remaining half hour. It was quickly decided for him, however.

A knock on the door was followed by its being opened without a reply. “Sir, the court clerk is on the phone. She says it’s urgent.” Thinking it would be a perfunctory notification, Ned told Ms. Quatrane, “Please put it through here to the conference line, on speaker.” He gestured to Karidja to activate the phone they had moved aside for their lunch plates and to replace the instrument to the center of the table.

The four of them heard a disembodied female voice say, “Hello? Attorney Hegerman?”

“Yes?” is all Ned said.

“This is Ramona, the court clerk. We’ve been talking together about your hearing scheduled for this afternoon, sir.”

“Yes. Please. What can you tell us, Ramona?” was all Ned thought sufficient to say.

“The judge has asked all parties who can be present to convene at the appointed time, sir.”



"Excuse me, Ramona. What do you mean by 'who can be present?'" Hegerman was sitting erect in his chair now.

"I'm not sure I could say, sir." Ramona spoke haltingly.

"Could—or are allowed to say, Ramona." Ned was politely cautious.

"For today, sir, those are probably the same thing." She waited a moment and then added, "I've been told to confirm the hearing's still on, sir, and to ask if the judge can expect you and your client to be present." Ramona sounded more formal than she had been previously. And they had spoken on many occasions since she acquired the job after the last municipal election.

Hegerman needed her now and in the future, so giving her a hard time was not in any way a good idea. "Ramona. Thank you. Please tell his honor that Attorney Hegerman, his client Mr. Lowry, and my conflict resolutionist, Attorney Karidja Soro, will be present and on time."

"I will, sir. And thank you." was all the table-top speaker had to offer in reply.

26

Myles Lowry had been involved in many business deals over the years. Some very high stakes, for reputations and for fortunes. He recognized the phone call for what it was. "Ned, that didn't sound so good. What do you think is going on?"

Before, his lawyer could answer, there was a knock on the door and a service person in a white uniform entered the room shouldering a filled five-gallon bottle for the water cooler in the alcove next to the breakfront. He set it down and turned to leave. He pulled up short and let out a friendly greeting, extending his arm for a handshake. "Hey, aren't you Myles Lowry?"

All were taken aback, and Myles was too fast to reply, "I am."

“Well then, you’ve been served.” And with that he slapped a folded paper into Lowry’s hand, walked out of the room, and exited the office in the wake of the confusion he’d been well schooled to create before he could be detained.

Scanning the document, Ned Hegerman shook his head. Standing at his place at the table, he told the others. “Well, we’ve been outmaneuvered. We have to appear at eleven tomorrow morning in a different chamber of family court to answer this summons. It’s a complaint about yesterday’s visit, filed by Rosalyn’s lawyer.”

“What do we do?” asked Lowry.

“We get to our hearing for two o’clock and see what we can discover for today and for tomorrow. Everyone get ready to go, we convene in five minutes in the reception area. Gaby, please tell Eleanor to get us a car to go to court. I’m not up to walking. Thank you.”

27

Hegerman said it was court. And it might serve that purpose sometime. But it wasn’t what Lowry expected. There was no jury box. There were only about two dozen seats for visitors or persons the court might call upon for information, testimony or the like. And those chairs looked likely to be moved aside or brought to another room if need be.

Lastly, the judge would not perch very high above the others in the room. The bench was a desk set up on a riser about the height a second row of singers in a choir might use behind their song-mates standing on the floor. The desk was not grand and off-putting. There was floor space enough in front for the lawyers to navigate and the witnesses to traverse. Lowry thought the idea was to make the contesting parties think of the judge more as a wise decision-maker rather than an enforcer of lofty ideals and laws.

The walls were painted police station green. Darker oil-based up to the height of a nonexistent chair rail and lighter water-based latex above that. Eight, large, rounded globes hanging straight down from the twelve-foot ceiling lit the room. Their interior curved interior bottoms were dotted with

the corpses of flies and spiders. The side walls bore non-descript framed pen and ink artwork, street maps of antebellum New York, but before the construction of the bridges over the pre-metropolitan waterways. In one brown and black drawing Myles saw a flourished script naming NORTH RIVER between Jersey and Manhattan.

No railing separated the tables and chairs for lawyers and clients from that dozen or so associated chairs assigned to each side. Just some extra floor space. Together they formed an *ad hoc* clear center aisle that began at the main entry door and ended at the judge's bench. A chair for a bailiff sat against the wall beside the main door in back and another on the right next to a side door up front, to what Myles thought was probably the judge's chambers. To the left of the judge's bench was a table and chair for the court stenographer. To the right of the bench was a wooden captain's chair serving as a witness stand.

Behind the stand, and to its right, were the standards of the State and the City of New York, draped from silver-plated flag stands. Old Glory stood alone on the left side of the bench, deeper in the room than the steno station. Equally spaced from left to right on the wall behind the flags hung official reproduction portraits of New York Governor Mario Cuomo, U.S. President George H. W. Bush, and New York Mayor David Dinkins. Myles imagined the door in the wall below and beside the governor's portrait most likely led to a conference room or another exit. Though he saw no red back-lit exit signs except over the main doors.

The space was empty when Myles arrived, with what he had come to think of as his legal team. The three sat at the table on the left, from their left to right, Karidja, Myles, and Ned, on the aisle. Hegerman placed his briefcase on the table and the three sat quietly.

Within five minutes, Godfrey Mellon came up the center of the room, stood next to Ned, and extended his hand. They exchanged a gentlemanly handshake but did not speak to each other. Mellon sat and placed his documents to his right, leaving the table in front of him bare, with his papers ever so much further out of Ned's eyesight. Karidja could not help but notice Rosalyn's absence. Periodically, Myles craned around every time he heard a sound to see if she was entering the room.

The court clerk entered from the chamber door in front. She wore a plain dark blue dress made for comfort, long hours of sitting, and suitable to not call attention to herself. She came over to each table and asked the participants to sign a sheet declaring their presence. She asked for their photo identifications, an accustomed practice to which no one objected, especially since her manner was unrushed with a patience honed for more than twenty years of service. She returned to the chamber door and announced the approach of the judge, reached behind herself to turn the knob, and ease the door slightly open. The judge completed the opening of the door. The bailiff announced, "This hearing is now in session, Judge Eoin McCarver presiding. All rise!" And with that, Judge McCarver strode across the front of the room to the bench and sat down. His black robes were somewhat tapered and did not exhibit any flourish or provide any flowing distractions. The rest of those assembled in the room followed suit and took their seats.

The bailiff crossed to the center of the room, walking in highly polished but silent stepping shoes whose heels were worn unevenly. He announced: "This is a hearing concerning the custody of the minor child, Linda Lowry. The parties before the court are Myles Lowry and Rosalyn Lowry, previous married, now divorced, and biological parents of said minor. Are the attorneys for the parties present and ready to proceed?"

As expected, Rosalyn's lawyer stood first. "Godfrey Mellon representing the mother, Rosalyn Lowry. Ready to proceed, Your Honor." He took his seat.

Ned leaned heavily on the table to rise. "Ned Hegerman and Karidja Soro on behalf of Myles Lowry, also present and ready to proceed."

The formula was somewhat out of custom. And so, the judge noted. "Mr. Mellon, is Mrs. Lowry not in court today?"

"At this time, I am carrying on under Mrs. Lowry's power-of-attorney." He stood to say this and remained standing in deference to the judge.

"Will Mrs. Lowry be joining us for the hearing, sir?"

"She is currently ill-disposed and under duress, Your Honor. I must admit I do not know if she will arrive in a timely fashion." He paused at a

sound of a door opening in the back of the courtroom. A person unknown to all but one of the participants stood tentatively in the doorway.

Mellon turned to see if he would be relieved to find Rosalyn had decided to show up for the hearing. Alas, it was not she and he gave himself a moment to figure out what to tell or ask the judge, in light of her continued absence.

For his part, Myles never turned around. He had grown tired of the mind games he was convinced Rosalyn and her lawyer were playing with those convened for the hearing.

The visitor excused herself, saying she had the wrong room and began to withdraw. The bailiff opened the door wider for her, extending his arm fully and nodding as she looked at him quickly and then turned away to leave, without thanking him.

Karidja had been concentrating on Judge McCarver, trying to figure out if his appearance and bearing gave any clues to what his temperament might be, particularly about the news of Rosalyn not being in the room. Thus, Karidja had taken a minute or so longer to turn toward the door. All she saw was the back of a pair of brown pants and a blue shirt making their way through the doors and out into the hallway. From the person's body language, and the bailiff's holding the door opened, Karidja's mind construed the voice and the posture into a conviction that the mistaken entrant was a woman.

Thus, as it turned out, only the bailiff saw her eyes matched her clothes in an odd way. One eye appeared blue and the other seemed to be brown.

Mellon returned his attention to the bench. "If I may beg the court's indulgence, Your Honor. Would it be possible to reverse the order of testimony and have Mr. Lowry address the court first, to allow his ex-wife some more time to arrive?"

Ned Hegerman was usually very good at courtroom cat-and-mouse games. But today he felt he was in the room with country mouse's city cousin, and a rat, at that. He stood, "May we approach, Your Honor?"

The judge motioned the lawyers forward, even though with an empty room except for the husband, he thought it superfluous.

As they walked forward and attention was diverted to them, Karidja reached down into her oversized handbag. It had already been perused twice, off to the side, by both the building and the courtroom security guards. She withdrew a small stuffed elephant. It was wearing a Cote D'Ivoire football jersey. She set an oversized index card with a thick dark line inscribed on it in front of Myles and placed the elephant with its back heels right on the line. He looked away from Ned's back and down to the table when he noticed the movement in front of him. He could not help but smile. He looked at Karidja. Her face was firm and was not smiling in the least. She only hoped that Myles got the message. And kept it in mind throughout the hearing.

Back at the bench, Hegerman addressed the court quietly. "Your Honor, I am somewhat curious about how we can proceed without one of the parties present. It is not just that we won't have her testimony. It seems unfair to her that she will not hear what her husband has to present. I would not like to waste the court's time with an inadequate hearing that leads to an appeal and another hearing before Your Honor." It was very daring for Mellon to withhold his client from this hearing. If he was putting all his eggs in the basket of the next morning's proceedings, Hegerman did not want to tip his hand in advance. Yet, both lawyers knew that this judge would be supremely punitive if he were to discover they were here in front of him and did not disclose knowledge of the next day's court calendar.

Mellon spoke up. "Your Honor, I have reason to believe that my client may fear for her safety by appearing this afternoon. I'd like to proceed on her behalf. I feel this hearing may disclose information that helps the court reach a decision about custody without having her present."

"Your Honor," interrupted Ned, "is my esteemed friend now telling the court his client is not, in fact, delayed or late in arriving, but is not intending to appear at all?"

"Mr. Mellon. What say you?" Here was something a judge on an elevated bench would look down and say crushingly to an attorney before him. But the lower riser seemed to have also lowered the intensity of the court. But only for the moment, Hegerman hoped.

"I must acknowledge, Your Honor; I do not know where my client is at this time."

"That's a damning admission, sir." Hegerman heard the intensity he welcomed.

"I hope the court would provide me an opportunity to link together my client not being here with evidence that would demonstrate the court should adjudicate this custody hearing in her favor." Mellon was skating out onto thin ice. Hegerman hoped he did not have the ice water in his veins to pull off whatever he had in mind. "And I could do this, Your Honor, by having Mr. Lowry taking the stand first."

"Mr. Hegerman? This is quite out of the ordinary. Have you anything for the court?" The judge shook out the sleeve on the right arm of his robe after he extended his hand in Ned's direction.

Judge McCarver was offering Ned a way out. But it might not be in Myles's interest to cancel this hearing. A win this afternoon could preclude the next morning's proceedings—whatever those might bring. "May I consult with my client on this matter, Your Honor?"

The judge waved them both back away from his bench. "Court will adjourn for ten minutes. Mr. Hegerman, you may consult with your client in the privacy of the antechamber behind the court stenographer's desk." At last Myles would discover what the door behind the American flag led to. But it would turn out he would only know what was behind it. Where it would lead? That was going to take Myles Lowry quite a long time to discover.

The judge rose and exited the court room. Myles and his "legal team" went to huddle in the anteroom. Attorney Mellon left, trying to look not too much in a hurry. He knew right where the stairwell pay phone was that he needed desperately.

The Cote D'Ivoire elephant was the only one to maintain a vigil in the courtroom. Perhaps he would help them break a tie in overtime, penalties notwithstanding.

28

Godfrey Mellon was fishing for change in his pocket to call his office when a staff courier spoke his name in a hushed tone. The attorney turned to see an envelope in a young woman's outstretched left hand. With her right hand she palmed the stair rail and finger-dangled her bicycle helmet by its chin strap. She stood two steps lower than the landing with the pay phone on the corner wall. She had changed out of her office wardrobe in favor of a red and yellow striped racing shirt and black padded bike shorts. Her bike cleats made it necessary for her to step carefully on the stone stair treads. Mellon took the envelope hoping its critical contents would help him tread lightly as he stood before the judge in about five minutes. He turned and left hastily so he'd have time to study the transcribed recording before the recess was over. It wasn't the first time Mellon had left this courier standing in his wake with not as much as a 'thank you.' She shook her head and wondered why she still found the rude man attractive. Career paths made strange bedfellows. Bike paths, perhaps not so much.

29

The small conference room matched the hearing room's paint job, without any wall hangings or windows. At the room's oblong table and six chairs, Hegerman sat them both down and started right in. "My inclination is to proceed. I think we can make our case that Rosalyn is of sound mind, that we do not want to renew the current arrangement, and that we intend tomorrow to bring actions to wrest custody away from Rosalyn, whom we believe is not acting in the best interest of her daughter at this time." He looked around. "I think this needs to be our focus to get through this hearing. What are your thoughts?"

"Look Ned, I said I'd trust you. So, I'll do what you say." Myles turned to Karidja.

"I am thinking about Rosalyn being afraid for her safety. Mellon did not say anything about Linda's safety." She was pensive. She spoke measuredly. "So . . . if we are to think this is about Myles . . . he's not suggesting kidnapping." She was quiet a moment. And then, "I find myself not



altogether convinced that her attorney is being genuine on this point. I half suspect that he does not know where she is, and this is a straw man defense." She put her hands to her cheeks, blinked twice, and looked up. "We need to draw him out—and the truth with it."

"I can only do that by allowing Myles to be questioned. I do get to go first. I can get our agenda in front of the judge. But Mellon's responding inquiries will feel like a trial cross-examination, to be sure." Hegerman was aware the minutes were moving on. "Myles, can you maintain your demeanor?"

"I'll keep looking over at Karidja's elephant. Do you think the judge would let me bring him up with me to the witness chair?" He tried to smile. Karidja did not.

Hegerman had not seen the mascot and did not respond. "Time to go, then." That was all he said.

30

The drive was not too bad that early Monday afternoon. Danny Hart thought perhaps many commuters had taken the last week before Labor Day off and were vacationing somewhere already. As he worked his way down the West Side Highway, he was trying to recall the best place to park near the downtown hearing center. He looked over on the seat next to him. The cassette player was still there, loaded and ready to go. It had not been thrust off the seat by the sudden stop he had to make getting off the bridge.

31

Rosalyn's attorney was already seated. He was busying himself by reading over a set of two or three pages that had been triple-folded. Hegerman made a mental note—wondering if they were an enveloped delivery taken during the recess. The two attorneys looked eye-to-eye and Hegerman nodded. Mellon acknowledged the gesture. Only when Hegerman faced away toward his place next to Myles did Mellon permit himself a smile.

There was no formal announcement this time. The judge came out of chambers, adjusted his robes, and took his seat, intoning, "We are back in session, gentlemen. What has been decided?"

The attorneys stood in place. Ned spoke. "We will accept my colleague's invitation to proceed with Mr. Lowry, if it please the court."

Judge McCarver was short but not quite sweet, "Proceed."

As prearranged, Myles stepped forward. "State your name for the court," the bailiff began.

"Myles Lowry."

Again, the bailiff, "Placing your hand on this scripture, do you solemnly swear to tell the truth, the whole truth, and nothing but the truth during this proceeding?"

"So help me, God," was Lowry's knee jerk response. The bailiff did not remove the Bible, nor take a step away. He eyed Lowry, not happily. Myles got the hint. "I do." The bailiff walked away. Myles sat in the captain's chair beside the judge's bench.

Karidja noted that Ned rose and stood at his place at their table rather than characteristically walking around in the well in front of the bench. Perhaps the lack of a jury. Or something else that was lacking? She could not decide. At least not yet.

"Good afternoon, Your Honor. Thank you." He did not address Mellon.

"Mr. Lowry. Your current visitation agreement expires at five o'clock this evening. At this time, are you asking the court to consider a renewal of that agreement, under the same terms and conditions?" Ned was staying to the pre-arranged and practiced script.

"No, sir. I am not." Myles was also staying on the prepared course.

Godfrey Mellon sat up a little straighter. Ned and Karidja noticed, pleased to see he was caught off guard.

“Is this your free choice and considered position on the matter?” Ned, again, right on script.

“Yes, Mr. Hegerman, it is.” Delivered as scripted.

“Can you tell the court why this is so?” Hegerman’s first departure from a yes or no question. He hoped for the best.

Staying with the plan, Myles looked only at his empty chair at their table as he replied. “I wish to contest my ex-wife’s primary custody. My understanding is I can do that starting after five o’clock today.” Now he turned and faced the Judge. “But only if I first give up my visitation rights.”

“You understand correctly,” affirmed Judge McCarver.

Ned still did not come out from behind his table. “And to that end, Your Honor, if I may approach the bench, I would like to present the court with a formal request for a hearing as soon as feasible to contest Rosalyn Lowry’s continued custody of Linda Lowry.”

“You may,” replied the judge.

And so, Ned did just that. His first two steps to get out from behind and around the table were a little shaky. He used his left hand on the table to steady himself. No one in the room failed to notice, not even the stenographer or the bailiffs. The bailiff with the highly shined shoes, who had sworn Myles in moments before, leaned forward in his chair by the judge’s chamber door, ready to spring into action if Hegerman started to fall forward. The moment passed. His aid was not necessary. Yet.

With everyone focused on Myles’s attorney, almost no one perceived the smirk on Mellon’s face and the glint in his eye. No one, that is, except the judge, in whose line of sight Rosalyn’s lawyer sat.

Having delivered the motion to Judge McCarver, Ned now did prowl around a bit in the well, proving he was able to navigate the courtroom as well as the law. “Now, Myles. Regarding your divorce, the other part of your agreement. Are you challenging the divorce as well at this time?”

Ned was off script a bit. Myles looked at Karidja. She placed her right hand up on the table with her pointer finger aimed squarely at the Cote D'Ivoire elephant. She smiled encouragingly. Myles settled down. "No, sir."

Hegerman began his first proverbial steps out upon either thin ice or lake water—depending on one's familiarity with the bailiff's Bible or the outcome of Ned's tactic. "When you did challenge Linda's mother's custodial primacy two years ago, you questioned her mental stability. In your decision today, concerning your visitation rights or Rosalyn's continued custody, are you led to do so now for that same reason?"

Getting his feet wet, Myles answered, "No, sir."

Back to the familiar script, Ned asked Myles to explain why not. Karidja helped Myles practice this answer several times on the way over in the car, so he would not sound scripted. "Well, I've seen things over these two years. I've learned more about the woman who had been my wife. She's acts differently than before."

"How so?" asked his lawyer.

"Before, when we were still married, she would have occasional outbursts. But lately, she seems more . . . placid. She seems like what she says and does is . . . oh, I don't know . . . maybe 'calculated' is the best description. Maybe someone has coached her—"

"Your Honor!" Mellon was up on his feet. Judge McCarver raised his hand.

But Myles kept going as he had been told to do. "Like one of those life coaches you see on TV or something." Mellon sat down. "You know, sort of calm and relaxed. She really seems as if she knows what she's doing. Even when some things she says sound like before—they wind up meaning something a little different. To catch you—I mean, me—off guard." He paused a bit. Now he looked at the judge, as he himself had been coached to do at this point, "Yeah, . . . 'calculated' . . . that would be the right word. You know."

"Thank you, Mr. Lowry." Ned said no more to Myles. He stepped across the well to be in front of the judge, but so he blocked the jurist's line of sight to Mellon, sitting at his table. "Given this unanticipated order of events

Your Honor, that is all I think I have for the bench at this time. We appreciate the court's time and consideration of the motion."

Ned sat back at the table. Myles remained in the captain's chair. Judge McCarver moved a few papers around. He wrote a few notes. He read the motion Hegerman had presented to him. He set it down and said, "Mr. Mellon?"

"Thank you, Your Honor." Mellon did not ask to see the motion. He strode forward after setting the typed papers he had been regarding down on the table. He placed a lined legal pad over them so they could not be read by anyone but him.

"I appreciate the court's patience. It would appear that Mrs. Lowry is not in the building. But I am grateful on her behalf to both you and to my colleague, Attorney Hegerman, for allowing this hearing to proceed." He made his way over to stand in front of Myles in the captain's chair.

Before he could begin, Judge McCarver, still miffed at Mellon's callous regard for Hegerman's physical duress, addressed the attorney, "Sir, before you begin with Mr. Lowry, I have some questions for you." That brought Mellon up a little short. He moved from in front of Myles so he stood, according to courtroom etiquette, directly in front of the bench. The judge spoke in a full courtroom voice, not the reserved tones accorded to lawyers who had been directed to 'approach the bench' during a hearing.

"I will remind you first, sir, that although you are not sworn in, your status as an officer of the court compels you to speak the truth forthrightly. Without a client present, perjury is not applicable, but the ethics of the bar still apply. Have I made myself clear?"

Mellon was rocked. If he were the soccer elephant, he'd have toppled to the ground and feared for his tusks. Hegerman had never heard such a thing spoken in a hearing room before. Karidja wondered what the judge knew and marked his every word. For his part, Myles had no idea what was going on.

All Godfrey Mellon could think to say was, "Abundantly, Your Honor."

"All well and good, then. You may step back and proceed," was all the judge said.

When Mellon stayed rooted to the spot, the Judge asked, "Sir, do you require a brief recess before you begin?" Karidja marveled at the jurist's equitability. She hoped to be able to count on it later in the hearing. She expected she would have to do so.

Collecting himself, Mellon mutely replied, "No thank you, Your Honor." In the few steps it took to get in front of Myles, he regained some composure. But the lawyer still hadn't gained the full wind in his sails that Myles liked watching boats in the harbor display. Yet he had enough to float a trial balloon. "Mr. Lowry, did you visit your daughter last night on her birthday?"

"Yes, I did."

"And where did that visit take place, sir?"

"At the apartment in New Jersey where she lives."

"Does she live there alone, sir?"

"No, she does not."

"And with whom does she live there?"

"She lives there with her mother."

"And, sir, is her mother your former wife, Rosalyn?"

"Yes, sir."

Ned was quite pleased with Myles. He was doing just fine. But Karidja was not as sure he would continue when Mellon went on the attack. She slightly adjusted her mascot on the table when Myles looked their way. Her gentle reminder and gesture of support.

"And how did that visit go, sir?"

“It was a birthday evening. We had cake and ice cream. We played with the train set I gave Linda as a present.”

“Do you and your daughter like trains, sir?”

“Yes. In fact, we do.” Karidja felt Myles was nervous. He was beginning to elaborate.

“Does your wife—excuse me—do you prefer ‘ex-wife,’ sir?”

“You may refer to her as ‘Rosalyn,’ if you wish.”

“Oh, do you think that is her preference, sir?” Mellon was imagining driving a hook right through a worm’s anus to secure it.

Myles bit. “You would know her preferences better, I would think. You have most likely talked to her more than I have these past two years.” Ned ran his hand over his forehead. Karidja closed her eyes and prayed. Mellon could hardly keep his leaping heart in his chest.

“So you say.” Mellon paced a little in the courtroom well. He looked at the paper on his table and re-covered it. “Did you have words with your wife last night, sir?”

“No.”

“No?” Mellon’s voice raised a half octave. He stopped pacing and turned to Myles.

“No. I do not have a wife.” Myles felt he was standing his ground.

Mellon retraced his steps. “Yes. Thank you for that correction. Let me ask you that a different way. Did you have words with Rosalyn last night?”

“We spoke.” Myles felt he was back where Ned and Karidja coached him to be. They were not yet so certain. They did not want Myles declared, for this hearing, what a trial judge would declare a ‘hostile witness.’

“I didn’t ask you if you spoke, Mr. Lowry. I asked if you ‘had words.’ Did you argue?”

Myles waited and thought back to the night before to make sure of his answer.

“Mr. Lowry?” Mellon pressed. Partially to keep momentum. Partially to upset his client’s adversary.

“I’d say we disagreed more than I’d say we argued.” It was the best he could bring himself to do.

“Okay. For now. Let’s say ‘disagree.’ Could you tell us what that disagreement was about?”

“We disagreed about . . . whether Rosalyn tricked me into appearing to be late for my daughter’s birthday party.” Myles hoped he had learned from Karidja and could keep it straight.

“How so?”

“Rosalyn came to my office last Thursday and invited me to the apartment. She said it was to have dinner and to see Linda on her birthday. I said I’d be by at two o’clock—because that’s our typical Sunday arrangement, from two until eight. But she said I could only come at five o’clock. When I came at five, birthday party guests were leaving. It was embarrassing to me and to Linda. Parents and kids alike glared at me for being late for the party. My daughter thought I had forgotten or was just late.” Myles looked to the elephant.

“Only this morning, did I realize in retrospect that she had not lied about the party. As I said before, she set this up to look that way. It was a very calculated ploy. And I’m afraid I fell for it. At the time, I was angry, so we disagreed.”

He thought some more. He allowed himself to overstep their preparations. “Do you know what I mean when I say it was ‘calculated’—like someone coached her to do that? She was not like that before.” He looked at Mellon, who found himself having to look away. The lawyer made himself look busy about his next question. He went back to the table and looked at the transcript.



“What was your wi—what did Rosalyn—do when you confronted her in that way?” Mellon stood, with his left hand stroking his chin and his right arm folded across his chest, his hand cradling his left elbow.

“I wouldn’t call it a confrontation—” but Lowry had no chance to qualify or finish.

“Wasn’t there a book of some kind involved?” Mellon was not looking at Myles now, but directly at Ned Hegerman. It wasn’t quite a smile he wore. But he was pleased with where things were headed.

Myles did not know what to do. Or say. Fortunately, Ned saved him this time.

Not waiting for an invitation, Ned rose as he spoke, looking directly back at Mellon as he did. “Excuse me, Your Honor. May we approach?”

Judge McCarver did not object. So, the lawyers found themselves again facing the bench together. Karidja caught Lowry’s eye and placed her hands on her chest. She mouthed the word ‘breathe’ to him. Then she took her hands away and eased them in a downward motion in front of her in a universal sign to be calm.

Ned spoke first when the judge’s face showed he was ready to hear what Lowry’s objecting counsel had to say. “I know this is not a trial, Your Honor, so the rules of evidentiary disclosure don’t apply. But I desire to beg the court’s indulgence in asking my colleague if he has had some oral or written communication with his client, or a witness at the party or afterwards, that—as Mr. Lowry’s counsel—I should know about. If, for no other reason, than my inability to walk Mrs. Lowry through the same territory it appears Mr. Lowry is about to traverse.”

“Mr. Mellon. Have you had any such communication as that which Mr. Hegerman has described?” The judge was measured in his question.

Mellon’s answer was as measured. “I have neither seen nor talked to nor received written correspondence from Mrs. Lowry since we spoke Thursday morning in preparation for this hearing.”

Without hesitation, Ned repeated, “Since Thursday morning, you say?”

Mellon's reply was very, well, lawyerly. "Yes, I did. But that communication is privileged, so I'll have little or nothing more to say about its nature or content."

"Thank you, Your Honor," was all Hegerman had to say as he turned and went back to his table. He wrote a note and passed it to Karidja while Mellon waited for Judge McCarver to appear ready to have the questioning continue. For the judge was also making a note. To himself.

Karidja read quickly before the questioning resumed. 'He says he met with the wife on Thursday morning.' Under it she printed the word 'COACHED' for Ned to see.

Mellon started in again as soon as the judge finished writing and looked up to see his courtroom and its occupants. As Mellon moved to hover over Myles and stay in one fixed spot, Judge McCarver noticed an older man, looking very fit and trim for his age, entered the room very quietly and took a seat in the back.

Two things came to the judge's mind. This newcomer was very used to entering court while in session without disturbing the proceedings. Also, he sat on what the judge for some reason thought of as the bride's side of the aisle.

From where she sat, Karidja could see what the judge could not. The entrant had on his lap what was unmistakably a cassette tape player. She scrawled a note and passed it to Ned. *New guy just came in. He has a cassette player. Was Gaby right, do you think?* The lawyer exercised a huge amount of self-control not to turn around. He just printed the words YOU / BAILIFF in big letters so she could see it without him passing the paper across to her and distracting the judge by doing so.

Mellon's voice returned all attention to the front of the room. Except for Karidja's. She wrote a new note, neatly, on a fresh piece of paper and folded it. She rose and went around the edge of the room past the maps of the old city and its waterways. As she excused herself to the bailiff and opened the door, she mouthed the words REST ROOM as she handed him the note. They met in the hall outside the courtroom.

“Yes, ma’am?” was all the bailiff said, after he made sure the door had closed. Karidja wondered if this man was as buttoned down as his uniform, belt, shoulder strap, holstered weapon, and shined shoes suggested. They were in perfect order singly and in unison, without blemish or fault.

“The man who just came in. He has what may be a cassette recorder with evidence for this hearing—contentious, surreptitiously obtained evidence. Please do not allow him or that machine, or any cassettes in it or in his possession, to leave the court.”

He repeated himself, “Yes, ma’am,” and that was all he said. They returned, separately, to the courtroom. Bailiff first, Karidja a moment or two later. When the judge eyed her approaching her chair, Karidja pardoned herself by mouthing BATHROOM and feigning an embarrassed smile. The judge returned his attention to Myles, who was speaking.

“... as I said before, my experience with Rosalyn is different, even if some of her actions seem like those in our the past. That was what happened last night. I was trying to ask her something important and she ignored me and kept reading a book. After a few tries to get her attention, I grabbed the book out of her hands and tossed it across to an adjacent chair.”

“Did you not care for the book she was reading?” chided Rosalyn’s lawyer.

“It wasn’t about the particular book. It was being ignored that caused me to do it.” Myles was feeling an uneasiness rise within him. He knew that two years ago he’d be shouting right now at this lawyer. He got the sense the guy was trying to be real cute and he didn’t like it. He looked over at the table. But this time, he did not look at the lawyers. He looked right at the elephant, and it relaxed him just the littlest bit. Alas, it would not last for long.

“Was it then that you threatened her? Threatened Rosalyn? Threatened your wife?” He wouldn’t stop. “Threatened her with a private detective. And threatened the man she has been dating?” He was persistent. “Is that why she is afraid to be here today? Did you harm her? What have you done with your daughter?”

He stunned almost everyone in the room with the disclosure. Too late, he realized he had gone too far. Much too far. His father never would have

made that mistake. Neither would Ned Hegerman, had he been even able to do so. Only one person in the room was more disgusted than amazed. And he had missed all the day's courtroom preliminaries—except for what would eventually become the most important.

"Your Honor. I strenuously object to this hostility. It is unbecoming an officer of the court." The judge was pulled in two directions. He was gaveling Mellon to desist. And he was trying to recognize the new voice in his courtroom, a woman's. It belonged to the second chair at Lowry's table. But she was cradling Hegerman who was bent over and coughing badly enough to shake his whole frame. He couldn't even hold on to the bottle of water she was trying to give him to drink.

"Court is adjourned for ten minutes," called out the judge to be heard above the fray and the pounding of his gavel. "I will see you in my chambers, counsel. Now! Mr. Lowry, step down and assist your lawyer, please. Bailiff, stand at the ready." Judge McCarver left the room in a flurry of his robes and annoyance.

Godfrey Mellon only now saw Danny Hart in the last chair by the door. He could not go to him. He had to be in chambers. He motioned for him to get out of the courtroom. But Karidja saw him do it. Once Lowry was at Hegerman's side, she spun and headed to the main door. There, standing arms folded across his chest, the bailiff had blocked the door.

The new guy stood there without protest.

"Sir, identify yourself to the bailiff immediately or be detained." Karidja had no idea how she would make that happen. Neither did the bailiff who was somewhat surprised at the idea of taking orders from anyone but the judge.

Danny Hart turned to face her. "That's quite dramatic. However, unenforceable. But this trainwreck looks like it's going off the rails, so what the heck. My name is Danny Hart. I'm a private investigator. From Jersey. Under contract to Attorney Mellon's firm."

Karidja took a big gamble. "And that's the cassette player from Rosalyn's apartment, right?" Hart's face remained stoic. "If you have it, Mellon must have heard the whole thing already, no?" still no

acknowledgment. "So, you'd have to ask yourself why he's hiding it from the court? My guess would be selective listening. Out-of-context snippets." A little wrinkle showed around his eyes, but nothing else. "Hard to know when you heard it—hard not to give in to the temptation driving over here—which one of the two of them was more in the right or the wrong? They could probably both benefit from a little subjective shielding." Still nothing. Mr. Danny Hart didn't stay this long in the business without being very good, she guessed.

He said just two words to her, "Work product."

It was not just a statement. It was an invitation. "True. But you're not an employee."

The side of his mouth twitched a bit. She figured that in another situation that was probably the beginning of his smile. Her training and experience had taught Karidja that not all solutions are immediate. Many needed some seeds to be planted and left to grow. "And you're an officer of the court, were someone to give you a hard time about that," she said.

"You?" he asked.

The resolutionist became resolute. She weighed whether he was asking if she were an officer of the court or whether she had heard the tape. She went with the second. Its answer was less obvious and she wanted him to know, to value his position. "Not me. Only you know what's on that tape. Hope you stick around, despite Mr. Shoo-fly Pie waving you away otherwise."

Karidja sat in Myles's chair so she could evaluate Ned. Myles was back in the captain's chair. The voices were occasionally loud behind the door to the judge's chambers. Mostly, one voice. And it did not emit from a lawyer. Ned was recovering well from his chest spasms. "Karidja, it's getting late," was the one thing he said to her as they sat together and watched Godfrey Mellon re-enter the courtroom, straighten out his suit jacket, and then take his seat. He stared straight ahead.

The bailiff announced the resumption of the hearing. "Please stand. The honorable Judge Eoin McCarver presiding." Things had gone formal. No one could mistake this otherwise.

“Counsels. Please stand.” When they had, the jurist continued issuing his statement of intent. “This hearing is about the custody of a young girl. You all seem to have forgotten her in your passionate practice of defending your clients. I assure you, however, that I have not. To that end, I will be directing some questions to Mr. Lowry, since he seems to be the only witness here to yesterday’s events.”

Turning to Myles, the judge said, “You, sir, are still sworn in. Do you understand?” Myles nodded. “I ask you, sir, do you understand that this hearing is bound by the rules against perjury?” Again, Lowry nodded. “Good. So, I will remind you, and the rest of you as well, anyone who is not truthful in this hearing will be punished to the fullest extent of whatever applicable statute or code of ethics applies.” McCarver turned to face Myles and began.

“Mr. Lowry. Did you inflict any physical harm on either Rosalyn Lowry or Linda Lowry at any time yesterday or today, August 30 or 31, 1992?”

“No. Your Honor.”

“Mr. Lowry. Did you inflict any emotional or psychological harm on either Rosalyn Lowry or Linda Lowry at any time yesterday or today, August 30 or 31, 1992?”

“I do not believe so, Your Honor. And if so, it was purely unintentional.” Myles looked him square in the eye.

Judge McCarver returned the stare. He was thinking. Considering. If Myles had given that answer and looked away, he’d be walking out with the bailiff right then. All the man in the robes said was, “I’ll accept that for now. But we might return to that question later.”

Hegerman made a note on his legal pad.

“What time did you leave the apartment last night?” the judge started what seemed to be a new line of inquiry.

“Nine o’clock, Your Honor. My curfew time.” Myles was definite about that.

But the judge's answer showed he was not impressed. "Sir, you get no points here for following the visitation agreement. However, you may find there are penalties for not doing so." Each of the three lawyers in the room made notes after that rejoinder.

Judge McCarver persisted, "Mr. Lowry, when you left at nine o'clock last night, who was still in the apartment?"

"Rosalyn and Linda, Your Honor." Myles did not elaborate. He remembered the elephant.

"Have you seen either of them since the time you left the apartment?"

"No, Your Honor."

"Have you spoken to them since the time you left the apartment last night?"

"No, Your Honor."

"Lastly, do you know their present whereabouts?" the Judge was writing on what was his version of a spread sheet.

"No, Your Honor."

"Mr. Mellon. You may continue your discussion with Mr. Lowry. But be mindful, sir. Be mindful." The judge did not say of what Mellon knew, but that did not help Hegerman in figuring how to assist Myles going forward.

"Thank you, Your Honor." He stepped over to Myles. "Sir, did you talk to Rosalyn last night about a book, perhaps one that she was reading?"

"Yes, sir."

"And, Mr. Lowry, did you notice what the title of that book was?" An easy question.

"Yes." Myles was giving him nothing.

“And would you please tell the court what the title of that book was.” Two could parry if that’s what Hegerman had schooled him to do on the stand.

“It was *Kramer vs Kramer*.” He looked at the clock. It was getting late. What would happen if five o’clock came and went?

The lawyer kept on, “If I remember correctly, that’s about a couple arguing for custody, isn’t it?” He took a few steps and said, “Streep and Hoffman, right?”

“No, sir. Corman,” answered Myles. He figured he could win back some of the momentum this way.

The lawyer stopped pacing. “What? Harvey Korman wasn’t in that film! He was a comedian. With Burnett and Conway. What are you saying?”

“No, sir. Corman with a ‘C.’ Avery Corman. Rosalyn was reading the book, sir, not watching the movie. I don’t know if she ever saw the movie. The characterizations of the Kramers weren’t the same in print and on film.”

“What does that matter?” snapped Mellon. “You should take this seriously, Lowry.”

“Sir, I am dead serious.” And he said no more.

Judge McCarver was getting very interested. Ned was okay with it. Karidja was kind of proud of Myles. But she hoped he wouldn’t go overboard.

“About what?” Mellon seemed to be losing track.

“About your client, sir. And her effect on my daughter.” Myles saw that Ned gave him a nod, so he went on, but Lowry was a businessman at heart. He knew to set the lawyer aside, turn a bit in his seat, and address the judge directly. Karidja had impressed upon him that the jurist was his real audience. The judge would do the deciding, she had told him.

“You see, Your Honor. Rosalyn is deeply moved by characters whose stories she reads. Most people consume films and don’t read books. Not so for Rosalyn. At least, when we were together.” He refused to let Mellon



distract him when the lawyer came to stand before him in the captain's chair. "Your Honor, Rosalyn treats me the way those characters she empathizes with would treat me. In Corman's book, Ted Kramer is interested in other women and the Long Island and Manhattan dating scene. He even sleeps with them when he can. He is careful to prioritize his time by taking care of his son, Billy. But he is out there, sexually active, and involved in his jobs. But earlier he was career building. Later he is just trying to support himself and his boy. The film's . . . Hoffman's . . . Kramer is much more present as a dad, almost obsessively. There's a more sympathetic characterization in the cinematic script, written by Robert Benton."

He took a breath. Shifted in his chair and noticed he had the judge's attention. He didn't even look to see where Rosalyn's lawyer was or what he was doing. He didn't even see how pleased Karidja was at his command of the importance of this to his life. "The same is true about variations in Joanna Kramer's personality from the book first, to the derivative movie. Forgive me. I'll skip the details about her." He exhaled. "I need to know what Rosalyn is thinking about me and how she thinks about herself and Linda. Otherwise, I won't know how to watch after Linda from afar—with only six hours once a month to do that in their company. I have to be able to see the signs of negative influences and try to reverse them in that short period of time, without tipping my hand to doing it."

Finally, Mellon broke in. "That's very laudable, Mr. Lowry. But it doesn't mean much here today. For all your concern and fancy literary criticism, you act to the contrary. Did you not threaten your wife last night, saying you would put private detectives on her pretty ass and have Linda followed, too? Didn't you leave her terrified for her life and that of her daughter?" He paced in the well. "Why shouldn't I ask the court to have you taken into custody until they are found safely—or in some other condition?"

Before Myles could answer, Mellon was back at it again. "Well, Lowry. Did you not threaten her with detectives? A simple yes or no would do."

"I did say that." Myles admitted.

"And why do you think she wouldn't worry about her little girl? Can you tell the court that?" Mellon seemed to be forgetting much of what his dad had taught him about lawyering before a judge. He regressed to playground

tactics. He just shifted the blame to the other guy for what he—in this case his client—did wrong.

The trouble with the tactic was that Myles Lowry had spent his own time in some of those types of playgrounds. “Why don’t you tell the rest of it, sir? If you know that much you know more!” Ned Hegerman began to rise to object, but he felt Karidja’s hand gently on his left forearm.

“So, you do admit it?” Mellon hammered him. “I have two words for you, sir. *Give up.*” Mellon looked at the judge. He started walking back to his table.

Myles spoke out of turn. And not to the lawyer. “I have two words also. For you, Your Honor. *Gentleman caller.* They come from *The Glass Menagerie.*”

“More literary *Cliff Notes*, Lowry. I thought your wife was the teacher.” Mellon refused to heed the street warning of ‘hide your snide.’ He flipped a backhand wave at Lowry and sat down at his table, nested the folded pages together and carelessly placed them only partially beneath the legal pad.

Danny Hart had slipped back into the last seat, unnoticed, while Mellon was on his harangue. Hart knew the crudity of the man. It was on full display in this hearing. Perhaps it paraded as aggression to benefit his client. But Hart knew it was the true Godfrey. The Godfrey that Godfrey loved.

“Yes, Your Honor,” Lowry broke off and continued masterfully to address the judge and protect his own behavior by avoiding a drawn-out joust with the lawyer, “Rosalyn is a good teacher. She has spent the last two years home schooling her daughter to become like herself: self-confident, observant of other people’s behaviors and weaknesses, and skilled in wordcraft. My fear is, that so equipped, Linda will next be schooled by Rosalyn into becoming the same type of woman her mother has become. By the same means. Obsessive empathy with neurotic and psychopathic characters from literature.” He was careful not to call her crazy.

“*Gentlemen callers*, Your Honor. Men like her new friend Paul Meadows. Men like the freight train-riding drifter who Linda took into her obscure vegetated hideaway in the apartment house back yard yesterday morning. A man, the simple knowledge of whom drove me mad—mad with

worry that he had accosted our daughter while Rosalyn slept away upstairs and left my daughter unprotected. And I learned this sleeping-in happens many a Sunday morning.”

Lowry looked at the ceiling and then sat forward in the captain’s chair and addressed the room, but no one person in particular.

“That is what precipitated the disagreement. That’s what . . . his . . .” pointing at Mellon, “witness half-heard and reported erroneously. Who is this accuser, anyway? Is that person absent like Rosalyn? Away from the court’s consideration?”

Myles was exhausted. He sat back and looked at Ned and Karidja. He could not read their expressions. He’d have to ask them when they had time together.

Godfrey Mellon ignored it all, coolly proclaiming from his sitting position, “A nice story, Mr. Lowry. Tugs at the heart strings. Why, if your wife weren’t scared away today, we could hear her side. A classic *he said, she said.*”

“Not exactly,” came a voice from the back of the hearing room. Only Mellon and Karidja knew who Danny was. Only Mellon knew for sure just what exactly Hart had in his hand.

Judge McCarver spoke above the others, “Bailiff, bring that man forward.” And so, he did.

Paul Meadows did not hear his phone ring because he was in the shower. His daughter, Annie, picked up the kitchen extension where she was at the table coloring with crayolas, selected from the easel-like box of 64 shades.

She heard a person coughing and something that sounded like cars and trucks. Some were even beeping their horns. Others were making speedy noises with their engines. One thing she recognized were the air brakes of the

big public bus—‘sneezing’ she called it—that she and her dad rode when they went to Newark. But no voice answered her “hello.”

She waited. Just in case. But no one spoke. A metallic sound came through the phone. She did not know it was a quarter falling into the coin box. The next sound she knew. Her dad called it a ‘dial tone.’

She didn’t tell her dad it happened until much later. Which turned out to be too late.

33

Handing Danny Hart back his identification wallet, Eoin McCarver inquired, “And what does an ‘independent private and insurance investigator’ have to do with this court, Mr. Hart?”

Mellon was still standing, recovering from the sight of Hart walking up the *de facto* hearing room center aisle to the judge’s bench, cassette player tucked under his arm. “Your Honor, I strenuously object to this man’s presence before the bench!”

The Judge redirected his gaze. “It appears you are familiar with this investigator, Attorney Mellon. Perhaps you could enlighten the court—in the event that Mr. Hart is determined not to be a person of standing in this hearing.” Attorneys Hegerman and Soro showed equal interest in where the judge would permit this development to go.

Mellon stepped forward as if to ‘approach the bench.’ But McCarver put his hand, palm facing the lawyer, as he said, “From right there, Mr. Mellon. This is not a trial. And this is not a sidebar.”

“Yes. Your Honor. Mr. Hart works for me. I dispatched him to Mrs. Lowry’s apartment this morning after she did not call me last night—”

Hegerman felt he wanted to get into the act, if allowed. Standing as a sign of respect for the bench, he asked, “Your Honor, may the court be informed as to why Mr. Mellon expected a phone call from Mrs. Lowry last night?”

Judge McCarver eyed Ned, looked at Karidja, and allowed himself a small smile. "I think the court is sufficiently equipped to determine its own 'need to know,' thank you."

Ned politely made a slight bow and lowered himself back into his chair.

The judge adjusted his attention, "Go on, please, Mr. Mellon."

The lawyer nodded from his pectorals up to his widow's peak. "Mrs. Lowry discussed with me her plans for her daughter's birthday. Since—"

The judge interrupted as he saw peripherally that Ned was about to rise with a question. "Were you in the habit of knowing Mrs. Lowry's social or personal calendar, sir?"

Mellon fumbled for a safe answer. "Occasionally. We kept in touch. She would call to ask for advice." He saw the judge was not satisfied. "With today's hearing coming up, she was nervous about seeing Mr. Lowry. And about Linda being in his company. So, I asked her to call my service last night to indicate the evening went off without incident. That she and her daughter were safely home together, and alone, last night after the festivities."

Karidja made copious notes—including one to ask the court recorder to read back this answer later. She scribbled a note to ask—why invite him if it was going to make her nervous? Something doesn't add up. And Mellon's right in the middle of it.

Eoin McCarver inveighed upon Mellon again. "Get to it, please, Mr. Mellon. Why send Mr. Hart?"

"Only to see they were safe. And that Mrs. Lowry was still coming this afternoon. That nothing had taken place to change her mind." Mellon hoped he had not said too much.

"You expected trouble?" McCarver asked curtly. And before Rosalyn's lawyer could reply, the judge was back at it. "Just what was the social calendar for yesterday, counselor?"

"A birthday party and a birthday dinner, is all I know about, Your Honor."

"And what, exactly, is your objection, sir, to our hearing from Mr. Hart?" the judge wanted to know.

"The basic principle of the thing, is all, Your Honor. Hart works for me. He was assisting me with a client. I think it's appropriate that I want to protect my client from any disclosures not in her interest. I would like to reserve the right to make those distinctions." Mellon was reaching for straws and everyone in the hearing room knew it. Even the bailiff who prevented Danny Hart from leaving earlier had enough experience to know this lawyer's case was beginning to resemble the floor of his horse's barn stall back home.

"Mr. Mellon, Mr. Hegerman, Ms. Soro, please approach." Danny started to sidestep, but McCarver pointed to him and then downwards toward the floor, saying, "No. You stay too, please, sir."

It wasn't quite a police station line-up, but that's what they looked like to Myles, who imagined they all had forgotten he was still sitting in the captain's chair. The familiar parts of the picture missing were the horizontal lines and height markers. The only oddity for a line up was that none of them looked like each other. But Myles thought he must be sensing subconsciously that there was some wrongdoing here the judge was after. Why else would the line-up image dawn on his awareness?

"Mr. Hart. Am I correct to recall that you said this hearing wasn't exactly a 'he said, she said' situation?"

"Yes, Your Honor." I did.

"I hesitate to ask you anything substantive. First, because I'd like to determine more fully whether you'd be considered 'a person of standing' in this hearing. Second, I don't want an appeal of our activity based on Attorney Mellon's position of client protection, or privilege." McCarver waited. Searched the faces of those lined up before him.

"But I think I can ask you this nevertheless." He paused to get a measure of how comfortable or uncomfortable he was making the lawyers

standing before the bench. Most looked curious. Only Mellon looked otherwise. "Mr. Hart, is your contrary assessment to 'he said, she said' based on the contents of the cassette I can only imagine might be in that device you brought into my hearing room?"

Danny Hart found this hearing very different from his usual insurance or fraud proceedings. He found Judge Eoin McCarver absolutely refreshing. So, he chose his answer very carefully. He looked straight at the jurist and replied with only one word he calculated to be precisely enabling: "Solely."

"Thank you, sir." Each set of His Honor's words was accompanied by a meaningful gesture. "Please step back, lady and gentlemen. Mr. Lowry, return to your seat with your attorneys. But be prepared to return for more questions. Consider yourself still under oath when you return. Mr. Hart, please assume the chair to my left when Mr. Lowry has vacated it. Bailiff, please swear Mr. Hart in." Each instruction was clearly stated, without being rushed. McCarver left just enough time between each statement to avoid confusion and to permit each respondent to follow his directions.

He waited for the bailiff to swear in the investigator, all the while particularly noting the antipodal body language of Mr. Mellon's exasperation and Ms. Soro's admiration.

He continued. "Mr. Hegerman and Mr. Mellon, I am confining Mr. Hart's participation. He will be asked no questions requiring him to be a person of standing. He will be asked no questions about his duties for Mr. Mellon. Is that clear? Are there any objections?"

"No, Your Honor." Replied Ned and Karidja in unison. McCarver looked at her and didn't seem to mind.

"I still do object Your Honor. I am concerned this interruption in my questioning has left unresolved the question of Mr. Lowry's actions potentially being criminal or, at least, harmful to my client." More straws.

"We can return to that, if need be," allowed the judge.

Mellon pressed. "But we don't know of her, their, whereabouts or condition. Time might be of the essence to locate and assist them."

The judge replied. "When you realized you did not receive the arranged phone call from your client, did your office initiate a search-and-rescue protocol this morning, sir?" Eoin made sure he said 'protocol' and not 'mission.' Using the latter word would have been callous, prejudicial, and insensitive of the jurist—clearly objectionable and grounds for appeal, and perhaps even censure or sanction in the aftermath of the proceedings.

"I requested Mr. Hart to make what we call a 'welfare check,' Your Honor."

"Did he find evidence of wrongdoing on Mr. Lowry's part at the residence?" And then, "Was there any evidence of violence or personal harm at the residence?"

"No, Your Honor."

"Then I find no reason not to continue with Mr. Hart," announced the judge. Mellon sat to plot again. But he needed some time to think.

"Mr. Hegerman?" The judge noted that Ned had his head lowered and forward, supported by his arm, bent at the elbow, which rested on the table. He repeated Ned's name. Ned looked up slowly.

"Mr. Hegerman, would you—or Ms. Soro—like to discuss anything with Mr. Hart. Within the bounds earlier set forth, of course."

"Yes. We would." Hegerman almost forgot himself, and added quickly, "Your Honor."

McCarver looked over to Karidja as Ned rose and started toward the captain's chair. Their unpainted faces were mime-eyed and in conversation, his expressing '*Is he okay to proceed?*' Hers admitting '*I am not sure.*'

"Good afternoon, Mr. Hart." Hart nodded. "Sir, have you the time?"

"As much as you need, sir," was Danny's startled reply.

"No. I mean the time of day," managed Hegerman. McCarver and Soro exchanged glances.



"It's almost three-forty-five, sir." Hegerman bobbed his head and took a few steps away. The judge and resolutionist grew worried, separately and together. Karidja noticed the chambers-door bailiff paying close attention to Ned, watching the lawyer pacing in the well out in front of him. Then Ned rotated smoothly back toward the investigator. Nothing abrupt, not anything like a fall. "That's a fine timepiece you have there Mr. Hart. Do you rely on it much in your line of work?"

Karidja exhaled. The Bailiff sat back. The judge was listening carefully, anticipating gate-keeping any trespass on his restrictions.

"For several things." Hart was also wary. Being wary was an occupational hazard. He didn't want to cross this judge. And he was still tiptoeing around Mellon.

"Could you tell the court for what types of things?" asked Ned.

For assurance, Hart looked at the judge, who had turned his seat to face the witness chair full on. Eoin McCarver shrugged, but just with his right shoulder, and side-nodded to the left. So, Hart answered. "Hours to be paid, surveillance notations, how long before lunch, things like that."

"Did you miss your lunch today?" Hegerman was great for lobbing unexpected questions. Probing the undersides of things, he often gleaned additional morsels out of fields that other lawyers thought they had picked clean.

"As a matter of fact, I did." Hart admitted.

"Now, I can't ask you why. And you can't tell my why. We both know that is what the judge has directed. So, we'll have to let that go for now. Okay?" Ned patted Hart, who was nodding, on the shoulder. As Hegerman paced away, he looked back over his own shoulder. "But you should make sure a nice lawyer takes you out for dinner tonight, Mr. Hart."

Mellon was up in a flash. "I object to the implication and this intimidation of my employee, Your Honor!"

Before McCarver decided to reply, Ned asked. "I consider Mr. Mellon a nice lawyer. Don't you, Mr. Hart?" That put an end of that objection. "And,"

inquired Ned, not waiting for Hart to give a possibly self-incriminating reply, "I'd like to clarify something, please. The judge referred to your identification as an 'independent' investigator. Attorney Mellon just referenced you as his 'employee.' Could you clear up this apparent contradiction for the court?"

Mellon was up again. "Anything he does for me is mine, as work product of an employee. And anything he knows about Mrs. Lowry's health and safety and whereabouts is also proprietary to my law office."

Ned addressed the bench, which arguably Mellon's declaration might not have. "Your Honor . . . if Mr. Mellon is correct, then I perceive I have a quandary . . . for which I'll need your help, please."

"Which is? As you perceive it?" The judge did not want to agree, disagree, or be forced into making any assertions of his own. McCarver did not recall Hegerman being as wily two years ago, when he first heard this troubled couple's case.

Ned drew up an itemized verbal list for the court, without counting the items off on his fingers, which would have been highly disrespectful of the court. It reminded Myles of his own ten-point list when he first met Karidja earlier in Ned's office, just fewer talking points:

"Your Honor has not definitively said, for the purposes of this hearing, that we should consider Mrs. Lowry and her daughter to be safe and sound as we proceed. Mr. Mellon contends they are at risk as we proceed or may have already been gravely harmed by Mr. Lowry." He paced a bit, facing the bench.

"Mr. Mellon seems to agree with your parameters for my speaking to Mr. Hart, and even Mr. Hart speaking of his own accord." Ned wandered momentarily over to Mellon's table. Transfixed, Godfrey Mellon was too slow to cover up the partially exposed title page heading CASSETTE TRANSCRIPT on his table before Ned could read it.

Finally assured of the road to traverse, Ned laid out his version of the case. "As I see it, Mr. Mellon can not have it both ways." Ned stood before his

own table, reaching back with one hand for a while, to steady himself, as he continued talking.

“Either ‘employee’ Danny Hart has work product that he has no right to use or share with us, because it belongs to Mr. Mellon and his law firm—or—‘independent’ Danny Hart, as an officer of the court, may have information for the court about the suspected commission of a crime. Both Mr. Hart—as well as Mr. Mellon, personally and corporately—are subject to the rules of the courts. They must present to the court any information that clarifies if a crime has been committed.”

Mellon began to stand to protest. The judge motioned for him to sit and be quiet. A flat hand with five fingers first. A rolled hand with one finger to his lips next.

Ned was allowed to go on at his deliberate and unemotional pace, uninterrupted. If only Mellon had been more aware of Eoin McCarver’s sense of justice, he would never have issued his snarky smirk at Ned’s earlier physical instability.

“As I see it, then, we need to know the basis for Mr. Mellon’s scathing interrogation of my client in this hearing. We need to know why Mr. Mellon contends my client did physical harm to his former wife and child. We can surmise why he wants to make that assertion.” At this everyone heard Godfrey Mellon’s chair scrape the floor and saw the table in front of him propel into Attorney Hegerman’s path. But Ned continued, “Clearly any—assault—perpetrated by Myles Lowry upon either Rosalyn Lowry or Linda Lowry, or both, would disqualify him as a suitable custodial parent. And probably also as a parent with unsupervised visitation rights. And these are the true and central concerns of this hearing, scheduled before the filing date of this afternoon at five o’clock.”

Mellon was up and screaming the word “objection” over and over again.

Contrarily, Ned never broke stride, with his legs nor with his voice.

Judge McCarver did not add to the vocal competition in the room. But his gavel resounded repeatedly until Mellon took his seat. At which point, the main door bailiff, who had quietly approached and stood behind him, in the

event his services were needed, came around in front of Mellon's table. With his right hand and right hip, he firmly nudged the table back to its proper position. It was lost on no one that his doing so required the attorney to adjust himself and abruptly move his chair back a foot or so. Karidja wondered how much of the bailiff's actions found their way into the stenographer's record of the proceedings.

Now back in front of Danny Hart, Ned asked him again, "Speaking of five o'clock Mr. Hart, may I ask you to check your magnificent timepiece and provide me with a check of the hour?"

Danny had to relocate the cassette player to rest on his left forearm so he could invert his right arm to view the watch face. "It's four-fifteen, Attorney Hegerman." Ned thanked him. Karidja noted Hart abandoned the formal 'sir,' in favor of a respectful use of Ned's name.

"I can't help but be reminded that you told Judge McCarver the machine you have there on your arm bore witness to your assessment that last night did not have to be categorized as an uncertain 'he said, she said' situation. I believe you said 'solely,' but we could ask the court recorder to check that if I'm misrepresenting you."

"No. That's the exact word I chose to use." Danny was in awe of this man his legal client sought only to ridicule in their phone discussions about the pending hearing.

Placing himself between Hart and Mellon, Ned asked, "Mr. Hart, does your New Jersey license to practice assign you status as an officer of the court?"

"Your Honor! I respectfully request we consult in chambers." Mellon was now on another track.

"At this juncture, there are no disinterested or uninvolved parties in the hearing space. I see no need for chambers. Mr. Hegerman, I am going to ask you to pause momentarily, please. Mr. Mellon, what would you like the court to consider?" McCarver wasn't leaving his bench at such a late hour.

"Your Honor, I never intended to have anyone draw the inference that I implied Mr. Lowry had committed a crime. So, I do not understand my

colleague's insistence about this 'officer of the court' determination." He waited only a split second. "I paid Mr. Hart. Whether he's an employee or an independent businessman should not influence the assessment of Mr. Lowry's parental or custodial suitability."

Amid all the men speaking, next came a female voice. "Excuse me, Your Honor, knowing that we are not 'approaching the bench' and appreciative of your including me in the prior such arrangement, may I address a question to the court?" Karidja hoped Ned would not be upset. He did not appear to be.

"Yes. Ms. Soro. You may."

"Thank you. I wonder if the court might inquire of Attorney Mellon why he sent a processor to our offices unannounced this noon hour and had our client served a summons to appear in another part of this court mid-morning tomorrow—in order to claim yesterday's invitation to dinner constituted a violation of the visitation agreement. That seems to be a highly disrespectful usurpation of Your Honor's authority over this matter. Also, I wonder if the bench in this proceeding could communicate with that other part that Mr. Lowry has informed Your Honor that he is not interested in renewing that visitation agreement beyond five o'clock today. That said, I wonder if Mr. Lowry's decision not to seek an extended renewal of the visitation rights from Your Honor renders tomorrow's summons moot, and a waste of that part's time on the morrow."

Few in the hearing room had ever seen just how red Eoin McCarver's very short hair had once been. It looked somewhat greyer today in his fifty-first year of life on this earth. They did, however, now see how red his Irish heritage could color his face.

He spoke. "Mr. Hegerman, I am uncertain of Mr. Hart's standing in this case, *per se*. I have no desire to pursue that matter. However, I certainly consider Mr. Hart to be an officer of this court." McCarver exhaled quietly through pursed lips. He inhaled through his capillary-burst nose and went on. "Why did you inquire of Mr. Hart about the cassette?" The judge only heard the chair and didn't even look over. "Sit down, Mr. Mellon."

"My client's motion I handed Your Honor earlier seeks full-time parental custody of his daughter Linda, *in absentia* if necessary. If there were

activities or behaviors last night that are left uncertain, or even unexplained, Mr. Lowry's chances of success may well be diminished." He walked to his table, leaned against the front of it, and continued. "We also still are concerned to learn if anything untoward happened to a mother or her daughter in that apartment." Ned took a few steps forward into the well.

"Respecting your guidelines, Your Honor, the testimony of only two specific persons is suitable in this hearing on these crucial matters preliminary to the anticipated agenda we initially assembled here to discuss. Those persons are the primary parties to the dispute, Myles Lowry and Rosalyn Lowry." Ned made this as a statement of fact. He did not ask the judge if he was correct in his assertion. Since the judge did not stop him, he continued. "My hope is that Mr. Hart has in his possession some insight into the possibility of such testimony, which the court may be able to solicit and include in the record."

Mellon sat. Karidja Soro and Ned Hegerman had tied his hands. He could have beaten either of them. But as a team they were unassailable. Everything he had hoped to hide from the court selectively was now in play. If he protested, it would not go well for him. He sat and chose to be mute.

Judge Eoin McCarver once more adjusted his chair to look directly at the occupant of the captain's chair. "Mr. Hart. Is there a cassette in that machine you have brought into my courtroom?"

"Yes, Your Honor." Years of criminal testimony, which this wasn't, had honed Danny's skill to answer just what was asked of him, and only what was asked of him.

"Does that cassette have anything on it that was recorded last evening?" asked the judge.

"It does, Your Honor."

"Have you heard the entire, or pertinent portion, of the content of the cassette so you could assure this court would not be misled by any out-of-context or incomplete information?"

"I believe so, Your Honor. But the lawyers who have been on this for years would be in a better position to verify such an evaluation, subsequently."

The judge addressed both sides of the room, and of the dispute. "If the court chooses to use this cassette for the two exclusive purposes Mr. Hegerman requested, I want to make sure all parties know that the court will take the cassette and the device into evidentiary possession. Subsequently, the court will seek to validate the authenticity of the cassette and to make sure that it has not been tampered with or altered. I am not entertaining objections at this time, because this hearing does not require a finality nor is it a criminal proceeding. I wish now simply to ask that all parties who understand these conditions indicate same by a show of hands." It was unanimous.

"Okay. We have a five-minute recess. Mr. Lowry, go with your attorneys into the conference room. Mr. Mellon, you may use my chambers, including the rest room. When you are done, please return so Mr. Hart may do the same. Mr. Hart, you will wait here with the bailiffs and myself. Ms. Soro, the court recorder will show you the ladies' room and remain in the lounge anteroom while you use the facilities. Mr. Hegerman, Mr. Lowry, one of you at a time may use the rest room in the outer hallway. A bailiff will accompany you to the door and escort you back here. When finished, one bailiff at a time use the rest room and the other remain in the hearing room, please. No one is to use the public or office phones or communicate with anyone who is not currently in this courtroom.

34

The judge spoke to the reassembled and refreshed group, several minutes later than the five he hoped. He had indicated to the investigator that he should return to the captain's chair. "I want to establish a chain of custody as much as possible, though it can be challenged later, as this is not a properly constituted determination by law."

Looking over to the left side table, after again reminding Myles he was still under oath, the judge asked, "Mr. Lowry, was there a cassette machine in the apartment last night, to the best of your knowledge?"

“Yes, Your Honor. It was being used to play party music.” Myles hoped he had not over-answered the question.

“And how do you know that?” McCarver asked.

“My daughter said one of the parents, Paul Meadows, operated the player while the kids played musical chairs.”

“Did you see the player, or any player, in the apartment?”

“Later in the evening, I approached Rosalyn in the living room. I had been in my daughter’s bedroom. Rosalyn was listening to a mixed tape of music. When I demanded her attention, making several requests, she finally reached over to the machine and the music stopped. I thought she had simply turned the machine off.”

“Fine. That will be all.”

The jurist gave his next direction some final thought, then turned to face the captain’s chair. “Investigator Hart. Is there music on the cassette in the machine you are holding?”

“Yes, Your Honor.” Asked and answered. Nothing more.

“Can you describe it to the court—without any further information or inferences on your part?”

“Your Honor, there is contemporary pop music on the tape.”

“Is there anything else on the tape? But please be careful with your answer.”

“There are voices.” Nothing added.

“What types of voices? Generally speaking, please?”

“Along with the music there are happy children’s voices. Many.”



“Any others?” That thin ice Ned knew he had avoided earlier was splintering, but not yet cracking, under the weight of the judge’s words. Even two little words were apparently enough.

“The music stops and there are two adult voices. One male and one female.” That’s all he felt he should say.

“Can a listener recognize either voice? Is there any identification of the individuals by name that are audible to a listener?” The judge was on the verge of violating his own order.

As he listened, Ned recalled a Currier and Ives winter painting of nineteenth century New Englanders skating on a local Massachusetts pond. A man and a woman pulling on their skates were sitting on a fat, horizontal log before a pondside warming fire. He scanned the room and then returned his eyes toward the witness stand, in time to hear Danny Hart’s reply. “Yes, Your Honor. You will be able to do so.”

“Okay, then, Mr. Hart. As an officer of the court . . . in possession of what Rosalyn Lowry’s counsel fears might be evidence of . . . either a crime or act of domestic violence or intimidation . . . contrary to the conditions of the custody and visitation agreement under consideration for extended renewal at this hearing, . . . please prepare to initiate . . . upon my request . . . the playing of the cassette tape . . . in the machine believed to have been brought here today by you . . . from the apartment of Rosalyn Lowry in New Jersey.” Judge McCarver hoped he had been as inclusive in his description and instruction as was needed and as was prudent. He looked over to the court recorder. He asked her to read his last instruction to Danny Hart aloud for the court. At his request, by show of hands affirmation, all present agreed the stenographer had captured his every word, and correctly.

Trapped and sitting in a dejected frame of mind, Godfrey Mellon realized that Judge Eoin McCarver just reminded the lawyer of his father’s careful law-craft. The son had not learned the father’s lessons well.

“Mr. Hart, be at the ready to hit that STOP button if I so order. And be very careful not to erase that tape. Can you do that, as an officer of the court, or shall I have the bailiff do so?”

“I’m good, Your Honor.”

The judge intoned, “You may begin.”

Hart’s finger pressed the PLAY button. The hearing room was filled with a sudden explosion of music, whose volume Hart fumbled to lower, and intermittent crescendos of children’s voices and laughter. Both abruptly stopped and a man’s voice leapt at them in a shout, “. . . damn book down and talk to me.” It was followed with some muffled sounds of movement. And then the same voice again, “What have you done to her, you twisted . . .”

Those in the hearing room stirred uncomfortably. All of them recognized that it was Myles Lowry speaking. With blinding speed in several directions, imaginations jumped, but to no conclusions. *If Myles was saying this, then who had done something to someone? . . . Was it Rosalyn, or someone else, that did something to Linda? . . . Had something happened to Rosalyn?*

And then, a woman’s voice, raised and sharp. “Done! What have I done? Not a single—since you want to be profane—damn thing!”

Paradoxically, amid the tension rising between the owners of the taped voices, most in the hearing room—whose name now became ironically more literally correct—felt a little less tense. Until Judge McCarver, ordered Hart, “Stop that cassette.” Hart did.

McCarver turned to Myles still sitting between his lawyers. “Mr. Lowry. Do not speak. Just listen.” The judge paused to make sure Myles understood. “This court is restricted. For the purpose of this cassette tape, it is to hear only from Linda Lowry’s biological parents, who are presenting information to help this court decide about custody and visitation rights—regardless of Mr. Hegerman’s motion made today or the purported session tomorrow morning on this same matter.” The jurist surveyed the three faces of the attorneys present, then continued. “A simple yes or no answer is all,

Mr. Lowry, nothing more, understood?" Myles nodded. "Is the woman's voice we just heard that of Rosalyn Lowry?" Myles answered in the affirmative. "And if I ask Mr. Hart to re-start the cassette to play to the end of your . . . conversation . . . will we hear anyone else's voice than yours and hers as you spoke in her apartment last night?" Myles answered in the negative.

The judge ordered the investigator to begin the tape again. Within the next ten minutes those assembled heard more than all but two of them could ever have expected. Most were transfixed, as if the machine were something more than an inanimate object. In unison, they seemed to accord it the same attention as if it were a witness—as if Danny Hart had brought with him from New Jersey a unique act of ventriloquism for this express purpose.

However, Karidja's schooling and experience in conflict resolution helped her ward off Hart's hypnotism. She knew her job was to 'read the room,' as the expression went. She saw right next to her that Myles's body language belied his tumultuous feelings of vindication and defeat. Beyond him and Ned in her line of vision, Karidja was fascinated to watch Godfrey Mellon completely absorbed in his attempt to surreptitiously run the three center fingers of his right hand across unfolded sheets of paper laid out before him. He was tracing the words on the pages, line-by-line, as he listened to the audio testimony from the front of the room. As she eyed Ned, and saw he looked worried by what he was hearing, the echo of his voice was in her mind, *"you should make sure a nice lawyer takes you out for dinner tonight, Mr. Hart."*

They all listened as Rosalyn told Myles, *"You condemned yourself. I've only cursed your memory. Born in hell. That was your bargain, wasn't it?"* All that followed was bouyant and joyous music, without the voices of any children in the background.

"Thank you, Mr. Hart. You may stop the tape." At first, that was all the judge had to say. But he reconsidered. "For now, Mr. Hart, you may step down—and on your way, please surrender that cassette, left in the player, to the bailiff, until I've had a chance to decide what to do with it." The lawyers voiced no objections, yet. "Okay everyone, same deal as before. Five minutes. Take your places, use the facilities. Then return. We will not go into adjournment, despite the hour." By habit, after he gave the bailiff the device, Danny looked down at his watch. It was just a few minutes after five o'clock. It did not escape Karidja's notice as Hart walked over to his assigned recess

spot at Mellon's table that the snarling lawyer silently mouthed '*you are so fucking fired.*'

36

Almost back in session, with Mellon in chambers and Hart at his table, Karidja slow-walked in front of the investigator as her stenographer/escort veered off more quickly to her workstation. Danny looked up. She asked him, "Dinner tonight?" He smiled and shrugged. She smiled and nodded. He noticed she had beautiful eyes.

The judge reopened the proceedings with a masterful understatement of jurisprudence. "Well, as far as the purpose of this hearing goes, it seems clear that as of yesterday evening, the parties are still in dispute." There were no objections. And those present made sure not to laugh aloud at the judge's assertion.

"With regard," he went on, "to the auxiliary concerns for personal safety, it does not appear there is an urgency for us to contact the authorities." Again, no objections. This time there was no inclination toward laughter.

The judge got right at it. "Mr. Lowry. Is the bench to understand you still wish not to request this court to extend your visitation rights?"

Ned nudged Myles to stand. He did so with neither delay, nor elegance. "No." He saw he had confused the judge. "I'm sorry, sir." Further displaying his unreadiness. "I mean, Your Honor. I do not wish to request an extension, or renewal, of visitation." He exhaled. "Sorry."

"No need to be." McCarver motioned to Myles that he could sit back down.

No one could be mistaken that this second generation Belfastian was certain of the law and his standing within it. They did not have to know that Eoin had his legal bicuspid cut on generational stories of bombings and Brits and his wisdom teeth braced at UCLA law amid student protests and racial strife. Even without his longer red hair and the sideburns of his thirties, the

face that now looked out over the small assembly displayed both book knowledge and street smarts. He summoned both most days. This was one of those days.

“So, counselors. Where do we go from here?” The question was rhetorical and the three of them perceived as much from the tone of his delivery. “Mrs. Lowry’s absence complicates matters for me. That Mr. Lowry is not requesting further visitation does not satisfy the court. The interest of the child is paramount. The court is without clarity on whether Mrs. Lowry is equipped and ready to maintain custody. The question of visitation is currently secondary, but does need further adjudication.” He looked at his watch.

“Mr. Hart has kept us correctly apprised of the passing of time. As it is after five o’clock, two things occur.” He cleared his throat.

“First, the court can not require Mr. Hegerman to file his client’s notice to decline extension of visitation rights. The file clerk’s office is closed for the day. Even were the office open, the filing might also be challenged since it is after the time stipulated in the agreement. So that loose end needs attention.

“Second, the court does not feel confident to assume the current parental custody is desired—or desirable—to be continued. Obviously, the bench can not get clarity here from the parent in question. Even her statements from last evening are not definitive, as other matters of the dispute were occupying her attention.” Mellon thought the judge generous in his remark. He readied himself to take advantage if an opportunity to do so presented itself. “And the court would be remiss to place Mr. Mellon in the unenviable position of knowing his client’s mind on the subject, given the turmoil of the last things we have heard from her.” Mellon’s door closed no sooner than it had appeared to open.

And then came the surprise, to all three lawyers, and to Myles, too. “And, as I understand the agreement from my memory of two years ago and of my re-reading it to be prepared for this hearing, the court also is to make its own determination on the suitability of the custody arrangement continuing. The bench finds itself unable to do that without Mrs. Lowry being here to assist the court in making its own evaluation of parental suitability for custodial designation. So, there’s that, as well, before us this afternoon.”

Even Karidja's premonition and warning to Ned and Myles—that Rosalyn might use the expiration of the agreement as a chance to seize permanent custody of Linda—did not take into account any insertion of judicial authority into the question of her continued suitability as the preferred parental custodian.

The judge had a bit more to say, seeing that he had left his audience reeling some by his last observation. "To my ears, the parents did not comport themselves very well last evening. But, as I mentioned, custodial suitability was not sufficiently addressed in their exchange. So, what we heard does not prejudice the court in either direction, for either parent." The judge threw a bone of consolation off to the side of the piled bones of contention they still needed to confront from the prior evening's dog fight.

"Now, as I asked rhetorically to begin, I ask again for your consideration: Counselors. Where do we go from here? I am open to suggestions."

Attorney Mellon was motionless and silent. He didn't want to go first. Didn't want to give anything away. He also was uncertain of where he stood with the judge and did not want to risk rejection of an idea simply because he offered it. He steepled his fingers of both hands and rested the heels on his papers. Then he turned to opposing counsel and opened his church hands, as if he had finished a prayer, which he had not; extending them one a little further than the other in a 'you can go first' gesture. If he had behaved differently, his humbling may have elicited sympathy. His suit was still aligned with its pinstripes straight. His starched shirt and cuff links still showed beneath the arms of the jacket. And his tie was straight, with its knot neatly formed within his collar. But the man underneath seemed to have lost some of his stature over the course of the day.

Attorney Hegerman did not respond in kind. He kept his torso front-facing, but he did turn his head to his tablemates. Myles motioned with his mouth and hands, "I got nothing." Karidja looked very confident, though. Her eyes were lit and her smile radiant. Ned knew she was ready to go conflict-resolving. This is why he hired her originally. This is why she was on this case. This is why she was here in this moment, still fresh and alive in a stunning business suit of solid palazzo slacks beneath an unbuttoned jacket, with a dazzling floral blouse complimenting the soft browns and tans of her clothes and skin. She had changed quickly back at the office while Eleanor

Quatrane called the car service to bring them to court. Ned rose but stayed in place. "Your Honor, on behalf of Mr. Lowry, I would like the court's permission to turn this question over to Ms. Soro. This is her area of expertise."

"Have you any objection, Mr. Mellon?" posed McCarver. The lawyer voiced none. "Well, then you have the floor Ms. Soro," was all the judge needed to say.

"If Your Honor would please." She stepped out in front of the group, into the well. She stood to the left of the court recorder and looked toward the judge's chamber door. Now she could face everyone and everyone could see her; she gave no one her back.

She began. "For this evening," she paused and there were a few raised eyebrows that realized she did not say 'afternoon.' "Is it correct of us to perceive that the court wants suggestions concerning what to do about child custody, what to do about parental visitation rights, what to do in light of the mother's absence, and how to address the uncertainty about the mother's and the child's whereabouts?"

"Correct. That would suffice." Now McCarver was the one of few words.

"And all else can be set aside and be considered of no account?" she had that feeling again that she was 'winning the room,' as her schoolmates used to say of her.

"Of no account to this bench. The court will speak on behalf of no other parties or authorities." The Irishman knew to be wary of bargaining with such experience.

"Thank you." She stopped. Karidja walked over to the table where her documents were neatly arranged. "If the court would permit, may I have a moment? I am obligated to provide Mr. Hart our professional contact information he does not currently possess."

McCarver nodded.

Karidja picked up an index card on which she had written a question and her phone number. She walked to the back of the hearing room to the last row 'on the bride's side' of the aisle as she fancied hours ago. He looked down at the card she held out and read the message: WILL YOU TAKE A RAINCHECK FOR DINNER? Under it was her phone number.

As he handed her a business card he said, "Yes."

"He fired you, right? I'll skip the expletive," spoken in her courtroom sidebar voice.

Danny almost laughed aloud. "Not only. He's telling all his friends, too. Says it'll be a month of Sundays before I work in Metro New York again."

"Don't worry, Mr. Hart. He hasn't many friends. Why, I'd hire you in a heartbeat, over dessert." The judge called her name. "Yes, Your Honor." She turned and he sat back down.

Gaining the front of the room again, this time Karidja stood front and center. She faced the judge only and gave everyone else her back, except the bailiff and stenographer. But she spoke loudly enough for all to hear.

"Your Honor, I wonder if we could beg the court's indulgence for an hour? Say, for the dinner hour, perhaps. I'd propose that Attorneys Hegerman and Mellon and I make use of your conference room. Mr. Hart is no longer needed by either side of the proceedings, as far as I know. That is, unless Mr. Mellon would like to continue to make use of his services—"

From behind her, she heard Mellon address the bench without hesitancy, "No, Your Honor. I'm done with him." She could hardly contain herself as the judge announced, "Mr. Hart. You are excused. The court thanks you for your time." The investigator left without a word and was on his way back to Jersey within the quarter hour.

Karidja did not miss a beat. "We could send Mr. Lowry out to get us sandwiches, unless Your Honor wants him bound over for the session. I'll vouch for his swift return." McCarver did not indicate his preference one way or the other, so she went on.



"I propose that after that working dinner hour, we three have a chance to provide the court with a temporary, yet binding, resolution to the challenges the court has enumerated. Failing that, we will stand ready to follow the court's wishes as they are made known."

"Do counsel object?" was the only option the judge offered. Hearing a verbal "no" twice, in two separate male voices, Eoin McCarver allowed, "Mr. Lowry may use the cafeteria in the building that the bailiffs and the court recorder will use and show him. He will be escorted by a bailiff continuously, including to the rest room and to bring you your refreshments, as the bailiff brings me mine in chambers. Mr. Lowry will eat his meal and otherwise remain in the cafeteria, with no outside communication, until court resumes in one hour, and I'll give you an extra five minutes, at six-thirty this evening. Court personnel will stay on for continuity. Overtime is hereby authorized. Good luck, Ms. Soro. I will see you all soon." And with that a pleased, and about-to-be-relieved, jurist headed for the bathroom in his chambers.

37

With assorted wrappers and drink containers and partially eaten cafeteria food on the table in front of them, Godfrey Mellon spoke up. "You're quite a piece . . . of work, there, Ms. Soro. Do you come to court often?"

And before he could continue, Ned inserted, "No. And whether she lives alone or not is none of your business." Mellon started to get angry, until he saw Ned's smile. "Oh, relax Godfrey, I'm just trying to keep this civil. It's about the kid and the parents, not us . . . okay?"

"I don't want the judge taking the kid away from Rosalyn, is all," declared Mellon. "And from the sound of things at the end there, he's thinking about it. You both know he can do that without Linda going to Myles, right? He's got a whole juvenile court system and child welfare apparatus he can lean on. I'd like to keep his honor away from that as his first choice, even if it eventually comes to that, God forbid."

Hegerman decided to make a gambit and hoped it didn't upset Karidja's plan of attack. If it came from him and then he retreated to the sidelines again, he could keep her from inheriting Mellon's ill feelings. He half

stood, leaning on the table, so it looked like he needed it for support. "I think the judge is angered that it sounds like your client implied you coached her to entrap our client into that visit last night. We're going to have to smooth that over in whatever you two decide."

Mellon was not happy. "Look Ned, that's not helpful. We need to put crap like that away for now, keep it out of the judge's mind."

"Then let's put something together he can accept." The men heard Karidja and looked her way.

"How do you propose to do this, then? I've never worked with a conflict resolution specialist before." There was a hint of sarcasm in his voice that Karidja would work to eradicate as they moved forward. Ned took his chair again. His job here was done.

"Let's try this to start. If it doesn't work, we can do something different. Here's some large index cards I usually carry. They're lined on one side for easy writing. The other side is blank, so it will protect what you've written if you place it face down on the table, or even if you hold it up in front of yourself while you're facing the person you're talking to—or negotiating with." Mellon whipped around to look at her straight on. There was a glint in her eye. Mellon saw now that she had seen his transcript of the cassette. But did she guess what it was?

"On each card, write just one thing you want the judge to affirm. After you've got them all, try to remember—or make a separate list of—which you rank in order of importance. Which you'd negotiate away most readily. Which you'd hold out for the longest, or for which you would require the most in exchange for relinquishing. Since you're going to eventually show your cards, literally and figuratively, don't disclose those rankings on the cards. Do that in a way only you can refer to it."

As they set about their task, Myles Lowry was eating very slowly a few floors down in the cafeteria. He was taking his time because he didn't have much of an appetite. He also had nothing else to do for fifty minutes. He had used the money Ned gave him to acquire and deliver their menu choices upstairs before he used the rest room and bought his own food and drink. As he took off his jacket, he remembered his mayonnaise drips from earlier in

the day. To keep his mascot/protector clean, he moved the Cote d'Ivoire elephant back away from his eating area a bit.

Godfrey Mellon didn't mind the index cards much. It helped him clear his mind and keep things separate that had been running together in his head. True, they were all an amalgam within the same picture, but Ms. Soro was right in suggesting they did have relative merit to one another. She was a worthy adversary for sure, but he found himself glad to be learning from her at the same time. At his far end of the table away from Hegerman and Soro he could align his cards, group them, regroup them, figure his strategy of engagement. For an odd moment it reminded him of playing canasta with his father and mother and her sister, his favorite aunt. His aunt once told him about canasta one springtime visit, when they were playing cards and their extended diverse family was co-celebrating Easter and Passover. She said that the name of 'canasta' came from the Spanish word for 'basket.' His dad said lawyers needed to know how to meld things together in groups, strengths and weaknesses of legal arguments, to balance them out. His aunt laughed and told him what he really needed to learn was not to put all his eggs in one basket. Tonight, across the table from this interesting woman of African heritage, he did not know if he should listen to the advice of his dad or his aunt—or somehow, both.

Ned was not feeling all that well. He hardly ate anything more than he did at lunchtime. He did not know what was coming over him. He certainly had geared himself up in court when everything was on the line for Myles. But he found himself happy for Karidja being second chair earlier and even more glad she was now running the case for Myles, and for him. He was barely able to follow the give and take between her and Godfrey as they went back and forth. Each at the far end of the table from the other, with him sitting adjacent to her, Godfrey and Karidja kept discussing civilly what they wanted for their client, mindful that the judge was going to have to be satisfied as well. Hegerman recalled how he and Myles would trade baseball cards when they were much younger, as the two lawyers alternately rotated index cards from one of their melded groups to another. Neither dared to be building a discard pile, lest they show their hand too early.

The alarm sounded on Mellon's expensive watch. He had set it for forty minutes. That was their agreed upon bargaining time. After that they either would resign to failure or co-sign a list of proposals for the judge's consideration. In ten more minutes, Mellon pushed his chair away from his

end of the table and walked across to the opposite table end. He shook Ned's hand. He stood before Karidja and said, "I don't know if I shake your hand or just say something." She extended her hands palm up to receive his placed on them from above. Facing each other front on, they clasped right hand to left hand, left hand to right hand, and then let go. "Just enough time to use the rest room to get rid of that terrible coffee your client brought up from the cafeteria." He smiled. "Then let's see if we can appease the judge."

He left the conference room. Ned thanked Karidja and sat down. She inquired after his health. "I seem to be pretty exhausted by all this. It's been a long time coming, this case. Karidja, here's some free lawyerly advice: Try not to have a friend for a client." She stood behind his chair and rested her hands on his shoulders as he still sat at the table. His upturned face appeared sad. Quite unexpectedly, and perhaps even unprofessionally, she leaned over and kissed him on his forehead. Ned Hegerman did not seem surprised by his protégé. She felt he didn't seem to mind.

38

Attorneys Soro and Mellon stood at their tables. Ned remained seated. Judge McCarver did not mind his choice. It was evident the man was not feeling his best. He looked a bit pale, if not slightly fragile, if not indeed frail. Though he wouldn't be surprised if, during the proceedings, Ned rose with an objection if the lawyer didn't care for what was transpiring. The judge had seen too many elders from across the ocean spring into action from an apparent fugue state—in the face of a perceived injustice, or even a missed declaration of a yellow-card-deserving flagrant foul inflicted on a hometown football player writhing on some English pitch.

The judge reviewed the list of provisions carefully printed on two legal-sized, lined sheets of yellow paper. Complementing all her other talents, the judge saw first-hand that Ms. Soro could file a very distinctive looking motion. As he read its provisions silently to himself, he could only imagine the bartering that took place behind the door to his right over the past hour.

=====

We propose the following, for a temporary period of approximately four months, until midnight of December 31, 1992:

Myles Lowry shall immediately cease and desist visitations to his daughter, Linda Lowry.

Myles Lowry shall be the subject of a protective order not to approach, or encroach within a distance of ten feet from, his former spouse, Rosalyn Lowry.

Myles Lowry shall be required to pay a sum equal to the monthly rent of the New Jersey apartment currently under lease to Rosalyn Lowry, separate and distinct from any alimony or child support payment ordered by this or any other duly authorized court of law. Said payment shall be made to Rosalyn Lowry's attorney by the 15<sup>th</sup> day of the prior month. The law firm will escrow the funds and pay the landlord in a timely fashion, to avoid penalty or loss of use of the dwelling.

Rosalyn Lowry's attorney will be responsible to review the apartment periodically, not less than once a week, to make sure it is in order, to effect necessary repairs or cause to have necessary repairs made, and to ensure that it does not present a hazard of health or safety to other tenants or occupants of the building, and to take all requisite actions to maintain compliance with the lease. All costs beyond rent will be paid by the law firm on behalf of its client, who shall at a later date make good on any charges or costs borne by the law firm.

Rosalyn Lowry's legal representative will initiate a U.S. Post Office forwarding of all mail from the New Jersey apartment address to the attention of the law firm, until such time as its client indicates otherwise. First class mail

from an unspecified and/or business nature, such as bills and financial obligations, will be handled by the law firm on behalf of its client. The firm shall thus sustain its client's monetary affairs and be in a position to ascertain related information about its client's health and safety and/or whereabouts.

Rosalyn Lowry shall remain the legal custodian of Linda Lowry, and be fully responsible to this court for her safety and well-being, unless such events transpire or come to the attention of this court that, after its consideration, in the judgment of the court such custody should be terminated.

The previous visitation agreement is considered expired without any violation by, or other negative consequences befalling either: Rosalyn Lowry for erroneously extending an invitation for a birthday dinner visit on August 30, 1992, or Myles Lowry for inappropriately accepting said invitation to enter the New Jersey residence housing both Rosalyn Lowry and Linda Lowry.

Nothing in this proposal is intended, nor should be construed, to prevent Myles Lowry from presenting a motion to this court, or any other court in this part, that requests he be granted full and permanent custody of his daughter, Linda Lowry, effective January 1, 1993. Such motion can be filed as soon as September 1, 1992, as stipulated in the earlier/former custody and visitation agreement, which Myles Lowry is not requesting this court to extend or renew.

The motion submitted to another part of this court for tomorrow morning, September 1, 1992, at 11:00, will be withdrawn, and no action as contemplated in that motion will be enacted in any other manner, by any means, any earlier than January 15, 1993.

Any and all further determinations made by this court

after December 31, 1992, pertaining to parental custody or parental visitation of Linda Lowry, prior to her attaining the age of 18 years, require that both of her living parents must be simultaneously present before this court, for the entire process of making appeals for consideration, responding to motions by the court or by legal representation of any of the three parties, and to hear and verify understanding of this court's determinations. No other courts may make such determinations concerning parental custody or parental visitation of Linda Lowry.

=====

Eoin McCarver placed the papers on his desk. "My congratulations counsellors. You have each served your clients well. They will be forever appreciative without ever knowing the lengths to which you went on their respective behalf. As would be said in certain circles, 'Nice lawyering.' And now let us proceed accordingly. Without recess. Please relax in place. Bailiff, please use the copier in my chambers and make me five sets of these pages." He sat back and waited as did the others. He spent a few moments paying attention to Ned Hegerman, whom he still thought looked somewhat worse for the wear of the day.

The bailiff approached and handed him five collated and stapled copies of the original document, now held together with a paper clip. The judge kept the original and had the bailiff give each of the three lawyers and Myles Lowry copies. The fifth he passed over to the court stenographer, saying to her, "... to include in the record as you will."

Judge Eoin McCarver surveyed the scene before him. Much had transpired since two-thirty that afternoon, as it now approached almost seven fifteen. As a dad himself, his closing thoughts, which he kept to himself, surprised him. He wondered if it wasn't about Linda Lowry's bedtime.

He viewed the room in a counterclockwise sweep, from the court recorder, to the lawyers and their client, to the bailiffs. "Ladies and gentlemen, on behalf of little Linda Lowry, the court thanks you for your time and patience and good work here today. Court is adjourned." They all stood and waited until the door to the judge's chamber closed shut. They gathered their papers and effects and made ready to leave. The last item to be collected up was a small, but not insignificant, plush mascot wearing an orange football jersey from the 1992 Africa Cup of Nations champion Elephants of Cote D'Ivoire.

39

Karidja Soro was groggy when she finally fell into bed for the night. In honor of the day, her nightclothes were a simple pair of underwear and an oversized orange football jersey. It took her a few rings to realize the phone call was real and not part of a dream.

She didn't recognize Ms. Quatrane from the law offices at first. Hearing from her was too unexpected to register right away. "Wait, Eleanor. Please say that again." She listened.

"When?" A second passed. "What hospital?" She didn't need to write it down. "Okay. Thank you. I'll be there in a half hour." A pause. "No, don't be silly. I'm very pleased you thought of me and called. I would not want to have been told of this only later this morning."

Dressed suitably at two in the morning to visit a city hospital emergency room, Karidja made a second call before going out to wait for her phone-requested taxi. Mindful of the hour, she spoke quietly in case the recording device was on speaker. "Myles, Ned has been taken to the hospital. I'm going there now. Look for me in court tomorrow, not Ned." She could think of nothing else to say. "See you then."

On her way to the hospital, she sat in the back of the yellow medallion cab. She wondered if she would be allowed to represent Myles later in the morning, as he filed his request for permanent custody of his missing daughter. Karidja knew the case. But what was her standing without Ned?



She would have to wait a few more hours to know. For now, her thoughts were with her mentor, wherever he may be.

**To Be Continued Next Month**