

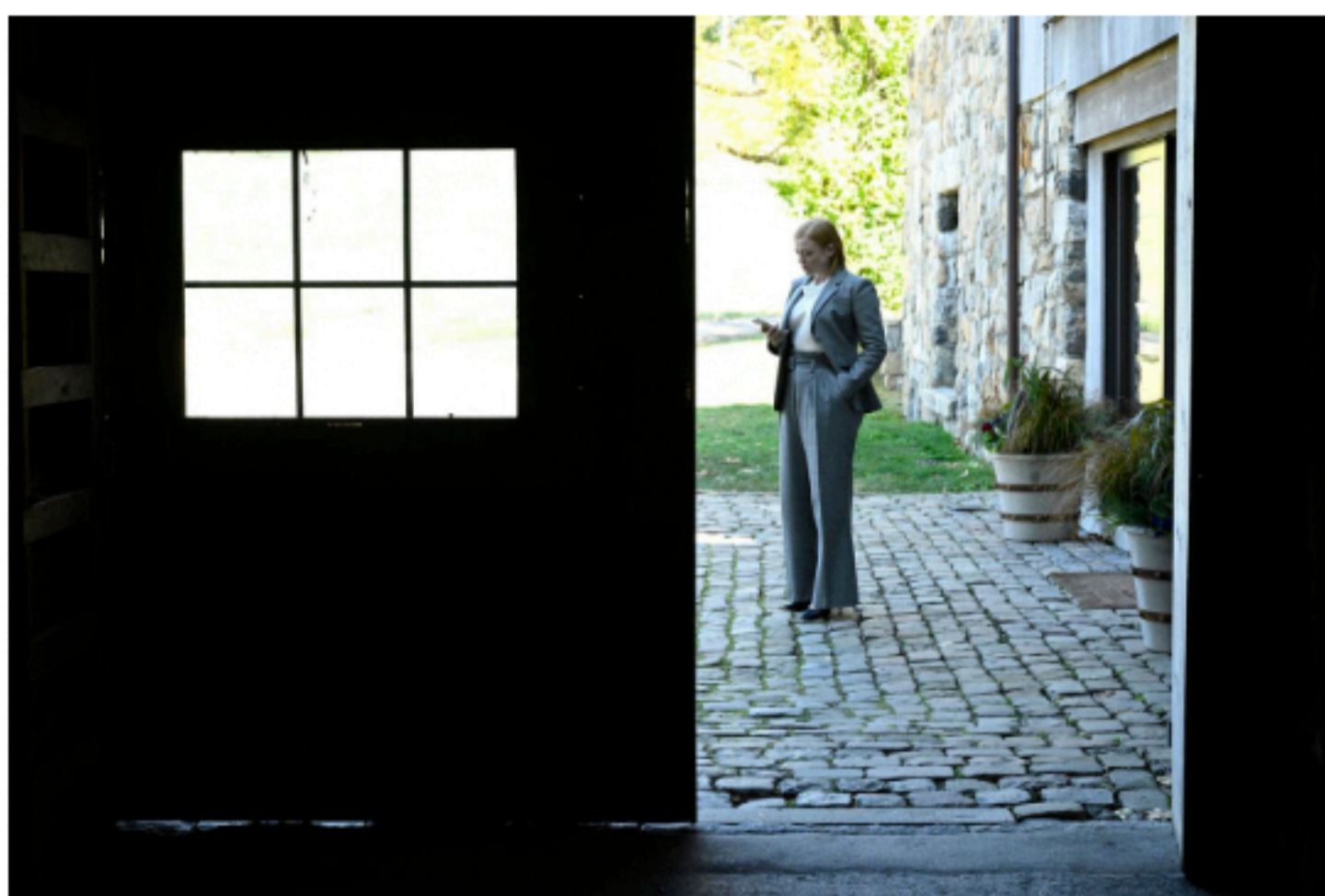
# NEW YORK

## *Succession Club* Episode Two: The rats are as big as skunks.

INVESTIGATIONS

### Can You Tactically Call All the Divorce Lawyers in Manhattan? Actually, yes.

We had one big question after watching this episode, and we brought in Irin Carmon, our senior correspondent for *Succession* legal affairs and author of *Notorious RBG: The Life and Times of Ruth Bader Ginsburg*, to get us answers.



Surprise! Photo: David M. Russell / HBO

In episode two, we learned that the Logan-allied Tom has “pulled a Dad trick,” as Shiv puts it, by calling “every usable divorce attorney in New York just to fuck with me.” In other words, serially consulting with the superstar matrimonial attorneys such that they would have a conflict of interest in representing your spouse on the other side of a nasty divorce, relegating the other party to some lesser lawyer. You may remember this tactic from its appearances on *The Sopranos* and in *Marriage Story*. But is it real?

“That is a completely valid premise and a real thing,” says Tom Kretchmar, a New York divorce lawyer and partner at Aronson, Mayefsky, and Sloan. If a lawyer is in possession of inside information from one half of a divorce, they have an ethical obligation not to represent the other spouse. “I definitely know of real-life instances where one spouse has attempted to interview as many lawyers as possible to conflict out as many lawyers as possible,” Kretchmar said. (He stressed that he wasn’t talking about cases he himself had been involved in. Ethics!)

The question is whether it could backfire. If the lawyer who talked to spouse A decides to represent spouse B anyway — maybe they think the conversation was cursory and not disqualifying — and spouse A raises a conflict-of-interest complaint before a judge, that judge could look skeptically on spouse A. Kretchmar thinks the five attorneys referenced in the script is actually a smart number, because there are more than five big-shot divorce lawyers in Manhattan. “If Tom was actually trying to exhaust the whole range of options, consulting with five lawyers may be enough to conflict out the attorneys he’s most scared of, but not enough for a judge to think he’s playing games or take him to task for it. It likely falls on the safe side of plausible deniability.”

Prestige television is fond of using this device to indicate just how poisonous a marriage’s demise has become. “In relative terms it’s probably a pretty effective bang-for-your-buck plot device for a dramatic turn of events, a relatively nontechnical maneuvering,” said Kretchmar. “It’s not like building a plot line around an arcane rule of evidence.” Speaking of arcane, Kretchmar has some **questions** about the enforceability of Shiv and Tom’s prenup and whether Tom’s mother was in possession of the proper licensure when she consulted on it. The commitment of *Succession* writers to legal intricacies is at stake. — *Irin Carmon*