

SILKSCREEN

The Death of Slava Boghu

by

Bruce G. Clark

Except for a few rules, which we are taught in law school to disrespect and evade, every trial is anarchy. No matter how nicely they dress or where they went to school, the other side is out to get you, any way they can. A trial lawyer's effectiveness depends largely on having a mind capable of anticipating and deflecting every dirty trick the adversary might try.

This story is the fruit of a mind distorted by a professional lifetime in the legal pit. It is the product of one lawyer's paranoia, insecurity and experience. The story is not a report of any particular case. The characters are not intended to represent any individuals, living or dead. The judgment of any real person claiming to be portrayed herein should be seriously questioned. None of this happened in the form reported here.

It has all happened though.

"if you want to know who I am, look at the surface of my paintings. there is nothing behind it."

andy warhol

Epilogue

The floor pushed up on Nancy's feet. Sweat darkened the armpits of her grey trial suit. The deceased Slava Boghu flashed his scars at her from the Cristobal Zanartu portrait mounted on the courtroom easel. Everyone was watching her, including the man in the back row.

Was she having trouble breathing? This room was much too bright. Can't have a migraine now. Stryver's warning echoed. Reporters crowded, ready to pounce.

"May it please the court, ladies and gentlemen of the jury . . ." But what comes next? The formula introduction. It always came back to her, except that one time at the Appellate Division. All she has to do now is relax. Breathe. Look at the jury. It would come.

"Before I start discussing the case with you, I want to thank you for your participation in this trial. Starting with the time we spent in jury selection, each of you has given over a month to this case. You have devoted one month of your life to Slava Boghu and his family. On behalf of his family, Jane and Michael and their children, and my fellow attorneys, I want to thank you."

Family. What right did she have to be talking about family? Would her mother forgive her for standing in front of this jury right now? The Artist's family? He hadn't seen any of them for years. The last time he was in Pittsburgh, he didn't even call. Now they were sitting in the front row like bill collectors, waiting for the payoff. Millions of dollars? Tens of millions?

Their lottery ticket. Ordinary people who just happened to be related to the most famous artist in the world.

Her eye passed over the first few words of her notes. She saw her hand tremble and held it down on the lectern. This was her lottery too.

"Before you were chosen to sit on this jury, you had heard of Slava Boghu. You'd seen his paintings. You had opinions about whether toilet bowls and soup cans were art. You knew of his tragic and untimely death."

She spoke neutrally, almost off-hand. Too early to pour it on. The jurors were still all looking at her.

She swallowed, looked into their faces. They were listening. But no expression. No nods or head shaking. No sneers, no smiles. Not yet. She would reach them. Step by step they would follow her. She just had to do it perfectly.

Now, talk about that night in the hospital room. The medical priesthood had kept its vow of silence. She knew the truth. She just had to convince this jury of something else.

She went on. "That night, three years ago, The Artist lay in his bed in the River Room of the Metropolitan College Hospital. The operation was over and he was alone. He stirred out of a drugged sleep. He had a feeling of uneasiness, tightness in his chest. His first thought was that he had lived through the operation. Then he realized he was having trouble breathing."

This had to have happened--she had no proof, but no objections so far. Like taking a step into a swamp and not getting your foot bitten off, you take another step.

"The fear started. He looked for his nurse. Pushed the call button. Over the next hour it got harder and harder to breathe. No one was there. No one came to help him. What went through his mind as he realized that he couldn't get enough air?"

She knew. When your body won't take a breath unless you make it inhale, then exhale each time. The asthma attacks when her parents would sit up all night next to her bed, praying, begging God to bring air into her lungs.

"He could feel his heart pounding through his chest." Her heart was pounding. Two of the jurors were sitting forward in their seats. Every one of them had their eyes riveted to her. This was better than anything else there was.

"His body tried to cough out the fluid that was filling his lungs. He coughed and coughed until he didn't have strength to try any more. The fluid rose higher and higher in his chest. He was sinking to the bottom of the ocean in his hospital bed."

She'd keep going till they stopped her, either the lawyers or the judge.

"He was alone in his room. He had come to the hospital alone, except for his chauffeur. No one visited him when he was waiting for the operation or in the afternoon after it was over.

"This man, this genius, whose name was a household word in half the homes in America, who in the last twenty years of his life had built an empire of art and real estate worth close to four hundred million dollars, whose work is owned by every major museum in the world, whom the rich and famous would pay to come to their parties, died alone without anyone to care for him..."

Alone. She knew what that meant too.

book 1

Will ascertain the identity of the actors and actress, director, film men and recording personnel who made the film at Rancho Linda Vita Guest Ranch at Oracle, Arizona... Will attempt to obtain this film...

sexual acts and implied sexual acts in the nude were shown. Obscene words, phrases and gestures, were used throughout the film. The female actress, VIVA, said "Now look -- you have embarrassed those children" There were no children in the movie.

Comment [1]: . The film showed a male and female in the nude. Various

...

Mead spoke to the audience for a few minutes in a senseless monologue and said something about not knowing whether to put the beginning of the movie at the end or vice versa...

The movie opened with the woman and her male nurse on a street in the town. Five or six cowboys then entered the town and there was evidence of hostility between the two groups. One of the cowboys practiced his ballet and a conversation ensued regarding the misuse of mascara by one of the other cowboys. At times it was difficult to understand the words being spoken, due to the poor audio of the film and the pronunciation by the actors...

As the movie progressed, one of the actors ran down a hill. The next scene showed a man wearing only an unbuttoned silk cowboy shirt getting up from the ground. His privates were exposed and another cowboy was lying on the ground in a position with his head facing the genitals of the cowboy who had just stood up. A jealous argument ensued between the cowboy who was observed running down the hill and the one wearing the silk shirt. The man in the silk shirt was then seen urinating; however, his privates were not exposed due to the camera angle...¹

chapter 1

June 11, 1986

"In my gondola, with raviola, we'll take a stroll, my love and I..."

A waiter stood behind the table on the sidewalk at Spring and McDougal street waiting

¹FBI file on Andy Warhol.

for the fat little man with paint in his hair to finish his solo. The others at the table laughed at everything he did. Two of the crowd, in worn shoes and frayed jeans, made love to twisted black cigars.

A limousine stopped at the curb and the group became still. Someone whispered, "Slava Boghu."

A gaunt figure with wild white hair and waxy albino skin emerged. Ghost-like silent figures spilled from the car after him. He scanned the group twice-- not there. Like the sea parting for Moses, a place was made for The Artist at the table. Another table was brought out to the sidewalk for his followers.

The face around his blue eyes crinkled into a suggestion of acknowledgment.

The waiter stood behind, waiting.

"You're back. Where have you been?" The paint-stained fat man asked.

"Rome. Ferragamo." He took the presiding seat emanating boredom.

Everyone hung on his words.

"They want me to do their new line. I told them I was beyond that. I don't do ads any more. The more I said no, the more the offers just kept going up. It got to the point where I was embarrassed to refuse."

"So you threw out all your clothes and came back with suitcases loaded with cash. Did you see the Sistine Chapel?"

"I stood there looking at God pointing his finger and I wondered how Michelangelo got the job. And then I thought, I'll do Michelangelo's Creation. Mine'll be more famous than his."

"Mine is bigger than yours."

"Please. Get your mind out of the gutter for an instant. What's been happening around

here?"

The only woman, a brunette whose large, unencumbered breasts swelled under her burgundy sun dress, looked up from a hot fudge sundae and said, "Julian's making a movie. Tell him, Julian."

The fat man laughed nervously. "Actually, I was thinking of making a film--of your life. You'll have to do something interesting."

The man with white hair and skin did not laugh. "I've already made a phallic movie. Eight hours of the Empire State building. What could be more interesting? My life? I could wear an American flag. I could work in a supermarket. I could go to a party. Who would you have play me? Maybe John Wayne--I would love to *play* Johnny."

"Actually, what it's going to be is a twelve-hour commercial for sanitary napkins." The fat man drank from a glassful of Beaujolais Nouveau.

"You could use my tapes for the sound track." The Artist reached into the breast pocket of his leather jacket and pulled out a small tape recorder. "Imagine: your out-of-focus video with my audio of bathroom sounds, traffic on 6th Avenue, my lawyer telling me I can't do something else."

The woman asked, "Are you recording now?"

"I'm always recording."

"You might get into trouble. Look what it did for Nixon."

"He should have published them. Actually, I've decided to publish mine as a novel. You don't have to read it. You could not read it while you're not watching one of my movies."

An acolyte in frayed jeans blew his cigar smoke away from the table and said, "Maybe we could get the White House tapes. Splice them with Julian with a head cold explaining texture."

Get a grant from NEA."

"But is it art?" asked one of the men in worn sneakers.

Fat Julian: "Art is what we say it is. Art is the bumper on that automobile."

The Artist: "Art is the bumper off that automobile. Art is what they buy as art."

Cigar smoker: "Art is Cindy's boobs."

"Only her plastic surgeon knows."

Cindy sat a little straighter.

Julian reached over and rubbed at a chocolate spot on the burgundy sun dress over her left nipple.

Cindy looked down at the spot. Then she dipped her finger into the hot fudge and daubed chocolate onto the identical place over her right breast.

Julian sang another verse of "In my gondola."

The waiter came back and stood behind the table.

*humanoid sparrow devouring head and shoulders of a man, blackbirds flying out of his
anus
knight in armor holding grail and banner being eaten waist-down by seven dog-dragons
three-headed lizard, turtles, dragons, sea lice, snakes emerging from primeval soup
bare-assed monk climbing ladder to tree of knowledge, arrow in butt, chased by arch
sparrow
saint embraced by pig in nun's habit while tormented by monster in armor with severed
foot hanging from crest of helmet
man and woman embracing in seed pod bridal chamber, woman giving birth to red berry
emitting phalarope*

heironymus bosch

2

May 3, 1987

"Eleventh floor, elevator on the left. Ma'am." The doorman turned his head to follow the woman. Inviting smile, beautiful face, strong features heavily made up, fur stole in springtime. His eyes atavistically followed her rear end. Too narrow. Calves muscular. He shuddered— he should have realized when she asked for Cohen's apartment. A teenage girl in a T-shirt walking by restored his balance.

Boghu and his entourage arrived just before midnight. The doorman only registered weird hair.

The elevator opened at a small vestibule on the eleventh floor. A follower pushed the button at the only door. The Artist could feel the throbbing bass of the stereo in the pit of his stomach. No food tonight.

A New York Jets lineman let them in. The massive creature was wearing a crinkly white and black maid's hat and dress. Laurel and Hardy wooden soldier makeup. The dress stopped

mid-abdomen, above mammoth penis and testicles. A tiny black silk ribbon tied in a bow decorated the penis.

Boghu refused the maid's offer to take his jacket, pants, jockeys.

He walked into the crowded, high-ceilinged living room, scanning faces, searching. Warm mustiness closed around him. Cohen's usual group, in various modes of contact. Things are so democratic in the raw.

Mr. Cohen came over, fully dressed in crimson silk dressing gown, royal blue foulard and black formal pants. The right side of his face was painted blue, made up with eyeliner, rouge and lipstick. His left hand flourished a hand-rolled cigarette in long cigarette holder. They embraced, French style, touching cheeks and kissing air.

Mr. Cohen took the artist's hand and said, "Come see my new acquisition. I want your opinion. Would you like something?" He gestured with his cigarette holder at a table decorated with lines of white powder and fresh dollar bills. Boghu shook his head dismissively and absent-mindedly put his hands in the pockets of his leather motor cycle jacket. Cohen led him across the room.

A life-size, full length portrait of Mr. Cohen standing in a law library hung over a black stone fireplace. The painter had captured his subject's cynical leer. In the background was a bust of Senator Joseph McCarthy. Flames from spitting fireplace logs leapt at Mr. Cohen.

Boghu stood silent, indifferent, in front of the painting. "Good representation. You should sit for me."

"I can't afford it. This one cost me a million dollars in the business I lost while I was posing."

"I won't charge you nearly that much and I only need you for a couple of hours. Come in

and we'll take a hundred Polaroids. Then you and I pick out the best ones. You're not only the subject, you're also a creator."

"So what does it cost to have my picture taken with a Polaroid?"

"It's fifty thousand for the first one and five thousand for each additional. You could send them out as Christmas cards."

"Fifty thousand dollars! To have my picture taken? A couple of hours work? I'll go to one of those machines in the Port Authority with a roll of quarters?"

"Great idea. You could be an artist. We'll collaborate. You stick them all together and I'll sign it for ten thousand. You might even make some friends at the Port Authority."

"I am an artist, a bullshit artist. I'm an art lover too. Come into the library."

The library flickered in the half-light of sixteen-millimeter film projected through the smokey room onto a screen pulled down from the ceiling. A man and woman, both in sweat-stained underwear, sleeping— real sleep—on a bare mattress. The man moved his arm and turned his head slightly. The woman slept with her mouth open. Her breathing was almost audible in the clatter of the sixteen-millimeter projector.

Boghu said, "I've seen this one before. I know how it ends."

"Some people like background music at parties. I prefer visual. It sets the tone."

As their eyes grew accustomed to the light, tangles of naked, beautifully-formed male bodies materialized on futons around the room. The artist strolled the room, scrutinizing each face in the blue flickering light of the film, his lips moving in silent murmuring.

"Have some?" Mr. Cohen gestured.

"I'm not feeling well. I'll just watch."

They moved to the room the music was coming from. The only furniture, a stereo and

two large speakers, the boom coming up through the floor. Bare, pubescent boys dancing to the beat, their bodies sweating and eyes empty. A graybeard, his member pointing out from under a spilling abdomen, leaning against the wall caressing a child. The artist watched, but saw a four-year-old boy with his pants around his ankles, standing in front of his big sister and her friend, the girls prodding and giggling.

Mr. Cohen led up an antebellum staircase to the master suite. "This room was inspired by the Spanish Inquisition. Torquemada is one of my heroes."

A muscular body, familiar from ads that travel the city outside buses, writhed on a king-size four-poster bed, arms and legs tied with silk stockings to the posts. As he undulated his erect penis swayed like a ship's mast in a storm.

His tormentor was the "woman" who had arrived early. The wig had been removed from a bald pate, replaced by leather military cap, studded vest and garter belt holding up black mesh stockings and spike heels. The tormentor was using ice chips on the model.

Mr. Cohen asked, "What do you think?"

"Cool."

The two had reached the limits of Mr. Cohen's garden of earthly delights. What he sought was elsewhere. He surrendered to the gnawing in his vitals and slipped out.

'two tuna sandwiches'
acrylic and silkscreen ink on canvas
110 X 80 in.
six newspaper images a&p chunk light tuna
'seized shipment: did a leak kill... seized shipment: did a leak kill... seized shipment:
did a leak kill...
photos of two smiling women over newsprint
...mrs. mccarthy and mrs. brown? ...mrs. mccarthy and mrs. brown? ...mrs. mccarthy
and mrs. brown?
...mrs. mccarthy and mrs. brown? ...mrs. mccarthy and mrs. brown?

3

May 4, 1987

"It's my fucking gall bladder again. It always stops hurting after a while. It's worse this time than it's ever been." He took off his leather jacket and dropped it on a chair.

The thin, Eurasian young man in a loose black silk pyjama stood barefoot in a dancer's posture. The room glowed in pale lavender fluorescent giving his face a skeletal mien. He listened with closed eyes, seeing a rat gnawing out of Slava Boghu's belly. At the end of the recitation, the young man silently helped the sick man out of his shirt, floppy chinos and cowboy boots. He allowed the young man to ease him onto the table.

The young man placed his strong left hand on The Artist's abdomen just beneath the rib cage on the right side and slowly and gently rotated his fingers over the painful spot.

In a whisper that was almost a hiss he said, "You think it is your gall bladder. The doctors who are blinded by your brilliance but cannot see your aura will say it is your gall bladder but they are deceived. Your soul is out of harmony with the energy of your being. Your spirit must become tranquil. You are poisoning yourself. I can tell by your smell." He twisted his

nose to indicate the foul odor of decay. "Your body is trying to purge itself of the poison. You must change your fashion of living. You must find the yang of the conflict and balance it with the yin of peace within you. You have not been eating properly. Your aura is lead. I have known you when it was gold." He nodded toward The Artist's head and then closed his eyes and concentrated as though receiving messages through his fingers. His fingers stopped rotating and pressed deeper. The artist gasped.

"I can feel the heat of the battle that is raging within against your Daemon. I am going to work with you. Hold on to the table."

Behind them, a frail line of gray smoke from a pyramid of incense caressed an altar of a snake's body arising from a turbulent sea.

The young man worked the abdomen, circling, probing and pushing as though he could alter the course of nature. As he worked, he emitted a low, monotonous hum in harmony with the artist's moaning. Sour perspiration mingled with the woody incense.

When his victim was near exhaustion, the young man lifted his hand and said softly, "You must relax. You're sending the wrong signals to your body. When you're tense you're telling it to hold on. You want to relax, let go. Your body has to give up its burden." His voice was hypnotic. "Let me help you relax."

He unscrewed the silver cap from a small cobalt blue bottle and shook a few drops onto his hand diffusing attar of rose. He dipped his fingertips into the pungent little pool and stroked The Artist's temples and rhythmically gentled his face and eyes. He caressed neck and chest, droning continually. He turned The Artist over and soothed every muscle from the base of the skull to the tips of the toes. By the time he had finished, Boghu was breathing deeply with his mouth open.

The young man placed a sheet over the dormant body, walked behind a screen painted with laughing cranes, gold and silver, and poured himself a cup of coffee. He slumped into an overstuffed chair with his feet up on a small table and opened a copy of "People" that had the artist's stern face staring from the cover.

When the sounds of Boghu's breathing changed their pattern, the young man put aside coffee and magazine, moved to a straight-backed chair at the artist's side and sat peacefully with his eyes closed, feet flat on the floor, hands resting on his thighs, palms up, index fingers and thumbs forming circles.

The Artist moved and a great internal fish hook jabbed into his gut. He groaned and looked around, helpless. The young man raised his head as though also waking, turned and focused on the waking figure. He rose like smoke and moved silently to the artist's side. Gentle caresses of The Artist's brow and closed eyes.

"I can tell you're feeling better."

"I feel like shit."

"You're going to be fine."

He eased The Artist into his clothing.

"It could have been worse. Peace is now visible on the horizon. You will be more prudent about your diet. For the next two days until you come back take nothing but distilled water and parsley. You can eat as much as you like as long as it's parsley. You must meditate on still water and quiet as you eat. You must channel your conflicting energies.

"When you go to rest, put three drops of these aromatics in a saki cup next to your bed." He screwed on the cap and handed over the cobalt blue bottle. The Artist's eye was drawn to the delicate etching on the silver cap. He took his pretty new possession in his hand and into the

treasury of the motorcycle jacket pocket.

"The essence will send the message to your body to relax and let go. You'll have to come back every other day until you are peaceful within."

He walked the artist to the door holding his arm. They stopped for the artist to unzip an inner pocket and take out hundred dollar bills and leave them on a celadon plate near the door.

The sick man shuffled to his waiting car through an atmosphere of diesel exhaust, sewer gas and sidewalk garbage.

acrylic and silkscreen ink on canvas
a solid horizontal red line traverses the upper quarter of the canvas, paralleled by faint wider red line and intersected by thin spotty red lines. a chair slightly off center of the canvas. its back slotted horizontally, a metal plate vertical down the center of the back.
arms and seat solid wood, a heavy wood plank connects the front legs.
straps connected to each of the arms. two straps attached to the leg bar. straps for the seat and the back.

4

May 11, 1987

Dr. Lynne Benjamin put away the Tuesday New York Times crossword puzzle and picked up the phone. "My dear, you've finally called me. I've heard you're not well. You're going to let me help you. Come in. Come in and I'll take care of you."

In a small voice, "if you put me into the hospital I'll die."

Image of his own body, fettered, hands and feet to the corners of the operating table, erect penis swaying like a ship's mast in a storm, bloody Benjamin with his pixie eyebrows cutting with a kitchen knife, scooping handfuls of guts.

"I won't put you in the hospital. I've never hospitalized you. I promise you. Just come in. You know I love you. I want to help you." Love. The two tangled, caressing, sweating, embracing, releasing, exploding. Both young. Was it love? He couldn't remember.

"You promise I won't have to go to the hospital? You know I won't go."

"I promise. Come here today. I'll cancel all my appointments. I'll wait for you. Come this afternoon. Come."

"You promise?"

"I promise."

Dr. Lynne Benjamin hung up the telephone and pushed the button of his intercom, "Do I have anything on this afternoon?"

The intercom replied, "There's only the opening of the Canaletto."

"Good. Boghu is coming in. I don't want to be disturbed."

A half hour later, The Artist materialized in the waiting room, pale, weak, resentful fearful.

"How are you, my dear?" The doctor took The Artist's hand and led him to a chair.

"Pain is the worst I've ever had." Whine. "Nothing helps."

"I'll help. How long have you been having it and show me where it is."

The Artist said, "About a week. It's getting worse." He put his hand on his right side just under the rib cage.

"You haven't been eating?" The doctor helped the patient out of his leather jacket.

When The Artist took a small tape recorder out of his jacket pocket and pushed a red button, the doctor's upper lip twitched, "You're always working, aren't you? I can't wait to read this episode in your autobiography." He added, "I like stories with happy endings. Have you been eating?"

"Only parsley and distilled water."

"Moving your bowels?"

"Little parsley turds."

"Sex?"

"Why do you want to know?"

"Just part of the history. Tell me."

"You know the answer."

The doctor sighed and with a small flashlight-like device looked into The Artist's eyes at laceworks of arteries on the retinas finer and more delicate than all the artwork ever seen by these eyes.

Benjamin changed an element over the bulb and inspected the ears. Stuck a stick into The Artist's mouth and noted the pale hue of the oral mucosa. Then the doctor methodically examined each part of the body down to its flat feet. He made notes on a large yellow index card after the entries from prior examinations in other years.

As he touched and listened and inspected, the doctor kept up a running banter about the guests at a dinner party they had both attended. With a hair-like needle, the doctor entered a blue vein in the elbow fossa. The Artist winced as the red blood rushed through the needle into a twisting tube. Dr. Benjamin plugged a vial into the end of the tube and watched it flood. He filled three more vials.

"My dear, I have to send you for an x-ray. It's not a big deal. They'll give you a cocktail to drink and then take pictures as it goes through the liver and gall bladder. It's completely painless and will let us know what's really going on."

"You've treated this before without x-rays. What about that medicine you gave me?"

"You mean the Ursoline. I had to get a special permit from the government to import it for you. I can't bring in any more—cruelty to bears silliness. If you have some left, you can take it.

"I'll make arrangements for you to go to a private office for the x-ray. You won't have to go near the hospital."

"Can I wait for that?"

"You shouldn't delay longer than tomorrow. Today would be better."

"I'll go tomorrow."

When The Artist left, the doctor wrote out four labels, pasted them to the outside of the vials of black-red blood, put them in his pocket and left the office. He walked into a laboratory in the basement of the next building, passed a sign on the door that said, "Tri-Chem Laboratories - Lynne Benjamin, M.D. Director." He handed the vials to a technician, and left for the exhibit at the Metropolitan Museum.

The next morning at 8 AM, the results of the tests were on the doctor's desk. He spent a few seconds skimming for little h's and l's that indicated high and low compared to normal. He picked up the phone and dialed the x-ray laboratory. He asked for its director.

"I'm sending Slava Boghu over today. He's delicate and frightened. I want you to handle him personally. It's a hot gall bladder. Call me as soon as you finish."

An empty casket.

5

May 13, 1987

The receptionist called in to report that Boghu had arrived.

Benjamin found him standing in front of one of his own blotted ink drawings on the wall.

Should he have destroyed this one? Flaws aren't defects. Perfection is boring, mechanical, machine-made. Friends want to pay you half what anybody else has to pay. They want a deal and they can't wait to give away their money. That's what makes them friends.

The doctor appeared and regarded the drawing, "My greatest treasure."

He ushered the artist into the inner office. A soft hand on his elbow, arm around his shoulder.

Boghu let the doctor support some of his weight. His usually light complexion was pallid. The doctor gently seated him at the desk.

"The x-rays show gallstones. It could have been so much worse. I was worried it might be cancer. It's only gall stones. They take them out and you're cured. It's like fixing a flat tire." The doctor was happy, gleeful.

Now his face became serious. "The radiologist said your gall bladder is full of stones. I knew it would be. You have to have it taken out."

"I told you I won't go into the hospital. I know if I go in, I'll die. My father died in the hospital." Papa's casket on saw horses in the living room. Papa cold, hard, waxy. Wilting carnation pinned to blue suit lapel. His only suit. Wedding suit. Mama not crying.

"But you were in the hospital after the shooting. There weren't problems then. You could have died then. They saved your life. This is modern medicine. There are almost no risks. I guarantee you'll be all right."

"I never got over the shooting. I had to go back twice and I needed another operation. I can't go through that again. It still hurts me. Please don't make me."

"Let me examine you again. I'll take some more blood tests and have a consultation with another doctor. Would you like me to speak with Star?"

The Artist didn't seem to hear the last question. "Why do you need somebody else?"

"We know you have a problem with your gall bladder. Christian Godson is the greatest expert in the world on gall bladders. I want his opinion. You're so important to me. I want you to have the very best. I can't stand to see you in pain. Maybe he'll say you don't need an operation. But I think you need one and the radiologist confirmed that your gall bladder is full of stones. If Godson says you need an operation, you have to promise me you'll go in. He's the surgeon who treated King Hussein and Otto Preminger. He's the best there is. He wrote the book. I don't want to lose you."

King Hussein saluting from his jeep, a smear of red over his abdomen.

Twenty minutes later his chauffeur helped The Artist up the steps of the East Side townhouse where Dr. Christian Godson deigned to give audience to the very wealthy and very important sick. The doctor was waiting in a lab coat over a Brooks Brothers blue shirt with starched white collar. The white coat followed the slim, straight lines of the doctor's body.

The Artist did not know the stripes on the doctor's tie signified membership in a club at Yale. He did notice the accent that reflected a wealthy New England background, prep

school and Ivy League universities. No one could have perceived that the wealth reflected was that of the boarders at Choate where Christian Godson had been a day student on scholarship and work grant. He had thoroughly assimilated the style and technic of making others feel his superiority. It worked everywhere except at prep school reunions, of which he had attended only one.

The Artist immediately felt the inferiority of his own immigrant background. The doctor sensed the discomfort and approved. Another world-famous multimillionaire groveling in pain before him. He would be magnanimous.

"Let's look at the films before I examine you." He jammed the x-rays into the track of a light box and flicked a switch to turn on the cold white light. "Would you like to look at these with me?"

The Artist walked over and stood facing the x-rays. He was comfortable responding to visual images. His mind flashed a picture of himself and his big brother looking at photos belched out of the machine in Woolworth's. Sleeping in the same bed with his brother and sister.

The patrician took a pen from his pocket and used it as a pointer. "This is the gall bladder." The pen pointed to a condom-shaped opacity on the film. "The liver produces bile that helps digestion. From the liver the bile goes into the gall bladder by this duct." There was no duct that The Artist could make out. "The gall bladder stores the bile until it's needed for digestion. Then it squirts it back through this same duct into the common bile duct that connects with the pancreatic duct and the small intestine. These dense round spots are stones in your gall bladder." On the wall next to the light box was a medical artist's rendering of a gall bladder and its ducts. The doctor turned to the diagram, pointing at what looked like a bunch of grapes.

"Stones form in the gall bladder for various reasons. Usually there's a chemical imbalance that makes the minerals in the bile solidify into stones. Yours might have formed because you've been dehydrated for a long period of time." The lecture did not sound as though he had given it a thousand times.

The Artist did not see that the pointings by Godson were done with brief motions of a hand that quickly disappeared behind his back, concealing a Parkinsonian tremor. The surgeon pointed to the neck of the gall bladder where it narrowed into a duct. One of these gall stones has left the gall bladder and is blocking the duct. It acts like a ball valve. When the bladder contracts to squirt the bile into the intestine it pushes the stone into the neck of the gall bladder. The bile can't get out. The liver keeps pumping bile into the gall bladder and it gets swollen. It gets stretched and irritated and you have pain. Sometimes the stone will make it out of the bladder and block the tubing along the way. Wherever it blocks it causes trouble." He went back to the film in the light box. "Your gall bladder is enlarged, filled with stones. That means it's diseased. You've been having problems for a long time. Haven't you?"

The Artist nodded.

"Let me examine you. Just take off your shirt and loosen your pants. You can lie on the table." Deft fingers directed by a lifetime of surgical experience probed The Artist's abdomen in all quadrants. They caressed the small puckers where bullets had entered and the large raised welts where doctors had cut open his abdomen and chest. He paused at a bulging scar in the midline. "This must be giving you some problems."

The Artist looked up at the doctor. Godson cared, understood about the pain that had been there almost since the second operation. In a coy, childlike voice he whispered, "Yes, it has."

"You have an incisional hernia. I'll fix that when I go in to take out the gall bladder. You'll be better than new. You'll go into the College Hospital this afternoon and I'll operate tomorrow. You'll be out by the weekend."

He sensed The Artist's fear. "Don't worry about it. This is the most commonly performed abdominal operation after appendectomies. It's the same operation I did on Joseph Kennedy and Ava Gardner and King Hussein." He added, "among others."

The Artist thought about Ava Gardner being operated on by Godson and then shuddered at the thought of his own belly being slit open again. He did like being treated by the same man who operated on kings and billionaires. Maybe with the next patient the doctor would include his name with the King's. This doctor understood his pain. He would be able to help. Just a few days in the hospital. He would lie around the house healing. Friends would visit him. There would be flowers.

Godson was saying, "Lynne Benjamin will give you medical clearance. There'll just be a few tests and some x-rays. One of my residents will meet you when you get to the hospital. Will you be able to get there before three o'clock?"

Boghu found himself saying he would, feeling terrified and relieved it was going to be over. He tried to suppress the fears of death gnawing his belly, not think about the ominous large white building he was about to enter.

flowers

6

May 13, 1987

Glaring sun. Vivid. Crisp. Harsh.

The long black car pulled up to the entrance of the Metropolitan College Hospital. It stopped in line with other long black cars. The driver got out, walked quickly around, opened The Artist's door and handed him out. Passers-by stopped and watched the bent, snow-skinned figure in shock wig and old motorcycle jacket hobble into the hospital like an eighty-year-old.

Massive Gothic lobby. Clammy English cathedrals with bodies buried beneath the floors. My funeral. Someone will be sorry.

A woman standing at the information desk came over beaming. "Hi, I'm Bernadette. I've been sent to bring you directly to your room. Dr. Benjamin arranged for preadmission registration." She kept smiling warmly as she signaled to an orderly with a wheelchair. "It's a long way to your room. Dr. Benjamin thought you'd be more comfortable if we brought you up. I take special care of our VIPs, that's very important patients." She tittered as she led him to an unmarked elevator at the rear of the lobby.

She leaned over and whispered conspiratorially, "Dr. Benjamin said you'd like to

be anonymous. I've arranged to have you admitted as 'Arthur Powers.'"

He liked the sound of the name.

Jolting of the elevator. Pain. Top floor. Wheelchair bumping over the door sill. Teeth gritting. Down a shining corridor past the busy nurses' station; past an orderly wheeling a room service table. Corner room with large picture windows. The River and downtown. Crossing the river.

Bernadette gestured, a real estate saleswoman. "We call this the Rose Room." Red rose in bud vase on bedside table. "We save it for very special people." She smiled again, surveyed, touched the bed, unpalmed a card and handed it to him. "Here's my extension. If you need anything or have any problems just give me a call."

Crisis. Bernadette rushing in dragging a fire hose. Flowing, brilliant silver gown. Wanting an oversize mural to hang on the wall in her apartment with a personal inscription. She'd be happy with an autograph.

A large woman with a curl loose from under her crinkly nurse's cap--football player in maid's penis--came in and introduced herself as the floor charge nurse, Mrs. McGillicuddy. Warm, singing brogue. She leaned toward him. The gold cross on chain around her neck dangled as she gurgled and gestured. She was there only for his comfort, everything would be done to make his stay as pleasant as possible. Mrs. McGillicuddy would help him out of his clothes and into a hospital gown. She started to walk away with his bundle. He screamed at her. "Come back here. Give me that jacket." He draped it over the back of the chair next to the bed. Alone, he checked the contents of each pocket. He picked up the phone next to the rose and called The Factory. He gave his secretary instructions that no one but his accountant and his lawyer were to be told where he was. She could contact him in his room for anything

important for the rest of the day and after the operation the next afternoon. He would be back at work by the end of the week.

No pain now. Was he getting better? Should he check out and forget the operation?

A young man entered and introduced himself as Dr. Medina. "I'm Dr. Godson's resident," in a tone that said, you are indeed fortunate to have anything to do with someone as important as I. But for the name tag vouching, "Dr. Samuel Medina" and the stethoscope peeking from his pocket, he might been a college student. Dr. Medina stood next to the bed looking down at The Artist from his considerable height and demanded his past medical history. In less than five minutes he had elicited the significant events in The Artist's medical life from childhood pneumonia to the shooting and its aftermath and the bilious history of his gallbladder, done a brief physical and left the room.

Brushing past Medina, a large black man entered the room carrying a small tray of test tubes and instruments.

Fear.

The man hesitated and explained that he only had to draw a little blood. He wouldn't really hurt at all. He smiled and took The Artist's thin arm gently in his big warm hand. The Artist closed his eyes.

The two of them embracing.

The prick of the needle restored his reality. It was over almost as soon as it started.

Medina returned with a shepherd's crook. Jesus Christ standing amidst a flock of sheep. Light and colors too bright. He wheeled the tall steel pole over to the bed. A loop ending in a

hook at the top held a plastic bag filled with a clear fluid. "I'm going to start an IV to make sure you have enough fluid. You might be a little dehydrated." He tied a rubber tube around The Artist's bicep and slapped the inside of the elbow with his fingertips, swabbed off the area with alcohol and inserted a needle into a vein.

Art school: 'The best feeling you'll ever have.' A belt around his arm. Slap the veins. No alcohol swab in art school. No bent spoon cooked over a cigarette lighter here.

When the doctor finished and the drops of sugar water started flowing into his body he felt nothing, no heroin nausea, no retching, no deep, drugged sleep. No danger at all.

line drawing, 1950.

patient on a stretcher

"johnson & johnson"

7

May 14, 1987

Dr. Christian Godson firmly closed the drawer, rattling the bottle and glass, turned the key and strode to the physicians' lounge, benignly smiling at technicians and nurses on the way. Time to suit up for the game. He could have used his office as a changing room but it was good to rub elbows with the residents. Rapport was important in the operating room. Team effort. He liked them to have a good feeling as they went into the OR. God knows, there's enough tension during an operation. The old camaraderie and MASH type humor had disappeared. It wasn't just in New York. Residents who had trained in different parts of the country were just as tense.

A young man in white doctor's coat over a Tripler tie approached. "Good morning, sir. I'm Samuel Medina. Dr. Cappalli assigned me to be second assistant to you this morning." A puppy fawning before the alpha dog.

"Very good, Medina. Where's Dr. Cappalli?" A hint of urgency.

"He's up getting consent and doing a preop exam."

"Very good. If you see him, tell him I want to speak with him."

Godson sat down in an easy chair and lit a cigarette. Smoke floated in little steps off the Marlboro in his finger tips. The steps were smaller when he self-medicated. He thought about bringing Cappalli into his practice when he finished his residency in another month. His academic qualifications were excellent. He knew the Chief Resident had twice turned down scholarships to Harvard because Williams and Columbia had offered more money. The young man was easily as brilliant as Godson had been and he had a surgeon's hands. Things went right when Cappalli operated.

All well and good. But Cappalli was Italian. Too bad the prep school boys all wanted to be ophthalmologists and make a million dollars a year in bankers hours. It made no difference that Cappalli's father had been the youngest judge on the Rhode Island Supreme Court. What would the patients think? It probably wouldn't bother someone like The Artist or the actors who were always coming to him. But what about the bluebloods, the elite he loved to be associated with? His wife would never allow it.

Truth was, his wife could care less who worked with him as long as there were no limits on the checks she could write.

He had never practiced with a partner. But he had to find someone to share--to share his secrets.

"Good morning, Dr. Godson."

Godson looked up at the twenty-nine year old man standing before him. Cappalli was taking off a tie that made him wince.

"I've just seen Boghu. He's signed the consent and been premedicated. He's ready."

"Very good, Richard. I think I'll assist and let you do the case. Let's see if

you've learned anything."

"Thank you, sir. I learn every time I work with you."

They had been playing this game for the last year, Cappalli operating and Godson watching in the name of teaching the Chief Resident. Cappalli was discrete. He would never tell anyone that he was the surgeon who operated on all of Godson's cases. It was no secret that Godson could make or break the career of a surgical resident. The hospital would never restrict Godson's privileges as long as he kept bringing in the celebrities. What to do when Cappalli finished his residency?

Godson put out his cigarette and walked with the resident to the operating suite. They washed their hands to the elbows with antiseptic soap, used wood slivers to clean their nails and then the soap again. A nurse who had already gone through the same procedure held out rubber gloves, careful not to touch the outsides.

Godson said, "This is one of Benjamin's patients. We'd better double-glove."

Cappalli said, "I had him tested. He was negative but it never hurts to take precautions. He told me you wanted to do the hernia also."

"Let's give him his money's worth."

"Who is this fellow Medina? That's a Jewish name, isn't it?" Godson prided himself on his democratic attitude. His daughter was already married to the right kind of fellow.

"He's just finishing his first year in surgery. Went to Princeton. I think he's going to be good."

"How's his judgment?" Godson asked, speaking in code that Cappalli understood.

"I think it's good. Nothing to worry about." Cappalli knew Godson was worried that Medina might talk around the hospital about Godson's operations being done by residents.

He also knew that everyone in the surgical department knew it already. Few secrets in a hospital.

They walked into the operating room. The Artist lay naked on the table.

Chemically induced snores accented each breath. His bald head was bare. The surgeons both looked twice at the face and then at the abdominal scarring to be sure this gaunt, elderly male was their patient.

An anesthesiologist gave Boghu an injection of curare. His heart kept beating but the skeletal muscles that controlled movement and breathing became paralyzed and useless. Had he been awake, he would have been panicking as his oxygen ran out and his body could not inhale.

The anesthesiologist tipped the head back and pulled the mouth open. He pressed the tongue down with a curved laryngoscope and deftly shoved a tube into The Artist's wind pipe. The tube was connected to a shiny black rubber basketball-sized bag that he squeezed, forcing air into The Artist's lungs. The anesthesiologist put a stethoscope to the chest and listened for sounds in the lungs. Good. He was not inflating the stomach. He pulled the tube off the black bag and fitted it to the respirator. The machine was breathing the patient one minute after the curare had taken hold. The anesthesiologist looked up at Dr. Cappalli and said, "All yours."

A nurse had just finished scrubbing The Artist's abdomen, chest and shrunken genitalia with a brown liquid. She stepped away.

Cappalli stood at The Artist's right side and with a scalpel made a curved incision below the ribs. A thin line of blood followed the scalpel. Godson stood at his elbow and Medina watched from the other side of the table.

The surgeon extended the incision beneath the skin through the fascia covering the abdominal muscles, then through the muscle layer and into the peritoneal cavity. As he widened

his operative field he burned each bleeding vessel with a bolt of electricity from his cautery. As many times as he had done the same procedure, when the puff of smoke rose from the flesh, Cappalli had the mental image of a Civil War surgeon searing an amputated stump with a burning iron.

He widened the field and Godson inserted retractors to hold the wound open. Medina stood admiring Cappalli and hoping to be asked to do something. He knew that Cappalli had spent weeks in the city morgue doing the same operation on the bodies of victims of murders and automobile accidents before he ever tried it on a live patient.

All of Cappalli's skill would be tested in this operation. The normal anatomy he had learned in the morgue was grossly distorted in this abdomen. Gunshots and infections had stuck everything together with scar tissue. What ordinarily would have been a one hour operation stretched to three as the surgeon meticulously carved his way through the scar tissue that stuck the organs together better than a quart of Crazy Glue would have.

When he got to the gall bladder, he stepped back and turned to Godson, "There it is, sir." Godson shook his head and said, "I can't believe he's been under a doctor's care. How could that asshole Benjamin have let him go this long with that thing in his belly?"

Medina was staring at the gall bladder. "I had expected it to be inflamed. It just looks a little enlarged."

Cappalli and Godson ignored him.

Cappalli put a clamp on the neck of the gall bladder and deftly freed the swollen sac from the liver, moving his scalpel through the potential space between the organs and the unnatural scar tissue. He thought of the Zen butcher who never had to sharpen his knife because his knife never cut; it simply divided between natural planes.

The gall bladder and its contents were out of the abdomen. A nurse took it in a tray to the pathology lab for analysis.

Cappalli assured himself that his sutures were secure and there was no bleeding from the site, then turned to the hernia. It was a large bulge in the center of the abdomen where the stitching from the repair of the gunshot damage had given way and the muscle layer separated. A loop of intestine poked through the separation. He could feel it beneath the skin. He went through the same procedure of gradual incision and exposure of the operating field. He trimmed the frayed edges of the muscle and set about repairing the tear. Now he was the old tailor sitting in front of the dirty window of his shop mending a pair of pants.

Godson said, "Good job. Let Dr. Medina close up."

Swiftly, Medina changed places with Cappalli and prepared to close the wound. The great man remembered his name, asked him to participate in the operation. He planned to remember this operation as the best closure of his life.

She "Before and After"

pencil on paper, 1 foot x 1 foot

aquiline nose

pug nose

8

May 15, 1987 Afternoon

Godson stripped off his rubber gloves and dropped them on the operating room floor. "I'm lunching at '21.' Take care of the orders. I'll be in my office later this afternoon. See that he's comfortable."

In the recovery room Cappalli and Medina stood next to The Artist's bed. The patient was beginning to open his eyes. Cappalli leaned over and said, "The operation's over, sir. Everything worked out fine. You're going back to your room. You're going to be fine."

Boghu smiled and closed his eyes.

Cappalli turned to Medina, "Take care of the orders. You heard Godson, make sure he's comfortable." Cappalli left to call his mother and tell her about the famous person he had just operated on.

Medina sat down next to the nurse at the long desk at the nurses' station at the other end of the floor. "Give him 20 of M.S., I.M. stat." He spoke in her direction as though

she were one of the fixtures. He wrote out that order and ten others, signed the chart and left.

The nurse unlocked the narcotic cabinet, took out a syringe containing 20 milligrams of morphine, noted it on the inventory control sheet and then walked over and injected it into the intravenous bag leading to a tube in The Artist's wrist. She had long since stopped resenting young residents who gave orders without a 'please' or 'thank you.' She had also stopped trying to tell them when the medication they ordered was excessive.

The Artist woke five hours later in his room. Another nurse was sitting in a chair next to his bed knitting a sweater. She looked up as he awoke and said, "Well, you've been a real sleepyhead. I'm Ann Lipinski, your private duty nurse. I'll be right here with you so you just tell me if you need anything."

He tried to focus his eyes. The nurse was a slight, strong-looking woman in her 60s, good face. She gave him the feeling that everything was all right. He liked the sound of a name that ended in "ski." People at home had names like that. His eyelids fell.

He woke again in pain. Ann Lipinski was still there, the sweater a little bigger. He asked if there had been any calls. She smiled kindly and said there had not.

When he told her it hurt she said, "Why don't you get up and try to use the bathroom. It helps to move around." She didn't tell him there was a "PRN" order for more morphine. She would give it to him when and if she decided he needed it.

Belly cut open. Hard bandages on it. Weakness. She doesn't realize. Big operation. Pain. Weakness. Nurses are supposed to be kind and care for sick people. Shouldn't order them around. Shouldn't order him around.

He let her help him out of bed to the bathroom. Each step an agony. She wheeled the pole with the intravenous bottle connected into his arm to the bathroom and stood

next to him as he tried to pee. He remembered the women he had grown up around, chopping wood in the middle of winter with just a sweater to keep them warm. They didn't know about suffering. This was New York. Should be more civilized here. She should be gentle.

After the bathroom she made him cough, inhale and exhale through a drab blue and white plastic toy that looked like it should have a little bird warbling on the front of it. Why couldn't she just let him lie there and wait for the pain to go away?

He lay back, gazing out the window at the toy planes circling over distant LaGuardia.

His secretary called. No message there either.

"Did you speak with Bayda?"

"Yes, he's drawing your Will. He has some questions."

"Tell him to cross out Star's name. I don't ever want anything more to do with that bitch. Alive or dead. Tell Bayda I'll be out of the hospital by the end of the week. It can wait till then."

Nurse Lipinski ordered him to get off the phone. Nobody ordered him, ever. His head dropped back to the pillow. She checked the bandages and abdominal binder that covered his wounds. They were clean and dry.

When he complained again of the pain she smiled and said, "Believe me dear, a little pain is good for you. It keeps you going."

He was too weak to make a scene. He lay there and listened to her monologue about her grandchildren in Hawaii. He could care less whether they were television producers or beachcombers. She only stopped talking when the floor nurse stuck her head in the door and asked if everything were all right.

At 8 PM an Asian woman in her late 50's came into the room. She cheerfully said, "Helen Lee, your night duty private nurse, with you till 8 tomorrow morning. How you feeling?"

Before The Artist could tell her how miserable he was, Nurse Lipinski was giving her a report of everything that had happened that day. He heard her saying that he was doing fine and only having a little discomfort. How could she know how he was feeling? The pain was terrible. Maybe this woman would be more sympathetic.

The instant Lipinski walked out the door, he turned urgently to Nurse Lee, "I'm in a lot of pain. You must help me." Had he read her right?

Nurse Lee did not let him down. Her face became compassionate. "You don't worry. I take care of you." She went out to the nurses' station and reviewed the orders. The nurse on duty gave her a syringe of morphine and another bag of fluid to hang on the IV pole.

Dr. Medina came in and watched as she was connecting the fluid to the tube. The morphine was beginning to take effect as Medina did a cursory examination. He left.

Nurse Lee watched Boghu fall into a drugged sleep. She got up, turned the room lights off and walked out to the nurses' station. She looked over Nurse Lipinski's notes, then penned in, "8PM-8AM Slept all night, no problem" and signed her name.

Nurse Lee sat down at the coffee table in the alcove behind the nurses' station, poured herself a cup of coffee and asked the night floor nurse, Kathy Reddy, how her divorce was coming. Just before midnight she gave her patient another shot of morphine. She stood next to his bed for about five minutes listening and watching him breathe heavily. Then Nurse Lee picked up her big carpet bag and walked down a flight of stairs to the maternity ward. She went into the nurses station and took out a display board of rhinestone and silver earrings.

3:07 AM - 3:22 AM

The Artist opened his eyes. He needed someone to open the window. Nobody there. The call button. Arm too heavy. Need air. Got to suck it in. Pain each breath. Chest hurts. Belly raw. Heart beating fast, like some crazy bird trapped in a cage. Bird flapping, flying in the church. Holy Ghost.

Mama walking to the window for the tenth time. Stretching her head out and looking up and down the street. Look at me, Mama, I'm sitting right here with you. Mama muttering in Slovak. Hobbling back to the kitchen. Tin bread box with holes punched shaping stars. Large red rose painted on the white lid. Tinny rattle of the lid. Half-full bottle. Couple of ounces into a smudged jelly glass. Drops on the counter. Quick look over. Quick turn away. Sit down to wait. Cats up on the counter, sniffing.

Laughter, a shout an instant before the doorbell rings. Michael and Jane, their spouses, children.

Family sounds. Children running in and around like spilled mercury, exploring favorite places. Cats scattering.

Hugs and Easter greetings from Jana and Micha. Grandchildren taking Mama's hand and kissing her on the cheek, repulsed by old lady smells, soiled house dress, sweater with holes at the elbows. Brother Mike claps Slava on the shoulder the way Pittsburgh Elks say hello. Mama nods and jabbars with her daughter. Sister Jane pulls herself away, pecks him on the

cheek. Gray pigeon.

Micha holds up an Easter basket. "Mama, look what we brought. Trpis' kielbasa, smoked, he made it just the way you like it and rye bread from Bryak's. I picked it up this morning on the way to the turnpike so it would be fresh. Jane and her kids dyed the eggs in coffee and beet juice. I can't wait to start eating, Look at the candy angels."

"You wait till the priest blesses it. Bad luck to eat Easter food before blessing. Your brother made arrangement. I have cake for now. Come." She walks stiffly back into the kitchen. Grandchildren follow at a distance, noses twisting at cat must. She cuts thin pink and white string off a bakery box and lifts out a plain pound cake. The children take pieces in their fingers, drop crumbs on the linoleum.

Sister: "Will you go with us to the church?"

Be little brother again. Go to church.

Standing in the cathedral with nieces and nephews, all squirming. Mama kisses the priest's cross and bows her head for the blessing. The faces of the saints on the oil paintings and the statues, suffering, dripping plaster blood. Their grief at his sins. His sister, her church face. Christ's face, understanding, loving, forgiving, suffering. The wound in His side. A spear for Christ. Bullets for him. Now doctors' knives. Christ's pain when the spear entered. Did Christ understand his pain? Did Christ forgive? Christ, speaking His Word in a whisper, gentle, loving. Disciples around Him. Disciples wanting what Christ only could give. Disciples: faithful believers, inferiors, imitators, wanters, takers, users. Christ understood.

The Artist and the statue looked into each other's eyes. *Slava Boghu.*

At 4:15 Nurse Reddy got up, washed out her coffee cup, used the bathroom and

then took a stroll around the floor.

The Artist was still. Frothy spit running out of his mouth. She listened for breath sounds. She put her hand on his throat to feel his pulse. She grabbed his phone and dialed the code. No need to hurry.

'but I'm working on death now. and that's not satirical.'

10

May 16, 1987

Early Morning

"Dr. Cappalli, this is Dr. Medina.

Who the hell is Dr. Medina in the middle of the night?

"The Artist is dead."

Cappalli sat up in bed. "Are you shitting me? What are you talking about?" His wife turned away from him.

"The code team is working on him but he was cold when they found him."

"Who else is there? Have you called Godson?"

"No. I just called you."

"I'll tell Godson. I'll be right there."

He slammed the phone down and climbed out of bed. He needed a moment before he called Godson. Tears formed in his eyes. What could have gone wrong? Everything had been perfect throughout his entire career up until one minute ago. Images of treating gangsters' gunshot wounds and overdosed addicts in the Bellevue Emergency Room canceled out dreams of Park Avenue and celebrities. His wife didn't wake up. He dialed Godson's number in Connecticut.

With the speed of an old hand, Godson said, "Fuck! What did you do?" Godson was an expert.

"He was fine, sir. I spoke with Medina at 9 o'clock. He had been out of bed visiting."

"I'll be there. Call Hopkins." Godson hung up.

Cappalli got out the hospital directory and found the number of Dr. Stanley Hopkins.

The listing said, "Risk Management."

"Dr. Hopkins, this is Richard Cappalli. I'm chief resident in surgery. I assisted Dr. Godson today on Slava Boghu's cholecystectomy. I just got a call from the hospital that he's dead. Dr. Godson said I should call you."

Dr. Stanley Hopkins' job was to watch the hospital's back. "I'll be right there. What floor is he on?"

"Eleven South, the Rose Room."

"Don't let anybody touch anything."

Cappalli found Samuel Medina in The Artist's room, sitting next to the body. Bough's body was sitting up, leaning as if ready to topple, but starting to harden.

Medina's linebacker's shoulders sagged and his head was in his hands.

The Chief Resident asked, "What the fuck happened?"

"I told you, he was fine when I came in at nine o'clock. He was talking on the phone and they said he had just been up to the bathroom.

"Did you examine him?"

"He was on the phone. I didn't want to bother him. I looked at his chart. It was fine."

Cappalli cursed himself for trusting this asshole. He should have come in and done an examination himself. Never again for the rest of his life. . .

Dr. Stanley Hopkins walked into the room. At five-thirty in the morning he was shaved and showered and wore a suit, starched shirt and tied bow tie. His shoes were shined. His cold

calm terrified the two residents. He turned to Cappalli and said, "Where's the chart?"

Cappalli remembered that Hopkins had said to make sure nobody touched anything. Now he realized that it was the chart Hopkins was talking about. "It's at the nurses station. I'll get it."

He almost ran. The chart wasn't in the Rose Room slot in the nurses' station. He looked in all of the other patients' slots. It wasn't there. There was no nurse at the station. He found them huddled around Mrs. Lee in the nurses' lounge and speaking in low tones. The Artist's chart was on the table in front of them.

Cappalli took it back to The Artist's room and found Medina giving Hopkins a recital of The Artist's medical history and a description of the operation. Cappalli agreed with everything Medina said. The facts were right. Like every other physician practicing at the Metropolitan College Hospital, Medina had an outstanding academic record.

When he finished, Hopkins took the chart from Cappalli and leafed through it.

Medina, a little boy looking up to the grownup pleadingly asked Cappalli, "Why did he die?"

Cappalli said, "It's possible one of the sutures broke. I'd like to take a look."

Hopkins turned sharply on Cappalli, "This is a medical examiner's case. Don't touch the body or anything else." He looked at the medical record.

Hopkins scrutinized both residents to make sure there was no misunderstanding and then went back to the chart. He never ceased to be amazed at the naivete of the brilliant residents who worked in his hospital. Most of them had been on "doctor-track" since they were nine years old and had no idea what went on in the real world.

The two young men waited.

Hopkins finished leafing through the thin chart and turned back and reread two pages. He looked up at the residents. "Did you attend medical school? Do you understand why charts of patients are kept in hospitals? Do you understand why laboratory data are put into patients' charts? Do you understand why laboratory tests are done?" The risk manager's voice bored into the two young doctors until he abruptly stopped and left the room with the chart clutched in his white-knuckled hand. The residents followed, all leaving a clipboard hanging from the end of the bed with a single sheet of paper attached to it.

At 7:30 in the morning Nurse McGillicuddy came into the room, looked around, looked at the body, closed the door and walked over to the leather jacket hanging on the chair. Her hand found a roll of cash in the inside pocket. She hiked up her nurse's white dress, unfolded the roll of bills and tucked it next to her skin under her pantyhose. Then she transferred the rest of the jacket's contents into the pocket of her nurse's uniform.

May 16, 1987

Afternoon

Dr. Stanley Hopkins sat in his paneled office looking out at the garden in the hospital's atrium. The room could have been a small town Episcopalian minister's study. The Artist's hospital record was open on the tooled leather of his desktop. He glanced down at it and closed his eyes. His mind drifted back to a studio apartment on 32nd Street, just off First Avenue.

"Would you like to play 'Doctor?'" He could still see her unlocking the door to her studio apartment on 32nd street just off First Avenue.

They'd stepped inside and Stanley Hopkins, newly MD, still thin and with a full head of hair, and still eager, helped the young woman out of her coat, dropped it to the floor and started unbuttoning her suit jacket. "How about a new version, in honor of the chief? You be the doctor and I'll be a lawyer. I get to fuck you over and over again."

The middle-aged man cringed at the memory of the woman shrinking from him.

She'd let out a harsh laugh and slipped out of her jacket, kicked off her shoes and dropped onto the couch with a sigh, "When I was a little kid and thought about being a doctor, I dreamed of Schweitzer inoculating African children. And me saving lives in the emergency room. I didn't know I'd need a law degree to practice medicine."

The two young doctors had just attended the "Welcoming Dinner" of the Harvey Society. The main event had been a curse pronounced upon their careers. The chief had stood before the small gathering with the pride of a professional athlete giving a speech at the sports

dinner of his old high school. He was what they all wanted to be in twenty-five years. "I was among the Harvey Society's first class of ten residents chosen from the most brilliant graduates of the best medical schools in the world." It would have been immodest to talk of himself and his own group that way except for the fact that every person in the small dining room in the Waldorf Astoria was in the same category and they all knew that Hopkins was on the "medical-school-dean" track, waiting to be summoned by a medical school search committee in the mid-West or South.

"My class, which sat together at a dinner just like this twenty-five years ago, now includes two Nobel Prize winners and three medical school presidents. The present Surgeon General of the United States sat next to me at that dinner. There are at least five diseases named after members of that class."

It was a supreme moment for the young doctors.

The stone cast into their beautiful pool began, "You are destined for glory. But with that glory comes a grave responsibility. Responsibility to your profession. Tonight we will speak of your *ethical* responsibility to your profession. There is a threat to the practice and practitioners of medicine, perhaps the greatest since the mission to eradicate witchcraft."

She had rubbed her knee against Stanley Hopkin's leg and whispered, "Heavy stuff."

He said, "You mean what's happening under the table?"

She looked at him and batted her long eyelashes.

The chief's voice penetrated, "We have made unbelievable advances in medicine in those decades. Our power today to heal is closer to godlike than we could ever have predicted." He looked up but did not smile.

"But the dark side to these advances is that inevitably we are distancing ourselves from our patients, and the lawyers are stepping into the gap.

"What this means to you is that your care of your patients is going to be governed not by your knowledge of science and your best medical judgment, but by lawyers and courts who know nothing about our practices, who are experts in producing lying witnesses and lining their own pockets. They are not benefitting their clients. They are not benefitting society. They are not benefitting medicine. Malpractice exists for the lawyers. We go to court and we win or lose, not on the merits of the case or because a mistake was made or someone was really hurt and deserves compensation. We win or lose because a jury likes the way a witness looks or speaks or has an ethnic name or comes from a particular neighborhood. The money they are stealing from our institutions could have been spent on research that would save humanity.

"The most important advice I can give you is to close ranks against these carpetbaggers. Do everything within your power to defeat them. When I say 'everything' I mean everything and anything. I predict that this will become all-out war. Our enemies will stop at nothing. They have no morals and no principles. Therefore, we must not let ourselves be impeded by crippling concepts of right and wrong. We must excise, we must cut out and destroy this malignancy before it destroys American medicine. This is your personal obligation to your profession--each one of you who are destined to be the leaders of the next generation."

In medical school the two young doctors had to become hardened to suffering and death. They had watched as their fellow human beings lay helpless on stretchers and died, with or without medical attention. They had watched women and children be mended after having been battered by "loving" husbands and fathers. They had learned that disease doesn't discriminate. They learned to erect emotional stockades around themselves, to believe that it

wouldn't happen to them, that somehow they were invulnerable. Like the titanium and stainless steel instruments in the operating room, strong and miraculous.

That night the two had huddled in each other's arms, each thinking of the frightening words that had been spoken over them, opening wounds in their emotional security. They too were vulnerable. And like normal members of the species they started to build defenses, attitudes that would protect them and let them survive in the face of vulnerability. Lawyers were fucking the medical profession. They would join ranks and fight the enemy— not the two of them together though. They were each awarded too-good-to-refuse residencies three thousand miles apart. Maybe taking that appointment was his biggest regret.

Now Hopkins clenched his jaw reflexively. The enemy was directly in front of him. All he could see of it right now was the hospital record that belonged to a dead body at that moment being wheeled on a stretcher to a refrigerator in the hospital basement. From the River Room, where “guests” are served dinner on linen with a rose and a candle to the hospital morgue. There was no question that the hired Hessians would follow, first with innocuous letters asking for records, then process servers, depositions, courtrooms, humiliation. Explanations to the hospital board. More humiliation.

He answered the ringing phone, listened, then spoke. "I talked it over with the medical examiner. He's going to have Ky do the post." Hopkins listened again, then said, "I'm sending Schult. He's dealt with Ky before." Marshaling the troops, striking first in anticipation of attack.

"I'm worried about what they might find. I've been looking at the chart. I think you and I should spend a little time going over it before we release the body." He listened again. "The sooner the better. I'll be here all afternoon."

Two hours later Van Shepherd walked in with a smile and put his briefcase down next to the chair in front of Hopkins' desk.

No pleasantries. The portly lawyer in his standard gray suit, blue on blue pattern tie and two thousand dollar hairpiece sat down and let the doctor start the conversation.

"Those fucking nurses got to the record before I could get a hold of it. It's a disaster." As close as Hopkins came to showing emotion.

"Maybe not, maybe not." Shepherd smiled calmly. "Let's see what there is."

The doctor and his counsel, who knew almost as much medicine, spent the next hour going over the short record. Twice the medical director picked up the phone and issued orders. They went over the personnel file of the private duty nurse. At the end of the conference Shepherd lifted one sheet and handed it to Hopkins. Both men looked down at the sheet and said nothing.

The lawyer stood up to leave. "I'm going to think about this for a while. Get family permission for a post on the abdomen only. Make sure your pathologist finds a hot gall bladder. I've got an idea that might work out." "Let's hope he was so rich they won't need to bring an action. At least there won't be a crying widow and kids to sit and look at the jury. Start a rumor that he had AIDS. Don't worry about it— yet. And get rid of that private duty nurse. Make sure she keeps her mouth shut. Scare the shit out of her. Have somebody, with no connection with the hospital or anybody here, offer her a job that's too good to refuse. Miami, or some nice warm place. Nothing in writing. She might be the best thing that's happened to us."

book2

Life in this society being, at best, an utter bore and no aspect of society being at all relevant to women, there remains to civic-minded, responsible, thrill-seeking females only to overthrow the government, eliminate the money system, institute complete automation and destroy the male sex.

S.C.U.M Manifesto by Valerie Solanas

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Nancy and Harry were just falling in love. They'd floated around the gallery studying canvases with impossible price tags, his arm around her waist. Occasionally an art lover would wonder whether he recognized the tall brunette in clinging black rayon or her dark, bearded escort in army fatigues. Most of the others in the brightly lit, smoke filled gallery clustered in groups facing away from the white walls, sucking cigarettes, sipping sparkling Chilean Chardonnay. The crowd thickened toward the back.

Slava Bough was standing there, holding court. No eye could miss the shocked white hair above the pasty pockmarked face. Nancy Carton and her tall, dark companion looked down at the art lovers coming up and tentatively shaking his hand, seeking his benediction.

She emptied her glass and lifted another from a passing tray. Groups of indeterminate sex with long greasy hair stood in front of him. He wore a graying leather motorcycle jacket and torn jeans with chartreuse leotard showing through at one knee. His small, porcine eyes scanned the scene, cold, registering, noticing, considering, not acknowledging.

Nancy, who was used to having men look her up and down, did not draw even a glance.

Bubbles tickled her tongue. On impulse, she went up and held out her hand and introduced herself. Reflexively, he took it in a grip that felt to her like the flesh would slip from his fragile bones. A fleeting look of fear, vulnerability crossed his face. She could smell his Chanel No. 5. When she asked him to autograph a cocktail napkin he dropped her hand and turned away. An aura of revulsion emanated from him. She was nine years old and had soiled her dress at the party, and in front of Harry.

She looked at The Artist, wondering if he had really turned his back on her. He half-rotated back, still facing slightly away. She hawked loudly, spit into the napkin and dropped it in front of his paint-stained hightop sneakers with a smile. Harry was laughing when she walked back. He had a nice laugh.

Aside from that evening, eight years ago, Bough was just another celebrity who had meant nothing to her or her life until a month ago. She had been sitting in the back row of the trouser-worn wooden benches under a crumbling plaster ceiling in the courtroom, feeling hungry, furtively sipping a sugarless cup of tea and reading the deposition of the dentist she would have to cross examine. It was the third time she had prepared this case for trial. Judges order you to select a jury. You panic, drop everything, study the medicine, read every word in the file, line up your evidence, contact your experts. And then a witness is on vacation or the judge has a conference or a lawyer's dog gets a toothache and everything gets adjourned again. The next time you wait until the night before and stay up all night learning everything over again and wishing you had more time to get prepared. It's like knowing you're going to have to take a final exam but never knowing when it will be. Yet, somehow, it usually works out.

Trial lawyers stood around the courtroom gossiping, telling war stories.

Periodically the court officer would scream out for quiet and order all coffee cups into the hallway. No one moved or stopped talking. A man on the bench in front of her was speaking to a young woman in a black cocktail dress with a revealing net top. Neither had a briefcase. "You know I have a great deal of affection for you. You know I wanted to make it work out." Nancy tried to concentrate on her trial notebook. Sons of bitches with their affection and wanting to work it out. What were they trying to work out when they went for that drink with the secretary? Tell him to go fuck himself.

Nancy tried to focus on the deposition she was trying to read. This dentist, another son of a bitch. Telling her client she would have to live with the pain in her face for the rest of her life. The bastard hadn't even taken an x-ray. For ten years he had made the woman dependent on him for pain killers and narcotics. First injections into her jaw, then in different parts of her face--and then, after a while, into her breasts--carefully, clinically palpating the injection site before injecting the long, thin needle. She couldn't wait to expose this twisted prick to the light of the courtroom and watch him shrivel. She couldn't wait to hear his explanation of the cocaine rods he had stuck up her client's nose.

"Nancy Carton, early as usual, I see." A gray flannel suit with an attache case sat down next to her. There wasn't room and his soft body pressed up against hers. She moved millimeters away, crowding her hip against the arm of the bench. If he ever made love, that body would ooze around his partner, smother her. Or him.

"The clerk says we might not start picking today. Did you know there are nine juries selected and waiting?" The young man mopped his forehead with a handkerchief. "This is taking a lot longer than I expected. Now one of my witnesses is going to be out of town next week. I have to speak with the judge. The insurance company is committeeing the case." He

spoke too fast.

She sighed and started rethinking her plans for the rest of the week, the rest of her life. Maybe tennis tomorrow. Maybe she should have a baby, get married, live in Garden City, drive the kid to ice skating, join a club, play golf, go to committee meetings, have dinner ready for the little man when he gets off the 6:14. It hadn't worked for her sister— or maybe it had, while it lasted.

The judge's voice shrieked above the din, "I said no and I mean no. What else?"

The young man pointed to the flock of lawyers standing in front of the judge, some leaning their arms on the bench, one standing back quietly and another arguing too strenuously. "That's the Slava Bough death case."

"Who's representing the estate?"

"Jerry Stryver and Mary McBride. Stryver's a big theatrical lawyer. He was the plaintiffs' attorney in the Grateful Dead case last year."

Nancy said, "Never heard of him. He's trying a medical case? What's Mary McBride doing there?"

The woman turned around at that moment. She saw Nancy and her troubled expression gave way to a clandestine wink.

The judge's soprano irritated, "That's all. Next case." Stryver kept arguing. The judge turned away from him, her lacquered hair moving like a helmet, and screeched, "I said that's all. Get out of here. Next case." The lawyers turned and headed for the door. The defense attorneys were smiling and whispering. As a group they looked at Stryver and shared a laugh. A man in the back of the courtroom stood and joined them going out the door. Stryver walked back frowning and looking at the floor. His hand ran absently over the back of his head

and patted the line of his hairpiece. By the time he reached the spectators' seats he was walking erect and might even have been smiling. His suit fit perfectly.

Nancy's case was called. She and her adversary walked to the front of the courtroom. Stryver turned to check the fit of her suit.

The judge said, "Ms. Carton. We haven't had the pleasure of your company in a while."

"I've been out in the country, judge. Trying cases in Brooklyn." The judge laughed.

Her adversary told the judge about his witness problem and asked for an adjournment. The judge listened impatiently to the young man and then interrupted him. She turned to Nancy. "Are you ready?"

Sweat broke out on her adversary's flushed forehead. "Please, judge. I only need a month. The holidays are coming. My expert witness left town early. I won't be able to get another. This is probably going to be settled right after I meet with the committee at the insurance company."

The judge registered the young man's fear and impotence and then turned to Nancy, "Ms. Carton?"

Nancy said she had no objection as long as it wouldn't interfere with her Christmas in Hawaii. She and her mother had plane tickets for December 18. The judge told them to come back January 5.

The plaintiff's lawyers in The Artist's case were sullenly standing in the hallway. Mary McBride said something to Stryver and then walked quickly over to Nancy.

Nancy said, "Looks like you're keeping fast company."

McBride laughed, "Anything for a buck." She put her hand on Nancy's arm. "I

have to talk with you." They walked to a niche in the hallway by a window. "My firm hired me out as a medical consultant to the plaintiffs in the Bough death case. We're picking a jury. These guys are trial lawyers but they've never done a malpractice case." She lowered her voice. "They're show business lawyers, for Christ's sake.

"Walker and Parker are representing the doctors and the hospital. Bill Heany has the nurse. They're like a vaudeville act. Every time Jerry says something, they gang up on him. The whole jury panel is laughing at him."

Stryver joined them. McBride introduced Nancy and mentioned that Nancy had taught a seminar in trial advocacy she took in law school.

Nancy held his hand an instant longer than necessary, looked into his eyes and said warmly, "I've heard so much about you, Mr. Stryver. That was a wonderful win in the Grateful Dead case." Stryver inflated and made self-deprecating noises. McBride interrupted. "Nancy, every time we start describing how Bough died, they cut us off. The judge keeps ruling in their favor. How do you do it?"

"Don't discuss the facts. You can't prove anything right now. They're probably right to object."

Stryver twitched. His glance dropped to the bare ring finger on her left hand.

"Just say something like, The Artist died after a simple gall bladder operation. It isn't life-threatening, to remove a man's gallbladder. Everybody knows that. We're all going to be looking to these gentlemen to hear their explanation. That way, you've put the burden on them to make excuses and the jury will know it. Let them talk about how serious the case is."

The red elevator light chirped. Nancy picked up her briefcase. Stryver said, "The judge calls everyone of them by their first names." The elevator door opened.

Nancy turned toward it, stopped and said, "She does. And by the way, keep your eyes open. When Heany and Parker left the courtroom, Jack McGuire walked out with them. McGuire's the judge's best friend."

She walked from the courthouse to her two room office in the back of the Woolworth Building thinking about the rich artist who probably would have survived if his operation had been at a City hospital in the Bronx by a Filipino surgeon with a green card. And now his death case--New York's biggest medical death case ever--was being tried by a Hollywood hotshot. A man who had never picked a jury in a malpractice case had a lock on the headlines and the 11 o'clock news for the next month.

The next day she was sitting at her desk drinking a cup of burnt rice green tea, not eating a donut and putting away the papers on the case against the dentist. Practicing law is mostly clearing papers off your desk. Woman's work. The telephone interrupted.

Mary McBride's voice said, "We probably shouldn't discuss this over the phone. Jerry Stryver asked me to give you a call. We need your help. They assumed this would just be another trial. They're getting killed and it's only jury selection."

"Why don't you try it, Mary? You're as good as anybody out there."

"They know I've only been trying cases four years. For them I'm still a nurse. Our deal is I help with the medicine and the nursing questions. Right now everybody is in a panic. Are you interested?"

As soon as she hung up, Nancy called her mother. "I might have trouble making Hawaii."

Her mother said, "You're so happy about canceling our vacation. What's happening?"

"I think I'm getting involved in the Bough death case. This is a very big case, Mom."

Her mother's voice lightened, "Bough. I think of him every time I make mushroom soup-noodle casserole."

"Mother, you never make mushroom soup-noodle casserole."

"That's what I mean."

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The small, discreet sign read, "Tara." Nancy turned her car into the circular driveway in front of a brick-fronted house, almost big enough to cover the whole building plot. Spindly trees in line around the border. Massive twenty foot wood faux Corinthian marble columns supported a tiny roof over the entrance. A pair of bay windows added variety to the building metaphor. It was the largest of the three different models in the subdivision.

She drove around a shrubbery island of rococo bonsai and parked her old black BMW behind a Camaro and a Volkswagen. The VW was sunshine yellow with a plastic flower antenna--a relic of Mary's nursing school days. A long forest green Mercedes shone in front of the garage. They had probably scheduled an earlier meeting to get their signals straight.

A maid led her into a family room that opened off the rear of the house. A dirt-colored cat stalked through the doorway. The room was bigger than her whole apartment. Picture windows looked out on a swimming pool and waterfall blanketed in green plastic. Stryver and Mary McBride stood as she walked in. Another man, stuck to the sides of his easy chair, fainted at getting up. He was introduced as Hubert Wemmick. A day-glo blonde in a clinging electric blue jumpsuit and diamond studded ears was Vickie, Stryver's trophy wife. Vickie glared.

Her husband was wearing a white cashmere turtleneck over weight lifter's pecs and lats. Legs in Italian stovepipe black pants, spindly, like the trees in his yard. The white sweater set off his November lamp tan.

"Nancy. Thank you so much for coming. I'm so happy to see you. Can I get you a cup of coffee? Have a seat." He put his arm around her and led her to overstuffed naugahyde under a Tiffany chandelier at the opposite end of the room from the chrome Nautilus, treadmill, rowing machine and stairmaster. He gave her shoulder a squeeze then watched as she took off her knit jacket and dropped it on an empty chair.

Coffee.

"Nancy." As she settled into the furniture, he began pacing back and forth with his abdomen held in. "Let me get right to the point. This is a very important case, as you well know. We thought we could try it like any other personal injury or business litigation. We just got eight million dollars for Tamara LeBeau's bus accident. It was the biggest settlement they've ever had in Ohio. We represent Warner Brothers in all their copyright litigation." He stopped and focused directly on Nancy. The real world of show biz. The cat jumped onto the chair next to Nancy's jacket. "I've tried cases in twelve different states and the District of Columbia. We get into a case, learn the rules, get the facts and go to trial. We win because we're better prepared, smarter and tougher than the other side. We make a lot of money."

He paused, basking in the ambiance of all the wonderful rewards of being better prepared, tougher and smarter. Vickie got up and excused herself in some kind of British accent. The cat was sniffing Nancy's jacket, poking it with a claw.

"We're finding we're a little over our heads on this one." It was hard for him to say. "You malpractice guys have your own rules. I've picked over a hundred juries. But every step I take in this case--those bastards stick their feet out and trip me. We go to the judge and she says they're right. I almost wonder if there's a contract."

Nancy interrupted, "Watkins is the straightest judge on the bench."

"Whatever. We're learning the medicine. We've got the best doctors in the country to come in and testify, but we don't have the slightest inkling what the defense is going to be." Panic.

The cat was massaging its body on her jacket. Nancy sat with a neutral expression on her face, watching the cat. She could feel a wheeze starting low in her chest. She sipped the coffee, black.

Stryver was saying, "There's no way we can prepare for a defense we don't know anything about."

She could have predicted this conversation from the moment Stryver took the case. She wondered at what point they would be willing to give up control and how much they would let go.

Stryver went on. "Nancy, I'll be right up front. We've done some work with Bob Connors. We asked him if he wanted to get involved but he's trying a case that'll probably go right through Christmas. Mary suggested you. Frankly, I liked how free, and on target, you were with your advice to us about jury selection in the courthouse the other day. I liked it that you were on our side when you told us to watch out for the defense cosyng up to Jack McGuire. We're a team and it's important that we work as a team. I called Judge Smiley. He and I went to law school together. He said there are some judges who think you're the best in the business." He paused. He had the instinct for a dramatic moment that must be allowed to mature. "We'd like you to join our team."

Nancy didn't change expression. She never knew how to react to compliments, and someone like Stryver had a reason for every single thing he said and did. What was going on? How much did he know about her, like how low she stood in the New York pecking order?

That she needed a big case? That she wasn't one of the big guys with the doctors or nurses from children's hospitals on the payroll or the television advertisers. The ones who sent limousines to bring in the new clients? That she would be willing to pay them to let her get involved in this case? That she was a trial lawyer with a part-time secretary and a small office who got cases when the big shots needed someone to pull their chestnuts out of the fire the night before trial? That she worked for a piece of the fee, paying for the luxury of not being an office and paper lawyer? That she wasn't afraid to lose, but she hated it? Maybe they knew all that and wanted that kind of lawyer. But why didn't they want Ephraim Gold or Jules Boyd, lawyers whose name on a file made the insurance claims people double the reserve?

The cat pounced and sank its claws into the sleeve of Nancy's jacket. Nancy's hand was under the cat. It scowled and twisted as it flew through the air. Stryver looked as if he had been spanked.

She allowed herself a small smile. "Jerry, I've heard that you're one of the great trial lawyers in the country." No trial lawyer ever asks for proof when somebody tells him that. "I know Mary's one of the best in the business. I'd be honored to work with you. What part do you see me playing?"

"The medical questions. That's your specialty. Hubert knows everything there is to know from a lawyer's point of view but we're worried about getting our medical points across. We'd expect you to put in the proof. If we don't win on the medical questions, nothing else matters."

"So you want me to examine all the doctors, both the defendants and our own witnesses?"

Pause, silence. Assent?

She was watching the cat pee on a corner of the oriental rug. Nobody seemed to notice.

"What about the nurses and the witnesses on the family questions?"

McBride began, "I'm questioning..."

Stryver cut her off. "Right now, my plan is to have you do the medicine, Mary does the nursing, and Hubert and I try the family and art aspects of the case. I do the opening and closing arguments. I'm the captain of the team. I have final say on everything."

Captain of the team, captain of a crazy quilt. Maybe they should wear uniforms and give out score cards so the jury will be able to tell who they all are.

She said, "I should tell you I haven't worked with a team since I did defendants' work in my first job. Normally I don't even use a prep' person." No partners, professional or otherwise in her life. "But I'm sure we'll do fine."

"One of the things I've been wondering is how you're going to prove damages. From what I've heard, he died in his sleep without any kind of suffering and he was a bachelor with no dependents. How do you show pain and suffering? How do you prove pecuniary loss to any relative?"

Wemmick leaned forward. Crumbs of Danish pastry tumbled down his chest onto the plateau of his stomach. "Bough was a very, very wealthy person." His accent was New Yorkus vulgaris. "His estate is estimated at 400 million dollars and he had a great deal of affection for his dear family."

"So if he left 400 million dollars, the dear family can buy their own hospital. Why is anybody bothering to sue?"

"He left it all to his Foundation. The brother and sister each only get a couple

hundred thousand. They're trustees of the foundation. No other beneficiaries...."

Stryver interrupted, "That's enough, Hubert. The important thing is that he gave them presents of art. He gave his brother art."

Mary spoke quickly again, "The defense claims the brother stole the art when The Artist was shot in 1968."

Nancy asked, "Are you representing the estate and the foundation?"

Stryver' secret smile surfaced. "Yes. And we keep them as happy as possible."

"I'd like to meet the family. When are they coming to town?" Nancy said.

Stryver said, "We're bringing them in over the weekend. But you don't have to worry about that part of the case."

"I know that, but I like to get a feel for the whole situation. They might know something about his medical history that will help. You never know."

Stryver had sat quietly looking at Nancy, then looked over at Wemmick with a little nod. Wemmick nodded back.

"Well, Nancy? Welcome on board," Stryver said.

They were welcoming her to the team and there hadn't been any discussion of her fee. She said nothing.

As if he were thinking of the same subject, Stryver said, "Nancy, if we win this case, we're talking millions. Millions and millions." He looked off into the distance.

He returned and said quietly, "And, if we lose, we'll be humiliated... On CNN."

She sat looking into the abyss of medical records, depositions, exhibits, legal pleadings. Somewhere in all of that there was a story about a famous man, and men in green coveralls with masks on their faces attacking his belly with deadly weapons. Then running away. Running. Running. Malpractice, whatever that was. You go to law school for three years and learn all about the rules written to help rich people stay rich and get richer. Then you get a case like this and they expect you to find the mistakes made by the people who went to medical school for four years, then spent four more years becoming specialists and then spent their entire working lives doing the same operation over and over. You can't even read their handwriting or the crummy photocopies they begrudgingly give you after the court orders them to. All the proof comes from those records that they create and control, knowing when they write them that lawyers will read every word. The doctors win seventy or eighty percent of the trials. Maybe she could do it. She had done it before. Somehow she would do it. She loved betting against the odds. And she won cases.

Opening a medical record was like meeting someone new, only you met them from the inside. There was information they never told even their best friends, things they didn't even know about themselves.

The earliest papers in the pile came from the office of Dr. Lynn Benjamin. The Artist had been diligent about having a physical every year. The first treatment by Benjamin was for condylomata acuminata--The world-famous artist bent over the examining table while the doctor burned venereal warts off his anus.

Then, in 1968, Benjamin mentions he visited The Artist in the hospital, "social

visit, recovering well from gunshots."

Benjamin had saved a magazine article over the by-line of "Star Morgan." It looked like it had been written after The Artist's death.

The Artist arrived late to The Factory. The day before had been more bountiful than usual. Five flea markets. A nineteenth century armoire, to be delivered. An art nouveau lamp, a sepia toned photo of Sgt. Major Frederick O. Schroeder in Civil War uniform, a gilded stuffed bat, a Maxfield Parrish print and a bronze winged Mercury. He had counted out almost \$5000 in cash from the zipped inner pocket of the cracked and worn motorcycle jacket. The limousine was so full, his secretary had to walk.

Most of the new things could be stored inside the armoire and they'd find a place for it in The Factory.

After shopping, to Nina's apartment for "sex lessons" by her and Bill. He walked through the crammed old building. Overflowing. Valuable real estate. A good investment. He would buy more real estate. Europeans understand the value of land.

His feeling of emptiness or need was still there. Somehow, the new things were no more satisfying than all the rest.

He was a dragon gathering gold and damsels it couldn't use. No matter how much, there wasn't enough.

At the Factory the artisans didn't greet him or even look up. They knew he saw their work but not them. Just as well. Better not to be noticed than to be the object of a tantrum.

He made his way through the clutter to the office on the second floor. More clutter in the office. The desk piled with papers, magazines, old cameras, drawings, paint tubes, debris of a celebrity that had not been moved for months. A Magritte leaning against the wall behind a Himmelfarb. A thin splendor beamed through the dirty window and picked up fragments of dust in the air. Not a space befitting a man worth millions of dollars, but the room of a coal miner's son whose brother collected junk for a living. He walked over and looked out. The tree in the yard, almost bare. A lone leaf detached and floated to the ground. A feeling of panic.

A voice came over the intercom, "Nina's on her way up."

He yelled out, "Tell her I'm busy. I don't want to see her." The intercom was off and no one heard him.

Half a minute later the door to the small office opened and a thin, pale woman all in black came in. Dark eye shadow and brown lipstick. The Artist's inner eye registered monochromatic: black and pure white, planes of color, moving through the sunlight.

His mind replayed the sex lesson and image of Nina all white then with smaller planes of black.

Bitch. why don't you leave me alone. He said, "What do you want?"

She was silent. She looked at him. Her pupils were large and made her eyes seem almost black. They glistened, ready to spill tears.

"You said I'd be in the new film."

"The only film you're ever going to be in is an army training film."

"You fag bastard," she hissed. Her hand came out of her pocket holding a nickel-plated revolver.

His mind noted a symphony of black and white and silver glinting in the splendor as four bullets exploded into his body.

Sirens bitched in the distance as his consciousness ebbed away.

Next, some New York Times film reviews, clippings about his movies. One had starred The Empire State Building. Eight hours of the building filmed through a window. Not much action, plot a little thin. A commentator notes that, at one point, The Artist's reflection is seen in the window--obviously putting his signature on this significant contribution. Probably more enjoyable than Woody Allen's neuroses. Do people watch movies like that? The Artist did non-stories. Nobody ever heard about the non-actress after she went to jail but the shooting was a public relations bonanza for The Artist. If he hadn't been known for his esthetics, he would have become famous from the shooting. Would he have arranged it as a publicity gimmick? No, if it was, he would have had it filmed. Nancy wanted to know who Star Morgan was.

The hospital record for the gunshot admission. A small hospital run by the Diocese of New York. Good thing he hadn't needed an abortion. He was listed as unmarried, Catholic and self-employed. No next of kin? Not good if defendants' attorneys point out that he considered that he had no next of kin.

She noted the lab results for hemoglobin and hematocrit. He had lost almost half the blood in his body. By the time they got him to the hospital he had been in shock.

"Last rites administered." Are the last rites still good if you die ten years later?

The bullets had punctured his spleen, pancreas and lung. The surgeons cut out the spleen, the end of the pancreas and parts of the left lung. Damage to the pancreas—she made a mental note to keep an eye out for diabetes. Always causes problems.

With four bullets going into his chest and abdomen, he was lucky that was all the damage that had been done. The bullets had missed the heart and major blood vessels. Too bad his luck hadn't lasted.

The doctors had done an excellent job putting him back together. New York is a good place to get shot.

No chart for the next admission. Only a discharge summary that mentioned he had been treated for a subphrenic abscess--a pus pocket where the bullets went in. They cut him open again and cleaned it out. Poor man.

Benjamin's records started before the gunshots and went right up to the final hospital admission. He had treated sore throats, sinus infections, hemorrhoids. He even noted flat feet on his last physical exam before the gall bladder operation.

Nothing sexual after the venereal warts. Not even a little dose of clap.

On the two physical exams Benjamin did in the two days before the last hospital admission Benjamin's notes went above and beyond the call of duty. More detail in the last exams than any prior visit. Could be the doctor was more thorough because this time his patient was really sick. Or it could be he had written up the last visits after The Artist died. She only had photostats. Mental note: check these against the originals when they come into the courtroom.

She laid the laboratory test results from the last two visits on her desk next to

each other. Benjamin had taken two batteries of tests in two days--CBC's and SMA-24's--routine tests--nothing more sophisticated. She checked for lab test order slips. Not there. Some doctors take a chest x-ray of every patient so they can bill an extra \$40. But maybe Benjamin suspected something and wanted the second lab test for confirmation. Mental note: try to figure out what had been on his mind when she studies his deposition.

Each of the test reports listed The Artist's scores next to normal values and noted "hi" or "lo" for each abnormal result. The amylase was slightly elevated. Serum cholesterol was 108. There were members of Nancy's health club who would have died for a cholesterol of 108. Did he die for his 108?

Hemoglobin and hematocrit were 13.9 and 41 two days before the admission and 12.9 and 37 on the next day--measurements of the concentration of red blood cells. These were abnormal and getting lower. He was anemic. Why? She looked at lab tests that had been taken a year before The Artist's death when he was well. 14.6 and 44. Cholesterol 169.

She took out the record of the final hospital admission and turned to the lab tests. She found the SMA blood chemistries. Cholesterol and amylase were the same as on the tests from Benjamin's office. She looked for the CBC with hemoglobin and hematocrit from the last hospitalization. There was none. She found the doctor's admission orders for Metropolitan--a different handwriting from Benjamin's. Signature illegible. On the third line from the top was an order for a CBC, a complete blood count, with a check next to it. That meant blood had been drawn and sent to the laboratory. The results should be in the chart. She went through every page again. No CBC results. She made a note to ask Mary or Wemmick for those lab test results.

She found the typed report of the operation, signed by Christian Godson, M.D.

and dated two weeks after The Artist's death. She knew it would be a textbook-perfect description of a gall bladder removal and incisional hernia repair. An ophthalmologist she had dated told her that after an operation, he would telephone the transcriber and just say, "Type up my cataract, right eye."

The discharge summary had been dictated by a Dr. Richard Cappalli. Cappalli had assisted Godson at the operation. Also written weeks after everything, it described a completely uneventful hospitalization and attributed the death to cardiac arrest. Sure, 57 years old and never a missed beat.

Progress notes were unremarkable. Only five entries, none by Godson. A surgeon who operated on 400 million dollar celebrities was much too exalted to sit down and look at a patient's chart, let alone write in it. Nancy had seen people like Godson walking through wards pontificating to troops of residents trailing in their wake. Leaving it to the boys and girls just out of medical school to decide what should be written in the chart and how the patient should be cared for. People like that happened in every profession--lost in their own importance, out of touch with the lives entrusted to them.

Nurses' notes were usually the last part of any hospital chart. Doctors see the patient once a day for five minutes; nurses were there around the clock. Medical care is done by the nurses. Nancy went through every word. Nurse Lipinski had a half page of notes for her 8-hour shift after the operation. She reported moderate pain, that The Artist had gone to the bathroom with assistance and that he was sleeping off and on. Used inspiration spirometer. Her notes of pulse, blood pressure and respirations were complete and unremarkable.

Lipinski's round Palmer handwriting was followed by two scratchy notes over the

signature of Helen Lee. The first said, "8PM-8AM Medicated for pain, slept all night, no problem." The next note, in a different handwriting read, "4:20 AM Patient found no carotid pulse. Code called."

Wemmick had told Nancy about Nurse Lee's charting--the smoking gun lawyers pray for. He had also told her that Nurse Lee was uninsured and had been retained privately by The Artist. The hospital wasn't legally responsible for her mistakes. If Stryver & Co. were going to be doing this for more than just God and Country, they had to prove hospital and doctor negligence.

Curious that Lee's notes had made it to the plaintiff's attorneys. They were on the same sheet as Nurse Lipinski's. Maybe they had tried to get Lipinski to rewrite hers on a separate sheet and she refused. Maybe this was like salting mines in the old West, where they used a shotgun to inject gold into a barren granite mountain.

After she had digested all of the doctors' and hospital records, Nancy looked for the autopsy. There was only the final summary. It too listed the cause of death as cardiac arrest. "Cardiac arrest" means your heart stops--everybody dies of cardiac arrest.

On the Saturday before Thanksgiving Nancy woke to bright sun flooding the bedroom. She lay there taking inventory of body parts. Some eye strain, a little stiffness, no aches or pains, good energy level. A full night's sleep. Cool in the apartment. Probably around forty outside. Not balmy Indian Summer. If she stayed inside and didn't run, next time it would be harder to get going. Maybe she'd never run again if she didn't go out today. She'd get fat. People would sneer as she waddled down the street shoving donuts into her mouth.

She rubbed Vaseline on her inner thighs and underarms, and weighed herself. Always weigh yourself nude and hold in your stomach when you see yourself in the mirror. How much should she subtract for the Vaseline? Why diet more than absolutely necessary? Two goddamn pounds more than yesterday and she hadn't eaten anything-- just three chocolate truffles. Put on sports underwear, then leggings and a loose white sweatshirt. She pulled back her hair and chose a red sweatband. On the way out she took in the whole picture in the hall mirror. The look was right--no nonsense forty-three-year-old marathoner in training. Except for those truffle and donut thighs. It would be a good run.

Her father had returned to religion in middle age. She went back to the track.

Walk to the West 72nd Street entrance to the park, mild stretching--she never understood stretching but people always did it--then an easy start, running downtown. Autumn leaves still on the trees. In-line skaters weaving through a course of empty beer cans, some doing it backwards. Cars were banned on weekends. Running down the middle of

Park Drive reminded her of dancing naked through a misting rain, in a green meadow, years ago.

At the 59th Street end of the park a family tentatively entering the park, the father being pushed in a wheelchair. All in going-to-church clothes. The artist had a family. She had been mildly surprised to hear it. What seeds had been sewn in the coal dust of Pittsburgh that grew into the most successful artist since Picasso? Had his sexual preferences catapulted him to the City? And what about his sexual preferences? No partner. No one mentioned in any of the depositions. Not even anyone listed as a witness to his condition before he went into the hospital, except some guru who had gone back to waiting on tables. No HIV/AIDS. No VD. He wasn't an old man. Nancy had been hit on by men a lot older. Curious.

Running at a good pace she avoided the reservoir with its good cinder track--nice surface but boring. Then the Metropolitan Museum, great gilded treasure vault. Did they own Boghu's works? Had his paintings ever been exhibited there? Did they think the things he did were art? How were all his money and art going to play in the trial? It could cut either way. She still didn't know much about him as an artist. Funny, within a few days she would know more about his warts and innards than anyone else in the world. As long as she was going to be involved in this case, she had to watch everything her co-counsel were doing. Maybe starting today.

Mt. Sinai Hospital passed her on the right. A young blonde woman was running toward her with a sick look on her face. Her head lolled from side to side. Maybe she was out of shape. A block later Nancy ran into a group of twelve-year-olds rampaging on bicycles. She heard, "Hey, big tits." Snickers. Whistles. "Nice ass." A hand on her backside. She whirled, her elbow catching nose. The kid, off his bike, on the ground bewildered,

blood spilling down his face onto his shirt. She turned on the others, combat position, fists balled. "Who's next, motherfuckers?"

They retreated. She put on her most scornful look and tried to look fast and strong. Opening paragraph of her autopsy: "The body is that of a very well nourished adult female approximately thirty five years of age (she liked the 35 years part) measuring 5' 8" and weighing 135 pounds." The adult version of your Mother's advice to wear clean underwear in case you have an accident. Have to run off the thunder thighs first. The pre-teen terrorists disappeared behind her.

She rounded the north end of the park and headed up Heartbreak Hill. No sign of the little ass-grabbers. She was still shaking. Try to maintain speed. Don't look back. Sweat ran into her eyes. Hard breathing. She put a finger on the side of her nose and blew the way her grandfather had out in his garden. Exercise this painful has to be good for you. Especially since she would spend the rest of the day bent over a pile of depositions and medical records. Less than two weeks to learn everything about the case including all the medicine.

After she'd been fired from her second job for insubordination, she had started taking cases that other lawyers dumped on her when they couldn't get a settlement--always the most poorly prepared, with the biggest problems. She won more than anyone expected and her reputation began to build. Partners in some of the big firms knew they could call her on Friday to pick a jury and start a trial on Monday. She learned to take a quick overview, pick the most important points, then hammer them until the jury thought there was nothing else. It might work here.

That afternoon she sat at the banquet-sized library table in Stryver's office, squeezed in with Wemmick and McBride between cardboard file boxes. She could still feel the run in her

legs. Stryver looked down on them from a large courtroom drawing hung in the center of the wall. He was orating to the jury with someone that looked a lot like Frank Sinatra in the client's seat.

Nancy mentally genuflected to the graven image and turned to the live lawyers. "So what's your theory of liability?"

"They never calculated the fluids they gave him. He received about 2000 cc's more in the eighteen hours he was in the hospital than he put out. His body couldn't handle the extra fluids and he went into heart failure."

"Does the intake and output sheet show the 2000 cc excess?"

Mary answered, "There is no I&O sheet. Dr. Richards, our expert, made her calculations from the doctors' orders and the nurses notes. It's sort of a rough estimate."

Nancy frowned. "I only have the summary of the autopsy that says cardiac arrest. There's nothing about fluid overload. Where's the rest of the autopsy report?"

"The only thing we got is the single sheet we gave you."

"A complete autopsy is at least five or six pages. Have you spoken with the medical examiner?"

"We took his deposition."

"What did he say was the cause of death?"

"The same as on his report, cardiac arrest."

"Everybody dies of cardiac arrest. The last thing that happens when you die is your heart stops beating. What did he say caused it?"

"No one asked that question. There was a lot of screaming going on."

"What's the rest of your liability theory?"

Wemmick said, "That's it."

Oh, God!

Wemmick read her expression. "We realize this is a hard case."

Nancy said, "You got that right. Your theory is that they poisoned him with water.

You don't have a widow and kids to sit in the front row crying. You've got one of the wealthiest men in the world who dies and leaves four hundred million dollars to a foundation and forgets his family. On top of all that, the malpractice is anything but sexy. You win cases where you have an artery that was sliced into during the operation and the patient bleeds to death, or they give the wrong medication, or they put him on nitrous oxide instead of oxygen. Here you have a chemistry set theory. They didn't calculate his weight and his respirations and body temperature and arrive at the right amount of water to give the patient. And you don't have the intake and output sheet that they hang at the end of every patient's bed and record how much fluid he takes in and puts out. If the defense realizes that's your argument, they point out that no one who has kidneys is going to die from too much water. Then they laugh at us."C:\S\15.wpd

She parked her car in the rusted steel LaGuardia Airport lot, its permanent neon snowflakes switched on for the holidays. Then made her way through familiar tunnels to the American Airlines terminal. This time she wasn't weighed down with bags and skis or a hairy person to carry them for her. She found herself rehearsing a request for the Ambassador's Club in French. Airports always started her thinking in French.

The Ambassador's Club receptionist led her to a black leather conference room already occupied by Stryver & Co. The Captain sported a tailored, double-breasted blue blazer, pink Ralph Lauren shirt, tassel loafers and Vitalised hair piece. He was pacing back and forth, looming over two bewildered sixty-year-olds. He abruptly stopped to introduce Nancy to Jane and Michael, The Artist's sister and brother, and then turned on them and resumed the lecture.

"You've got to get this right. The whole case depends on your testimony. You fuck up, we lose. You're out millions of dollars." Not to mention his one-third.

Nancy watched sister and brother cringe and shrink into their armchairs. She walked out to the reception area and helped herself to a cup of coffee and two flaky Danish pastries with glazed sugar on top.

When she sat down again, Stryver was standing in front of Michael. "I'm going to ask you about the paintings once more and I want to hear your answer. Give me the whole

answer. Make sure you get it right." He looked out the window at a baggage cart scurrying under a plane, then back at his witness. "Tell me Michael," in round courtroom tones, "did you own any of your brother's paintings?"

Michael swallowed and looked into the faces of his sister and McBride. When he spoke, the words rushed out in a run-on squeak. "My brother was very generous to me. Most of the paintings I have, I'd just admire it and he'd say, 'Why don't you take it.'"

He stopped and looked expectantly at Stryver.

"No. No. No. Take it from the top. You've got guilt written all over your face. Think about how much your brother loved you and your sister and wanted to give you presents. No, cut to the visits to New York." He went back into courtroom mode.

"Michael, tell Judge Watkins and the jury, did you ever visit your brother in New York?"

Michael's head ratcheted forward with his chin out and Adam's apple bobbing.

"When my mother was alive and living with my brother..."

"Stop it, Stryver shouted. Your mother died ten years ago. Don't say that the visits were when your mother was alive."

"I was going to say that we started coming to New York when my mother moved in with my brother." His voice almost a whimper.

"Just talk about the visits. You came at least twice a year, right? If anybody asks, it was right up till his death."

Nancy touched Stryver's arm, "Jerry, can I talk with you outside?"

He followed her to the coffee urn where they both refilled. His impatience was palpable.

"You're killing this guy. You've got to ease up."

"Nancy, are you telling me how to prepare a witness?"

"I'm telling you that by the time he gets on the witness stand, he'll be melted jello, zero. He's not an actor who can learn lines and take direction."

"Look, you're new on this case, sweetheart." His finger pointing into her face. "I've been working with them for two years. I made this case out of bupkus. This is my case, my creation. They're gonna get it exactly the way I want it by the time I'm finished."

Males have to point things at females. This female doesn't have to take it. How much does she take? The cash register starts its tally right now. When enough adds up it buys her out of the case. Right now this isn't about her. Everything is about having a jury say, "Verdict for the plaintiff."

Stryver smiled at a long-haired brunette sitting next to the coffee. She smiled back. Nancy prayed to god the woman wouldn't end up on their jury. She had to have heard the whole embarrassing dialog.

"Let me ask them a few questions."

They went back in and Nancy turned to brother and sister. "Let's just hold off on the preparation of your testimony for a little bit. You know, I'm new in the case. I'd like to spend a little time with us just getting acquainted. Do you want some more coffee?"

Stryver looked at Wemmick, checked his watch, then slouched in his seat and raised his eyes to the ceiling.

Nancy continued, "It sounds like you were close as kids. I always dreamed of how nice it would be to have a big brother. It must have been good, the three of you having each other to grow up with. Were you close?"

Michael glanced at Jane, then looked back at Nancy and spoke hesitantly in his

coal miner's accent. "I was ten years older than him and three years older than Jane. But I guess we were pretty close. My father didn't make much in the mine so our mom went out and cleaned houses. I was responsible for my brother and sister. One of the things we like to do, I take them down to Woolworth's. They have one of those machines where you put in fifteen cents and sit in the booth and you get four pictures. My brother always wanted to go there. I think that's where he got started on them pictures with a lot of shots strung out. I sort of like to think I planted that idea on him going to Woolworth's."

"Was he an artistic little boy?"

"He was always drawing pictures. Another thing we liked to do was crayon up a whole piece of paper then open up a paper clip and scrape off a picture down through the layers of wax crayon. I showed him how to do that when he was just little."

Now Jane interrupted, "Mama was artistic. She could make flowers out of almost anything. She cut up old tin cans and made them into flowers. She sold them for fifty cents. Just think, she cleaned houses all day for \$2 but she could make a flower in half an hour and get fifty cents. She was always happy about that." Michael put in, "Things got better when I quit school. I got a route selling fruit from a truck. I was pretty good at that. Got my own truck. My brother worked with me on that when he wasn't in school."

"Selling fruit?" Nancy asked.

"Yeah, his mind was usually somewhere else but it wasn't a hard job. We just had to do it. My father died when my brother was about ten. My father said we should make sure my brother went to college. He was the smart one. Jane was smart too, but you didn't think of a girl getting an education in those days. But she got scholarships and worked her own way through school. With both her and me working, we was able to send our brother to

college."

Nancy looked over at Stryver, who was focused on Michael.

"Was the family close? I mean during those years when he was going to college." Nancy asked.

"He lived at home during college. We all loved it when he would bring out his paintings and sketches. He spread them on the kitchen table. Mama would put on her glasses and study them. Then she would take one or two and pin them on the kitchen wall. Sometimes, he would be drawing sitting at the kitchen table and Mama would come and watch over his shoulder. After a while she would pick up the charcoal or pencil and make some marks on his paper. He would laugh and tell her it was just what it needed.

"Later on, she came to live with him in New York. She had been sick and he wanted her near the New York doctors. And then she used to draw on his canvases. He liked her European handwriting. He did the drawing or painting and she wrote the inscriptions."

Nancy asked, "Was that a secret?"

"Oh no. Everybody knew it. That's how he worked. He did it with other people too. When he had the Factory, he was like the manager or the boss. He would get the idea and tell his workers in The Factory what to do. He'd drop in sometimes and make suggestions but they did most of the work. I used to think artists were painters who did the whole canvas, that's what I do. But my brother had his own way of doing things. He was an artist and a businessman."

"You're an artist too?"

"Nothing like he was. I paint abstracts."

Nancy asked about their visits to New York and his nephews and nieces. They said they always went to church with him when they came to New York, especially while their mother was living with him. Their mother was the most religious one in the family. After she had trouble with his birth and she didn't think he would live, she named him, "Slava Bough." It means glory to God. She always said he was doing God's work, making the world more beautiful.

Michael and Jane liked talking about their famous brother. Then Nancy said, "You know, the jury is going to like the two of you. You don't have to be anything but yourselves and talk about your brother just the way we've been doing here. We have a good judge and she's going to let you tell your stories. It's not going to be hard for you. You might even get to like being a witness."

Nancy turned to see Stryver's reaction.

He was in the other room talking with the woman by the coffee urn. He saw them looking at him, gave the brunette a quick pat and strode back. "We have to talk about the gifts your brother gave you. This is my understanding of what happened." He went into a lecture.

Once or twice Nancy saw Jane or Michael look over at her. The Captain was in charge.C:\\S\\16.wpd

The relatives were put back on the plane, the coffee urn brunette walked out on Stryver's arm and Wemmick bummed a ride back to the City with Nancy.

They passed a branch office of the Emigrant Industrial Savings Bank, green and white flag waving, "E.I.S.B." Wemmick snorted, "Every Irish Son of a Bitch. Spent ten years in prison there. Once a year the Cardinal came in to bless the money. Everyone hadda line up and kiss the ring. I stayed in the crapper and smoked cigarettes until he left. The more religion they got, the more you gotta watch out for them." He smothered a belch. "That's where I met Jerry. He came in to the bank for a real estate closing. He showed up a half hour early and collared me, told me he had never done a real estate deal before. He didn't want to look bad. I figured out all the adjustments for him and explained the papers. He sounded like a professor when his clients came in. He's got that talent."

"Great talent. That how he got The Artist's case? Sounded like he knew how to take out a gall bladder?" Nancy asked.

Wemmick ignored the sarcasm. "Jerry's always prospecting. We were at a benefit for The Old Westbury Gardens at Sotheby's. Madonna was sponsoring it and he wanted to meet her. Our business works like anything commercial--they gotta get to know your name. Jerry goes to these events. He meets the rich and famous. He's introduced, says something clever, funny, complimentary. The next affair is at some nightclub or he'll be at Café des Artistes. They meet again. Then when they need a lawyer, they remember that guy who represents all the stars who was such a nice person.

"That night at Sotheby's, I was with him, he was cruising, slapping backs, and he starts to talk with this young guy who looks like a model. You know, perfect body, hair styled, clothes no hetero would wear.

"Jerry's got a routine he goes into." Wemmick wrinkled his brow and mimicked Stryver's baritone. "I became a lawyer because I wanted to help people. That's what I've been doing for thirty years and I'm proud of it.' He has a way of gesturing with a champagne glass." Wemmick pointed a pinky. "It happens that most of my practice is representing people in the theatre and the arts. They usually need more help than ordinary people. You have to have a special sensitivity when you're involved with people who have a high profile. I love my work.' He drops a few names."

Wemmick looked over at Nancy. "The rich and famous like to have someone who has a *special sensitivity*. That means you listen to whatever they say and you nod with a very serious look on your face. They want complete attention and they're used to paying a lot of money for it." He looked at Nancy. "Think you'd be good at that?"

"So this guy is standing in front of Jerry, taking in the whole sales pitch. Probably a model, probably thinks he's an actor. Jerry's talking to him but the whole time he's looking over the shoulder of the guy's thousand dollar suit, scanning the crowd.

"The guy gives his name as Star Ferguson and says, 'Maybe I could make an appointment with you. I've been having some problems.'

"Jerry goes into counselor mode, tips his head a little to the side and says, 'Tell me about it.' He's got a great bedside manner.

"The guy says, 'I just lost my job. Actually, it was more than a job. I was Slava Boghu's business manager. I worked for him for seven years. It was a very close

relationship, more than just business. He's terribly unreasonable.' The guy goes on to describe a screaming fag fight which ends with The Artist throwing him out.

"I can tell that Jerry is starting to think the guy is some kind of nut case and he still hasn't met Madonna. He keeps smiling, flashes his silver card case and hands the guy a business card and tells him to call the office--no charge for talking. Then another guy dressed just like the first guy shows up. They both shop in the same store. His voice is even higher. He grabs the first guy on the arm and says, 'Star, I just heard. He's in the hospital. What's wrong?'

"Star, that's the first guy, says, 'I hope it's a heart transplant.'

"The two guys walk away with Jerry's card and Jerry forgets all about them because he's falling in love with a big white and gold barometer hanging on the wall. The catalog says 'Estimated Value \$1200.' Jerry authorizes some clerk to bid up to \$1500. The auction is the next day but Jerry doesn't go to auctions. He always has to win.

"Two days later, somebody else gets the barometer, we hear The Artist is dead and we're slitting our throats trying to remember the name of the bimbo when the receptionist tells Jerry he's got a call from Star Ferguson. He says, 'Who the hell is Star Ferguson?' I say, 'The Artist's girlfriend,' and he takes the call."

At the Triboro Bridge Nancy took a hand off the steering wheel and fumbled in her purse for the toll. Wemmick didn't seem to notice.

"So Ferguson shows up and the secretary brings him into the library and Jerry goes into his office routine, 'My office is such a mess. I've been negotiating for the movie rights on Sidney Sheldon's Doomsday Conspiracy--like on cue he gets a call from Hollywood--he tosses big numbers around for a few minutes. Then he and Ferguson talk about the auction. Jerry describes the barometer like he's some kind of collector, he quotes the curator who took his order. Eventually he condescends to ask Ferguson about himself.

"The guy says he's an art administrator, ran The Artist's business--anything from social secretary to vice president in charge of finance.

"Seems he got a call an hour ago from The Artist's lawyer, the same son-of-a-bitch who threatened him and made him stay away from Bough, only who is now extremely polite and solicitous because he has The Artist's Last Will and Ferguson is named executor.

"Jerry gets very quiet and then asks how much property there was.

"Ferguson starts listing assets, like real estate that Ferguson bought for him, a warehouse full of his own paintings that will probably triple in value now that he's dead. He had his own collection of 20th Century artists. He guesses the estate is worth fifty million dollars. Maybe more. Maybe a lot more.

"You gotta give it to Jerry. He keeps a poker face. I can still hear his

counselor voice, 'The Executor of an estate is entitled to a fee for serving as Executor. Two or three percent of the gross estate isn't unreasonable.' One thing Jerry knows is how much fees are. He pauses to let it sink in. 'It looks like The Artist has made you a millionaire.'

"Ferguson turns red in the face. I think maybe he's getting the vapors.

Instead, he starts laughing out loud. When he stops, he says, 'Did you hear what I just did?'

"I know, but Jerry looks puzzled.

"I just laughed the last laugh. Yesterday the bitch wouldn't have given me the time of day. He wrote that Will years ago and forgot about it!' He laughs again. 'No wonder that bastard lawyer was so nice on the phone. He has to deal with me now.'

"Then Jerry says, his voice very quiet, 'Only if you say so. You don't have to deal with him at all. If you want, I'd be happy to represent you.' They're both quiet and I can see Jerry's holding his breath."

Nancy stifled a snort and asked how much estate work they did.

Wemmick gave her a glance of acknowledgement.

"We subcontract. Anything that's out of our line, like taxes, estate questions, we hire an expert. Jerry says brains are the cheapest thing you can buy." He looked at Nancy. "Present company excepted, of course.

"Jerry's very smart. You heard of the April Showers case. We needed a local lawyer in Nevada. He coulda had the smartest lawyer in the state. Jerry did better; he hired the governor's brother.

"So then the business manager asks how we get paid and Jerry says, 'The same way you do. A percentage of the estate. It doesn't cost you a cent.' Words that work like magic. Done. They shake hands on it while I go out and dictate a retainer agreement. I

know Jerry is writing the press release before the guy even leaves the office: 'Jerry Stryver Retained by The Artist's Estate.'

"Next thing, Jerry does something really smart. He takes the retainer agreement and goes right over to the office of the lawyer who has the Will to take him by surprise. I've always wondered how many Wills were quietly burned by people who didn't like what they said."

Wemmick reached into his pocket and pulled out a milk chocolate Mars Bar.

While his teeth were carmeled together Nancy asked if he could arrange a meeting for her with Ferguson. He took a red bandana out of his pocket, wiped his face and said, "Sure-- just hold your girdle, ice woman. Wanna hear the rest of the story?"

"Do I have a choice?"

"The next problem was the family. Ferguson told us about the family. His brother is a businessman. You heard him. He parlayed his income from the junk business into shopping centers. The sister is a school teacher married to a guy who reads electric meters.

"Jerry would have been willing to get the next plane to Pittsburgh and even go to the funeral. But from the point of view of power and control, he hadda have the family come to him. See, they could rock the estate boat. So he calls and invites them to New York.

"He sends plane tickets and has a limo meet them at LaGuardia and bring them to the Plaza. The estate pays everything.

"The next morning the car brings them to the office. You shoulda seen them when Jerry and Star walked into the waiting room, the two of them sitting on the couch, their thighs touching. They're looking around, almost with their mouths open, at the pictures on the walls of Jerry and his clients. The sister looks the way she did today--plain, thin, no make-up, old coat. The brother tries to talk like a businessman but you could tell that inside, he's afraid of getting mugged.

"The brother looked Amish--that kind of beard. My first reaction was that I had never given it a thought but The Artist was probably bald too. In the pictures his hair always looked so crazy. It musta been a wig. Jerry introduces himself and brother and sister stand up and smile like Christians facing the lion. I look at the brother's wrist to see if anyone sold him a \$30 Rolex.

"Ferguson smiles and coos, 'Michael' and 'Jane.' Gives them hugs.

"Ferguson says that Michael and Jane used to come down for Orthodox Easter each year. He was part of their family dinner.

"Afterward Ferguson told me it was the only time Bough ever acted like a human being.

"Jerry sort of calls the meeting to order and says, 'There's an old fashioned tradition of reading the Will. Your brother's lawyer drew a fourteen page Will and a Deed of Trust. It would put all of us to sleep to read them through. I've had copies made for you to take with you. Let me summarize. You each get an outright bequest of \$250,000 and a salary of \$75,000 a year for as long as you're alive.' Jerry smiles and watches them like a cat.

"Michael squints and twists his mouth and almost apologizes, 'It seems to me that he was worth a lot more than half a million dollars.'

"And Jane pipes up, 'Wouldn't Michael and I and our children have been his natural beneficiaries?'

"Jerry doesn't blink but he realizes that these are people who don't buy \$30 Rolex's.

"He says, 'That's right. If there were no Will, you would get everything.' It's a good thing Jerry's as honest as he is. 'I'm not the attorney who drew the Will.' He says. 'For

a number of reasons Star decided not to use him on the estate. The best we can figure is that your brother was the youngest of the three of you and thought he would be around to take care of you in your old age. I've heard he was writing another Will before he died but he never got around to signing it.'

"Michael asks, 'Do we have to go along with this? Can't we contest the Will?'

"Jerry says, 'You could only contest the Will if you could show it was signed under duress or he didn't know what he was signing. I have the Will he executed before this one. The provisions are almost the same, only the amounts to you are smaller.' He doesn't mention that the first Will names a different executor, which means a different lawyer gets hired.

"He can tell they're not happy at getting skunked out of the goods--over four hundred million dollars, it turns out, with an attorney's fee of probably two percent. They can tie the estate up for years and Jerry only gets a fee if he wins. If he loses, it bankrupts him. He has to keep them happy.

"So, he shifts like a hydromatic transmission and says, 'I think it's clear your brother had intended to take care of you both if he had lived. The law provides for the relatives in a circumstance just like this.'

"See, after the press release about the estate hiring him, Jerry gets calls from at least four malpractice lawyers asking him to retain them. He doesn't decide what to do until he sees brother and sister looking unhappy enough to stop the whole merry-go-round. He sees a way to keep Jane and Michael happy and a chance for an additional fee for us.

"We've been doing some research and it looks like there is a very good case that the doctors and the hospital negligently caused his death. Patients shouldn't die from a

gall bladder operation. We think a medical malpractice case should be brought.' He quotes the learned opinions of the other lawyers who have arrived at their medical diagnoses from reading the newspapers.

"He tells them about the April Showers case. Now he's on his own turf. We represented her family after she was killed. They, of course, have heard about the beautiful blonde head getting separated from the famous body. Jerry didn't mention that accident cases are in a different legal universe from medical malpractice and that we had never even seen a malpractice trial, even as spectators.

"So Michael shifts his eyes and asks, 'Would this cost us anything?'

"Now Jerry knows he's got them. The magic words again, 'Not a cent. The estate will pay all of the expenses of the lawsuit and we don't get a fee unless we win. Our fee would be one-third of any recovery and Star would probably have to charge higher executor's fees for his nominal part in the lawsuit.' Everybody in the room starts looking happier.

Michael says he thinks he and Jane would like to think it over for a few days. Michael doesn't mention that he's already spoken with his corporate attorney in Pittsburgh who has gotten a copy of the Will and the prior Will. He knew they really had no choice in the matter. He knew that as executor, Ferguson called the shots. But he didn't know about this new malpractice wrinkle. It sounded all right but he wanted to speak with his Pittsburgh lawyer before he went along with anything. We found this all out later when the Pittsburgh lawyer called and asked for a piece of the action.

"Then Jerry gives them the new-out-of-town-client treatment." Wemmick pulled in his stomach and dropped his voice to Stryver's baritone. "We represent a lot of clients who are in the theatre and the arts. If you would like tickets to any shows or museums

while you're here, just ask and I'm sure we can arrange it.'

"Jane looks first at Michael and then at Stryver and says like she's embarrassed to ask, 'I've been a hockey fan since I was a little girl. If you could get Michael and me tickets, I'd be happy to pay for them.'

C:\\S\\17.wpd"So, that evening the stretch limo picks up Michael and Jane at The Plaza and brings them to Madison Square Garden. The Foundation paid for a box behind the team seats."

Nancy and Mary McBride walked up to the police officer at the front desk of the Medical Examiner's office. "We have an appointment with Dr. Ky." McBride handed the man her card. They followed a security guard down a dim green tiled corridor past empty stainless steel gurneys and closed doors. At the end of the hallway they were led into Dr. Ky's office.

A desk had his name on it; otherwise, the office was more like a high school locker room, tile walls and floor, boxes, and a bicycle leaning against a bookcase. A shelf of jars that resembled the urns of pigs' feet on the ends of the bars in country taverns.

A short man in a long white coat stood and introduced himself as Dr. Ky. California-perfect speech.

Nancy started out the discussion by explaining that the case was coming to trial and they might need to call him as a witness. As she spoke, she reached into her purse and brought out her mini tape recorder and asked if he minded if she recorded the conversation.

The doctor sat back abruptly, held up both hands and said office regulations prohibited tape recording.

Nancy smiled benignly and returned the recorder back to her open purse, her thumb squeezing the record button at the same moment she coughed. "Doctor, you have two people listed as assisting at the autopsy. Are they both from the ME's office?"

"One of them was a medical student. Dr. Schult used to be with this office."

"Was he with the ME's office when you did the autopsy?"

The doctor shifted a little in his seat. "I think he had left before then."

"Do you know where he was working when the autopsy was done?"

"I believe he works at the College Hospital Department of Pathology."

"How did he come to be at this autopsy?"

"This is a public, governmental office. If a physician asks to be at an examination, we generally allow it unless there is a special reason not to." He appeared irritated.

"Did Dr. Schult participate in the examination?"

"He watched. We might have discussed some of the things we saw, but the examination and the conclusions were mine."

"What about blood tests and toxicological studies? I don't find either in my copy of the report."

The doctor frowned and reached for a file. He leafed through and pulled out four sheets stapled together. He handed them to Nancy and said, "This is the complete report. It's an extra copy. You can have it. The tox' is there." Then he went through all of the papers in the file again, more slowly. He looked up with a frown and said, "We don't do CBC's after death. The blood components deteriorate very rapidly and it was obvious that this was a post-operative cardiac arrest."

She wished, at that moment, that Ky were one of the defendants in the case. He'd taken all of the trouble to test for poisons, narcotics, barbiturates and even rare metals, but didn't do a simple blood count.

She changed the subject. "Doctor, you concluded the death was from cardiac arrest?" Maybe if she added a little needle to the question she'd get a better answer. "Was that Dr. Schult's conclusion?"

"I told you, counselor, all the conclusions were my own. Is there anything else you wanted to discuss?" Dealing with lawyers was routine for Dr. Ky.

"Yes, doctor, what was the cause of the cardiac arrest?"

"That was my conclusion. There was a cardiac arrest. There was nothing more than that."

"One more question, doctor. What was the reddish fluid you found in the intestines?"

He looked at his report. His lip twitched slightly. "It doesn't say. Probably just sero-sanguinous exudate."

"Why didn't you do the head?"

"This man had an abdominal operation and had an abdominal history. When you hear the sound of galloping hooves, counselor, you don't look for zebras. And the family only authorized an abdominal exam. Is there anything else you wanted?"

"I didn't know the Medical Examiner had to have authorization from the family. Did the family ask for an autopsy?" Nancy asked.

"We are very liberal in our policy on granting autopsies. If anyone asks, we do it."

"Who asked for this autopsy?" Mary McBride asked.

"I don't have that information. Is there anything else?" Ky was annoyed.

Nancy stood up. McBride followed suit. Nancy reached into her briefcase

and took out some folded papers. "Doctor, I'd like to give you a subpoena." She handed it to him folded around a check for the subpoena fee.

This time he kept his hands at his sides. "You have to serve that on the legal clerk on the first floor. There won't be any problem. I'm a public servant." She was sure he almost bowed.

Nancy and McBride headed toward the exit. "Thank you for your time doctor. By the way, have you spoken with the other attorneys in this case?"

"Well, you know, I was deposed."

"I was wondering if you spoke with them recently."

"Yes, as a matter of fact, they were here last week."

She closed her bag as they walked out the door.

On the sidewalk outside the ME's office, she turned to McBride. "Did you already have that tox study?"

"I've never seen it before."

Nancy took out the doctor's gift and went over it. It started with the measurements and description of the dead artist going from the head down. She stopped at the abdomen. "Hm, atrophic testicles. The family jewels were rhinestones."

"Sounds like my boyfriend." Mary said.

She took the pages from Nancy. Here's the tox'. Barbiturates not detected. Salicylates not detected." She looked up at Nancy. "He hadn't even taken aspirin." She studied the sheets. "Opiates: morphine sulphate detected 0.12 milligrams/percent. I don't know what that number means. We've got to speak to somebody about this thing. I have a pathologist I can call. I'll do it when I get back to my office."

"When can I meet with your experts?" Nancy asked.

"Richards will be in Texas until just before the trial starts. She says it will be very hard to get together. Helmer can give you a couple of hours on Wednesday in Philadelphia. He's visiting his family for Thanksgiving. Give him a call and he'll see you at his hotel."

Meeting a doctor to discuss a case. Something new in hotel room experiences.

At 10:20 AM, the day before Thanksgiving, Nancy stood on the sidewalk outside the Woolworth Building. Forty minutes to get to Newark Airport; shouldn't be much

traffic at this time of day. No cab after ten minutes. The Guinness people probably wouldn't be interested. Successful lawyers' limousines line the curb with drivers dozing. Cigarette smokers shivering in shirtsleeves at building entrances. Businessmen or drug couriers talking on cell phones.

Finally, a tarnished silver station wagon with a yellow plastic sign in the window that said, "Al's Limo Service" stopped and let out a mother, father and little girl in steel leg braces. Nancy negotiated a thirty dollar charge for the trip and promised an extra ten if he could make it in twenty minutes. The driver set his jaw and roared away from the curb, Gs pushing Nancy back against the seat. The gold fringes of a small altar on the dashboard danced with the movement of the car. The CB radio crackled out a mixture of Parsee, Urdu, Hindi and Arabic.

Just before the Holland Tunnel they were stopped by the first traffic the driver couldn't drive through, over or around. The man behind the wheel of the car next to theirs half opened his door and screamed, "Are you gonna learn how to drive? Are you gonna learn how to fuckin' drive? You want me to teach you how to fuckin' drive?" He rose in his seat as if to climb out. Her driver looked straight ahead, smiling. He was probably an Afghan freedom fighter taking a rest cure as a Zen New York City taxi driver. Dead Afganis. Battlefield morgues. Autopsies of gunshot deaths. Heads with empty eyes and mouths open. Why no exam of The Artist's head? Wouldn't they have done it routinely? Wouldn't the hospital have urged the family to allow it on the chance there was a tumor or an aneurysm that would have won the case for them?

The light changed before Nancy found out how the man was going to teach her driver to fuckin' drive. She thought he did just fine, especially the parts on curbs and

sidewalks.

They pulled in front of the American Airlines terminal. She threw two twenties onto the front seat and sprinted to the check-in counter. "I have a reservation for the flight to Philadelphia."

The woman calmly, too calmly, said, "You mean the two o'clock flight?"

Nancy felt the beginning of panic in the back of her throat. "No. The one that leaves at eleven o'clock."

"I'm sorry. That flight is closed."

"But it's not supposed to close for another minute." She tried to make "another minute" sound like there was enough time to repack the whole luggage compartment. Clarence Darrow never had to fight with airline clerks.

The clerk turned to a supervisor type who took too long to get off the phone and turn around, did something with her computer and said, "That flight has already pulled away from the terminal. We can put you on the two o'clock." Defendant's verdict.

It wasn't fair. Trains didn't close their doors until it was actually time to leave. Trains. She turned and ran out of the terminal. This time there was a line of waiting taxis. She got into the first one and asked for the Newark Pennsylvania Railroad terminal.

Dr. Sidney Helmer, former President of American University Medical School and critical care expert, greeted her at the hotel room door in T shirt, suit pants and slippers. Her grandfather used to walk around the house in his white undershirt.

He waved her apologies aside with a gracious gesture. "I've been going over an article I'm preparing for 'The New England Journal'." (In case, young lady, you are not quite sure how important really I am.) "I'm here visiting my family, but for the sake of my

work, I need the privacy of a hotel room. Grandchildren make it hard to concentrate. Do you have any children? You're about the same age as my daughter."

Nice that she reminded him of his daughter. Nancy guessed this grandfather would not really object to a little interference with his concentration.

"I'm not married and I don't have any children."

"So. Wemmick's out and you're in? Any particular reason?"

"They decided they needed a specialist." She knew doctors thought of all non-medical people as belonging in an inferior universe. Especially lawyers.

He cocked an eyebrow at her and said, "Well, let's see what you know about the case." She imagined residents withering under questions coming from beneath that eyebrow.

She started with The Artist's shooting and its aftermath and went right up to the autopsy, quoting laboratory test results, progress notes and a few helpful facts she had picked out of the depositions. She finished with her understanding of the Team's theory of fluid overload. Helmer humphed and asked where she had studied medicine. She mentioned a few courses in anatomy and physiology.

Then she cocked her own eyebrow. "Let's see what else you can tell me about the case." Nancy took out her mini tape recorder and, without asking, clicked the record button and set it in front of the doctor. The doctor looked at the small machine, then at Nancy, and pulled his chair up to the table in front of the hospital chart.

They went through the chart for The Artist's final admission, page by page. Fluid balance was terribly significant. Helmer launched into a Talmudic lecture on crystalloid versus colloidal fluid augmentation. Nancy struggled with the concepts, picturing grandpa on

the witness stand lecturing while everyone in the courtroom nodded off. She needed something that would touch the jury, outrage them, make them want to punish the doctors for their stupidity and neglect. Too much water wouldn't cut it.

She thought of Stryver's remark about all of them being humiliated if they lost the case. She imagined Judy Tredwell, her best friend in seventh grade, reading in some Montana newspaper about her losing the case. They tell you any publicity is good publicity, but good publicity is a whole lot better than bad publicity. She wondered what Stryver would do about the media. He probably had a pipeline.

She and Helmer took a break from the medicine and she asked the doctor about his background. He swelled into canned modesty and told her about being the youngest man made President of his medical school. He had over 700 published articles.

"Ever testified before?"

"I've testified before the Senate Health Services Committee on medical education in the United States and have appeared before various state legislative committees and departments of health."

"Have you ever been a witness in court?"

"Never."

A virgin. Fuck Stryver.

Of course, that could be good, too. No prior testimony for the opposition to use against him.

You could never predict how well any witness would come across in court. He would need a lot of preparation.

At the start of the fourth hour of their meeting she got around to the medical

malpractice formula. Helmer would have to say in precise legalese that the people treating Warhol had been negligent.

She was in the middle of explaining the formula when Helmer shook his head sharply. He crossed his arms over his chest and intoned sanctimoniously, "I prefer to take the high ground."

"What do you mean?"

He gazed loftily at her.

She controlled her voice and said it again, "What do you mean?"

"It doesn't befit a man of my position in the medical community to criticize another physician in public."

Nancy looked over at the tape machine. The red light was still on.

Damn, damn, damn Stryver. Pompous ignoramus. Thousands spent, years of preparation. For this. We lose.

"You understand, doctor, that if you don't say there was negligence, the judge won't even let the jury start to deliberate--she dismisses the whole case."

Helmer set his jaw. "I'm just not comfortable saying that. There must be some other way of doing it. You'll think of a way." He waved his hand as if he were brushing away an insect.

There was a knock on the door of the room. A smile appeared on his lips and the world's greatest doctor became grandfather. He turned away from Nancy. "Must be my daughter and granddaughter."

Helmer turned the doorknob and thirty pounds of pure blonde energy burst through the door and into his arms, covering him with hugs and kisses. An elegant woman in

fluffy champagne fox and matching hair followed her into the room and gave the doctor a noticeably more restrained kiss. A nanny bustled in last, closing the door.

He introduced Nancy to his daughter, Dr. Jennifer Feil. Granddaughter Sarah was already using the bed as a trampoline.

The interview was over.

On the train back to New York Nancy put on earphones and listened to the tapes of the interview. She had never had an expert witness so well qualified. He was brilliant and authoritative. The only question was how long would it take him to lose their case.

The voice croaked something.

"Jerry, I'm sorry to wake you on Thanksgiving. I have to talk with you."

"Who is this?"

"Its Nancy, Nancy Carton. I met with Sidney Helmer yesterday. Its urgent I speak with you."

An hour later her car pulled up in front of his house.

The theatrical lawyer greeted the medical lawyer in harlequin fluorescent tights, chartreuse windbreaker, reflecting Nikes. He led her past an empty Thanksgiving kitchen into the family room and asked, "So what's up?" He gestured toward a chair. She ignored it. The stillness of the house reverberated. He stood, facing her, bouncing on his toes and windmilling his arms, a rooster fluffing his feathers.

"I went down to Philadelphia yesterday and spent four hours with Sidney Helmer." She opened her briefcase and took out the microcassette recorder.

"Great. Wonderful man, isn't he? Hubert says he's fabulous, one of the best in the country. How'd you two get along?" Stryver held his hands together over his head with arms outstretched and bent from side to side, grimacing, making no attempt to conceal the ample bulge between his skinny legs.

"He's not going to say malpractice."

"What do you mean?" He froze in place like a rusted Tin Woodsman.

"We spent three hours discussing the medicine. He thinks the hospital was negligent. He'll talk all about the medicine in court. He just won't answer the one big question."

"That's great. What more do you want?" Re-oiled, he went back to a strained hula-hoop movement extravagantly stretching the muscles in his trunk.

"He won't say that what they did was malpractice. He said he wants to 'take the high ground.'"

"I'm sure that's not a problem. You put him on the stand and go through all of the medicine and work around to the mistakes. Have you spoken with Hubert? Hubert's worked it all out." Right foot up on the back of an easy chair and head down to touch his knee.

"It doesn't fucking matter what Hubert's worked out." It would be useless to tell him what she thought of the preparation of the case up to this point. "If we don't have a medical witness who says malpractice, the judge throws the case out. She won't even wait till we rest."

"I love it when you talk dirty. Helmer won't be a problem. Look, we paid him a lotta money. Every time he wanted to come to New York for the last two years, he called up and scheduled a conference with us and then sent the Foundation a bill for his air fare, hotel room, restaurants. We paid for limousines from the airport and theatre tickets. He ran the clock from when he brushed his teeth in the morning till his last fart at night."

"Look, Jerry. This is the moment of truth. If Helmer won't say malpractice, we lose. He's not going to say malpractice. Here, listen. Hear it yourself." She picked up the tape recorder.

"I haven't got time to listen to anything. I'm running in The Turkey Trot in twenty minutes. Unless..." and he looked her in the eyes, "I'm alone in the house this weekend..."

She contemplated the man in front of her, taking just enough time to make sure she wasn't misunderstanding him. "Jerry, that meeting with Helmer shook me. My genital herpes is flaring up. It's very uncomfortable. Got any aspirin?"

He jerked his head in the direction of the hallway and took his automobile keys out of his pocket. "Work it out with Hubert. I guarantee you it's going to be all right." He backed into the kitchen, turned and sprinted out the door.

Nancy stood there a minute and then let herself out.

They cried a little into their coffee at Thanksgiving dinner. It was the start of the holiday season, its memories and hard expectations. Mother didn't eat much. Her face was thinner. Looking at her, Nancy felt older.

She told the old stories. How she and Nancy's father met on the Staten Island ferry. How they never spent a day away from each other after that until he died. Her mother was frail and her father took care of her.

Her father's rigidity. He taught law when law schools were run like the Gulag. They expected the students to work at least a 12 hour day and not take off weekends or vacations. They humiliated the students. Nancy went to law school to show her father that she take it—and to show herself. She fought back and never let it show when she was hurt. The teachers learned to expect a fight if they called on her. There were times when a professor would come into the classroom and scan the students until he found her. She had her father's respect. She could have used a little more of his love.

Then her mother inevitably got into her painful memories of Nancy's sister. The hope for the joy of a grandchild turning to loss of both daughter and granddaughter. Mother said now she was ready to die. Nancy would be the last one left. Yes, mother, I get the message. I'm your disappointment. I should have been Mrs. Doctor Harry Valsalva or Mrs. Banker Somebody Else. We should be having Thanksgiving out in the suburbs with a husband and

children running around. Maybe she wanted that too.

Back in the emptiness of her apartment, Nancy took out the chart of The Artist's last hospitalization one more time. This was her life, sitting in the quiet, studying a death. A death that needed a theme, a story to tell. A ballad to sing to the jury of love and loss and injustice and wrong. Something six peers could understand and her expert would testify to. So far all she had was a middle-aged bachelor who died after a perfect gall bladder operation. Helmer was going to say he was poisoned by water and wouldn't say it was malpractice.

She remembered Van Shepherd, her first boss, a hospital defense lawyer, coming in to the office and throwing an original hospital chart on his secretary's desk and saying with a cackle, "Now let them try to make a case out of that record."

There had to be some straw she could seize on, something that was left in the record. Or maybe something that was left out. All she needed was malpractice. Once she had that she would find the song.

After her tenth read-through, she gave in, picked up the phone and dialed a familiar number. Recorded bird screeches, jungle sounds, a lion roar, then a human voice, "It's a jungle out there. This is Dr. Harry Valsalva." She felt a little jump in her stomach. This had to be a mistake. She missed him. "I'm out hunting and gathering." Not for food. "You can leave a message after the next tree frog. If you have a medical problem, I am at the emergency room at Bellevue Hospital." He gave the number. The sound of his voice awakened feelings she had not had for a long time.

She hesitated, thought about hanging up and looking for another medical expert, decided her problem qualified as medical and dialed the Bellevue number. Bellevue? After clerks or nurses and an endless wait, a familiar voice answered.

She said, "Harry, it's Nancy. I have to see you. I need your help." No beating around the bush, no preliminary pleasantries.

"Medical or emotional?"

"Legal. I've just been retained to do the medical part of The Artist's death case."

"Good for you."

"Is there any chance you could come over tonight?"

"I'd give anything in the world to spend an evening at your apartment but I'm on tonight." He hadn't slammed the phone down on her ear. "How about tomorrow morning. I finish at 7 o'clock."

"That's fine." Mornings always used to be really fine. "Come up and I'll give you breakfast-- or supper, whatever it is you have after a night shift."

"I still remember the apple pancakes and scrapple we used to make together. And everything else we used to make." Coming to her apartment definitely had significance for Harry.

She said, "What?"

"Don't worry. I'm seeing someone. Let's have breakfast and talk shop."

"I'll see what I can do. We can send out. The trial is only a little over a week away. How come you're working in an ER?" And tell me about the woman you're seeing. Is it serious? I'm not going to ask.

"It's a long, ugly story. I'll tell you when I see you."

She woke at five, tense about more than just the case. Two hours and a pot of coffee later she took a shower and put on her maroon cashmere--he had always liked how soft and comfortable she looked in that sweater--and had just finished putting on make-up when her

doorbell rang. He was freshly showered and shaved but with noticeable shadows under his eyes. The same old army fatigue jacket and beret. He had a grocery package in his arms. Lines in his face that hadn't been there before. Did she look older to him too?

For an instant neither did anything. Then he leaned over and gave her a peck on the cheek. His face lingered next to hers. She remembered the smell of his shaving cream. "You're as beautiful as I remember."

She wanted to say, I've missed you and I think of you every day.

She said, "I'm going out of my mind trying to figure out this case." She lifted the shopping bag out of his arms and watched as he took the fatigue jacket off his muscular back. Her body remembered the power those muscles had generated.

"From the way you sounded when you called me, I figured you'd go into starvation mode until the trial was over--and I really felt like having apple pancakes and scrapple. This is Zabar's best scrapple."

"How do you know these things. I completely forgot to eat last night."

She started to take the groceries out of the bag. Playing house with Harry again. "They've never had a surgeon look at it. Can you imagine, the guy dies twelve hours after he's operated on and it never occurs to the lawyers that there might be surgical malpractice. I'll probably need you to testify."

His face darkened. "I think you better look for someone else. Right now I'm up shit's creek."

"Oh Harry. What's wrong? What happened?"

"Gotham fired me and put in a complaint with the State."

"My God! What did you do?"

"I didn't do one fucking thing that was wrong. They were cutting corners only having residents in the ER--no attendings. They killed two patients who wouldn't have died if somebody with experience had been there.

"I complained to my chief. He didn't do anything so I made an appointment with the director of the hospital. He already knew what I was going to say when I came in to see him. He told me to put my complaint in writing. He didn't think I would. The next thing I knew, they had filed a complaint against me. They said I was operating unnecessarily, treating AIDS patients who were going to die anyway. They fired me and put in a report with the Department of Health. Now I've got them on my back. I don't think I'd look too good on the witness stand when they start throwing that shit at me."

He paused to let it all sink in. "I'll help you however I can with the medicine though."

Nancy said, "Oh, Harry." She touched his muscular forearm. Still so hard. Her hand stayed there. "That's really terrible. Those bastards. I'll represent you before the Department of Health? I'll teach them that they can't get away with that kind of thing."

"No. I've got somebody. I thought, after the last time we saw each other, it might be better-- I hired a guy who advertises in the medical journal."

She looked down. Let's not think about the last time we saw each other. "I'll be here if you need me."

"Thanks, Nance. We'll talk about it when you're through with the trial."

She turned on the coffee maker and spilled apples onto the counter. Harry stood next to her making patties of scrapple as she peeled and cut. Their bodies touched and neither moved away.

"So, is she tall?"

"Who?"

"The woman you're seeing."

"She's a nursing coordinator at the hospital. She has a fourteen year old kid."

"So, you're a family man."

He snorted. "Have you ever met a fourteen year old?"

Nancy bounced droplets of water off the hot corn oil in the frying pan. "He shouldn't have died after a gall bladder operation."

"No, he's still alive. He just acts that way when you ask him to take out the garbage."

She bumped him with her hip. "The thing I don't understand is that he was out of bed after the operation. He was on the phone with his office talking business."

"Maybe they gave him bad news."

"Then eight hours later, he's dead."

"Sounds like a bleed. A stitch opened up."

Neither said anything for a while, each listening to the coffee maker rattling the last hot water into the Kona blend and thinking of past Sunday mornings. The fragrance of the heated corn oil mixed with the crackling fumes of scrapple cooking in another frying pan.

Harry reached his arm around Nancy's waist. "I've missed you a lot."

She turned her body to his. "But you have someone else?"

"She doesn't like the opera." He put his other arm around her and held her close.

Why don't you apologize?

"It's been a long two years."

She kissed him and felt the warm strength of his mouth, the old familiar way his body fit against hers. She extinguished the flame under the scrapple and led him by the hand out of

the kitchen to celebrate memories.

Two hours later they sat facing each other across the small kitchen table.

"Let's start from the beginning. Tell me everything you know about his medical history. Wasn't he shot a few years ago?"

Nancy gave him The Artist's history.

"How was his general health? He didn't have HIV, did he?"

"He tested negative."

"It doesn't really matter. HIV wouldn't have contributed to a death like this. It probably wouldn't sound too good to a jury though."

"Harry, I always felt you should have been a lawyer. You've got all the right instincts."

"No, I'm too honest."

"It doesn't sound like Gotham Hospital is handing out gold stars for morality."

"I didn't say I was moral, just honest." He looked shyly at her and drowned the pancakes on his plate in the 100% pure Pennsylvania maple syrup Nancy had taken out of her freezer.

"Harry, he had a cholesterol level of 108 the day before he went into the hospital. Does that mean anything?"

"He didn't eat like this. Probably only that he was malnourished, stressed from being sick. It might enter into the larger picture."

"The lawyers who've been handling the case think the cause of death was fluid overload. They gave him about 2000 cc's more than they figure he put out."

"Was there anything wrong with his kidneys? How were his BUN's and creatinines?"

Any history of heart trouble?"

"As far as I remember, everything was normal. The only abnormal labs I remember were the hemoglobin and hematocrit and the cholesterol."

"If his kidneys were normal, he should have just peed out the extra fluid. That wouldn't have killed him. They probably just didn't measure his urine output. What does the chart say?"

"There's no intake and output sheet."

"The old disappearing records trick. What about the CBC's? You said the 'crit was low?"

"His internist did CBC's before he was admitted to the hospital. Two days before it was 13.5 and then it went down to 12.9 the day before admission."

"Those are hemoglobins. So what were they in the hospital?"

"Complete blood count was ordered on admission and checked off by the nurse but there's none in the chart."

"It smells fishy. But it could mean nothing. Those counts are low but not unusual in someone who's pretty sick."

They piled the dishes on top of the pans in the sink. Harry wiped off the large unfinished wooden table with the care of a surgeon finishing up his operation then set out the coffee pot and two mugs. Nancy brought the pile of medical records and her small tape recorder from the living room.

Harry went over the autopsy record twice. He looked up and said, "No blood tests here either. Isn't that a strange coincidence. And look at this, 'On opening the ileum there was a profusion of reddish fluid.'" He looked at Nancy, "What the fuck is reddish fluid?"

There's no lab analysis. Does this whole thing stink or am I getting paranoid in my old age?"

Nancy started searching through the depositions. "They deposed the medical examiner. Here it is." She skimmed through the deposition. "Nothing about the intestines. I spoke with him. He said they don't do blood counts. Does that make sense? Listen." She put the tape into her machine and they finished their coffee listening to Dr. Ky.

"He didn't know he was being recorded. He's full of shit. They do it in every case, automatically. When I was training in surgery, I used to go over to the ME's office and practice on the murder victims, nice healthy bodies with just a little hole somewhere. There was an incident where somebody left the vials of blood on the next table. There was one case with two different blood types and another without any. When the reports came out neither one said anything about blood."

"What do you think about the reddish fluid?"

"It could be blood. When the H & H are going down, the first thing you think of is a bleed. If you suspect bleeding, the first place you look is the intestines. Did anybody do studies like an upper GI or barium enema? Did they ever check his stool for blood? How about witnesses to the autopsy? You've been in the lab at the ME's office. They'll have six autopsies going at once with twenty people in the room, not counting the stiffs. A lot of people would have been interested in this case. They would have seen the intestinal contents. Who are these people they list as assisting?"

"One of them was a resident and the other was Harry Schult, a pathologist from Metropolitan who just happened to be there."

"I rest my case."

He was still looking at the autopsy record. "Look at this. Pink frothy mucus in the

trachea.' That's almost diagnostic of narcotic overdose. I saw it in twenty heroin OD's in Nam. Let's look at the meds sheet in the chart. How much morphine did he get?"

Nancy turned to the medication sheet in the chart. She put a little tab on the page.

The doctor snatched it from her. "Ha. He was given a twenty milligram dose at 8:30 in the evening and another at midnight. They didn't want the important man to have any complaints. The celebrity treatment. They should know little pain is good for you."

"You've gotten into S & M since I saw you last?"

"Wouldn't you like to find out? No, you've got to be worried about the patient getting enough air into his lungs. They breathe more if they're in a little pain. Morphine suppresses the pain. And it affects the coughing reflexes. What did the nurses note about his breathing?"

"He had a private duty who wasn't there. She wrote that he slept well with no problem from 8PM to 8AM. The thing is, they find him dead at 4 AM."

"So you've got a perfect case against the nurse. Don't go any further."

"No insurance and no money. Besides, it's too good a case against her. It worries me."

"Let's look at the operative report."

Nancy found it and slid it over. He looked at it for less than a minute.

"Perfect cholecystectomy and herniorrhaphy. It's interesting. He was full of adhesions. His guts were all stuck together, probably had infections after the gunshot wound."

"You're right. They had to reoperate after he was shot to clean out an abscess."

"So this guy wasn't sweet sixteen. That's why he died. They treated him like the only

thing wrong with him was his gall bladder and they gave him the celebrity treatment."

He looked at his watch, said, "Got to go," and pushed away from the table.

She said, "Wait. I've got to understand this. I've got to ask ..."

He gave her a kiss on the cheek. "Nice seeing you again."

She said, "Send me a bill."

"This one's on me. Thanks for the breakfast."

"No, the estate is paying everything. Make out a bill to The Artist's estate. Send it to me."

He was out the door.C:\\S\\20.wpd

She sat looking at the door. He hadn't apologized. Turn it off. Focus, concentrate. Time was running out.

Dr. Melinda R. Richards was coming into town. The fluid overload cause of death was her theory. Wemmick had set up a dinner meeting.

Nancy unplugged the cord from her phone and stuck it into the back of her computer. In a minute she was in contact with a California databank that carried over four million medical articles. She typed in "find au=richards mr." The screen blinked and announced it had 157 articles that listed M. R. Richards as author. She told the computer to download the articles onto a disc and went into the kitchen to make a fresh pot of coffee. She hated coffee. By the time she came back, the cursor on her screen was sitting up like a cocker spaniel panting for another command.

She skimmed the twenty most recent articles and couldn't even understand the titles. They were a mixture of graduate level biochemistry and physiology. How much of this stuff would a general practitioner who treats sore throats and belly aches understand--how much would she understand, or be able to get across to a jury?

In the quiet of the lobby communing with the images of Woodrow Wilson and other capped and gowned Princetonians overlooking the leather furniture, oriental carpeting,

grandfather clocks and watching old boys navigating in and out of the Tiger Bar and Grill. Nancy had been to the Princeton Club on 43rd Street before. Without a family yacht, she always felt a little underqualified.

Not so Dr. Melinda Richards, who entered trailing Jerry Stryver in her wake.

The doctor was older than Nancy, her hair going unselfconsciously to gray. No jewelry on the left hand or anywhere else on the trim athletic body. She wore a tailored gray suit and matching comfortable shoes. She took Nancy's hand in an unyielding grip. Tennis player.

As the three rode the elevator to the dining room on the fifth floor Nancy said, "I've read all your analyses. You're very thorough."

"Thank you. It's been an interesting case." No sign of warmth. Perhaps wariness. All business.

The maitre d' held Richards' seat. Nancy sat down while Stryver debated whether she was a fellow lawyer or a woman he should hold a seat for.

Richards ordered single malt scotch. Stryver had the same, Nancy had a Virgin Mary.

Social chit-chat time while they waited for the alcohol. Stryver made the conversation, "Our firm has a membership here. I bring all the Hollywood clients. They like the change from Rodeo Drive."

Nancy asked Richards how she and Stryver met.

"I was doing some investigative research on deaths after surgery. When I read about The Artist's death, I wrote Jerry and asked if I could get involved. He was nice enough to let me work with him."

Stryver smiled.

Nancy frowned slightly and asked, "Tell me about your research."

"There are a fair number of deaths after surgery with no apparent reason. I started compiling data and got a grant to investigate and see if we could find anything. We spread the word around Texas that we wanted autopsies from unexplained postoperative deaths. We did find a few cases of pulmonary emboli and some exsanguinations. I heard about The Artist. It sounded like one of my deaths."

Nancy interrupted, "My sister died after a cesarean section when I was in law school. We never understood why."

Stryver started to look around the room.

Richards asked, "Was there an autopsy?"

"Her husband couldn't stand the idea. He said she'd gone through enough. The baby died too. He wanted to bury them together right away."

"Had she been in good health?"

"She always was until she got pregnant the first time. She was on a camping trip and started hemorrhaging. She lost that baby and was never the same afterwards. We were surprised when she got pregnant the second time, she hadn't been menstruating." Stryver looked away.

Richards shook her head. "Doesn't sound like one of my cases. None of my deaths were post partum. Your sister's might have been Sheehan's. The hemorrhaging did it to her."

"Sheehans? Are you saying hemorrhaging causes death five years later?"

Stryver gave Nancy a look that said he was not paying for this dinner for her to ask about her dead sister.

"Kills the pituitary--watershed infarct. That's why her periods stopped. You take the pituitary gland out of a lab rat in Bar Harbor, Maine. The rat can live happily in its little box for a long time. Then you put the rat in its box on a train to Chicago. The train crashes and the rat escapes and is walking down a street in Gary Indiana when it sees its first cat. The rat drops dead on the spot. Couldn't take the stress. That's what happened to your sister."

Stryver said, "I'm feeling a little stressed."

Nancy resented the thought of her sister dying like a laboratory rat. "I didn't mean to interrupt you. You were telling us about your research. Did you find anything?"

"We did make some startling findings. As we got more deeply into the investigation, a pattern seemed to emerge. We excluded men. The overwhelming number of deaths that had no obvious anatomical explanation were in premenopausal women."

Nancy said, "So it must have been hormonal."

Richards smiled, "You're very smart. That was the obvious conclusion. We spent a couple of years gathering and analyzing data. Ultimately I discovered that there was a simple electrolyte imbalance after ovulation that was exacerbated by the stress of surgery. We went back to the charts of our dead women and found that they had been having their fluid losses replaced with D5W."

Nancy turned to Stryver and explained, "Sugar water." He continued to scan the room and exhaled. "Um."

"We calculate that twenty thousand lives a year will be saved if we can get the word out about our findings."

"Have you published your findings?" She asked Richards.

"In the New England Journal and JAMA. And I've put a chapter in my textbook on

fluids."

"That's really wonderful. It sounds like you should be a candidate for a Nobel Prize."

Richards didn't disagree.

"Tell me about your practice."

"I am primarily a teacher and a researcher. I'm a full professor at Rice. I spend a substantial amount of my time as a visiting professor.

Nancy asked, "Have you taught at any of the schools in New York?"

Richards gave her a searching look. "About ten years ago I spent a semester at Metropolitan Hospital."

"Did they invite you?"

"That's how it works."

"Wonderful. We can say that one of their own professors is willing to testify against them. Does that give you any problems?"

Richards adjusted her seat. "That was a long time ago. There's a lot of water over the dam since then."

"Tell me, how much time do you spend in patient care?"

"Actually, very little. I am on call as chief of internal medicine at the hospital for one month a year. I do consultations during that time. I'm primarily a researcher and medical writer. Have you seen my textbook?"

Nancy had. Wemmick had shaken the library table when he dropped a yellow-covered tome that weighed at least ten pounds in front of Nancy.

"I'm also an examiner for the American Board of Internal Medicine. I'm in New York right now for the oral exams. We're doing that tomorrow." She looked at her watch.

"You'll probably be the best qualified witness I've ever had. With you and Dr. Helmer on our side, I don't see how we can lose." Except, to start with, Richards did not treat patients. Sometimes it was better to have a witness in a baggy suit who spent his life treating patients at a welfare clinic.

"Maybe you could explain to me how The Artist died. I've spent some time discussing it with Dr. Helmer, but I'd like your explanation."

The doctor reached into the slim attache case she had leaned against her chair and pulled out duplicate charts for Nancy and Stryver.

"Nurses keep a chart at every patient's bedside and make entries every time the patient has something to drink, gets an IV or urinates. There was no such chart in The Artist's records. Here are my data for a rough estimate using the nurses' notes, doctors' orders, medication chart and doctors' progress notes.

"The treating doctors must have assumed Bough was dehydrated. Over his two days in the hospital, he received three liters more fluid than he excreted either by urination, perspiration or bleeding." She led them through the concept of third space--swelling of tissue with fluid from being manipulated during an operation.

"But why didn't he just pee out the excess fluid?" Nancy asked.

The answer to that question was a half hour lecture on fluid dynamics. Two minutes into the dissertation, Stryver was drawing lines on the table cloth with the tine of his dessert fork and suppressing yawns. Richards finished up, "When the caveman was being chased by a saber toothed tiger, he was going to need all of his bodily fluids either for perspiration or bleeding. When the body senses excitement and trauma, it secretes antidiuretic hormone that turns off the kidneys."

Nancy could relate to cavemen and lab rats. If there were only some way to turn the whole case into stories about cavemen and tigers. Or rats and cats.

Stryver signed the check and they left the club. They put Richards in a cab and walked to Stryver's office.

She asked Stryver, "Where is she staying?" He shrugged his shoulders.

As they got on the elevator Nancy asked, "What do you think of Melinda's fluid balance scenario?"

"I was very tired. I was thinking about another case that Hubert has been asking me about. I wasn't paying much attention."

"Do you think our jury will be able to understand it?"

"You'll have to lay it out for them."

"Jerry, you couldn't keep your attention fixed on that stuff for thirty seconds. I spend my life with medical questions and I could barely keep up with her. There isn't a jury in the world that's going to be able to follow her."

Nancy, voice straining to reach the jury box, addressed Dr. Sidney Helmer, "Do you have an opinion, with a reasonable degree of medical certainty, whether the care rendered Slava Bough while he was a patient at the Metropolitan Hospital for a gall bladder operation conformed to the accepted standards of medical practice?"

The jury box and audience were packed with attorneys she had tried cases against. Judge Melinda Richards sat on the bench scowling. Nancy kept her cool. Didn't she always wear only bra and panties when she was questioning witnesses? This way arm pit sweat didn't stain her clothing when she got nervous. Helmer broke into a big Cheshire cat grin and said, "I prefer to take the high ground." Judge Richards banged the gavel, "Case dismissed!"

Nancy woke trembling and lay thinking about Helmer. She got out of bed and went to her living room. She cranked up the computer and punched in a few commands. She typed the caption of the case and then, "Sidney Helmer, M.D. being duly sworn, deposes and says..." It was an affidavit detailing all of the malpractice in The Artist's treatment that she and Helmer had discussed. She faxed it to Stryver's office. Then she was able to go back to sleep.

In the morning she called Stryver. He wasn't in. Wemmick came to the phone.

"I faxed you an affidavit I want Helmer to sign. I'm worried he might not say malpractice. You can only attack your own witness on the stand with a statement signed by him. I want the affidavit as insurance we won't get double crossed."

Wemmick said, "I saw it. I never heard of doing it with your own witness. I'll talk to

Jerry."

A couple of hours later Stryver called. "Nancy, dear. You're overreacting." She could feel the little pat on her head. "I assure you that Sidney is on our team. The affidavit is an insult and I won't do it."

"He won't know why you're asking. If you're worried about an affidavit, just ask him for a signed report of his findings and conclusions. Tell him New York law requires a statement of our expert's contentions."

"I'm sorry. I won't do it. It's not necessary. I've never heard of doing that with your own witness. We're paying him a lot of money. You're being paranoid. Just calm down. Go out and buy yourself a hat or something."

She sat in a luncheonette staring at a big wedge of fluffy cake with white lard icing and corn starch pineapple between the four layers--the type of thing The Artist might have used in one of his creations, maybe wearing it or having it grow out of a flower pot. He'd never make another creation. Maybe in five hundred years they would look back and say he was the Michaelangelo of the Twentieth Century. Fifty-seven wasn't old. All the things he could have done if he had lived, if he hadn't been killed. What did she know about art? What did she know about anything? Right now she was the only one in the world who could do anything about his death.

She sat poking the cake apart and reminding herself that being a trial lawyer meant dealing with the unexpected. She had almost no way of knowing what the defense of the case would be. She was good because she reacted well. Not much upset her that anyone could see. She knew the material better than anyone. But this time, she had to deal with The Team as well as the opposition. These guys had no idea what they were up against. On the night

before the trial she was expected to teach them what malpractice is, construct a case on a foundation of water, using witnesses who didn't want to testify, reconstruct missing evidence, and.... There was a breaking point where there were just too many uncontrolled factors and the whole thing imploded. It was called losing. Letting the killers walk.

She stuck the fork into the pile of ersatz pineapple and got up. Losing or taking an offer of settlement weren't options here. Back to the anatomy books. The first time she'd had a gall bladder case she'd gone to the medical examiner's office and watched autopsies to learn the anatomy. By now she had a pretty good idea what a gall bladder looked like and what it connected to. She still followed the same routine, except for the autopsies. First the anatomy books, then every word on gall bladders in three surgical textbooks. Someone had messed up somewhere. Find the mistake. Find the mistake. Find the mistake.

She turned on her computer, played three games of solitaire and logged into the medical data bank. She typed in, "cholecystectomy," medicalese for gall bladder removal. The computer reported 7,319 articles. She called up the first 50 and read the summaries. Several dealt with a new method of taking out gall bladders using a laparoscope with fibreoptics instead of splitting open the belly. The others were too technical, no use. Next, she put in Godson's name. The databank listed 123 articles in which Godson was an author. The most recent were listed first--nothing published in over ten years. She printed out the publication information including an abstract of each article. She skimmed the abstracts for anything useful and put them into a looseleaf notebook in front of her notes on Godson's deposition. She would go to the medical library when she had a chance.

Nancy took out her binder of The Artist's old medical records. Just a half page operative note for the gunshot surgery, sketchy, only highlights of the findings when they

opened the abdomen and the briefest description of the repair. That operation had taken four hours.

For the two-and-a-half hour gallbladder operation the record was four single-spaced pages. Sentences like, "The gallbladder was carefully dissected off its bed." and "The wound was meticulously inspected for bleeding."

But he did die, didn't he? Why? Why? You can't put that question to the jury. You have to tell them. She still didn't know what to tell them.

She called and left a message on Harry Valsalva's answering machine that she needed another medical consultation with him. Then she went back to the books.

In The Pharmacological Basis for Therapeutics she looked up each of the various medications they gave The Artist from the time of his admission to his death. She was fighting to keep her eyes open long enough to learn about morphine sulphate when the telephone rang.

Harry's voice said, "This doctor's prescription for stressed out attorneys is three acts of Traviata tomorrow night."

"Harry, you shit--you know I'm up to my ears. This is your idea of help?"C:\S\22.wpd

Having dinner with Harry would be all right because they would spend the whole time discussing the case. She couldn't afford to get involved. She couldn't do anything except the case this close to trial. She was not letting herself get involved. Harry liked it when she cut her hair short the last time. Harry liked her short hairs. She had to get a haircut anyhow. You always have to have a new haircut at the beginning of a trial. The opera was a chance to dress up and look good. The opera was only about three hours and it was Placido with Sharon Sweet doing Traviata and she could use a break. It had been two whole years. She couldn't try to pretend things were the same as when they'd enjoyed dinner and the opera and each other. Tonight would be strictly business. Those two hours with him after breakfast. Big mistake. Big fool.

Harry picked Gabriel's: golden, warm lighting, deep rich colors, Parisian, nouvelle cuisine, nice memories, intimacy.

As they waited for the entrees neither found conversation, each thinking about past evenings in this same place, wondering if there were a future.

She broke the silence, "Harry, explain third space and how you calculate insensible fluid loss."

He put his hand over hers, "Take a night off for Christ's sake. I've missed you a lot. I really like the way you look tonight."

"Harry, you've got someone."

"I don't want to talk about her. I told you she can't stand opera. When I'm with her I

can only think of you."

"I wonder whether I'd rather be the one you think of when you're with someone else or the other way around."

"Right now I can only think of the woman I'm with-- as long as I'm not thinking about third space."

The curtain went up on the Zefirelli set, a ballroom in nineteenth century Paris, crystal chandeliers, flowing silk gowns. She let her mind relax and stop thinking about Slava Bough and his death for the first moment since Mary McBride's telephone call. Alfredo meets Violetta and sings to her of his love. It had only been ten days since she first heard of The Artist's case. Violetta laughs and sings that life is just for pleasure. Her own life? Did she enjoy her sixteen hour days? Or was she a drudge who screwed up everything she ever touched except for her law practice which wasn't the greatest in the world, if you got right down to it. Did Harry really think she was attractive? What were they doing here together? How dumb can you be? The two singers make it look so easy, you'd think they hadn't had to spend every cent they earned as waiters or construction workers on voice lessons, forfeited the idea of family for career, and now practiced every day until their voices were ready to crack.

Violetta couldn't believe this man really loved her--that she was worthy of being loved. Who are the people who are worthy of being loved? Melinda Richards? Had she been loved? Was there some man or some woman back in Texas who worked in a laboratory or in an office who was happy to see her at the end of each day? That research she was doing--the work that got her interested in The Artist's death--deaths of patients after surgery with no apparent reason. My God, what if Richards had connected The Artist's death to her syndrome, death from no known cause that had baffled the greatest medical minds in the

country? No one could have been held at fault. The case would have been out the window before it even started, shot down by their own expert. Jerry Stryver, you'll never know how lucky you were.

Alfredo leaves the party and Violetta. His voice, singing of his joy at meeting her, drifts up from the street below. She's falling in love. Why did Harry invite her to the opera? He's seeing someone. Is he going to leave that woman for her? Why had she accepted? To set herself up again? Making love with Harry was better than anything. No more. Remember why she left him the last time.

Richards had volunteered to help with this case. In her years of suing doctors she had solicited, pleaded, overpaid, coerced, threatened doctors to get them to testify. She had never once had one drop in out of the blue and volunteer to help with a case.

She opened her purse with just a small snap of the catch and took out her note pad and pen. She made notes as quietly as she could and left them in her lap. By the first intermission she had filled three pages.

"You must really be enjoying the opera," Harry said as they walked toward the bar. What right did he have telling her she had to enjoy the opera?

"I can't help the thoughts that pop up. I write them down, then I can forget them and go back to the opera."

The bar was where Harry met fellow opera fanatics.

Michael and Margot, tax and corporate lawyers, were waiting. They had seats in the first row orchestra. Michael gestured with his champagne glass, "Placido is such a wonderful actor. He acts a great voice until he warms up."

Harry said, "What did you think of Sweet?"

As the two men were grading the singers, Margot raised an eyebrow and rolled her eyes toward Harry.

Nancy answered the question with her own puzzled shrug.

Margot shifted back to the conversation and said she thought Sweet's voice was a little stiff for this part, but thrilling with all that easy volume. Did Harry have a diagnosis of Violetta's cough?

"Early stages of terminal TB, but not the type that will affect her singing voice until her last breath. You can tell because she hasn't started to waste away. But I've seen the opera before. I'll send you my bill."

Nancy sighed that once again the dance scenes had reminded her of the waltzing hippos in Fantasia.

When the opera had been fully evaluated Harry announced that Nancy was doing The Artist's death trial.

Michael and Margot turned to her warmly. "I remember when he was shot," said Michael.

"Nina Vanilla did it," Margot added. "Women's liberation!"

Nancy said, "I didn't know her name. I have to admit, I was not one of his fans."

"We have one of those coffee table photography books by Zanartu. There's a picture of B holding his shirt up and showing his scars," Michael said.

The Queen of Thailand stepped out of the Parterre level and Margot diverted them all to look.

Nancy took out her little pad and made another note. The chimes rang.

The team met at the captain's house on Saturday morning. Trial was scheduled to start the Monday after jury selection.

As they all sank into the plush, next to steaming coffee, Stryver commanded silence. He sat himself on a kitchen stool in front of the darkened TV and said, "I've written my opening statement for next Monday and I want your reactions. Nobody say anything until I finish. I don't want to be interrupted." Captains can order their teams to respectful silence. It doesn't work in courtrooms.

As he read, Nancy's seat became claustrophobic. He wasn't saying a word about the medicine.

The trial lawyer has to teach in the opening statement while the jury is still receptive. You win your case on the opening statement.

Stryver was making an automobile accident opening without saying what the cars did. The words, "serious case," kept recurring. He knew nothing about gall bladders or incisional hernias. Liver was what you served chopped with egg and minced onions. She stopped listening and focused on the cat rubbing its body on Stryver's leg. Stryver's statement that they would all be humiliated if they lost this case flashed like a neon sign over his oiled head. She kept still.

She measured what she would say as Wemmick and McBride told him how wonderful he was. For Christ's sake, trial lawyers don't read their opening statements. Most don't even use notes. Malpractice lawyers know the vocabulary. They can pronounce

"cholecystectomy."

Her turn. Wemmick and McBride turned toward her. Stryver looked like a child ready to open a present. They always say you should praise first, then say what you really think.

"It was a good opening. I can tell you're a real pro. We each do it differently." He sat up a little straighter. Praise first was so dishonest. She reached over and shoved the cat off her jacket. "Jerry, you haven't liked my suggestions so far but I'd like to tell you a few things I think should be in the opening. And, by the way, we're not starting on Monday."

Her first boss after law school had welcomed criticism. He had insisted that she tell him if she thought he was wrong. Then they would fight it out, with him being right at least 90% of the time. When she'd argued with Van Shepherd, the senior partner at her second job, she was kicked out. Now she was doing it again. So let them throw her out.

Stryver patronized, "Nancy, we brought you into this case for your medical background. Tell us what you think I should add. And we've been told the case starts on Monday."

"Watkins never starts trials on Mondays. Here's what I think the opening should be." She leaned forward and began to tell the three lawyers a story about a world-renowned artist who, twenty years before he was admitted to the Metropolitan College Hospital, had his chest and abdomen ripped apart by four bullets. She talked about the gunshot wounds, his near death, the surgery to repair the damage. It pleased her to hear her own confident recital of all she had learned in the past two weeks. In macabre detail she sketched the loss of part of a lung, his spleen and part of his pancreas, the infections, the operations that followed.

She talked about the life he led as an artist and his place in the art world. She told of

his obsession with his health, the gradual onset of his gall bladder problems. She wove in the connection of the gall bladder to the liver and the functions of each, and then went on to synthesize the theories of the doctors she had spoken with. She finished by showing them how sick and terrified The Artist was when he'd entered the hospital again. She knew no doctor or lawyer had ever given this explanation to Stryver and his team.

Everyone was silent. They all looked at Stryver, waiting. His eyes were sad. He looked small now, up on his kitchen stool.

He cleared his throat. "I think we agree that Nancy should give the opening statement."

"I don't know if I should bail out now and have a nice vacation in Hawaii with my mother or stay and go down in flames with my new friends." Nancy sat across from Harry in the small restaurant on upper Broadway.

"Even if I can get Helmer, the professor, to say malpractice, the only thing he thinks was wrong is the excessive fluids. The other doctor, Richards, says more of the same thing. A lot more. I wish you would testify that it was an overdose of morphine."

Valsalva said, "I wish I could help you more, Nance. I did go over it with a pathologist at the hospital--one of the few people there I can still talk to. He said the amount of MS they found in his blood shouldn't have killed him. I even looked it up--20 of morphine is a therapeutic amount. On the high side when they give two doses in four hours but still within normal limits."

"But Harry, you said people who died of heroin overdoses had the same type of frothy fluid in their lungs."

"The pathologist says that might be terminal. Your heart beats a little longer after you stop breathing; fluid gets forced into the lungs."

"Look, Harry. The guy died after a gall bladder operation. Am I right you shouldn't die after you have your fucking gall bladder taken out and a hernia repaired?"

"I love it when you talk dirty. My dear, people die. About one out of every two hundred people dies when they have their gall bladder taken out."

"Yes, they die because they can't take the anesthesia or because they bleed to death when the surgeon leaves an artery bleeding. They don't die in their sleep after they wake up

from the operation and walk to the bathroom."

"They die that way if they bleed to death. But if they bleed to death, when the ME cuts open the belly, blood spills all over. You'd also have serial blood tests that show the blood count getting lower."

She sat quietly for a while. "We don't have any blood tests taken in the hospital. At the autopsy they didn't do a blood count. The tox study didn't mention blood count."

"The tox study is taken from a piece of brain tissue, not blood. There should have been a blood count taken at the autopsy. Its possible there weren't any blood tests after the pre-op ones. They should have been done."

She pushed away her uneaten salad. "So not doing blood tests killed him? That's a big dead end. If we say he bled to death, they bring in the Medical Examiner and he says, 'Look at my report of the autopsy. Pinkish fluid. No free blood. Impossible to bleed to death without finding blood.' He's a public servant. He has no reason to lie that we could ever prove. He didn't find any blood. Checkmate. "I can't even start to prove they did anything wrong unless I can show what killed him."

"What do the treating doctors say killed him?"

"They did everything perfectly and he just died."

"Well, at least you're not spending years working on the case and mortgaging your apartment to pay the disbursements. It'll be over by the end of the year. Win or lose, Christmas you'll be sunning your bod' on Waikiki. Did I ever tell you about the R&R we did there during the war?"

"I've got to go home and work. I think I'm going to be sick."

She was studying the graffiti on the front of the old building on extreme West 22nd Street when a cab pulled up and let out Wemmick and another man. The second could have been stepping out of a Ralph Lauren ad--leather flight jacket, white silk scarf, aviator sunglasses, penny loafers. Too bad he was only 5'5". She was introduced to Star Ferguson.

They walked through the entrance under a fading sign for the "Egyptian Lacquer Company." Her first reaction was it looked as if it had been looted.

Ferguson smiled at her expression, "That's the way it always looks. He used to say flowers grow out of manure."

Bright ceramics spilled about, red, yellow and green plates and saucers, cookie jars, satin shoes, garden equipment composted in corners. Familiar images on glossy paper, canvases in frames leaned against walls and bulging cardboard boxes. A roaring tiger with bloody teeth painted on black velvet lay on the floor--Stryver should get them to donate that to the Princeton Club. Drafting tables and workbenches strained under combat boots, coffee pots, bottles, a 20th Century funerary urn, alarm clock. Nancy noted as they walked through what must have been the main production room that each object, even things that should be garbage, had a small paper sticker with a number on it.

"We kept this going for a year after he died, finishing up the projects he had started. Beyond that it would have looked like we were making forgeries." Star said. "You go on for a year and claim they were his works?" Nancy asked.

"Oh, he would have liked the idea, posthumous art. Besides, when he was here--the

way he worked, he would get a concept-- his own or someone else's. He said artists took inferior people's ideas and improved on them. You can't steal a concept. He would start the project. If it were a portrait commission, he'd take a hundred Polaroids. That way the customer got to see him working--he called them customers. He'd ask the customer to pick out three or four. Then he'd talk to one of the artisans. They all knew the drill. He gave vague instructions. It made it more interesting if the work wasn't controlled--accidental variations on a theme. Each stage of a silkscreen would be done by a different artisan. He never gave a lot of direction. Now, in a way, we're really just finishing the work he started the way he would have had it done."

Nancy didn't say anything. Yes, his wrongful death case too. You do the family. He'll do the art. She's on the nursing. I'll do the medicine. Much more interesting, more surprises, if we don't talk with each other. And then we all get together for a party at the Princeton Club when it's over.

Wemmick added, "They're increasing the value of the estate. And you can't fault them for that. And they're silkscreens, multiple copies. They crank out a hundred prints of each one. That's why he liked silkscreen so much. He was sort of the McDonalds of Art."

McDonalds of Art— maybe a concept for opening argument. Maybe an article for The Law Journal when it was all over, "Representing Dead Art Half-Billionaires Using The Hamburger Franchise Theory."

Ferguson interrupted and added, "He signed and numbered every piece. The numbers were always low. His signature was like a license to coin money. Shopping bags he'd designed to give away years ago sell for hundreds of dollars with his signature on them. He actually had it all over the great masters. They would make one painting and sell it for the

price of a loaf of bread. He brought mass production to its highest level in art. He even had a couple of guys who looked like him. He played rent-an-Artist. Some rich garmento wants The Artist to make an appearance at his showroom. We send Chuck Nolly with a white wig on to go and say rude things to the reporters for five thousand dollars.”

“Well, he messed up.” Nancy said. “He should have sent Chuckie to have his operation.” Yes, that’s the concept— multiple deaths, signed and numbered, the numbers always low. First Nina Vanilla, then the Metropolitan College Hospital, maybe something more vivid like cremation in this pile of garbage. How did she get involved in this? Nancy shivered.

A rotund, red-faced Irishman came in through a door in the back of the room. He greeted the two men as "Mr. Ferguson" and "Mr. Wemmick." Ferguson introduced Jimmy Gantry, the manager of The Factory. He responded with a small bow, "How do you do, ma'am."

Without prompting Gantry said to Nancy, "I'm the only one with a key to the place, except for Mr. Ferguson. I open it up in the morning and close it at night. No one comes in or out without me knowing it and nothing has left the place since his death, although there were a few things that would've walked out of here if I hadn't kept my eyes open. There's a lot of people feel they're owed something for all the trouble he gave them."

Ferguson cut in, "We had the workers finish whatever they were working on and then we started taking an inventory. He had so many things, it'll probably take us another year to finish. I arranged a credit line to cover expenses until the estate had cash.”

The Factory might appropriately have been called "The Warehouse" or "The Attic." No space was empty.

Ferguson saw Nancy looking up at a stuffed peacock with its tail spread, wiping dust off her hands and shaking her head. "He was an acquirer. When I was with him we would make the rounds of flea markets every weekend. He'd start out with \$10,000 in cash in his pocket. He usually spent all of it. They loved to see him coming. He was always treated like a celebrity, but when he was dropping money, they worshiped him. There's a lot of stuff here that he never looked at or even saw again after he bought it."

"Sotheby's and Christie's fought over which would handle this whole thing. Christie's won and they've been working on the inventory."

Wemmick cut in, "Sotheby's is getting into the act through some of the Foundation board members. They're trying to get a piece of the action. There's gonna be a fight." He stopped and regarded Ferguson, one eyebrow lifted.

Ferguson ignored him. "The Artist's works and his collection are commodities that have a limited market. We're going to be very careful about how things are disposed of. If we were to sell everything at once, a few buyers would get a lot of terrific bargains. But if we put out only a few things at a time, we get top dollar."

Completion of jury selection was assigned to the State office building across the street from the courthouse. Nancy walked through the lines of impatiently already overflowing the door of the Motor Vehicle Bureau into the marble and brass lobby. Men carrying cameras clustered, looking bored. An ambulance was parked on the sidewalk, its lights flashing. Her way was interrupted by a body lying on the floor in the center of the long hall with two uniformed court officers standing over it. Dirty bluish-white skin stood out against a grizzled gray beard. Nancy tightened her lips and stepped around. She was cleaning up after a different death.

The jury clerk told her she was the first one there on The Artist's case. She set her container of tea down on the counsel table away from the debris of coffee cups and brown paper bags of some other lunch. She opened her trial notebook to an article by Dr. Richards on post-operative fluid balance.

Ivar Walker came in and approached the clerk. Both looked in her direction. Walker came over, sat next to Nancy and effused. "Nancy, how nice to see you. What are you doing here? Did I hear right that you're on The Artist's case?"

She closed her notebook. "You heard right. You guys were just a little too tough on my friends. They figured you wouldn't treat a lady that way."

"Well, certainly not this lady," he said and touched her arm. "It's good to have you on board. It's going to be a fun trial. Have you seen the TV cameras?"

"I saw them. Are they were for us?"

As if on cue, a reporter approached and said, "Mr. Walker, I'm from the News. What is your explanation of The Artist's death?"

"Act of God. He got the best medical care available in the world. I have nothing else to say." The woman walked away without noticing Nancy. Walker was irritated.

Nancy looked at him mildly. "You guys wouldn't mind, would you, if we stipulated to allow the whole trial to be televised? You could use the publicity, Ivar."

Walker yelped. "You've got to be kidding. The hospital was hoping a bomb would go off at the Thanksgiving Day Parade and fill up the headlines. They just want this thing to go away. We've already asked the judge for a gag order. Who knows what she's going to do." He made a face. "You're lucky, being on the plaintiff's side. I don't know why they put me on these things. You don't have to deal with Hopkins and his committee. I can't stand prima- doctors. I'm finally getting somewhere with these bastards. They should be talking real money soon."

Nancy had dealt with Walker before, friendly, garrulous, plaintiff's best friend, hater of his own client, promiser of settlement money. She was not one of the many trial lawyers, with and without experience, who had been lulled into taking a few days off before the trial to look for a bigger house to invest his fee in. She made a mental note not to tell Stryver of this conversation.

Walker was saying something about the dinner they never get around to having when Ed Parker and Bill Heany came into the room. Walker got up and intercepted them. They all looked over at her. She smiled and waved. They didn't smile back.

When Stryver and Wemmick arrived, the clerk directed them all to a former courtroom now vandalized of its judge's bench and witness stand. Half an hour later a typical Manhattan

jury panel filled the room. Bicycle messengers and cleaning people, college professors and financiers, all resigned to losing a couple of weeks of their lives.

Only one juror had been selected in the debacle that brought Nancy into the case. They had orders to pick five more plus three alternates.

Nancy stood up to make her introductory remarks. She had spent a lot of time thinking about what she was going to say. She gave her own name and turned toward Stryver, "My co-counsel sitting next to me..." Oh, God. She couldn't remember his name.

Ed Parker, sitting to Nancy's right at the big table, was looking down at a deposition in front of him. She reached over and snatched it up. Stryver's name was on the cover. She introduced him and added that they might have heard about him or some of the cases he had handled. Great start.

Ivar Walker leaned back in his chair scanning the panel of jurors. "There are twenty-one people here," he said. "The clerk said he was sending in twenty. Is there anyone here who is not a juror?"

A woman in the rear corner raised her hand.

"I'm a reporter for the Associated Press. I'd like to watch the jury selection."

Walker, being his most sincere, said, "Maa'm, we'd love to have you but these proceedings are confidential by the judge's order. We have to ask you to leave."

You have to pick your fights. Nancy hadn't heard of any such order. She let the reporter go but decided to use the incident. "Ladies and Gentlemen, before I go into the regular jury selection, I think I should make a comment about what just happened. I'm sure you have all heard of The Artist and his death. He was a very prominent man and this is going to be a highly publicized trial. There is going to be television and newspaper coverage of the

case. The cameras are already setting up. We've just had a reporter in this room. You might find yourselves approached by the press or see yourselves on TV. First, you have to agree that you will not say anything about the case to anyone from this moment until you have rendered a verdict and been discharged by the judge. When we get before the judge, she will give you very specific instructions about speaking with anyone."

The jurors were sitting up attentively. This was the type of job that everyone had prepared for over a lifetime of watching the 11 o'clock news—maybe it wouldn't be two wasted weeks.

She went on discussing the function of jurors, casually bringing in a bit about the case.

Heany interrupted, "Could we have a discussion out in the hall?" The attorneys filed out.

Stryver whispered in Nancy's ear, "I love it. Everyone of them is planning their interview with CNN."

Nancy added, "And the only cases that make the news are the ones with the big verdicts. I'm sorry about forgetting your name."

"You'll know it by the end of the case," Stryver said. "Everyone will." He and Nancy looked over at the defendants' attorneys in conference.

Abruptly, Stryver said, "I've decided I'm going to give the opening statement. I'll need you to write out everything you said on Saturday."

"Jerry, you've got two days. You don't have time to learn the medicine. It's taken me fifteen years. I've spent more than fifty hours just studying the medicine in this case since I started."

"I know all that. I've given five hundred opening statements. I give a very good

opening statement."

"You've never given one in a malpractice case before Judge Watkins."

"How different can it be? Write out what you said at my house."

Nancy looked at Wemmick standing quietly behind Stryver. Wemmick's eyes registered nothing.

The defendants' trio approached. Heany said, "Nancy, we don't want you talking about the law or telling the jurors what the judge is going to do."

She smiled at them. "Don't give me that shit, Bill. You know that every judge in the country would give them that instruction. You're even the one asking for it. Do you want to ask the judge?"

They knew she was right and Watkins would not be happy about their wasting her time on something like this. Heany said, "We want you to understand our position. Next time we go to the judge."

She wondered what they'd really called the recess for. She wondered how she was going to deal with Stryver.

They adjourned early with three more jurors selected. Nancy agreed to meet Stryver at his office at 7 PM with her notes for opening statement.C:\S\26.wpd

She worked through dinner gritting her teeth and typing an outline of the opening statement. The opening statement now, next the cross examination of the defendants, then their own experts--she could see herself as Stryver's script writer. Taking notes in the back of the courtroom while he posed in front of the jury. One of her law professors had said of a student, "You give her the finger and she takes the whole hand."

She needed this case. But she didn't second-seat anyone. She worked in that courthouse every day. Everybody there would know what was happening. Maybe she should refuse to sit at the counsel table. She might look like a legal secretary but he was going to find out there was a big difference. Let him go down in flames on his own.

Writing out a script was for the movies. This judge was unpredictable. All judges were unpredictable. So were live witnesses, even when they were your own. You can never be sure how someone will be when they get up on the witness stand. Stryver should know that.

Then there was the case. Stryver couldn't win it. She could. Stryver knew that. He really did know it. He just couldn't help tripping over his big fat ego. She wondered that he could give up any part of the case.

She had spent the day making friends with the jurors. They had only seen Stryver pulling at her sleeve and pushing notes under her nose. It wouldn't work for him to take over now. How could she get so far into a case and let it be lost? On the other hand, she still didn't know how it could be won.

She finished her notes, three pages, single spaced. Half an hour later she was getting out of the subway a block from Stryver's office. She composed herself. She remembered Stryver's high-handed reaction to her worries about Helmer's testimony. His blithe guaranty that the doctor would be all right. Was she so dazzled by The Artist and his \$400 million and the television cameras that she wouldn't let herself see that this whole case was a loser? The hospital and the doctors had already won. There wasn't a shred of evidence against them in the hospital record. This whole case was making her sick. Why was she even staying with them? As the elevator let her off into Stryver's office, she made up her mind to let him have it--he could have the whole thing.

"Jerry, let me go over my notes for each part of the medicine with you. You've got to get it right. If you mess up, you lose." Remember what you told Jane and Michael?

"First there's the anatomy of the biliary tree. To get to that the surgeon has to cut through several layers of tissue, skin, fat, fascia, muscle. That's important here because of the hernia. In most of the cases the patient has the classical configuration, but there are variations in a substantial percentage and there was a whole lot of variation here." She went through the shooting damage and the infections and the adhesions that resulted. "The whole function of the gall bladder is to deliver bile to the digestive system from the liver where it is made."

By the time she got from the hepatic duct to the pancreatic duct Stryver's eyes were glassing over. She finished, pouring on the chemical composition of gall stones, smiling inwardly.

"Leave the notes with me," he faltered. "I may want to go over it with you early tomorrow."

"Jerry, I can give an opening that will win the case."

"Are you saying I can't give a good opening?"

"I'm saying I can give a super opening. This is my game, Jerry."

"Don't tell me I can't give a good opening." The fish had only been nibbling when she tried to set the hook. Next time she would get him.

They went over their notes on each member of the jury panel questioned so far. Stryver made some useful comments. They agreed to meet in the morning at the cafeteria in the federal courthouse across the street from Judge Watkins' courthouse.

Nancy was there at 8:30, reading Godson's deposition one more time. Stryver, Wemmick and McBride arrived shortly after 9. Stryver was wearing double-breasted dark blue pin-stripes with peaked lapels again. Wemmick had told her Stryver owned nine identical trial suits; when one got old, a telephone call to his London tailor bought a replacement. He thought it was bad luck to wear a different color suit during a trial. He did vary his dark ties and tiger head cufflinks.

Stryver sat down next to her. "We're doing great on this case so far. I like the look of the jury. Don't you think we're doing great? You know what I mean?"

"Mmmmmmmn." He needed a mother to pat him on the head and tell him everything was all right. Nancy didn't love him that much. She changed the subject. "About the nursing malpractice. We have to be careful not to get a ten million dollar verdict just against Nurse Lee."

Wemmick said, "The judge is going to have to charge that the hospital nurses are still fully responsible even if there's a private duty. Mary's got a professor of nursing from NYU who's going to testify."

Stryver said, "Let's go. I don't want to be late." He got up.

She hadn't finished her coffee. She stayed seated and slowly drank the last quarter of a cup. Stryver stood over her. He raised his voice, "We're going to be late." He walked to the door followed by his entourage and stood waiting, bouncing up and down on the balls of his feet.

Nancy got up, walked to the trash container, threw away her cup, then the paper plate her toast had come on, and then her napkin. Then she followed the group to the elevator.

As they were walking down the steps of the federal courthouse, Stryver said to Nancy, "I've gone over your notes for the opening. I'm going to modify it and give my standard opening with some medicine added."

She stopped. "It's your case, Jerry. You do the opening and the summation and everything in between. I have a ticket to Hawaii next week. I'm going to use it. Let me give you the whole case." She stopped and opened her briefcase. "You can send someone over to my office to pick up the rest." She picked it up with a hand under it to dump everything out on the courthouse steps.

Stryver grabbed the briefcase. "Nancy, let's talk about this. You're getting emotional. I'm sure we can work it out."

"Jerry, there's no time left to work anything out."

"Nancy, cool down. One thing at a time. Let's just finish the jury selection. Cool down. Everything will be all right." He looked frightened.

She agreed to pick the rest of the jury, hating herself for being happy about still being in the case.

By lunch they had a jury of six, plus three alternates. It included a retired businessman from South America, a citizen now for the last twenty years, the conductor of the New York

Symphony Orchestra, a housewife who used to work as a waitress, a mailman, and a jewelry salesman. Nancy had had reservations about the conductor, who seemed cold and withholding, but Stryver insisted he be kept. He was a successful artistic type, might feel some empathy for The Artist.

All the attorneys left the State Office Building to walk to the courthouse across the street. The Greek revival courthouse is probably the most filmed building in New York. With its columns, capital inscribed, "The True Administration of Justice is the Firmest Pillar of Good Government," and magnificent stairway, it occupies a whole city block and faces a little park. As they approached the stairway from the corner, Stryver guided them to the center. "Always walk up the middle," he ordered. The team trooped after him, passed inside and reported to Judge Watkins' courtroom.

Judge Watkins was still holding conferences at the bench at a quarter to one. They checked in with the court officer and started to take seats.

The judge looked up and said, "Attorneys on The Artist's case, what are you here for?"

Nancy answered, "We have a jury, judge. We're just reporting in."

"All right. We start on Tuesday. Be ready to go at 9:30." She got up to leave the bench.

Stryver whispered to Nancy, "How did you know we wouldn't start on Monday?"

"Inside information."

Heany stepped forward and said, "Judge, we need a ruling."

The judge looked annoyed. "All right. Come up. What is it?"

At the bench Heany said, "Your honor, there are reporters and television crews all over the courthouse. We had to throw one out of the jury selection room. Could you order that

everyone involved in the case not give any statements to the press?"

The judge stood up and started to walk out of the courtroom. "I don't think you should speak with the press. Is there anything else?" She was gone.

Stryver's team stepped into the corridor. Bright lights went on and a reporter put a microphone in front of Stryver. "Mr. Stryver, are you saying that the hospital caused The Artist's death?"

"I'm sorry. The judge has just ordered that we not discuss the case."

Nancy stepped in front of Stryver and said to the reporter, "They killed him. You don't die from a sick gall bladder."

The reporter asked, "What did they do wrong?"

"Listen to my opening statement." She walked past the TV crew.

Stryver caught up with her. "What are you doing? The judge just made a gag order and a minute later you're making a statement on television? And I'm doing the opening."

"I didn't hear a gag order. I heard her say she didn't think we should talk to the press."

Heany was right behind Stryver. "What the fuck are you doing, talking to the cameras? Didn't you hear what the judge just said?"

"Don't get emotional. I told them to listen to my opening statement. If you don't like it, sue me." She walked away.C:\\S\\27.wpd

Nancy's mother had to fight for a seat between a reporter and a young lawyer. She had insisted on being in the courtroom after she saw her daughter on the evening news. Beneath the rouge on her cheeks she was pale. But she sat up with a straight back and within a minute after she sat down was in a conversation with the reporter next to her.

The court officer came out of the robing room, her makeup fresh and every gold-tinted hair in place. She looked around at a group of reporters, sternly announced that there would be no standees permitted and left the room.

Nancy put her trial briefcase on the corner of the counsel table closest the jury, facing the judge. The second seat was left for Stryver, who was flitting restlessly around the courtroom shaking hands. The defendants' attorneys took seats at the long table with their backs to Judge Watkins.

Nancy spread her papers and then walked to the back of the room. Four reporters were carrying one of the hallway benches into the courtroom. She recognized an elder statesman of the newspaper establishment sitting in the second row and approached him. "Mr. Scott, I'm Nancy Carton. I'm representing the plaintiff in this case."

"Isn't there a gag order against speaking with the press?"

"I'm not talking about the case. I just wanted to say hello to you. I was with Chris at People's Park."

"Oh, yes. Have we ever met?"

"We spoke after his accident. I called to ask where he had gone."

"I think I remember. Good luck on the trial."

She thanked him and walked out into the hallway, out of range of Stryver's tension,

alone with her own. Stryver had changed his mind about the opening statement and rechanged it twice since the jury was selected. Finally, she had said, "Jerry, I know you give the best openings in the business. Richard and Mary told me about the cases you've tried. I've had a little more time to learn the medicine, let's work together on the doctors. This is a team effort." And he had capitulated. Maybe she could go into psychology if the law didn't work out.

She took the stairs down a flight and started walking slow laps around the circular hallway and looking blankly at the painted images around the rotunda ceiling of the lawgivers: Hammurabi, Solon, Lincoln, Moses. It had been built in 1924. Courtrooms opened onto spokes off the atrium.

She tried to spend the last few minutes before the trial started thinking about her opening, trying to quiet the rebellion raging in her stomach. No breakfast meant nothing to vomit up. She went into the bathroom for the fourth time that morning and got rid of the last traces of yesterday's food and drink. If they lost, they would all be humiliated. She would be humiliated. No, she couldn't even think about losing, the real possibility of losing. You can't be a trial lawyer without losing cases. Every case has a loser. She was a trial lawyer. But this was a winning case. You shouldn't die after you have your gall bladder out. He had walked into the hospital. She was good at this. She had to win. This is what she wanted to be doing. She could win it. She would win it.

At 9:25 she took the stairs up.

Funny seeing Bill Scott in the courtroom. He looked like Chris, thin with a short nose and curly hair. That day when they all marched on the park--that had been the first day of her adulthood. They don't gas children in America.

Chris had told her to stay away.

The demonstration had been peaceful all the way to the park. Construction machines and workers surrounding it with a fence.

Police in riot gear. County Sheriffs in flak jackets, helmets, carrying clubs, shotguns. Insults, then screams. A book flying through the air. A helicopter hovering. Police putting on gas masks. The helicopter moving away, tear gas bombs arcing white trails. Students sinking in the rising cloud.

The police a wall. Clubbing one of the boys--men. Students milling like penned cattle, eddying back from the cops and their clubs. Blood streaming down Chris' face. Shots. An opening. She ran through and she was out of it.

She had reminded Bill Scott of his son. She hoped his article about the trial would be friendly.

As she reached the counsel table, Mary McBride gave her a little hug and a good luck wish. Her mother broke off her lecture. She pointed to Nancy. Stryver was walking around like a maitre d'.

The attorneys' lectern dominated the jury box. Nancy muscled the massive piece of furniture off to the side. No one offered to help.

The hands on the clock in the back of the courtroom moved to 9:30 and the door next to the bench opened. Officer Bea reappeared and slapped her hand three times on the door. "All rise. The Supreme Court of the State of New York is now in session. The Honorable Marilyn D. Watkins, presiding." The judge entered, her black robe open to display a vest garlanded with gold chain and Phi Beta Kappa key. She walked deliberately up the steps to the bench and stood surveying the crowded courtroom. She ordered the jury brought in and

then snapped, "Swear the jury."

Nancy rehearsed the first few words of her opening as the judge gave an opening charge.

The judge finished her remarks abruptly. "The plaintiff's attorney will now give his opening statement."

Nancy stood up. The judge raised her eyebrows but did not correct the gender error.

Now there was nothing between Nancy and the jury but the thin rail.

"May it please the Court." Words used by advocates all the way back to William the Conqueror.

The foreman of the jury looked into her eyes, then dropped his gaze to her breasts.

She smiled sweetly at him and thanked them all for involving themselves in this dispute that was so important to The Artist's brother and sister. She introduced Jane and Michael, who stood and nodded to the jury—still looking like scared rabbits.

And then she began to sketch The Artist's life for them-- the early poverty of his family, his meteoric success and his work in the arts, the fabulous wealth that he had not had the chance to use for the benefit of his beloved older brother and sister. As she talked about The Artist's last illness, she eased in explanations of the anatomy and disease of gall bladders and their treatment. She told the jury The Artist had been failed by the doctors and the nurses who agreed to take care of him, who had sworn oaths dedicating themselves to the healing of the sick. To the attorneys in the courtroom the speech was more of a summation than an opening statement. For the jurors it would be a map to guide them through the days of confusing technical testimony that lay ahead. Walker objected once and the judge told Nancy to confine her remarks to what she expected to prove. Normal static.

She finished by saying that at the end of the trial she would again speak with them and ask for a verdict in favor of The Artist's family. She cautioned them to watch the attorneys for the hospital and the doctors as they attempt to put all of the blame onto the private duty nurse.

When she sat down next to Stryver he gave her the thumbs-up sign and shook her hand. It was generous of him but she noticed the jury was watching.

The judge said, "Mr. Walker, your opening statement."

Walker stood and walked over to the lectern and moved it easily back in front of the jury box. He opened a folder and took out a sheaf of yellow pages. His gaze rested momentarily upon the members of the jury. Then he started to speak, referring to his notes every minute or so.

Stryver was on his feet asking the judge to have Walker move the lectern because the jury was blocked from his view. Walker had gotten his stride and told the judge he would move it aside. Judge Watkins looked at Nancy with a slight smirk.

She wanted to stand up and say it was just fine with her if Walker put a huge piece of furniture and a pile of legal papers between himself and the jury; that Stryver hadn't really meant to object.

She sat and listened to Walker talk about the superb qualifications of the surgeons and the wonderful care The Artist had received. He told them how the operation had gone without a hitch; no one would ever be able to say that there had been the slightest mistake in the operating room. Good point. He reminded the jury that doctors don't guaranty a good result and that we are all in the hands of God when we go into the hospital or do anything else, like cross the street. It was a non-statement, not surprising since Nancy's opening was the first airing of the team's theory of the case. That too wasn't surprising since Stryver and

company hadn't had a theory until three days before.

Ed Parker stood and made his speech. He strutted to the center of the jury box. He left his custom made suit jacket open to expose hand embroidered suspenders framing an ample abdomen. He had worked his way through law school working as a diener in the Medical Examiner's Office. Parker alternated between orating while looming over the jury and stepping back and speaking conversationally with his foot up on the stenographer's platform, leaning over with his elbow on his knee and flourishing his glasses in the other hand. Father in The Adams Family playing Gregory Peck in To Kill a Mockingbird.

Parker was at least forty, never married. Held himself out as a gourmet chef. Probably wasn't a woman in the world worthy of him. It showed in the way he wrinkled his brow and gazed at the jury under his eyebrows. She couldn't imagine any woman being able to endure even a weekend in his company. But then she was forty-three and never married either. She had never fully formulated her own rationalization about that.

Parker's statement was a variation on Walker's themes, substituting the competence of the great hospital and its nurses for the world class doctors. Predictably empty in substance.

Bill Heany gave the last opening on behalf of Nurse Lee. Everything about him and his statement said, low profile. He had told Nancy his client was judgment-proof--no money and no insurance. Whether she believed it or not, her opening had indicated that she was going to aim all her guns at the deep pockets of the doctors and the hospital. Heany's job was to work behind the scenes, convincing everybody that the case should be settled without his client paying a dime.

Judge Watkins broke the case for lunch. Nancy's mother stayed in the courtroom after the rest of the spectators had filed out. "I'm so proud of my daughter. If only your father

could have heard that wonderful summation."

"Thanks, mom. It was an opening statement, but I meant it to sound like a summation."

Nancy brought her mother over and introduced her to the team. Her mother and Stryver were both impressed when Nancy mentioned that Stryver had been the attorney on the Grateful Dead case. He invited Nancy's mother to have lunch with them. She declined, saying she had an appointment. Nancy walked her mother to the door of the courtroom. "An appointment?"

Wryly her mother said, "It's been years since I had my period. I woke up a few days ago bleeding, but I discovered it was from a different place."

"What?" Nancy stood still. "How many days is a few? Why haven't you told me?" Urgent questions about the quantity and color of the blood. Then, "Who's seeing you?"

"Now don't you worry, Miss Know-too-much. My doctor is Michael Snyder, the best."

Nancy had never heard of this best doctor. That was probably good.

Her mind raced around the necessity for her to be in court, the possibility of having the case adjourned for a day; or maybe delaying her mother's procedure until she could be with her. All impossible.

Her mother read her mind. "I purposely didn't tell you because I didn't want to distract you. I'm sorry I mentioned it. Now I've upset you. I'm just a little afraid."

"It's only a game."

Graffiti on the backside of

Justice Watkins' benchtop nameplate

22

Nancy excused herself from lunch with the team. The defense attorneys had started referring to them as "The Prosecution Team." She had to prepare for her examination of Dr. Benjamin. The New York State Supreme Court, which handles more cases than any other in the world, does not have a library available to attorneys. She crossed the street to the federal courthouse and took the elevator to the library there.

Her mother was seeing a gastro-enterologist. She might have cancer of the bowel. The first symptom was usually blood in the stool, sometimes detectable only by a subtle lab test, sometimes with frank bleeding. Her mother's face was pale. How long had she been trying to wish it away? How could Nancy not have seen the signs?

Was she inhuman, sitting here in this library when the most important person in her world might be bleeding out her life? Shouldn't she be with her, holding her hand and comforting her and talking with the doctors, making sure they knew what business she was in so that they would be extra careful, give her mother the benefit of every doubt, practice the defensive medicine they were always blaming on malpractice lawyers?

But the rest of the world would go on with its slow bleed. She had fought Stryver for the opening, and she had done it well. Might even have won the case with it. If her side was winning, she had to keep it winning. Benjamin could turn the case against the plaintiffs. Nobody else on their team had prepared to question Benjamin. Even if they had, they couldn't do it as well as she. There wasn't any alternative to going on. And she wanted to do it. That was her truth.

She paged through the Benjamin section of her trial notebook. She had his New York State application for a license to practice medicine, the five articles he had helped write during his residency, her outline of his pre-trial deposition, his office records on The Artist. Also Stryver's useless report from an investigator on Benjamin's sexual preferences, his forced resignation from the Union League Club and his very healthy credit status.

What did she hope to accomplish with Benjamin? Why was he in the case as a defendant? What was his relationship to the surgeons and the hospital? What was his relationship to The Artist?

The first rule they teach law students about trial practice is not to ask a witness a question unless you already know the answer. She didn't know most of the answers to the questions she was going to ask Benjamin. She didn't even know what Benjamin looked like. She wasn't even sure what most of the questions would be. Her professors had said to write out every question in advance, plan every thing that was going to happen, be in complete control. Control a courtroom the way they controlled captive lecture classes.

She went through her abstract of Benjamin's deposition once more, underlining, making large marginal notes. Twenty minutes left before she had to be back in court--time to stay away from Stryver. She went down to the cafeteria and bought herself a boysenberry yogurt

and cup of tea. She could feel herself beginning to lose weight--The Nancy Carton All Stress Diet. At three minutes to two she walked into Watkin's courtroom.

Dr. Lynn Benjamin turned out to be an elfin five feet four with auburn dyed hair and mephistophelian trimmed eyebrows. He wore a custom made tweed sports jacket over a beige vest and oversized maroon silk tie. He smiled to the jury as he took the stand. Well coached by Ivar Walker--be Marcus Welby. He gave an address on Sutton Place.

Nancy gave him the opportunity to air all of his academic achievements and honors. After he finally said smugly that that was all he could remember at the moment, Nancy asked, "So, doctor, with those credentials, your patients can expect the highest quality of treatment?"

He hesitated, adjusting to the unfamiliar air of the courtroom. "I would hope so."

"Doctor, could you tell us for how long you were acquainted with The Artist?"

He smiled sadly, swallowed and turned to the jury. "I knew him as a good and loving friend and as a patient for twenty years." Nancy couldn't tell if his voice choked when the doctor said "loving friend." What did that mean? Were they lovers? Had they been lovers?

"Doctor, I would like to ask you about The Artist's medical treatment. When did you become his physician?"

"He and I met in 1965. At a party at Halston's. We became friends first."

He wanted to talk about the relationship. Maybe the jury wanted to hear about it too. Nancy was curious.

"You knew him well?"

"He was one of my closest friends. I miss him deeply." His voice broke and tears welled up and spilled. He took out a patterned yellow silk handkerchief and wiped his eyes and blew his nose.

The little phony. He had probably rehearsed this scene in front of the mirror and was afraid he wouldn't get the chance to play it if he waited much longer into the questioning.

"Would you like a drink of water, doctor?" Nancy filled a Dixie cup from the pitcher at the counsel table. She could play his game.

The doctor accepted and she waited gravely for him to compose himself. The judge had a tiny smile in the corners of her eyes.

Explore the relationship. "Doctor, you socialized with The Artist?"

"Oh, yes. We frequently attended dinner parties together."

Any closer than that, doctor? "Did you vacation together?" Way out of line but let the defendants object. No objection.

"We took several vacations together. All of them before he was shot. After that he seemed to put his business paramount and almost never went anywhere except on business."

"What kind of person was Slava Bough?" A big gamble of a question.

"He was the most talented artist in the world. He was loyal and loving and generous to the people he cared for."

Nancy glanced to Stryver. Silently they each thanked the doctor for helping to prove their contention that The Artist would have taken the greatest of care of his dear brother and sister if he had lived.

She thought of asking if the doctor knew of The Artist's relationship with his family but decided not to take the chance.

"Doctor, when did you first see him as his physician?"

"That was in 1967."

"So, I take it you were his doctor when he was shot?"

"No, I was in Europe when that happened. I visited him as soon as I got back. He was getting very good treatment at St. Jude's."

"Did you treat him, or consult with him about the subsequent abscesses or their treatment?"

"No, he stayed with the people at St. Jude's. They were familiar with the surgical aspects of his case. I specialize in internal medicine."

"Doctor, you did familiarize yourself with the treatment he received at St. Jude's?"
She knew his office records contained operative reports and discharge summaries for the gunshot hospitalizations.

By question and answer they traced the paths of the bullets through The Artist's lungs, diaphragm, spleen and pancreas. The doctor had obviously been told by his attorney to lecture whenever he got a chance. Nancy gave him the chance to expound on the wounds and their aftermath.

"Doctor, didn't The Artist have some infections that developed into abscesses where he had the bullet wounds?"

"Yes, he did. He was hospitalized again and reoperated upon."

"Doctor, an abscess is a collection of pus. Is that right?"

"Yes."

"And the tissue it comes in contact with becomes irritated and inflamed?"

"Yes. It does. In his case, they had to operate and clean it out."

"Doctor, after they clean out an abscess, that tissue that was irritated and inflamed tends to form scar tissue and stick together. Is that right?"

"Yes, you've done your homework, counselor. It is called adhesion."

She brought out the page cut from the book she had had Wemmick buy and had it be marked for identification. She showed it to the doctor and asked if he recognized it.

He smiled paternally and said, "Yes, of course. That's the famous picture of The Artist showing his scars. Zanartu took it, you know."

"Is it a fair and accurate representation of how The Artist's abdomen looked three years ago when he was admitted to the Metropolitan College Hospital?"

"Oh, yes."

Nancy offered it into evidence and asked that the picture be shown to the jury. The judge had the court officer pass the picture among the jury. It showed The Artist, serious-faced, lifting the leather skirts of his motorcycle jacket and exposing a shadowed deeply creased abdomen.

She poured herself a cup of water while the jury looked at the photo.

Back at Benjamin. "Doctor, The Artist developed medical problems?"

Benjamin looked slightly alarmed. Inappropriate. "What do you mean?" He asked.

"He developed a gall bladder problem?"

Then he looked relieved. "Oh, yes, I was his physician for that."

Maybe Benjamin was relieved to get to his role as The Artist's doctor. He sat back confidently and waited for the next question. Something was happening she didn't understand.

"Doctor, the gall bladder is a little pouch attached to the liver that stores bile produced by the liver?"

"Yes it stores the bile until it is needed for digestion, then it contracts and squirts the bile into the small intestine."

"Sometimes that bile will condense into stones or crystals?"

"Yes, if there are stones, they are crystalline."

"If there are stones or crystals they can cause a person pain. Isn't that right, doctor?"

"Yes, The Artist started having pain in 1982. I made the diagnosis of gall stones and treated him." She remembered notes of pain earlier in Benjamin's records but she let it pass.

"Doctor, isn't the treatment for gall stones generally surgery?"

"Surgery is a treatment. I was treating his gall stones medically."

Now she was getting into unknown territory. Stryver & Co. hadn't asked a single question in this area during the discovery phase of the lawsuit. She was considering whether to go further when the doctor continued.

"I was treating him with a medication I was importing from Japan."

"Doctor, you were treating him with a medication or a drug that was not approved for sale in this country or approved by the Food and Drug Administration?" First question she didn't know the answer for.

"It was not generally approved by the FDA. I was given a special license to import it."

That answer didn't help. Maybe she should go on to a different topic. She gambled another question.

"What was that medication?"

"It was Ursoline."

Nancy picked up a piece of paper Stryver was shoving at her. It said, "Ask him whether he charged The Artist for his treatment."

"Doctor, please explain to the jury what Ursoline is." A throw away question to give herself time to think about what should come next.

"It's an ancient Japanese remedy for gall stones made from the bile of grizzly bears."

She did a double take. She paused. She asked the judge if the answer could be re-read. The judge told the stenographer to reread the answer.

She kept a straight face. "Doctor, did the stenographer get that correctly? Did you say 'bear bile,' like Smokey the Bear?"

"Yes, that's correct. It's not a joke, counselor."

"Doctor, they kill bears to get this stuff?"

"It is not a joke, counselor. It has been used in China for a thousand years."

"Doctor, that was a treatment that the Food and Drug Administration in Washington does not approve of or recommend?"

"The FDA does not know everything."

The musician on the jury nodded. She backed off.

"In any event, doctor, the bear bile treatment did not work for The Artist and you recommended surgery?"

"I did not recommend surgery. I referred Slave to Dr. Christian Godson, the greatest expert on gall bladders in the world. Dr. Godson recommended surgery."

"Doctor, you saw The Artist two days before his admission to the hospital and the day before his admission?"

"I also saw him the day of his admission in the hospital."

"Two days before his admission, you did a complete physical examination and took laboratory tests?"

"I did."

"What tests did you order?"

The cautious look on Benjamin's face again. "I ordered a complete blood count and a

battery of tests called 'SMA-24.'"

"Any others?"

"No."

His "no" was more of a question than an answer. She didn't know what to do with it. So she went on and had the doctor identify his office records and offered them into evidence.

"Doctor, the next day you saw The Artist, you did another complete physical examination and more laboratory tests?"

He answered that he had. "One of the tests you did on both days was to check the hematocrit level of The Artist's blood?" She advanced to stand directly in front of the jury.

"Yes."

"That test measures the amount of red matter in the blood?"

"Yes, it does."

"Two days before his admission the test showed that the hematocrit was below normal?"

"Not very much."

"Then when you repeated the test the next day, the hematocrit was even lower?"

"It was a little bit lower. Not alarming. And he was going into the hospital."

"On admission to the hospital they took the same test again?"

"I don't know that."

She walked over and picked up the original chart from the subpoenaed records table. She introduced the chart into evidence and handed it to the doctor.

"Doctor, please turn to the "Doctors' Orders" section of the hospital record and read to the jury the admission orders."

Benjamin read the order aloud and agreed that the blood test had been ordered and that

there was a check next to the order indicating that the blood had been drawn. Next, she had him turn to the laboratory tests section. The results of the blood test were missing.

It didn't prove there was malpractice, but it did show that the great institution was at least fallible, if not crooked. She turned and walked back to her notes on the lectern.

"Doctor, one of the things the red matter in the blood does is to carry oxygen from the lungs to every part of the body. Is that right?"

"It is."

"So each of those days, starting three days before surgery, we know that The Artist's blood was less and less able to transport oxygen?"

"Not in any life-threatening degree."

"Doctor, why was that hematocrit getting lower and lower each day?" Please don't have an answer for this question, doctor.

"My concern was with the gall bladder. That was the immediate problem that was causing him a great deal of pain. I assumed it was connected with his gall bladder. I referred him to a surgeon." Thank you, doctor.

"One of the most common causes of hemoglobin and hematocrit going down is internal bleeding, is it not?" Harry had said bleeding was the first thing he would have thought of.

"That can be a cause." He was smiling to himself. Why was he smiling? What was she missing?

"You were his attending physician on his admission to the Metropolitan College Hospital?"

"Only on admission. I turned his care over to the surgeons."

"Did you discuss the possibility of internal bleeding with any of the doctors in the

hospital?" It didn't matter if he answered this yes or no.

"I referred him to Dr. Godson for whatever diagnosis and treatment he needed."

Now the jury could see that Benjamin was struggling to get himself clear. Maybe, in his panic, he would help out with the case against the surgeons.

"Doctor, did you tell Dr. Godson about the blood tests you took?"

"I did better than that. I attached a copy of the tests to the chart."

She picked up the chart and asked the court officer to hand it to the witness. "Doctor, Exhibit 1, which the hospital has certified as the complete original chart for the last admission of The Artist, has just been handed to you. Please look through it and show Justice Watkins and the jury the laboratory tests that you have just said you attached to the chart."

Parker objected. The judge overruled the objection.

Benjamin looked through the chart and said his lab tests were not there. He made an effort to look angry.

"So doctor, if you say your lab tests were inserted in the chart, either you are mistaken or someone has removed them from the chart?"

Parker and Heany objected. The judge sustained the objections.

The doctor volunteered, "I know I put them there."

The judge told him not to speak unless he were asked a question.

Benjamin apologized meekly. Nancy let the whole thing seep into the jury, then renewed her examination.

"Doctor, could you explain what your responsibilities were once Mr. Bough was admitted to the hospital and what the responsibilities of Dr. Godson were."

"I cleared him for surgery and then turned the entire treatment over to Dr. Godson and

his team. They are surgeons and specialize in the care of surgical patients, both during the surgery and after the operation."

"You thought he needed to have his gall bladder removed?" Stupid question. Of course he needed his gall bladder taken out. Get moving. But Benjamin is looking uncomfortable. He's not smiling any more.

"What does it mean that you cleared him for surgery?"

"I checked his heart and lungs and the functions of his vital organs."

"You found that his heart and lungs were in good condition?"

"Yes, I cleared him for surgery."

Back track. "Doctor, you thought The Artist needed to have his gall bladder removed?"

Benjamin's lawyer objected. Overruled by the judge.

"Counselor, as I said before..." Irritated. "I did not make that decision. I referred him to Dr. Godson, a great surgeon. It was his diagnosis that The Artist needed a cholecystectomy." Retreating behind medical language. Why?

"In your mind, there was no reason why he should die eighteen hours after the operation?"

Objection from all three defense lawyers. Sustained.

Move on. "Doctor, The Artist had lost half of his left lung in the gunshot incident. Isn't that right?"

"Yes, that's true but his lungs were functioning well. They were clear and oxygenating the body."

"Did you do anything to make the surgeons aware of the fact that The Artist only had

half a left lung?"

"I didn't... have to. All they had to do was look at the scars."

"Doctor, did you see The Artist while he was a patient at the Metropolitan College Hospital?"

"I saw him before the operation. I was going to see him the morning after the operation, but--then it was too late."

"Who, did you understand, would be caring for him following the operation?"

"He was a surgical patient. Dr. Godson and the surgical residents would be following him with the nursing staff. They are completely in charge of his care. I am totally out of the picture by then."

"You relied on them?"

"Yes, unfortunately."

She turned to the jury and paused to let the full force of Benjamin's indictment sink in.

"Doctor, why did Slava Bough die?"

"I wish I knew." He looked down at his hands.

Nancy walked Stryver to his limousine and assured him she'd be at his office after dinner. She hefted her trial bag and crossed City Hall Park. The marigolds and geraniums in the planters and the cardboard cocoons of the homeless on the lawns had disappeared along with the summer. The Christmas tree was lighted in the dusk.

These walks through the park were her private time, when she seized moments to escape and recharge emotional batteries. There was never enough recharging time during a trial and there was always a crash when a trial was over, win or lose. But this time she couldn't count on the luxury of a crash. She knew about surviving trial tension. She didn't know about her mother being sick. There would be no escape from that.

Nancy walked into her office and dropped her coat and briefcase on the floor next to her desk.

Her secretary, Theresa, was waiting. "Velma at the bank called. We're three thousand dollars overdrawn."

"I'll ask her if she can carry me for a couple of weeks. Any other calls?"

"There was a call from a doctor about The Artist's case. He left his home number, said you should call him tonight. Didn't leave his name."

Nancy dialed the number and got an answering machine. She didn't recognize the whispery voice. She left her name and home number.

She checked her other messages and skimmed the mail. Three other crises that would have to wait for her attention. She and Theresa closed the office and took the elevator down, Theresa on her way to choir practice and Nancy to the Ukrainian restaurant around the corner.

While she was waiting for the waitress to bring the \$4.95 stuffed cabbage plate, she reviewed her notes on Dr. Cappalli, first assistant surgeon at the gall bladder operation.

Stryver, Wemmick and Mary McBride were sitting around the conference table facing a pile of strewn medical records and depositions.

As she walked through the door, Stryver said, "Nancy, lets talk about Cappalli. We're going to have to use him to prove what happened at the operation. Hubert hasn't been able to subpoena Godson. I'm going to question Cappalli."

He looked at her and Wemmick, daring either to challenge him.

"I understood that I was going to do the medical parts of the case." Nancy spoke without intonation.

"It's questioning a witness. I've questioned hundreds of witnesses. Tonight we discuss what I'm going to ask." His jaw was set.

Nancy considered asking if he had ever cross examined a surgeon about a combined cholecystectomy and herniorrhaphy. He was going to do it. This was a team effort. Why destroy his confidence? Cappalli wasn't important to her theory of the case. Maybe she didn't have the strength right now for a fight. Maybe she could prepare him. She took out her notes. She could give him some questions to ask. She couldn't predict the answers Cappalli would give. A lot of what should be asked depended completely on what the witness said. Stryver wouldn't even understand what Cappalli was saying.C:\\S\\30.wpd

Stryver strutted back and forth in his custom pin stripes and red tie. "How're we doing? I'm going to get that son-of-a-bitch. Nancy, did you think of anything more I should ask?" Stryver, a rubber band stretched to breaking point, turned and recognized a reporter. He sprang over and shook hands then bounced back to the counsel table. He sat down, got up again and walked around and stood next to Nancy. "This son-of-a-bitch has probably never testified in court before. I'll go easy on him at first. Then I'll let him have it." He picked up his papers, brought them over to the lectern and stood shuffling.

Nancy watched him idly, trying to puzzle out the call she'd taken while she was getting ready for bed the night before. The voice had said. "I saw you on CNN last night. You're representing The Artist's estate. I thought I might be of some help to you." She waited, and he went on tentatively, "Sort of a Deep Throat. How about having a drink with me?"

"Do I know you?" As neutral as possible. Sounded like somebody who tries to pick you up on the subway.

"I'm on the staff at Met. I was in med-surg there when The Artist died."

First Melinda Richards comes out of the blue, from Texas. Now a doctor from the defendant hospital wants to help.

She thanked him cautiously and agreed to meet him at Freddy's, a singles place near her apartment.

The courtroom began to fill, not as densely as the day before. The defense attorneys entered in a flying wedge around Cappalli, abandoning him in the audience section. The doctor sat down, wearing a slightly bewildered face above his flowered tie.

Court officer Bea entered and announced that the judge wanted all attorneys in chambers.

The cast of lawyers stood at attention in front of the judge's desk in the robing room. Judge Watkins was leaning back in her chair enjoying an after-breakfast cigarette. A partially consumed tray of bagels littered the table next to her desk. She looked at Nancy, "Who's your next witness?"

"Dr. Cappalli, the surgical resident." Nancy turned toward Stryver, the words that said he was going to question the witness sticking in her throat.

Watkins, guessing what was happening said, "I want it understood that each party has one attorney at a time. You can all sit at the counsel table but with each witness there'll only be one who asks questions and makes objections." She looked menacingly at Stryver, Nancy and Mary McGuire and ground out her cigarette.

Nancy said, "Mr. Stryver will be questioning Dr. Cappalli."

Judge and attorneys all played poker face. They filed out and Dr. Cappalli's ordeal began.

He sat tense in the witness chair, glancing fearfully from the jury to Stryver.

Stryver began his questioning, following Nancy's suggestions. Nancy sat, listening painfully, trying to unclench her jaw. After a few moments she realized that Stryver, who had grown up about a mile from where she had in the Borough of Queens, New York City, was asking all of his questions in a southern accent. He'd drawl a challenge, then glance over at the jury with a warm good-old-boy smile.

Each time the doctor tried to explain, Stryver cut him off with a new question or said he had answered sufficiently. Cappalli sat frozen as Stryver made statements and bullied him

to answer either yes or no. Then Stryver foundered on the pronunciation of "herniorrhaphy." Cappalli looked up at his inquisitor, his brow cleared and he sat back and crossed his legs.

When Stryver tried to establish that The Artist had been left alone in the recovery room after the operation, Cappalli repulsed him coolly. All three surgeons were with the patient until he woke from the anesthesia. A full staff of nurses and the anesthesiologist had stayed on when the surgeons left.

Stryver's approach sharpened, excoriating the doctor for not doing a physical examination after the operation. Cappalli countered that Dr. Medina was an exceedingly capable physician and had done an excellent examination. He volunteered that The Artist was well enough to make phone calls. Stryver passed to another topic. He kept looking over at Nancy as he asked his questions.

Questions that Stryver should be asking flashed like a neon billboard over and over in Nancy's mind. She prayed for him to go on, get to some area where he wouldn't hurt them. As Stryver's belligerence escalated, the doctor relaxed into bedside manner. He actually seemed to be trying to help Stryver to understand. He'd never testified in a courtroom before, but he had spent at least 25 of his 30 years training his brilliant mind to give brilliant answers. Nancy couldn't look at the jury.

She wrote in big letters on her yellow pad, "GOOD JOB. WE DON'T NEED ANYTHING MORE FROM HIM." Stryver asked a few more irrelevant questions and sat down.

Nancy and Mary congratulated him on his great cross examination.C:\S\31.wpd

She dropped her body into the chair behind her desk. She was exhausted and hadn't eaten since lunch.

The only light in the office came from the greenish hue cast by the desk lamp in front of her. She closed her eyes. In the quiet she could hear her pulse beating. This was trial mode. The tension wouldn't disappear until it was long over.

She should digest another deposition. There was something she had made a mental note to do. She couldn't remember what it was.

She dialed her mother's number. "How are you doing, Mom?" Automatically she clicked her computer to a game of solitaire.

"They said it's cancer and I need an operation. I don't want an operation. Hospitals kill people."

"What did the doctor tell you?" Her hand moved the computer mouse over the black ace and carried it to the top of the screen.

"He took a picture of it and showed me. It looks like a big sore. If they don't operate, I'll bleed to death or I'll starve to death. I can't even choose which."

"Some doctor said you would either bleed or starve to death? Who is that idiot?" She'd get that son-of-a-bitch. She double clicked on the down cards and missed a move.

"I guess I had it coming. I told him I didn't believe in doctors. I said I wasn't going to have an operation. His name is Howard Snyder."

"Where does he practice?"

"He's at the Metropolitan College Hospital."

"Mother, my God, that's the hospital I'm in court against right now. How could you

do that? Why didn't you ask me?"

The answer, of course, somehow was because of Nancy's sister. The only care Mother had approved of had been from a therapist at Metropolitan College Hospital.

Nancy listened once again to her mother describe the death of her first born. Her sister's eyes pleading for help as they glassed over. Nancy had lived with that story. Her sister shouldn't have died. She was the brilliant one, the Fullbright Scholar, the college professor married to a college professor. Now Nancy was spending her life punishing the medical profession for her sister's death.

"I don't know what I'm going to do."

"What does your doctor say happens next?"

"He's scheduled an operation. I'm already anemic and they want to operate before I get any weaker. Could you be there when they operate?"

If I'm free. This is the trial of my life, Mom. Don't you remember, I'm a lawyer, not a doctor? Why are you doing this to me? She said, "Mom, when is it? I'll be there."

Solitaire game over. You lose most of the time but you do it faster when you're trying to do two things at once.

She spent the next half hour telling her mother how simple and reliable and predictable and safe surgery was and how good the Metropolitan College Hospital was, not mentioning the case she was on trial with or any of the other botched and mutilated victims whose suffering she earned her living from every day.

Her mother hung up and Nancy sat there playing another game of solitaire and then another. Mothers know how to push daughters' buttons. She got up and boiled a cup of water in the microwave behind Theresa's desk. No tea in the box. She found a dry, shriveled

tea bag in the garbage can, washed it off under the tap and put it into the hot water. Why did her mother have to bring up her sister? There wasn't a day in her life that Nancy hadn't thought about Rachel. What was it Richards had said, "Sheehan's disease?" She took out her old Merck Manual, the one she had bought on her first case when she saw the defendant doctor reading it in the courthouse hallway. "Hypopituitarism... usually associated with postpartum hemorrhage or shock...causes amenorrhea, pallor..." Sounds like Rachel. Nobody ever said Richards wasn't smart.

Take out the deposition. Go through it one more time. Why weren't they shorter, all the useless questions and arguments. Phone ringing. A reprieve?

"Hi, I'm waiting for you. I've been calling for a half hour and your phone's been busy." Whose voice is that? Whining male. Where do I know it from? "Did you forget? We have a date tonight." Oh, no. Why me? Does this happen to men?

"Look, I'm sorry. There's been a medical emergency. Maybe we can make it some other time."

"Sure, I'd love to. I just thought I could help you. You know you're all wrong about the cause of death. I read about your opening statement in the Times."

"What do you mean?"

"I can't discuss this on the phone."

A half hour later Nancy walked into Freddy's. Even if this guy was planted by the opposition she might learn something from the direction he was trying to steer her. This wasn't one of those times where she could get there before the date and scout out the geek when he walked in. He knew what she looked like from TV and he was already there.

A tall, slightly stooped, extremely thin man with a comb-over touched her shoulder. "Nancy, I'm Eric Burling." The same whispery voice. They shook hands. Melinda Richards could have arm wrestled him to the floor. He led her to the rear of the bar and pulled a small table out so she could sit on the bench with her back to the mirrored wall. He took the seat opposite her, checking out his own reflection as he sat. "This is such a treat for me. I've

been following the case..." He checked his reflection again.

"Look," Nancy interrupted.

"...since he died when I was on surgical rotation there." She sat still. Let him talk.

Figure out where he's coming from.

"But tell me about yourself." He leered at her through heavy, horn-rimmed spectacles.

"You've got to understand. I'm a trial lawyer on trial. I don't want to be impolite but I have to go home after this and spend most of the night reading records." Then, recalling herself, she smiled fetchingly, "I'd really like to spend an evening with you when we can relax together. You were going to say something about Slava Boghu's treatment?" Now he was looking at the reflection of a basketball game on the TV behind him.

He swallowed, his prominent Adam's apple undulating. He was wearing his new sport jacket and tie. "I told you, you were wrong about the cause of death in your opening statement."

"So what did he die of? I haven't got all night."

"He bled to death."

"Did you have anything to do with him?"

"I was a resident in internal medicine. That month I was rotating through surgery."

"Tell me how you know he bled to death."

"Everybody in the hospital knew it." He looked past her at the reflection of himself.

"That's not good enough. Who told you?"

"The floor nurse, McGillicuddy."

"What's her first name? Is she still at the hospital?"

"She doesn't work at the hospital any more. I'm pretty sure she was fired."

"Do you know where the bleed was or how they discovered it?"

"She didn't say. It must show on the CT?"

"What CT?" This guy was definitely a weirdo.

"They did full-body CT's before they sent the body to the ME's office."

"You're telling me they did a CAT scan after he was dead? How do you know that?"

He nodded, "After he was dead. One of the medical students heard someone talking about it."

"I never heard of CT's on dead people."

"Dr. Card, the chief of neuroradiology did a lot of them in the 70's when they were experimenting with CT's."

Her mind was racing. This guy was off the wall. Did he know what he was talking about?

"So what did the CT show? Did you ever see it?"

"We never heard anything more about it. The student who told me asked one of the residents and was told to keep her nose out of it."

"Tell me about Dr. Godson?"

"Very important man. I don't know much about him. I hear he relies very much on his residents."

"Do you know Cappalli?"

"Good doctor, great athlete. When he was rotating at Flushing Hospital he used to run to and from the hospital every day from East 80th Street."

"Did you ever hear him say anything about The Artist?"

"Never spoke to him in my life."

"Why are you wasting my time?" She stood up. "Is this some kind of game? Did the hospital tell you to call me?" She was walking away from the table. The doctor stood up abruptly and turned over his chair.

"Wait."

She kept walking.

"When can I see you again?"

"You've got to be kidding." She muttered under her breath.

At home Nancy lay in bed knowing that sleep was impossible. She got up and called Mary McGuire.

They talked about Dr. Eric Burling and his interesting bits of information. Mary said she would call some friends and see if she could find Nurse McGillicuddy.C:\S\32.wpd

No trial Thursday, the judge's day for conferences and motions. No need to dress for the jury. She wore her old glen plaid suit, the one she loved, that really fit her, that was beginning to wear in places you couldn't see.

A conference with Watkins' law secretary on a bad baby case--a brain damaged infant that would need total care for the rest of its long, tortured, frustrated life.

Lawyers milling around the courtroom, reading newspapers, telling stories. The same courtroom where twenty reporters had listened to her opening statement in The Artist's case. Court Officer Bea shouting to keep the noise down. Pat, the judge's law secretary, sitting at the counsel bench conferencing cases and deciding motions. Young lawyers screaming arguments at her.

Pat beckoned Nancy over. "Which case are you on?"

She signaled Court Officer Bea to summon the other attorneys on the case. Nancy sat down next to her.

"Are you going to be doing the rest of the trial?"

"I'm supposed to do the medical parts."

"The judge says you've got to muzzle Stryver, he kills you every time he stands up."

"I'll do what I can. It's his case."

Leave the courtroom. Call the office. No messages. Taxi to Mother's apartment. It was walking distance from Nancy's apartment and from Lincoln Center, where Mother enjoyed the opera as often as she could afford it. Nancy's earliest training in music and negotiation had

been watching her mother bargain for tickets with scalpers minutes before curtain. The show was that much sweeter if you got a deal on the tickets.

Mother had lox and cream cheese set out for lunch. Avoiding the subject they were both dreading, she told Nancy for the hundredth time how on Sundays she and Nancy's grandfather would join the crowds on Delancy Street on the way home from church to buy lox and bagels and cream cheese for breakfast, her father bargaining with the merchants.

The two women entered the surgeon's office at the Metropolitan College Hospital--enemy territory. Mother spoke first, "Dr. Snyder, I'd like you to meet my daughter, Nancy. She's an attorney who knows all about medicine. Right now she's representing The Artist's family in the trial."

Nancy looked for the usual reaction when a doctor hears he is speaking to a malpractice lawyer. "Mother, please. We're here to talk about you." And for Christ's sake, don't give this guy a reason to kill you; he probably eats lunch with Godson three times a week.

The doctor smiled shyly and said, "My mother is proud of me too. I've been reading about the case in the papers. It looks like a hard one to win. I can't say I'm sorry to see Godson on the carpet."

Nancy sat silent, waiting, wanting to say, What do you mean about Godson and don't talk to me about the papers. How about what they talk about in the department meetings or in the doctors' lounge? I'd give anything to know what you know about Christian Godson and Richard Cappalli and a certain operation that was done down the hall from this room a few years ago.

Snyder looked about forty, fit, a little tired. He could be a runner. Not graying yet,

balding a bit. No wedding ring. In spite of herself, Nancy looked around the office for photos. There was only one, Dr. Snyder shaking hands with an older man in a lab coat.

They discussed Mother's complaints. Nancy had heard all of them and her mind wandered to images of Mother writhing in pain as the cancer destroyed her vital organs and bones. When she tuned back her mother was answering the doctor's question about family history with a description of Nancy's sister's death in childbirth, a family wound that would never heal. Nancy listened to her mother's account and added, "There was no autopsy but someone suggested it might have been Sheehan's Disease. Have you ever heard of it?"

"We have a Sheehan's in this hospital about once every three or four years." Snyder spoke looking into Nancy's eyes, involuntarily letting his eyes drop to examine her body. "You know, hypopituitarism, usually the result of shock. The pituitary dies from lack of blood supply."

"Why do they come to you?" Nancy asked. It was easier to talk about a long-dead sister than what they were here for now. "You specialize in G-I surgery, don't you?"

"Sometimes it causes a pain in the belly. Nobody knows why. It looks like there's something in the abdomen. The gastroenterologists do a complete workup and can't find anything and then refer the patients on to surgeons. Usually there's something in the history like tuberculosis or bleeding that messed up the pituitary. But we're not here to talk about endocrinology."

He brought out color snapshots he had taken with the minicamera he had snaked deep into Mother's body. There was no mistaking the raw black sore. With gravity he told them that the little pieces he had cut off the ulcer had been diagnosed as malignant. He wouldn't give any prognosis until the whole thing had been removed. Gently he described the risks of

the operation, from death from the anesthesia to bleeding, infection. Nancy asked if there were any alternatives to operating. He answered shortly, "None. If she doesn't have the operation, she'll bleed to death."

As they left the hospital her mother said, "Well, I've had a good life." Then, "Please be there when I'm operated on?"

Dr. Sidney Helmer's secretary called to announce his arrival at Newark Airport on the TWA 3:31 from Seattle. He expected to be met. Stryver sent the limousine and Wemmick to escort him to the Waldorf Astoria, the doctor's chosen hotel.

Nancy walked into Stryver's office at 5. The receptionist was still there. "Miss Carton, Mr. Stryver asked that you go directly to his office when you arrive."

Stryver was alone in the room pacing in front of his desk. As she walked in he looked at her and screamed, "I wouldn't let Fox into that deal if you gave him the whole company."

A voice screamed back from the speaker phone that he would crucify Stryver and his client if they backed out. Stryver lunged and punched the phone off.

Then he turned on Nancy, not changing tone, "Just who do you think you are? We brought you in to help with the medicine. And you're not helping, you're shutting the rest of the team out. This is a team effort. I told you that when I brought you in." He was shouting. "I told you I'm the captain of the team and we expected you to be a part of the team, not run the whole show yourself. Just who do you think you are?"

She stood across the desk from Stryver hearing his words and seeing his rage, but thinking of her mother dying, wondering why she was bothering with this.

"What are you talking about?"

"You think you're..."

"Don't tell me what I think. Tell me what your problem is."

Her coolness fueled his fire.

"Goddamn women lawyers." His voice shrilled. "Don't give me that shit like I'm your husband. You come on one minute and then you--you're cool and businesslike the next. We've got a case here. We can't have you breaking up the team and taking it over. Sticking your face in front of the TV cameras right after the judge issues a gag order. You're going to sabotage the whole case." His face was red.

She had dealt with screamers before. There wasn't anything he could say about women lawyers she hadn't heard.

"Look, Jerry." She let her voice get stronger. "You want to win this case? Or do you want to see an article on the front page of the New York Times about Jerry Stryver losing the famous artist's death action? You did the worst cross examination I've ever seen in my life. The judge's secretary said she was embarrassed for you. You want to fuck up the rest of the trial, go right ahead." She opened her briefcase and dumped its contents on his desk. A file folder knocked over a half-full coffee cup. He watched pages of medical records flutter to the floor and turn brown on his desk.

She gave him a few heartbeats to come to grips with the idea of going it alone, she shifted cadence the way she did in her best summations. "Jerry, I want us to win this case. Your reputation and mine are on the line. The man shouldn't have died. That hospital and the doctors are trying to get away with murder. We've got to stop them." Another downshift. "Let's work together. We're under a lot of pressure, all of us. We can win it together."

He held out his hand. "We can do it. This team can win it." He put his arm around her shoulder and gave her a hug. "But I'm going to do the summation."

Wemmick came in with a tentative look on his face. "Dr. Helmer's here."

When the doctor was escorted into the office, Stryver and Nancy looked as calm and happy as two people who have just been agreeing about last Sunday's sermon. Helmer greeted Stryver like an old friend, then took Nancy's hand into both of his and told her what a pleasure it was to see her again.

Nancy gave him a smile that said she just couldn't be happier to see him again and asked about his granddaughter and the trip.

The team sat down in Stryver's library--the same people, minus Mary McGuire, same expressions, same seats, plus Helmer.

Nancy pulled a copy the affidavit out of her briefcase and handed it to Wemmick. He glanced at it and asked Nancy to step into his office, a room between Stryver's and the library with pictures of his dog on the desk. He closed the door behind them.

"Nancy, we've been all through this. Jerry won't allow it. We're paying this guy a lot of money. He's on the team. You've just had too many bad experiences. There's nothing wrong here."

"I don't trust him. If he signs the affidavit and then double crosses us, at least I can impeach him. Then we might get a mistrial instead of a total loss. I have to have a signed statement by him to use it against him."

"I've discussed it with Jerry. I took your side. He'll probably kill someone--you, if you show it to Helmer. It can't be done." He dropped the affidavit into his wastebasket.

"I'm sorry. You can see how he gets."

She inclined her head toward Stryver's office. "What was all that about?"

"His accountant came back from Israel and told Jerry he saw him on CNN standing next to you while you did all the talking."

They went back into the library. Wemmick took orders for take-out Chinese.

They spent the first half hour discussing Helmer's achievements, starting with membership in The Harvey Society when he graduated from medical school. He added that Melinda Richards, who had introduced him to Stryver, had become a member of the same society while he was running its residency program. They went over all of his medical society presidencies, his professorships, the list of textbooks and articles he had written.

She had never been able to get anyone of Helmer's standing to say another doctor had made a mistake. He was the type of expert the defense pulls out of a hat, who never risks contamination by associating with a plaintiff's case. She had also never had an unlimited expense account. Which brought up the questions the defense would ask about how much Helmer was being paid.

"Doctor, when I'm questioning you, I'll ask if you were retained by the estate to evaluate the care The Artist received and if you expect to be paid. I won't ask you amounts. The defense attorneys will ask your hourly rate. What is it? Around \$450?" Helmer waved his chopsticks and nodded with a mouth full of lo mein. Nancy thought about her mother's distress at the cost of her treatment, even though she had insurance. "You probably haven't calculated all that you've received or what you expect to bill. Is that correct?" He nodded again. "So if they ask you what you're getting paid, tell them the rate but tell them you haven't computed the hours yet. Do you have any problem with that?"

She wanted to ask him about cancer of the colon.

"After we do all of this background stuff, we'll get to what happened to the poor bastard this case is all about. We have to show the jury how they killed the greatest artist of the century. You'll start with The Artist's condition when he went into the hospital and then go to the effect the operation had on his body. You've spoken with Melinda Richards about her calculations that show they over-hydrated him?"

"Yes, but I'll let her testify about that."

"OK, but I'll ask you about the medications they gave him post op--the morphine--how it lessens the pain and suppresses the cough reflex."

"Yes, I've been looking at the orders and the medication sheets. He was definitely given too much morphine immediately post op and on the last shift."

"You feel that the doctors shouldn't have ordered that much?"

"Well, it depends on a lot of things. Generally, you wouldn't medicate a post cholecystectomy patient that heavily. I'd say, based on what I know, that they did give him too much morphine."

Nancy made a note on her yellow pad.

Mary McGuire quietly came into the conference room and sat down next to the doctor. She gave Nancy a surreptitious wink. Nancy said, "How'd you do?"

Mary said, "I found the nurse."

Helmer looked indignant at being interrupted.

"Great. We'll talk about it later." Nancy turned back to the doctor.

"So you agree there was too much hydration and too much morphine. Let's talk about the monitoring."

They went over every order, test, examination and notation. Helmer allowed that

there should have been scrupulous monitoring of fluid intake and the output in urine or blood. There was no "I and O" sheet. Richards had put together a chart from information scattered through the record.

"I can't understand a hospital like The Metropolitan College not keeping an intake and output sheet. If they didn't do an "I and O" sheet, that's malpractice. I feel very confident about that. But, you know, it's easy for one sheet to not make it into the patient's chart."

Wemmick added, "The chief nurse says they always kept I&O's. It's on a clipboard hung off the foot of the bed. Somehow this one didn't make it to the chart."

"I'm a stickler for procedure, if it's not in the chart, they didn't do one," Helmer pronounced. Nancy made a note on her pad.

Helmer turned to Mary McGuire, "You said something about finding a nurse?"

She replied instantly, "Oh... Oh, that's on another case Nancy and I are working on. Paralysis of a leg after an injection."

They spent the next two hours discussing each of the crucial points in the chain of proof. Nancy believed in discussions, not rehearsals.

Finally, she asked Helmer the ultimate question about whether the people treating The Artist at the Metropolitan College Hospital had deviated from the accepted standards of medical care.

He responded, "Oh, yes."

Wemmick looked at Nancy and smiled. She relaxed a little and asked, "Doctor, could you list the areas you think there were deviations?"

"Oh, all of the things we've been discussing all evening. I suggest that when I'm on the stand, you raise each topic and ask me to discuss it. You know, I've been a teacher all of my

career. You bring up the subject and I'll give a little lecture on each point. I'm going to be an excellent witness."

"You understand that we have to establish that they departed from the accepted standards of medical practice and that those departures caused The Artist's death?"

"Leave it to me."

Maybe Helmer was going to be all right after all. Stryver yawned. "It's getting late and we have a big day tomorrow. Why don't we call it a night and meet at court early tomorrow morning. I'll drive Sidney to his hotel."

As they were waiting for the elevator Helmer put his arm around Nancy's shoulders and said, "You're a little worried, I can tell. Don't worry. No one has been able to test the limits of my IQ. I've defended papers before the toughest peer review committees and I've testified before committees in Congress three times. I'm a pro."

She made a mental note of the congressional testimony. That would sound good to the jury. Yes, she was just a little nervous. She was always nervous at this stage of the trial.

Helmer left with Stryver for a limo ride to his hotel.

As the elevator door closed on Stryver and Helmer, Mary McGuire turned to Nancy and Wemmick. "I've got to tell you about McGillicuddy. She was fired by the Met. She wouldn't tell me why but I think I can guess."

"How did you find her?"

"First I called Metropolitan Hospital personnel. They wouldn't tell me anything. Then I checked the phone book. She was listed."

Nancy asked, "Did she say anything about him bleeding to death?"

"She confirms hearing that from the residents and nurses. She was pretty leery about

talking. I took it real slow. It turned out that we both studied nursing at St. Vincent's. Then we discovered that we knew a few of the same people. She decided that she could trust another nurse and relaxed a little, not completely. Do you remember when the Sultan of Lampur was overthrown and came to New York?"

"Vaguely."

"Godson was his doctor. He had bile duct CA. Godson got another patient who was in the State Department to pull strings in Washington. The Sultan went straight from the airport to the hospital. They gave him the whole 17th floor. Then the hospital gets a gift of thirty million dollars from an anonymous donor. Three days after the Sultan is allowed into the country the American embassy in Lampur is bombed. Thirty five people were killed. Jimmy Carter took the blame."

"That's all very interesting. What does it have to do with The Artist?"

"Just background. McGillicuddy was the floor nurse for both admissions. She told me how generous and grateful the Sultan's family was. I think she mentioned it because she expected a big thing when The Artist came in. But he was alone and didn't even give a five dollar tip."

"I'm still waiting for something that means anything. Why did she get fired?"

"I would guess for larceny. I'm getting to that. According to McGillicuddy a lot of his stuff was left in the hospital. She happened to come into possession of a tape recorder that happened to be in his jacket pocket and switched on while he was in the hospital.

"Oh my God. Did you get it? What was on it?"

"No. She wants to sell it. She says it has 'historical value.'"

"We've got to get it. What does she want?"

"I didn't ask her. I didn't know if it was all right to buy evidence, especially if it might be stolen property."

"Call her and tell her you have a buyer. Give her Wemmick's name. Don't let this get away."C:\\S\\33.wpd

Winning is not as good as losing is bad.

28

The three defense attorneys had added a member to their corps--Dr. Stanley Hopkins, risk manager of Metropolitan Hospital, frequent lecturer on the evils of holding doctors accountable in lawsuits. The group quieted as Nancy walked by. She heard a locker-room laugh.

She didn't register them. She was seeing the characters that had appeared on her computer screen just before she went to bed.

She had been sitting at her computer going over the outline of questions she was going to ask Helmer, making additions to her additions. She'd keyed in the "Print" command and then called up a game of solitaire to untangle the back of her head. The computer dealt, Las Vegas rules: down cards turned up one at a time, one pass through the pile. She had turned most of the pile over. Three aces up. The seven open piles long, five with no down cards buried. She knew the fourth ace was there. It was a winning game if only she could turn it over. A big "X" appeared on the monitor where the deck had been--better luck next time. She reached over to switch off her card playing friend when it occurred that she had never seen Helmer's curriculum vitae. The next best thing would be a list of his publications.

She plugged in her telephone line and logged onto the medical databank. Articles back to 1968. Helmer had been a doctor at least fifteen years before '68 but this much would give her a feel for his professional inclinations. Maybe even turn up an article the defense might try to use to hurt him on cross.

Within a few seconds came the message, "S1 Helmer S 326." The computer found 326 articles that listed Helmer as one of the authors. She told her cyber-friend to, "type s1/m/all." The titles, authors and publication dates scrolled across the screen, the most recent first. She went into the bathroom to brush her teeth while a floppy disc soaked up the data. She returned as it was displaying the oldest articles on the list. Number 324. The list disappeared and the screen flashed a question mark. She logged out of the databank and turned on the printer and went to bed. In the dark number 324 came back to her. Melinda Richards. She was too tired to think.

The next morning she was packing her briefcase for court and trying to think about how well the day was going to go and trying to keep her blood pressure under control. The green eye on the printer winked at her. She picked up the printout. Her eye scanned the list. Richards' name was on the third article from the end, dated June 1, 1970 from Annals of Internal Medicine. The authors were Sidney Helmer, M.D., Melinda Richards, M.D. and Stanley Hopkins, M.D.

Mechanically arranging her papers on the counsel table in the courtroom, Nancy couldn't remember the topic of the article. It didn't matter. Maybe the article didn't matter. Maybe the fact that twenty-three years ago her two expert witnesses, the backbone of her case, had worked on a research project with the man who was now the head of risk management at the Metropolitan College Hospital didn't matter. Nancy had started her career in medical malpractice working for the firm that was defending the hospital in this case and that didn't matter. Oh, shit.

Helmer was sitting over in the front row with Wemmick. The look on his face reminded her of the boy who sat next to her in kindergarten just before he wet his pants.

Helmer's suit needed a pressing. He wore a starched white shirt and a black tie with a knot that was a little too small and askew to the right. Limousine drivers in New York dress better.

She went over and sat down next to the doctor. His tie was splattered. Who knows what will turn a jury off. The jury wouldn't be able to see his scuffed shoes. The jury was all that mattered. Wemmick was sitting at the counsel table. She went up and looked him over. The pattern on his tie concealed its small food spots. "Take Helmer to the men's room and trade ties with him. It looks like he barfed on his."

"I gotta wear his tie?"

"It'll go with your suit."

The doctor sat back down next to her. She reached over and straightened the knot on his new tie. "You're looking well today. You must have had a good night's sleep."

"Oh, I'm used to traveling and sleeping in hotel rooms. And I do love the Waldorf. They make the best pancakes in the country."

And they are especially attractive on ties.

"We have a nice jury in this case. I think they're going to like you. Have you thought of anything since last night that we should talk about?"

Dr. Stanley Hopkins strode in leading the defense attorneys. He sat in the front row on the other side of the courtroom and the lawyers went up to the counsel table. Hopkins did not look at Helmer. Helmer looked up when Nancy did but did not look at Hopkins. Maybe they hadn't seen each other. Maybe it had been over twenty years and they didn't recognize each other.

"What were you saying?" Helmer asked.

She asked if he had thought of anything since last night.

He said, "No, I'm ready to go. The only thing is, I have to finish today. I'm scheduled to make a presentation tomorrow in New Orleans. I told Hubert about it when he scheduled me for today."

Wemmick said, "No problem. We've got the whole day."

She did not scream at him that this was her witness; she should know everything. Remember, we're a team. Let it pass. She could only hope that things would work out. They usually did-- somehow.

She took out her notes and did a quick run-through with Helmer. Juries don't like canned answers.

At 10:30 Officer Bea came into the courtroom and gathered all of the attorneys. "Watkins has been in a meeting with the Administrative Judge since 9:00. It looks like it'll go through lunch. Come back at two o'clock." A groan went up. Within five minutes the officer was locking the door of the empty courtroom. The Team agreed to meet back at the courtroom at 1:30.

Nancy walked over to her office trying to figure it out. Nurses with tape recorders, Deep Throat. Helmer and Hopkins and Richards.

There were about ten phone messages starting from the day before. Mother, her surgeon, clients, Deep Throat.

She dialed her mother, who answered on the first ring.

"I've decided not to have the operation. I've never believed in operations."

"Mom, you've been losing blood. If you don't have the operation, you'll bleed to death in days."

"As soon as they open you up, the cancer spreads like fire. Everybody I know who's been operated on dies."

"That's not how it is now, Mom."

Now they die from the anesthesia or radiation burns their insides out or they bleed to death when the surgeon leaves an artery open.

"Mom, that was years ago. They're curing people now. Don't cancel the operation. Please, I'll be over to see you as soon as there's a break in the trial, maybe tomorrow."

Couldn't she tell Watkins she needed a day off for her mother? The judge would say that's what evenings were for. She couldn't even think about that.

Next, Deep Throat. Forget about it. She'd had enough creeps in her life. Her check for the office rent had bounced. Can't worry about that now. Snyder, her mother's surgeon. He was in surgery. He'd call back. She'd spent her life waiting for doctors to call back.

Pushing papers around her desk until it was time to go back to court. The phone rang. It was Wemmick, "I got it. I'll be at your office in fifteen minutes."

Wemmick put the small cassette recorder on the desk in front of Nancy. "Timing is everything in life, my sainted mother used to say. I had this precious, and expensive, little toy in my hand with the deal closed when the hospital called and told dear nurse McGillicuddy that they missed her and they wanted her back. She tried to back out of the sale. I told her to forget about it. Then she said she wanted more money. I didn't have any more. She was pissed and said we better not subpoena her or she will really fuck up our case. I got out of there with the recorder. She's a tough cookie."

Switched on, the recorder started with sounds of admission to the hospital, riding the elevator, settling into the room--almost a symphony with different movements. He must have

started a new tape for the hospital. Sounds and actions artificially compressed together by the voice activated recorder. Each time it started recording with a little whirrup. The Artist being told he has to go to the operating room. Back in the room. Low moans. Nurses comforting. Call to the office. Complaints of pain. Oriental accent comforting. Irish brogue panicking, screaming, "Code, code, 99, 99." Footsteps. Mob of voices. Furniture moving. Orders shouted. Silence. Zap of the defibrillator spark. Another shock. Solitary male voice, "He was cold when they came in. This one's going to hit the fan. You better call Godson."

New voice, "What happened?"

"I came in at 9 o'clock. He was on the phone talking to someone. He looked like anybody else who's just had his gall bladder taken out."

"So you examined him?"

"I didn't want to bother him. He was very involved with the phone call."

New voice, "I'm Dr. Hopkins."

"I'm Dr. Cappalli, Dr. Godson's resident. I assisted at the operation. This is Dr. Medina, PGY-1. He was second assistant."

"Where's the chart?"

Cappalli's voice, "I'll get it." Silence, whirrup. "It was in the nurses' lounge."

Pages turning. Hopkins, "Have you looked at this chart?"

Cappalli tentatively, "Well, yes."

Hopkins coldly and deliberately, "Did you attend medical school? Do you understand why charts of patients are kept in hospitals? Do you know why physicians order laboratory tests? Do you know why the results of laboratory tests are put in the patient's chart? Let me

tell you so that you will know this for the rest of your careers, however short they may be. Tests are done and the results are put in the chart so that surgeons will read them and act appropriately. Look at this. I have spent two minutes looking at this chart. Any third year medical student could have seen that this patient should not have had that operation. But maybe that's too much to expect of a surgeon who is a resident in one of the greatest hospitals in the world. You'll hear from me."

Helmer took his seat in the witness stand and looked anxiously at the jury. If only she could prepare witnesses to have the right expressions on their faces.

The court officer asked his name and address. Nancy was sitting sideways on the edge of her seat, facing the jury. No one in the courtroom moved. She got up and walked to the lectern at the end of the jury box. Helmer had to be the center of attention.

By the time he finished giving his qualifications, he was starting to relax. Even Placido has to warm up to be brilliant.

Helmer's testimony on his qualifications left no doubt as to who was the country's leading expert on critical care. Now to keep him from sounding like a computer printout.

They reviewed The Artist's past history in gory detail-- gunshot wounds, the loss of parts of a lung and pancreas, removal of the whole spleen, infections, scar tissue that glued his organs together. The defense attorneys looked bored. They knew all this and none of it hurt. Nancy persisted. Helmer lectured the room on the functions of the various organs and structures that had been compromised.

It was getting on toward three o'clock--still enough time to get to the malpractice, maybe even enough for cross examination. Watkins didn't mind keeping everybody late.

By three fifteen they had covered The Artist's condition on admission to The Metropolitan College Hospital, the anemia, the low cholesterol, the inflamed gallbladder. With the foundation laid, she stepped gingerly into the minefield of the malpractice.

"Dr. Helmer, do you have an opinion whether the prescription of morphine conformed to the accepted standards of medical practice?"

"I have reviewed the order for morphine. You will note that it is a 'PRN' order. That is a standing order that allows the nurse to give the medication as she feels it necessary in her judgment depending on her assessment of the patient's pain. That's customary, a standard order."

Maybe he hadn't understood the question. She walked to the counsel table to collect her thoughts. Out of the corner of her eye she noticed Hopkins in the audience--very relaxed. Go on to a different area.

"Dr. Helmer, could you please explain to Judge Watkins and the jury what care should have been given to The Artist following his operation of May 31, 1987."

"I can't say."

What's happening? We discussed this, old man.

She blinked and glanced at Stryver. He wasn't registering any problem. Maybe the jury wasn't either.

"Could you explain that, doctor?"

"I don't have enough information about his post-operative condition to state what should have been done. Post-operative care depends on the patient's condition. Without more information, I can't say what should have been done."

Disaster. If you can't say what should have been done, you can't say that what they did was wrong.

Doctor, were you fucking Melinda Richards? Or Stanley Hopkins? Right now you're fucking me.

"Doctor, let's go through the different parts of the hospital chart."

Somehow she had to get to the end of the day without closing his testimony. She had

to talk to him. Maybe it was just a misunderstanding. She took him through different parts of The Artist's hospital record, killing time. Wemmick had had pages blown up to two feet by four feet and mounted on foam board--\$95 a page. She pulled them out now, one by one and held the boards up to the jury, asking questions about different entries.

After a half hour of explanations of the pre and post-op orders, even having him explain the difference between crystalloid and colloidal intravenous solutions, jurors nodding off, Nancy asked the judge if they could approach the bench.

"Judge, I would like to request that we adjourn until the day after tomorrow. Dr. Helmer's addressing a medical meeting tomorrow in New Orleans."

"He's not unless he finishes here today. You go on with his testimony right now until you finish or I dismiss your case."

Watkins would do it.

"Judge, we were ready to go at 9:30 this morning but Your Honor had a meeting."

"I've made my ruling. Go on with your witness. Finish."

"Judge, I'll be ready to go on tomorrow. Could we adjourn for the night so the doctor can make other arrangements?"

"Counsel, it's only 3:45. We haven't even worked two hours today."

"Judge, my mother has just been diagnosed as having colon cancer. I have to speak with her doctor. We'll be ready to go at 9:00 tomorrow. I also have a matter to bring up with Your Honor and defense counsel that will take some time."

"Now what is it?" Asked the judge.

"Judge, this is too important to discuss at the bench. Believe me. We're going to have to sit down and have a conference and then put some things on the record." And I have

to run out the clock today and I need some time to think of some reason to adjourn. Please judge, if I have any good will with you adjourn for the day. I've got to get this son-of-a-bitch off the witness stand.

"It better be good. Take your seats." The judge said.

The lawyers went back to the counsel table and the judge turned to the jury. "A legal issue has come up that does not concern you. I have to discuss it with the attorneys. We are adjourning for the day. Be here promptly at 9:15 tomorrow morning. Don't discuss the case among yourselves or with anybody else." The jury filed out. The judge stood and walked into the robing room. The lawyers followed.

Stryver whispered, "What's going on?" Indignant.

"Just listen and don't contradict me. Trust me. I'll explain later."

Nancy sat in the chair directly in front of the judge's desk. Everybody in the room waited for her to speak.

"Your Honor, I would like to move for a court order to exhume The Artist's body and do a complete autopsy."

Walker was on his feet. "What? Judge, that's ridiculous. This case has been pending for three years. You can't do something like this in the middle of a trial. I've never heard of exhuming a body for a lawsuit. Besides, there was an autopsy by the New York City Medical Examiner's Office."

"This is a very unusual request, Ms. Carton. What possible reason could you have? Mr. Walker is right. This case has been pending for three years." The judge said.

"Judge, the autopsy that was done is very questionable. A member of the Department of Pathology of the defendant hospital was there during the whole procedure."

Walker was still on his feet. "Judge, that's nothing new. Dr. Schult is named on the autopsy report as having been there. They've had that report for three years. If they had asked, we would have let them depose Dr. Schult. We would have been happy to consent to another autopsy when this case started but now, Judge, that's ridiculous. They filed a certificate of readiness that they are ready for trial. We strenuously oppose any delay in the trial. I even think this is a situation where Your Honor should sanction the plaintiff.

Nancy tried to sound as convinced as she could. "We only got the complete report a week ago. There were parts that were never sent when we requested them of the medical examiner's office. The report says that this was an autopsy of the abdominal cavity only. Last week I was given the toxicological analysis. That is done from brain tissue."

The judge looked annoyed. "That's no reason to exhume the body. You made me lose an hour of court time for that?"

What can I say? She'll take it out on me tomorrow. Think. Think. Think. Oh, Mother. Father. Sister. Sister. Sister! "Your Honor, as you are aware, Mr. Stryver and his firm do not ordinarily handle medical cases. I was brought into the case as trial counsel about two weeks ago." The idea was growing, expanding. It took her breath away. She paused and organized her thoughts.

"So what?" The judge was impatient.

"I obtained what the Medical Examiner says is the complete autopsy report. I have consulted with several physicians about The Artist's physical condition. After speaking with those doctors, I believe that The Artist had a condition known as 'Sheehan's Disease'." That had to be it. Now it all made sense. She heard Walker snort in the background. She ignored him.

“The defendants failed to diagnose that condition. Sheehan's causes symptoms that are very similar to gall bladder disease. In Sheehan's the pituitary gland in the head has died from the lack of blood supply. The Artist had a severe bleed when he was shot in 1968. The shock of an operation like he had with no pituitary gland would be enough to kill him.”

Involuntarily, she stepped closer to the judge and raised her voice. “Judge, the autopsy that was done upon The Artist was supposedly only of the abdomen and the chest. The head was not examined according to the report. But we know they did a tox from the brain tissue. Judge, the people at the Metropolitan College Hospital knew exactly what The Artist died of as soon as they went over his records. They missed an obvious diagnosis.”

The judge was expressionless, bored, annoyed. Nancy glanced at Walker and saw him looking at Heany. Walker said, “Judge, with all due respect, it sounds like Ms Carton is saying that The Artist did not die from the care he received in the hospital but from some other cause. I have to move to dismiss her case.”

The judge raised her eyebrows and turned to Nancy for her reply.

Nancy managed a confident smile. “What this means, Your Honor, is that there is a cogent explanation how all the mistakes they made in his care were able to kill him.”

“Ms Carton doesn't know what she is talking about.” Walker said. Now raising his voice. “Sheehans is a woman's disease. I am sure Ms Carton would be willing to stipulate that The Artist was of the male gender.” So, this wasn't new to them. Of course, she was right. Somehow she was still right. It all made sense, perfect sense. The Artist's atrophied genitalia, his pasty skin, no vacations with Benjamin after he was shot. And Benjamin knew about it. That's what he was worried about when Nancy was questioning him. That's what he should have been testing for. That's why The Artist died half a day after the operation.

"Your Honor. Every one of the doctors who treated him was responsible for his death by missing that obvious diagnosis. He was the typical picture of a man who had a glandular hormonal insufficiency. An autopsy of the contents of the skull will definitively settle the question. Unless..." She paused, "unless it turns out that the skull has been opened and there is no pituitary gland in that head."

The judge looked unconvinced, annoyed. Nancy knew she was right. She had to have that autopsy. Might as well pile it all on now. "I also have information that after his death the defendant hospital had a full body and head CAT scan done of The Artist. They have never disclosed that scan or even that it exists."

Walker's head snapped around at the mention of the CAT scan. He exchanged a glance with his co-counsel. Then he was laughing energetically. "Judge, this is so ridiculous. He was treated by the best physicians in the world. The post mortum examination was done by the New York City Medical Examiner's Office, impartial public servants and extremely competent. You can't open up discovery at this late stage in the middle of the trial."

"What about the CAT scan, Mr. Walker?" The judge asked.

"A CAT scan, after death. That's preposterous. I've been on this case from its inception and I have never heard of a CAT scan being done. I have gone over every single word in his hospital record and there is no mention of a CAT scan. And there was no autopsy of the head."

The judge studied Walker, "Are you telling me, sir, as an officer of this court, that there is no CAT scan?"

"Your Honor, I have reviewed every record and have personally spoken with every person who was involved with the care of The Artist and I will state under oath that I have

never heard of a CAT scan that was done on The Artist's body at the Metropolitan Hospital, either dead or alive. You will note that Ms Carton has not produced a single sheet of paper mentioning a CAT scan or mentioned the name of any witness who could testify that there was a CAT scan done of The Artist, either dead or alive at the Metropolitan College Hospital ever.”

The judge waited for Nancy's reply. There was none. She had no witness or evidence.

"That settles it." The judge looked disgustedly at Nancy. "Be ready to proceed tomorrow..."

"But..." Nancy started and was cut off.

"Or I dismiss your case."

So much for a trial being a search for the truth. Her expert had folded. She couldn't prove her case. Was this the point where she should bail out? Fold up her tent and quit the Girl Scouts? Or was she in the place she had been before where everything was against her and couldn't get worse, when she was set free from all her own expectations and reservations and inhibitions; like when you have been trying to stay dry under your too small umbrella and a bus hits a puddle and you're soaked to the skin. You put your umbrella away and forget about the rain.

"This trial will proceed, at 9:15 tomorrow. You are dismissed."

Helmer was sitting on a bench in the back of the empty courtroom.

Stryver hissed into her ear, "What the fuck was all that about? This is my case.

Remember that. You fuck it up and I see that you never practice law again."

She looked at him coldly, "Jerry, before you threaten me you'd better know what

you're doing and that you can carry out whatever you're talking about. I'll meet you at your office in an hour. I've got to talk with Helmer."

The courtroom cleared. Nancy told Helmer to sit on one of the benches in the hallway while she called her office. She jotted her messages on her legal pad. Deep Throat had left his office and home numbers.

Helmer wasn't used to being kept waiting. Through the glass of the phone booth she watched his face go from unhappy to irritated.

She reached Deep Throat.

"Hi Eric, it's good to talk to you again. I was very tense the other night. Please forgive me."

"Please don't mention it. When can I see you again?"

"The trial will be over in about a week. Eric, you did your residency at Metropolitan, didn't you?"

"I was there from '69 to '73 when I got drafted."

"Tell me about Melinda Richards and Stanley Hopkins."

"Academics or gossip?"

"Whatever you remember."

"They were both Harvey Residents. You could never tell who was the smartest. They had an interesting relationship. They lived together for at least two of the four years but they were each other's biggest rivals. There were stories that they hid the books in the library from each other. Everyone was surprised when Melinda went to Texas at the end of the program. She did a visiting professorship at Metropolitan a few years ago and it looked like it was starting up again, but at the end of the semester she went back to Texas. Frankly, I don't

know what anybody sees in her."

"Thanks. That's all I need to know. Don't tell anybody you talked with me."

"Are you kidding? If Stanley Hopkins ever found out I had even looked at you I'd be spending the rest of my medical career doing the night shift in an emergency room in Backhouse, Nebraska. Why don't we set a date for dinner."

She hung up the phone and stepped out of the phone booth in front of Helmer.

"Let's go."

She walked him out of the courthouse. Down into the dark of the subway.

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*"andy, what do you love more than anything else?" andy answered truthfully, 'money.' and muriel said, 'then paint money--dollar bills.'"*²

30

"It's been forty years since I've been in the subway. Doesn't look like it's changed much."

"It's a lot more dangerous."

She led him down the stairs onto the platform and stopped a few feet from a group of black teenagers with a boom box rattling rap.

"I used to be a criminal lawyer. I got to know some very bad people."

"I imagine suing doctors is a more genteel way of making a living."

A train came into the station.

"Sometimes."

The car was filled. They stood near the door, their bodies pressed together, his head up to her chin.

"Do you have a family, Nancy?"

She answered, "Yes," and turned her face away from him.

"How long do you expect the trial to last?"

² Essay by Freddy De Vree Andy Warhol Bruxelles, 25 octobre au 9 decembre 1989, Paris, 18 janvier au 3 mars 1990

"Christmas." She said and looked steadily at a sneaker ad on the advertising bills over the windows.

At 42nd Street the door opened and she walked out of the subway car. The doctor jumped to follow.

She led him briskly to the stairs. On the second flight she said, "I know about you and Hopkins and Richards."

His foot missed the next step and he grabbed for the handrail to stop his fall. She kept walking. Out onto Fifth Avenue with the doctor scurrying to keep up.

The elevator to Stryver's office was a stainless steel mesh compartment with Halogen lights in the ceiling, design inspired by the cable boxes the police bomb squad used.

"I'm not going to lose this case."

He didn't answer.

They went into the library and Nancy started unpacking her briefcase. Helmer flopped onto a chair.

Stryver came in. "Now tell me what's going on. Right now."

"They covered up the real cause of death. Hospital Risk Management knows every thing that is happening in this office." She looked at Helmer. "I'm going to expose the whole thing and put the hospital and everyone in it out of business. If we go down, I'm taking them with us--everyone of them. I'll close that hospital and put the doctors in jail. The lawyers too."

Helmer was watching with a look of alarm on his face.

Stryver said, "What do you mean, 'If we go down?'"

She turned to Helmer who was sitting at the end of the library table looking frightened.

"We lost the case today on Helmer's fucking testimony. Watkins is going to throw out the complaint as soon as I sit down." She looked contemptuously at the doctor.

His eyes searched--no place to hide. "What are you talking about?" Stryver's chrome facade suddenly had a crack in it.

"The next question I have to ask, the reason I asked for an adjournment, was whether there was malpractice." She looked at Helmer. "Tell Jerry what your answer to that question is."

"Nancy, before we talk about that, I told you that I can't be in court tomorrow. I'm making a presentation in New Orleans to an osteopathic meeting."

"No, you're not. Go into Jerry's office and call Melinda Richards. Tell her to give the speech for you."

He trailed out after Wemmick to make the call. Wemmick closed the door behind the doctor.

Stryver said, "You're being a little hard on him. What's going on? And what's this about another autopsy? What do you mean they covered up the cause of death?"

"I needed time. Helmer's going to fuck us. He's not going to say malpractice. We're going to lose the case. I told you. Let me handle him. Just watch and keep your mouth shut."

Helmer came into the room after a good twenty minutes on the phone. The red lights on the telephone had gone on and off twice. "We're in luck. She can give the speech. I took so long because I was filling her in on some of my statistics. That was a good idea, Nancy." He sat down smiling from one to the other, looking like the boy in first grade after he had soiled his pants.

She pushed her notebook aside. "We have to prove that the doctors treating The Artist were negligent--that they departed from the accepted standards of practice--and that their negligence killed him. It's as simple as that. Do you understand?"

"I don't see how I can say that."

Stryver turned pale under his tan. He looked at Helmer, then back at Nancy.

"Let's go over the case again. You agree that a 57 year old man with no other illness shouldn't die when he has his gall bladder taken out and a hernia repaired?"

"These things sometimes happen through no fault." He took out a handkerchief and rubbed it over his mouth. "Isn't it time for dinner?"

Nancy ignored him. Stryver told Wemmick to get sandwiches.

"No fault is exactly what the defense is saying. Tell me why you think he died."

"I just don't know. There isn't enough evidence in the record."

"What are the possibilities?"

"There are so many. I couldn't list them for you."

"Try me. What do you need to be able to say why he died?"

Helmer began vaguely listing more clinical observations by the nurses, more examinations by the medical staff, lab tests, vital signs.

"So you would say that if there had been more observation and testing, they would have seen what was happening?"

"Possibly. But since I don't know what was happening, I can't say whether it was anything that could have been treated. His heart could have just stopped beating. The autopsy says he died of cardiac arrest."

"That's bullshit." Nancy crossed her arms. Helmer took it like a punch in the face.

"And we all know it. If there's a danger of cardiac arrest you put the patient on a monitor with alarms."

"That wouldn't be the accepted standard in this case. He had no cardiac history. His EKG's were always normal. He had an extremely low cholesterol. Almost no cardiac risk."

"There was no EKG in the hospital."

Wemmick interjected, "Benjamin did one two days before admission. Normal."

"Shouldn't they have repeated it in the hospital?"

"They should have but you can't say it would have been any different two days later. There's no reason why it should have been."

Stryver interrupted, "Can't we just say the death wouldn't have happened in the absence of doctor or nurse negligence?"

"Watkins hates that argument. She's written articles that judges shouldn't allow it. She's an inch away from throwing the case out right now. Let's get back to the monitoring. Jerry made a claim on that in the bill of particulars."

"I've told you." Helmer said. "You monitor based upon what you know and what you anticipate. Here, we don't know anything."

Silence filled the room. The building air circulation had shut down.

"Tell me what the possible causes of death were."

They started all over again.

At eleven, coat and tie off and face ashen, Helmer conceded malpractice, enough to make a prima facie case. They rehearsed the exact questions Nancy was going to ask and the exact answers he was going to give. Nancy sat down at the computer and typed out a statement of the negligence and handed it to Helmer. He signed it without reading it. No

creative leeway now for this witness. At 11:30 she let the doctor go back to his hotel in Stryver's car.

After he left, Stryver asked, "Is it going to be all right?"

"We'll know tomorrow."C:\S\35.wpd

Ivar Walker sat delicately spreading the points of the matching silk handkerchief in his coat pocket, waiting for the court officer to open the robing room door and stand the array.

Justice Watkins made her entrance, nodded to the jury and said briskly, "Your witness, Mr. Walker."

His witness. Literally. Nancy had watched Walker cross examine, controlling, delicately leading witnesses down innocent-looking alleys that end in black pits. She could only sit there and annoy the jury by objecting. Most lawyers hate being in court. But she and Walker loved it. Natural that they hated each other.

Walker picked up his yellow pad and moved his large body to the lectern. He straightened his lapels and, posing for a moment, turned on the witness.

"Dr. Helmer. You are being paid for your work here?"

Helmer's brows shot up. "I certainly hope so." Smiles in the jury box.

"How are you being paid?"

"By check from Mr. Stryver's office."

"Are you receiving a flat fee?"

"No. I am charging by the hour."

"What is your rate per hour?"

"I am charging \$500 per hour."

Two of the jurors moved forward in their seats.

"How many hours have you worked on this case so far?" Helmer's ears began to turn red and his jaw thrust forward.

"I could not tell you."

"Could you give an estimate?"

"I would guess it's around sixty."

Watkins interrupted, "Strike that answer. Doctor, please do not guess."

Standard cross examination. The jurors were already calculating the fee, more than some of them made in a year. Maybe they were thinking this was a really high powered doctor. Walker wanted him to sound like a whore who would say anything for thirty thousand dollars.

"And doctor, for the price they are paying Ms Carton even tells you how to dress?"

Nancy was on her feet objecting with a sneer, "Your Honor, he knows that's not a proper question."

No expression on the judge's face. "Overruled. Answer the question doctor." Clothing was an important issue for Justice Watkins.

"Your honor, I don't know what he wants me to say." Embarrassed.

Walker leered, "Did she tell you to change your tie yesterday? And did you do what she told you?"

"Go onto something else, Mr. Walker. Don't waste our time." The judge ruled. No doubt she had hoped to hear nice words like Bergdorf's or Saks.

Walker went on, "Doctor, let us agree on a few things. Am I correct that you have

reviewed all of The Artist's medical records of the last twenty years?"

"Yes."

"Am I correct that The Artist had a greatly diseased gall bladder when he entered the Metropolitan College Hospital on May 13, 1987?"

Helmer hesitated and looked from Nancy to Hopkins then answered, "Yes, according to the pathology report on the gall bladder that was removed."

"Am I correct then that a cholecystectomy was indicated?" Question in medical foreign language.

"Yes."

Translation into the vernacular: "So doctor, you are in complete agreement that an operation to remove The Artist's gall bladder was necessary."

"Yes."

"And doctor, you are not a surgeon?"

Helmer's nostrils flared.

"I am not."

"Despite the fact that you are not a surgeon, you have no criticism of the decision to operate or the manner in which the operation at the Metropolitan College Hospital was performed upon The Artist?"

Nancy and Walker were the only persons in the courtroom who understood that the last question was the beginning of the defense against the charges of Sheehan's disease she had made in the judge's chambers the day before.

Helmer answered, "I do not."

"Doctor, The Artist regained consciousness in the recovery room after the operation.

That is a good medical sign, is it not?"

"It's equivalent to saying that it's a good sign if his heart is beating."

"After he was returned to his room, The Artist was awake and communicating with his nurse. That is a good sign?"

"It is."

"He was able to get out of bed and go to the bathroom?"

"He was."

"He was able to get on the telephone and discuss business with his office?"

"He was."

"Those are good signs?"

"They are."

"Doctor, any physician observing The Artist in the post-operative period would have been reassured by those signs?"

"Yes."

"Dr. Helmer, you do not treat patients in the post-operative period?"

"Incorrect."

"When is the last time you have treated a post-operative patient?" A throw-away question.

Helmer paused and looked at the ceiling then answered, "Four days ago."

Walker had not done his homework. He should have been in the medical library all night reading everything Helmer had ever written. His people should have been on the phone to every physician who had ever worked with Helmer. He should, by now, know what brand of underwear Helmer wore and whether it was briefs or boxers. Walker had been

overconfident.

The lawyer moved on smoothly. Impossible to tell if the previous answer had disturbed him. "Doctor, if The Artist had any family present during that postoperative period, the physician would have reassured the family that he was doing well?"

"Yes."

"And the family would have been allowed up to visit The Artist?"

"Yes."

"By the way, doctor, you know that no relative of The Artist visited him in the hospital?"

Helmer was answering, "I would not be aware of that, of course," as Nancy cut in with an objection.

Sustained.

"Doctor, after a gall bladder removal and repair of an incisional hernia, if a patient is able to walk to the bathroom, talk on the phone, discuss business and have visitors, that patient doesn't need to be in the intensive care unit or recovery room?"

Every question was a land mine. If Helmer backed down and gave Walker what he wanted on any one of them, the case was lost.

Helmer looked down at his lap, then up at Nancy and answered, "In this case it was necessary."

"Doctor, post-operative patients who are seriously ill are not able to get out of bed and make phone calls and discuss business, isn't that right?"

"That's just the point. He shouldn't have died eight hours later."

Nancy looked up from her note-taking for Walker's reaction. None.

He had the court officer hand Helmer the Metropolitan College Hospital record.

"Doctor, please look at this record and point out any indication that The Artist was going to die eight hours after he had been walking to the bathroom and calling his business?"

"According to these records, I see no indication either that he was not pregnant."

Helmer looked to Nancy for her approval. She allowed herself a slight smile.

Walker maintained his poker face. He kept on trying for a couple of questions but did not draw blood. He sat down.

Parker, questioning for the hospital, discussed what monitoring the doctor thought should have been done. Then, "Doctor, all of that monitoring is only useful if someone reads the monitors and is aware of what they are showing. Isn't that correct."

"Yes, the machines do not make decisions or treat patients."

"What it comes down to then, is the judgment of a trained medical person?"

Judgment, another land mine.

"Doctor, am I not correct that when we don't have all of that equipment, we have a trained medical person like a nurse sit with the patient throughout the night and observe and take all of those readings that you think are so important?"

"The personnel in recovery rooms and intensive care units are the most highly trained and most responsible. I might add, that the observation in the intensive care unit is of the highest quality because the personnel are assisted by precise instruments equipped with alarms."

Parker turned to the judge. "Your Honor. I move to strike that answer as unresponsive."

"Denied."

Back and forth. Over and over. Nothing gained or lost. Parker sat down.

Heany stood up with a ream of photocopies.

"Good afternoon, Dr. Helmer. You mentioned that you are listed as an author in over seven hundred publications?"

"True."

"When doctors write articles for learned publications, they do it for the purpose of advancing medical knowledge, to enlighten other doctors as to their findings?"

"True."

"Doctor, do you remember writing an article that appeared in *The Annals of Internal Medicine* in the July, 1980 issue, entitled, 'Cost Accounting in the Recovery Room?'"

"I don't remember that article. As you point out, I have written over seven hundred articles."

"Perhaps you remember writing, 'The physician should consider the risks as well as the benefits of keeping a patient in the recovery room longer than necessary. Recovery rooms are places of crisis. When Patient A goes into cardiac arrest, Patient B in the next bed with respiratory difficulty may not be attended to. In many cases, better care may be rendered by a private duty nurse sitting at the bedside in a private room.' Do you agree with that statement, doctor?"

"Only in the case where the patient has had a complete evaluation and the doctors and nurses are alerted to specific problems that the patient is at risk for."

Heany walked to the counsel table and put his head next to Walker's. He straightened and announced that there were no further questions.

The judge said, "Next witness."

Stryver said his next witness was scheduled for the following day. Naturally, he had anticipated the defense would take all day with Dr. Helmer.

Justice Watkins' voice was impatient. "It's only 3 o'clock. I cannot have downtime in my courtroom. Put on your next witness or rest your case.

Stryver asked for a few minutes to use the bathroom.

In the hallway he turned to Nancy. "What the hell is happening? Will she make us rest our case?"

"I've seen her do it. Don't worry, things are going our way right now. Jane and Michael are here. Put one of them on."

"I need to do a lot more preparation with them."

"They'll be better if they're not rehearsed. You've got the general outline. Do you want me to question them?"

"This is my case." He was dying, missing the limelight.

They found Michael around the corner, standing with his family in the hallway.

Before Stryver could speak, Nancy went up to him and said, "You're going to be the next witness. Just be yourself. Remember you know the things you are testifying about better than anybody else in the world. You just have to testify about your family and all the things your brother did for everybody. It's the stuff we've been talking about. We have a good jury. They're going to like you. Just be yourself."C:\\S\\37.wpd

The judge looked down at Stryver and asked, "Does the estate have another witness?" The cold look in her eyes said it did not matter to her what the answer to the question was.

Stryver stood, pumped his pectoral muscles and announced that the estate was calling The Artist's brother.

Micha rose and lumbered arthritically across the courtroom. He might have been walking through a cow pasture.

Wemmick had a video of The Artist's brother appearing on Multiple Choice, a daytime TV show that put a semi-celebrity on stage with two actors. Panelists had to guess which was The Artist's brother by asking questions of the three. Micha had known more about Harvestore silos than pop art. More frightening, than he knew about his brother's life after childhood.

Nancy sat at the counsel table, completely out of control, watching Hollywood lawyer ask millionaire junk dealer the money questions that were the reason for the whole case. They did a minibiography from childhood around the coal mines in northern Pennsylvania through art school to the visits by the family to New York. The Artist would put his family up in The Wellington Hotel and then leave sister and brother with thick envelopes of cash.

And it was working. Without the benefit of a backstage rehearsal Stryver and his witness were listening to each other and carrying on an easy conversation. They were waltzing through The Artist's childhood together. Stryver was looking like a lawyer with some courtroom experience.

Next he took Micha through the collection of paintings and silkscreens he had acquired starting with the time of The Artist's shooting. Wemmick and McBride had spoken with every possible witness making certain, no matter what the defense had insinuated they could prove, that there was no evidence of the brother having stolen any pictures.

Stryver asked about discussions Michael had with The Artist about his paintings.

"Oh, every couple of years he or Star would call and say there was going to be a show one place or another and some museum wanted to borrow one of my paintings. Then we'd get all involved with lawyers and insurance agreements and crating and moving companies--it was like they was moving Fort Knox. I got so I'd just let Star make all the arrangements and have out the painting when they come to take it away. They did make me get a burglar alarm. I probably got the only burglar alarm in Barnwell County."

So much for the theft angle. Good work, Jerry.

Stryver asked, "Tell us about your brother giving you paintings."

"I talked with him most every Sunday night. Told him what was happening up in Pittsburgh and how the family was. Little stuff, like Billy's got a cold or Lottie's in the class play. One day about a year before he died, I mentioned that Jed, my oldest, got a new truck. He said we should drive it down to New York and he would fill it up with big paintings. We never got around to bringing the truck down. Jed was more interested in following other things around than driving to New York and visiting his uncle--if you know what I mean.

Besides, we had so many paintings of his on the wall, I couldn't find space for my own."

The judge turned to him. "You're an artist too?"

"Well, ma'am, nothing like my brother. I been playing with oil painting since I become semi-retired. I been doing a lot of work with chicken stampings."

Stryver started to speak. The judge held up her hand and said, "Did you say, 'chicken stampings?'"

"Yes, ma'am. I like to set out under the apple tree and paint my oils. One day I was a painting and the telephone rang. I put down my canvas and went in to answer the call. When I come out the chickens in the yard had run all over the wet paint and left their footprints. Well, I liked the effect see— and I been working with chicken's feet ever since. On and off the chicken. He chuckled. "I had a show of my work at the Methodist Church, got a good review in the Rocket, that's our local paper, comes out once a week. Course I play pinochle every Tuesday night with Dave Keeler who owns the Rocket. He owes me a good article for all the money he takes off me. But I sold a couple of my paintings."

Stryver took over and asked if The Artist had given their sister any art. He said it had been offered but she had a very small house and just had a few small paintings that could fit in her living room.

They moved on to the value of his collection of The Artist's work. The brother testified that he had auctioned off his own collection when he retired. The auction brought in a little over a million dollars.

The only question on cross examination was by Bill Heany who asked, "So your brother did provide for you in your retirement by giving you over a million dollars worth of paintings?"

The brother answered, "He was always very generous to the family. He give me that stuff long before I retired." Nancy recognized Stryver's hand in the answer. Good work again, Jerry.

Ivar Walker asked Micha, "One of the paintings your brother gave you was entitled, 'Demolition?'"

"I had a silkscreen called, 'Demolition.'"

Walker picked up a sheet of paper and read. "It was a canvas seventy-two inches by thirty-six inches?"

"That's about right. I think it was a silkscreen."

"Let me show you a piece of paper and ask if you can identify the signature."

Stryver was on his feet objecting before the statement was finished.

The judge called the attorneys to the bench. She looked at the paper and handed it to Stryver. It was an insurance company proof-of-loss claim for "Demolition," signed by The Artist. Great, The Artist's own statement that the picture had been stolen. That gets into evidence and the jury won't believe a word they said.... About anything.

"Judge, this statement is not signed by this witness. Mr. Walker knows he can't use an unsigned statement to impeach this witness." Stryver looked angry.

"If that's your only ground for objecting, I will overrule." The cat tormenting the mouse.

Wemmick tapped Stryver on the shoulder and they put their heads together.

Stryver resurfaced. "Your Honor, Micha testified that he owned a silkscreen. Your Honor knows that silkscreens are made in multiple copies. I'm sure the reason The Artist had to borrow his brother's copy is that his own had been stolen."

"Yes, I agree with you about the multiple copies." The judge lifted her head and said for the record, "Objection sustained."

Melinda Richards M.D. threw the transcript of Helmer's testimony down on the library table. "Sydney said all that? It's nonsense. You don't put a patient who is able to get up and walk around after an operation into an intensive care unit. If you ask me about it, I'll say I disagree. The only thing I see they did wrong here is overhydrating him. Some intern got carried away. I can testify all day on that." How to lose a case--have your expert give the jury a six hour lecture on chemistry.

"Then I won't ask you anything about putting him into an ICU." Nancy countered coolly. "But what will you say if the other side questions you on it?"

"I'll say it's nonsense."

"Look, you're our witness. You volunteered to get involved in this case. The estate has paid you a lot of money." The doctor's head went up. Instantly, Nancy knew she shouldn't have mentioned money.

"I agreed to help as a professional, as a physician. I never agreed to tell lies for you. You have bought my time, not my integrity."

Integrity. How about the Richards--Helmer--Hopkins triangle? Nancy needed the little she could get from this doctor to explain the medicine and connect the malpractice to the death. Richards was the last hurdle Nancy had to clear on the plaintiff's side of the case. She didn't know what Helmer and Richards had discussed. Richards had looked outraged as she read Helmer's transcript.

"I'm not going to ask whether you agree with Dr. Helmer. I am going to ask your opinion of the cause of death. If the other side gets into the intensive care issue, they will have brought up that issue. You become their witness and I get to cross examine you. Anything you say on that is binding on them, not on us." She hoped the doctor did not understand how thin this threat was.

Nancy was sitting at the counsel table next to a paper cup of tea and her notes for the day when Wemmick ushered Dr. Richards into the courtroom. The doctor wore the same gray suit she had on every time Nancy had seen her. She was not an avuncular old man or a warm mother-figure, not a type jurors, or probably anybody other than a Stanley Hopkins, are drawn to. A good bedside manner for her probably meant no one disturbing her sleep.

Melinda Richards scanned the faces in the courtroom. Her glance did not stop at any one person. Nancy knew it was Stanley Hopkins that the doctor was looking for.

Nancy started her examination with Richards' qualifications. The doctor testified about her textbooks and professorships.

Nancy asked Richards if she treated critically ill patients or post operative patients.

Richards gave Nancy a suspicious look and said she had not done so since her residency.

Next the questions on the solid ground of fluid levels. The doctor testified unequivocally that too much fluid had been given. She explained her conclusions with charts and color graphs. Nancy asked what happens with excessive fluid in a patient in The Artist's condition.

"Most of that fluid they gave The Artist entered his blood stream. It diluted his blood which was already thin. He was anemic. On top of that, he had had a major operation. His

heart had to beat harder and faster to push enough of that fluid through the body to transport enough oxygen to the brain and every other part of the body. His heart worked as hard as it could, then just stopped working. He had a cardiac arrest."

Each time the courtroom door opened Richards' head turned involuntarily to see who was coming in.

Before Nancy could ask the next question, the doctor lapsed into a technical explanation of fluid balance, antidiuretic hormone, excretion, sweating, respiration, swelling around the operative site. She left out the saber-tooth tigers and cavemen.

With a couple of the jurors ready to nod, Nancy cut to the vital question--the last bridge that had to be built with the proof. Don't hesitate. Speak confidently. Expect the right answer. Don't look at the other side. "Doctor, do you have an opinion with a reasonable degree of medical certainty whether the negligence of the doctors treating The Artist in giving him too much fluid was a substantial cause of his death?"

Dr. Richards' face lifted and her eyes searched the courtroom one last time. Nancy looked too. Stanley Hopkins had not arrived.

Dr. Melinda Richards answered coldly and flatly, "I have an opinion."

Nancy asked, "Please tell us your opinion, doctor," and felt her own heart jumping in her chest as she waited for the answer.

Richards snapped out the words. "My opinion is that it did."

Nancy breathed a sigh of relief, looked to the judge and said, "Thank you, doctor, I have no further questions."

When Walker and Heany stood and stated they had no questions, Richards' brows shot up.

Parker said he had one question. He stood and asked, "Doctor, you are assuming that all of the fluid that was put into The Artist's body remained in his body. Is that correct?"

"The chart states he urinated once and I took that into consideration."

"So doctor, whatever fluids he got rid of by urination, were not in his body to be pumped around by his heart?" Lawyers always lie when they say they only have one more question.

"That's correct," she replied impatiently. The candidate for a Nobel Prize was being questioned on the level of a seventh grade science student.

"Doctor, in most hospital records there is a piece of paper called an 'intake and output chart' that records the exact amount of fluids a patient receives and the exact amount excreted either by urination, bowel movement, vomiting or whatever. Isn't that correct?"

"That is correct. The intake and output chart is missing from this patient's record."

"So doctor, to arrive at the testimony you gave when Ms Carton was questioning you, you had to guess at the amounts of fluid that were excreted?"

Insulted. "I do not guess. There is a notation in the nurses' notes that the patient used the bathroom. The autopsy described him as having a normal bladder, which has a capacity of approximately 500 cc's. The urge to urinate occurs when the bladder contains approximately 100 cc's. I assumed that he urinated 200 cc's, twice that amount. There is no other mention in the nurses' notes that he urinated."

"So doctor, your testimony is based on those assumptions?"

Nancy objected. The judge sustained. Parker said he had no further questions.

Dr. Melinda Richards, who to date had received over twenty thousand dollars for her involvement in the case, left the witness stand having testified for less than an hour.

Stryver stood and announced, "The plaintiff rests, your Honor."

The judge explained to the jury that the plaintiff's side had now put in all its evidence. Tomorrow they would start hearing the defendants' proof. She told the attorneys to meet in her chambers. The jury filed out behind court officer Bea.

Richards got up from the witness chair and walked over to the counsel table. "Am I through?" She asked Nancy.

"Yes. Thank you very much. You were the perfect expert witness." Nancy answered. "Hugh Wemmick is going to get you a car to the airport."

Richards stood looking at Walker packing his briefcase until he looked up. "Send Stanley my love." She said and walked out.

The judge hung up her robe, sat down behind her desk and lit a Virginia Slim. Stryver took a cigar from his jacket pocket and put it in his mouth. Court Officer Beatrice touched his hand and said, "No smoking, counselor."

Then looking around the room, the judge said, "You all know I don't take any position on a case like this. My superiors tell me part of my job is to attempt to bring about settlements and clear the court calendar. We are never going to have a clear court calendar and it makes no difference to me whether I am trying this case or some stockholders' derivative suit. Has there been any discussion of settlement?"

Stryver said there had not.

The judge asked, "What are you looking for?"

Stryver named an amount that would put Micha and Jana into the top tenth of a percent of the American elite.

Walker responded, "We're not prepared to make an offer against that high a demand."

If you name a more reasonable amount, we would be in a position to consider it."

Nancy turned to Stryver and said loudly enough for everyone in the chambers to hear, "When a defendant's attorney says that, it means they have no authority to negotiate. We can't talk."

The judge said, "Not necessarily. Tell me, Mr. Walker, what amount would you suggest Mr. Stryver demand?"

Walker said, "Your Honor, the hospital is aware of this case and they have had people in court watching. I would like to speak with them and report back to your Honor tomorrow. Maybe we could have a meaningful discussion before we start in the morning. They left through the empty courtroom. Even Harry was gone.

After the rest of the Team had taken to its limousine, Nancy went downstairs to the record room and put Harry's name into the system computer. Harry, the strong shoulder to lean on, her backup support. Her covering fire. Her wounded soldier.

"Harry Valsalva, M.D." came up on the green monitor screen as a defendant in one case. She requisitioned the file. A fourteen-year-old had bled to death from a ruptured ectopic pregnancy after she was discharged from the emergency room with a diagnosis of heavy menstrual flow. Harry was named as the attending in charge of the emergency room. They accused him of never seeing the patient. Harry Valsalva, tin soldier, fraternizing with the ranks. Probably with the enemy too, anybody who came his way. Even her.

She walked back to her office in a raw bone-chilling December mist. The air stung her eyes. Her shoulders ached from the weight of the trial bag she had been carrying. Yes, she would get herself pumped up again tomorrow and the next day. And the next day too, if necessary. Then when the case was over she would go to her mother's hospital room instead of Waikiki Beach. Then she would try another case and after that another.

Harry's voice spoke to her from the answering machine. "Hey Babe. Great job with Helmer. I love seeing you in action." He stressed the last word. "Let's get together when the smoke clears. You know where to find me."

Dr. Christian Godson stood with his hands in the jacket pockets of a tailored gray flannel suit. The expression on his face as he waited in the littered hallway outside looked like he had just eaten a bad clam.

His weight was the same as it had been when he graduated from Yale forty-five years before, with honors, according to the Directory of Medical Specialists.

The personal history he had just testified to read like a Who's Who of rotten gall bladders. He listed kings, ex-presidents, actors, actresses and billionaires, all of whom had survived separation from their bile reservoirs and gone on to write significant chapters in the history of the twentieth century.

In the back of the courtroom one of Walker's assistants quietly took brown paper off a collection of poster-sized anatomical diagrams in better-than-life color. Now questioning had paused while an easel was set up in front of the jury box. Walker asked the doctor to step down from the witness stand and explain The Artist's preoperative condition to the jury--the part of the trial known as "The Lecture." The defendant demonstrates his vast knowledge and competence, on some topic only slightly relevant to the subject matter of the trial, like the anatomy of the biliary system.

Godson approached the easel and from his jacket pocket drew an object resembling a collapsible automobile radio antenna. Nancy moved to the side of the jury box to watch the show. The Artist would have appreciated the oversized drawing of liver, gall bladder, pancreas and associated plumbing. Multiple exposures in pastels, prints on a movie screen

sized wall, the work called, "THE GUTS OF SLAVA BOUGH." Great.

Godson explained the functions of the liver in neutralizing poisons, storing sugar, producing hormones and enzymes and manufacturing bile which is then stored in the gall bladder. As the point of the antenna touched the common bile duct it stuttered lightly.

He went on to describe the removal of the gall bladder, careful exploration of the operative site for any bleeding vessels and the closure of the incision, followed by a description of the repair of the incisional hernia. He finished, "And I am proud of the operation I performed upon The Artist."

Walker had him resume his seat and then asked, "Dr. Godson, do you have an opinion with a reasonable degree of medical certainty as to why The Artist died?"

"I do not."

The judge's eyebrows shot up involuntarily.

"Doctor, you don't have an opinion?"

"No I don't. I know it had nothing to do with the operation I performed. We were greatly troubled by his death, as we are by any death. I met with the surgeons who assisted me on the operation and none of us could understand it. The operation had gone perfectly. I have reviewed the autopsy report and there is no indication of why he died other than that he went into cardiac arrest--his heart stopped."

Eleven o'clock recess, for the judge's morning coffee and cigarette. Attorneys not summoned to chambers for a settlement conference.

Nancy walked with McBride to the ladies' room. An attorney was prepping her client about a hole in a sidewalk. Nancy asked Mary, "Did you see what I saw?"

"You mean the tremor of his hand? That could be nothing. When I worked in the

OR we had a surgeon with Tourette's syndrome. He looked like a puppet on a string except when he was doing something purposeful like cutting into a throat or driving a car. Then he didn't have a problem."

Nancy started her cross examination. "Doctor, you have just named a whole bunch of famous people you operated on. Isn't there a rule or a canon of medical ethics that says a doctor has to keep the identity of his patients secret?"

Walker objected. Sustained.

"You have operated on other patients who did not survive?"

Objection. Sustained.

"Doctor, the Prime Minister of Czechoslovakia died in the recovery room after you operated upon him. Isn't that right?"

Objection. Sustained.

"Doctor, you did not mention the Prime Minister of Czechoslovakia or the Princess of Denmark, who also died after your operation, when you were talking about all your famous patients?"

Objection. Sustained.

"Dr. Godson, one of your patients was Dr. Frederick Holstein, the father of modern medical education?"

Objection.

"Counsel," The judge spoke almost in a whisper, "I am ordering you to go on to a different subject. You're getting very close to a mistrial. The jury is instructed to disregard testimony about any other patients than Slava Bough."

Nancy said, "Your Honor, that instruction includes the patients Mr. Walker

mentioned?"

The judge said, "You have my ruling."

"Dr. Godson, the operative report lists Dr. Cappalli and Dr. Medina as assisting at the operation. Which of you operated upon The Artist?"

"No one operates on my patients but me." Indignant.

"Doctor, you personally did all the cutting and stitching?"

"I did." The doctor glared at Nancy.

"Doctor, when you were standing up in front of the jury showing us those pictures of the gall bladder, your hand was shaking?"

Objection by Walker. Overruled. Thank you, Ivar, for objecting and showing how important this question is. Thank you, judge, for overruling.

"That's a familial tremor. My mother had it and I have had it all my life."

"So at the time you were doing all that fine cutting and stitching on The Artist you had this condition, the familial tremor, a shaky hand?"

"Yes, I did. I..."

She held up her hand like a traffic cop. "You've answered the question, doctor."

"I haven't finished."

"You have your own attorney who will let you say whatever you want."

Objection by Walker.

"Just confine yourself to asking questions, Miss Carton." Said the judge.

"Doctor, you usually dictate your report of the operation within twenty-four hours of the operation?"

"I usually dictate it within twenty-four minutes of the operation. I do it in the recovery

room while I am waiting for the patient to wake up."

"In this case the operative report was dictated three weeks after the operation, doctor. After he had died and the autopsy was done. Is that right?"

He looked at the chart. "Yes, it appears that it was. The original sometimes gets lost in the typing pool and we are asked to re-dictate."

"By the way, doctor, you testified that you have reviewed the autopsy report. You know that Dr. Harry Schult who is mentioned as assisting at the autopsy is a pathologist who works at your hospital, the Metropolitan College Hospital?"

"I have no idea who Dr. Schult is or where he works."

"Dr. Godson, you were the physician who admitted The Artist to the hospital?"

"I was."

"You were his attending doctor?"

"I was."

"You were the doctor primarily responsible for his care?"

"I was."

She picked up the hospital chart. "Looking at The Artist's medical record, doctor, it appears that you never saw him again after he left the operating room?"

"I stayed with him in the recovery room until he woke."

"And then you didn't see him again?"

"Most likely I saw him again at the end of the day before I left the hospital."

"You made no notes in the chart after the operation."

"I wouldn't have."

"No nurse noted that you saw the patient?"

No answer.

"Doctor, you made no orders for the care of The Artist after the operation?"

"I discussed his post-operative conditions with the residents and told them what to order."

"So doctor, you concurred in the treatment The Artist received after the operation?"

This time his yes was less confident.

"Doctor, did you speak with either of the pathologists who did the autopsy?"

"No."

"Have you discussed The Artist's death with any doctors at your hospital other than the two young men who were there when you operated?"

"I have not."

"Did you telephone your friends at Yale and say, 'I've got this strange unexplained death. I wonder if you can help me figure it out?'"

"No."

Walker's objection came too late.

"You were not curious, doctor, why your patient died?"

Objection. Sustained.

"That is because you know why he died. Isn't it doctor?"

A tweed middle-aged man with graying blond hair and athletic build sat facing the jury from the witness chair. From the down east accent Nancy expected his pedigree to start with Puritans preparing to flee English persecution. Under Walker's guidance Dr. Dean Warren limited himself to his all-Crimson curriculum vitae: undergraduate degree, medical school, residency in internal medicine and fellowship in cardiac critical care at Harvard and Massachusetts General Hospital. His professional writing. His flight to Washington when President Reagan was shot.

This was the standard bearer for the defense. There would be no mention of pituitary glands or hormonal deficiency. The defendants' expert, led by the defendants' chief counsel would steer as far as possible from Sheehan's disease and hope it never surfaced again. But he would be prepared if Nancy mentioned the subject.

Nancy had no inkling of what this witness was about to say. In New York expert witnesses are not deposed or even identified before the trial. No reports are exchanged. It's called the "sporting practice of law:" you learn your adversary's theory of the case for the first time from the witness stand.

She had to deal with this witness on his own grounds, somehow discredit him and count on being able to convince the jury in her summation, if she could shake loose the closing argument from Stryver. Right now though her problem was sitting on the witness stand looking very impressive.

Walker cut to the chase. "Doctor, do you have an opinion with a reasonable degree of medical certainty as to the manner in which The Artist died?"

"I do."

"Please give us your opinion."

Speaking in an accent similar to Godson's, Warren began, "It is my opinion after having reviewed all of the medical records, the report of the autopsy and the testimony of the doctors and nurses treating The Artist that he died of a phenomenon known as 'sudden death.'"

"Sudden death?" Walker asked as though he were hearing it for the first time.

"Doctor, what do you mean by sudden death?"

Dr. Mayflower-descendent Warren turned in the witness seat and addressed the jury.

"Sudden death has been a particular interest of mine since medical school. I head a team of researchers that has been studying sudden death for the last ten years. I have hosted an international conference at Harvard on the subject and I have written several articles on sudden death that have been published in peer-reviewed journals. Right now I am the administrator of a grant directly from the Surgeon General of the United States to study sudden death."

"And doctor, what is sudden death?"

"Basically it is what its name suggests. Death comes suddenly. It happens to people who are healthy, who have no history of heart disease or any other major problem. It happens to people walking down the street or sitting at dinner. They drop dead on the spot. No warning." He turned to the jury. "You have heard of crib death in children, a horrible tragedy every time it happens. A mother will walk into her child's room in the morning and find her baby dead." One of the jurors bowed her head. "We believe that most cases of sudden death are caused by the heart beating erratically. The brain does not get enough oxygen. Death is instantaneous."

Nancy's mind was groping. The jurors were leaning forward. What had she heard of sudden death? Had Richards said something about sudden death? This sounded like Richards' original theory--death with no reason. All the geniuses at Metropolitan Hospital had

stonewalled on why he died. Sudden death dovetailed perfectly with the defense--irrational, unpredictable, unpreventable. If there had been a reason, of course their geniuses would have figured it out. Nancy turned around and searched the courtroom. Nobody there who could help her. No one to ask. Stryver sat doodling a naked woman on his yellow legal pad. She leaned over to him with a smile that the jury could see and said, "Do you want to do this cross examination?"

Consternation flickered across his face, erased by an answering smile, also for the jury. "You're the expert." He whispered.

Nancy sat back, crossed her legs and regarded the witness with a look of confidence on her face. Her mind frantically racing, circling, groping for some idea.

The doctor was expounding. "We have done hundreds, thousands of autopsies and found no reasonable explanation for the deaths. It is a condition that is proved by the complete lack of evidence. In medicine we call that a diagnosis by exclusion. Every other likely cause of death is ruled out so it must have been sudden death.

"In this case, despite the fact that The Artist was a very famous individual, we really know very little about his personal habits. I understand he lived somewhat of an alternative lifestyle. We do not know whether he was in the early stages of AIDS or what drugs he might have taken in his youth that would have left very subtle, even undetectable damage to the nerves that control the action of the heart. It's very likely that he had what we call a sub-clinical condition that led to his sudden death."

No more questions by the defense. It had taken longer for Warren to give his pedigree. They had planted all the seeds: sudden death, homosexuality, AIDS, drugs. If there were fertile soil in the jury box, they would take root.

Nancy's turn. She started out, "I'm curious doctor. Have you ever testified on behalf of a patient who was suing a doctor?"

"I frequently consult with attorneys representing patients."

"No, doctor. My question is, have you ever testified for a patient against a doctor?"

"Much of my practice consists in reviewing medical records in connection with law suits. I have reviewed cases both for plaintiffs and defendants."

"How much of your practice, doctor?"

"Approximately ten percent."

"Doctor, let me ask my first question one more time. How many times have you ever stood up in court on behalf of a patient suing a doctor and said a doctor made a mistake?"

Walker objected, "Your Honor, that is the third time she has asked the same question. The doctor has answered it each time."

The judge said, "Yes. The objection is sustained. Go on to something else Ms Carton."

Nancy said, "But, judge..." Come on, judge. How can you sustain that objection?

"Don't stare at me. I said, go on to something else. I have sustained the objection."

Nancy exhaled slowly and quietly and looked at her notes. "Doctor, you have reviewed the entire record for the Metropolitan College Hospital admission?" He had.

"You have reviewed all admissions for treatment of the gunshot wounds?" He had.

"You have seen in the Metropolitan College Hospital records that The Artist was tested for AIDS?"

"Yes, but..."

She held up her hand. "Yes or no, doctor. The test for HIV/AIDS was negative?"

"Correct. But it takes..."

"You've answered the question. Doctor, in all the hospital records and doctors' office records and everything else you have reviewed or heard or seen, there was never the slightest hint of drug use by The Artist?"

"I don't remember any."

"So, doctor. When you mention AIDS or drug use, you are not testifying with any degree of medical certainty?"

"Counselor, I stated that there was no *evidence* of drug use or AIDS."

"Doctor, as a scientist and a physician, you would say that based upon all the *evidence*, lab tests, physical examinations, hospital records, that The Artist did not have AIDS and did not use drugs?"

The doctor's face was indifferent. "Quite so."

"Doctor, your diagnosis with reasonable medical certainty is that The Artist died of sudden death?"

"Correct."

The judge leaned toward the witness. "You say that there is no warning in a case of sudden death?"

The doctor looked at the judge and hesitated slightly. Why the hesitation?

"Correct, your Honor," the doctor answered, "People can be looking and acting normally right up to the moment of death."

Nancy had it. Thank you, judge.

"Doctor, when sudden death occurs on the sidewalk or at the dinner table, no doctor or nurse has been listening to the person's heart or taking his vital signs. Correct?"

"That's what I just said."

She reached into her briefcase and found a stapled photocopy, an article on nutrition for runners that she was planning to read on her next subway ride. She looked at the article meaningfully, then up at Warren. "And doctor, you have written on sudden death?"

"Yes, I have."

"Doctor, when sudden death has occurred in a setting where the patient has been monitored, there are warnings that occur some time beforehand that show up on the monitoring equipment?" She held her breath.

"Well, yes.... In some cases there are irregular beats of the heart for an hour or two beforehand." He looked at Walker, who sat expressionless.

"And doctor, when a patient is in an intensive care unit the activity of that patient's heart is constantly monitored. Every beat of that patient's heart is checked?"

"Generally so, but in this case..."

She held up her hand like a traffic cop. "You've answered the question, doctor. Now those monitors, doctor. In the intensive care unit they have alarms on them that go off if the patient's heart slows down or speeds up. Isn't that right, doctor?"

He agreed.

"And doctor, one of the things cardiologists and doctors specializing in critical care and even nurses in ICU's can do is restore a patient's heart beat to normal when it is beating irregularly."

"In many cases we can."

"And doctor." She dropped her voice to a whisper. "There are even cases when the patient's heart stops beating all together where you can restore the heart to beating normally?"

"Yes, we have all seen that on TV."

Still speaking softly in the completely silent courtroom. "Doctor, you can reverse sudden death if you are there when it happens. Can't you?"

"On occasion."

She paused and looked at the jury to let it sink in.

"Doctor, let's talk about The Artist's condition after the operation. He had his abdomen cut into to remove the gall bladder?"

"Yes he did."

"And that cut went through the skin, the subcutaneous tissue and the muscles of his abdomen, correct?"

"Yes, it did. But you should ask that question of a surgeon."

"You studied anatomy when you went to Harvard Medical School, did you not, doctor?"

Objection. Sustained. Affront to the dignity of Harvard doctors.

"In addition to the cuts through the skin and fat and muscle over the gall bladder, they made the same kind of cuts for the incisional hernia where he had the gun shot wounds in 1968?"

"Yes, he did."

"Doctor both of those cuts were in the vicinity of the diaphragm, the muscle that helps us breathe. Correct?"

"Yes." A rhythm was developing, Nancy making statements and the doctor answering yes almost reflexively.

"Those cuts, and the pain they cause, and the abdominal binder bandages are all going

to make it difficult for The Artist to breathe?"

"Somewhat."

"Doctor, The Artist was given morphine for his pain." She picked up the chart and read. "He received 20 mgm at 8 PM and 20 milligrams at midnight." She reached into her trial bag and brought out a heavy red volume of Balfour's Textbook of Toxicology. "Doctor, morphine suppresses the cough reflex. Correct?"

"Yes, it does. Counselor."

"Morphine also makes breathing more difficult?"

"Correct."

"Doctor, you have reviewed Dr. Benjamin's records and the blood tests he took on The Artist in the two days before he was admitted to the hospital?"

"Yes, I have already testified to that."

"Doctor, The Artist was anemic two days before he was admitted to the Metropolitan College Hospital?"

"Slightly."

"The next day, the day before he was admitted to the hospital his anemia got worse?"

"Slightly. I'm not sure I would have been concerned."

"Yes, doctor, and we know none of the defendants were concerned either."

Objection. Sustained.

"Doctor. Anemia means that the red part of the blood, the part that carries the oxygen is low, below normal."

"Yes."

"And from the tests he have, we know it was getting lower?"

"Slightly."

"And the blood test that was done when he was admitted to the hospital has mysteriously disappeared?"

Objections simultaneously by Walker and Cantor. Sustained.

"Doctor, is the blood test that was ordered on admission and signed off by the nurse present in the chart which is now in evidence before this jury?"

"I have not seen any blood test done in the hospital. This is not my hospital."

"You agree that a complete blood count should be part of this patient's records?"

"I have no idea what the practices of the Metropolitan College Hospital are."

"Doctor, tests are done and the results are put in the chart so that physicians treating the patient will read them and act appropriately, isn't that so?" Asked in Hopkins' exact words from the tape recording. She turned and looked at Hopkins. He was staring at her with his mouth slightly open. She winked at him with the eye facing away from the jury.

"And doctor, if the tests that are taken are not put into the patient's chart, there's no way a surgeon can know what those tests show unless he is clairvoyant. Isn't that right?"

Objection. Sustained.

"Doctor, when a patient is anemic, he has thin blood and the heart has to pump much more to get the same amount of oxygen to the brain and other parts of the body?"

"Yes." The witness looked to Walker for help. None came.

"And that same anemic patient has to breathe harder to get enough oxygen into the lungs?"

"Yes." Resignedly.

She wanted to say, just the way he would if he were bleeding internally but there was

no proof of that either.

"And doctor, when a patient is missing part of his lungs from a gunshot wound, the heart is going to have to pump harder and the patient is going to have to breathe more than he would if his lungs were normal?"

"Yes."

"And doctor, if the patient is anemic, and has abdominal wounds and abdominal binders, and is missing part of his lungs and the patient has been given much more fluid than he needs, and is on morphine, that patient is at risk of his heart just getting too tired from pumping extra hard?"

Objection. Overruled. Overruled. She waited expressionless.

"That is a risk."

Attaboy.

"And when that starts to happen, the patient will start having irregularities in the rhythm of his heartbeat. Correct?"

"It may happen."

"And doctor, if those irregularities are picked up, the patient can be given medications that will strengthen the heart or reduce the load of fluid in the body. Correct?"

"Yes."

"If the irregularities are not corrected, doctor, that patient's heart may stop. There may be sudden death. Isn't that right, doctor?"

"It may happen." The defense attorneys were all staring down at the counsel table.

"And that is one of the reasons why patients are operated upon in hospitals. Isn't that right?"

"Yes."

"And doctor, you can state with reasonable medical certainty that if irregularities in The Artist's heartbeat had been picked up in those hours before his death, he would have walked out of that hospital instead of being carried out feet first?"

"It's possible."

"No further questions, Your Honor."

She turned toward her seat to see Stryver grinning and holding his hand up to slap congratulations.

Her mother's was Dr. Snyder's third operation that day. More things go wrong toward the end of an operating schedule. The night before, the surgeon had again deliberately listed all the terrible possibilities: death, brain damage, hemorrhage, infection, incurability of the tumor. She mentally added her own catalog of disasters.

Arranging her mother's funeral. No other person left in her world. And if Mother survived the operation, then chemotherapy--poison that kills the cancer cells, with luck, before it kills the patient. The chemotherapist walking the patient along the knife's edge between the

two deaths. Or radiation--silent scorching. Then, of course, there was Dr. Dean Warren's sudden death.

Now Snyder came into the special waiting room, his surgical greens spattered with her mother's blood. He took a seat next to her. "I have to go back into the OR for another case. Your mom's all right. She's in the recovery room. She's beginning to wake up. If you want, I can take you in to see her. I've been to pathology to look at the frozen section. We won't have the microscopic report for a couple of days. It looks like it was confined to the bowel and we got it all. It didn't go beyond the muscularis. Lymphatics were nice and soft. We took out the whole ascending colon from the cecum to the hepatic flexure and the mesentery on that side. The appendix was healthy but I was there so I took it out too--no extra charge."

The tumor had eroded into the bowel but no further, as far as they could see. Snyder's guess was that this was a Duke's B-2. He wouldn't talk about what was next until he had seen the pathologist's analysis of the tissue. She wanted to see her mother. They started walking.

"Do you usually take spectators into the recovery room?"

"Sometimes. I know you can handle it."

"You're very considerate." She touched his arm. She wanted somehow to thank him and, at the same time, she resented her trial lawyer's cynicism telling her that this doctor was making sure he wouldn't be named in a malpractice suit. She was flattered that he didn't speak down to her and respected him for telling it the way he saw it. And she didn't mind if he was worrying more than usual over mother.

Mother was pale and lying still with her mouth open and eyes closed. A plastic tube coming from her nose bubbled out greenish bile. Other tubes sneaked out from under the

sheet. The moving numbers on the monitor above the bed proved she was alive.

The doctor felt her mother's pulse and then excused himself. Nancy bent over and kissed her mother and whispered, "Mom, you're going to be all right. The operation's over. Dr. Snyder's happy with the way it looks."

Her mother struggled to lift her eyelids and seemed to recognize Nancy. Her lips moved but no sound came out. Eyes closed again. Nancy put her head down next to her mother's mouth. She made out the words, "He asked if you were married." Her eyes opened again with a sleepy twinkle in them.

Nancy stepped out of the hospital feeling that something good was happening. Her mother was still breathing and her mind was still working. The doctor was paying attention. And he was a nice man.

Summations tomorrow. Stryver had turned it over without a murmur. After the recess he'd been relaxed, joking with the defense team. Stryver was one of the boys now.

Ahead of her, the last danger spot. Walker was eloquent, an orator on closing argument. He would speak first. Parker, a plodder--he made his arguments methodically, making each point then lining up his facts like tin soldiers behind it. He convinced juries. Heany was emotional. He became indignant that his innocent client was being abused by having to appear and defend this frivolous lawsuit.

She liked to take a walk the night before the summation and let her mind wander over the case. Central Park was out of the question. Broadway was relatively safe but Columbus Avenue was more interesting.

Anyone seeing her, as she ambled in and out of Banana Republic and The Gap and Benneton, fingering price tags, toting a new blouse in a plastic bag, would take Nancy for just another woman on a shopping trip.

Under the diversionary prowling she a hungry trial lawyer preparing her closing argument. She was asking herself why she should win. What could she say about Michael

and Jane, about Godson or Benjamin that would touch juror number three, mailman, or strike the right chord in number five, orchestra conductor?

Sometime in the next forty eight hours those six people would file back into the courtroom. The foreman would stand up and the clerk of the court would ask if they had reached a verdict. Nancy would sit with her copy of the verdict sheet in front of her, listening for the answer to the first question, "Were the defendants negligent in their treatment of The Artist?" An instant later her whole life would be affirmed. Everything would be good and getting better. Or she would be rejected. All of her work for nothing. No reason to go on living. No place to escape from their "No." Winning wasn't as good as losing was bad. There was nothing in between.

What could she say to them about the operation? What went on in The Artist's hospital room that night? Had he suffered, died strangling in terror? Or did he pass quietly from sleeping into the deepest sleep?

What about The Artist? Who was the human being behind the public image, under the wig and the costume and the perfume? Who was he when he was not at parties or doing films, filling commissions for paintings and silkscreens? There had been a person who had called his big brother or sister Sunday nights and talked about children and school and the washing machine. Had he and his brother and his sister been able at the end of their talks to say that they loved each other? Had he been able to hear that from anyone at all? His brother and sister had sat through the entire trial. Just following Stryver's orders?

Someone had been missing from the trial. Absent from The Artist's life. The person who went with him to see the doctor. The one who waited outside the operating room. He had not named a beneficiary in his will. There had been no one sad person there at the trial.

No one mourner whose life could not go on when The Artist died, who had sat in the courtroom with dry tears to be reminded over and over of what had been, unable to understand why it had ended.

Slava Bough had been a dragon, cold-blooded, casting a spell, performing magic, gathering a golden hoard to his twentieth century cave. But fragile, abandoned and wasting away. All his foot soldiers hadn't been able to help him. She couldn't rescue him. He hadn't had a fair fight. His holy men had failed him, had cast an eternal evil spell. Now they were trying to slip away in the night and she had to rouse the village.

The jury had listened to every word. They had looked stern and unforgiving when she described the neglect of The Artist's anemia, his over-medication and over-hydration, the loss or deliberate disappearance of medical records. They had leaned forward in their seats when she talked about how The Artist had always wanted to take care of his family, about the money and gifts and paintings he gave them and promised to give them in the future. Some even nodded.

She had looked them in the eye and had not thought about Beatrice, the court officer, just before summation, handing her a note to call her office, of Theresa telling her that she had to call Dr. Snyder at the hospital immediately. She had spoken to the jury, told them about The Artist waking, fighting for air and she had not thought about Snyder telling her to come to the hospital immediately. She had spoken to the jury of The Artist lying alone in his hospital bed and not thought about telling Snyder that she was a professional and would continue to represent her dead client and could not be with her mother. She had told the jury about The Artist's fear when he knew he was dying and saw the fear in his eyes the only time she had seen him and knew it was the same fear her sister's eyes had held and she told the jury to punish the defendants for The Artist's death. She had asked for the most money she had ever asked a jury to award, and they hadn't blinked.

And when she had finished her closing argument, ended her involvement with the case, her connection with The Team, The Artist and his family, she had walked deliberately down

the center of the staircase, not run from the courthouse. She took the subway, not a taxi, to the hospital. Her mother hadn't taken taxis because the subway was cheaper and faster.

She left, bringing with her the powerlessness of an attorney who has done all she can do, whose case is in the jury room being decided by six strangers, to sit with a daughter's helplessness next to her mother's hospital bed and only watch as her mother either lived or died. Now she could pray, not change her suit, wear the same hairdo, walk down the center of the stairs, knock wood. She could be optimistic or pessimistic. But all she could really do was sit and wait.

Later, Mary McBride told her about Stryver's speech at the "victory dinner." Nancy asked if Stryver had mentioned her. Mary said he had commented it was too bad Nancy wasn't there. He had regaled them with anecdotes about his handling of the case. She heard him tell Wemmick they should start looking for malpractice business.

Mary had told her that when the judge read the charge, the jury had listened attentively and had sat up when the judge instructed them how to figure out the amount of the award.

Mary had said that when she and Stryver were in the elevator to the judge's chambers for a conference while the jury was deliberating she had told Stryver that she loved the way the jury looked during the summation. It really looked like a win. And Stryver had acted as though he hadn't heard her and said, "This is where I come in. I'm the best negotiator this side of the Pacific Ocean."

POSTSCRIPTS

December 18, 1992

New York Times:

The lawsuit for the death of The Artist was settled yesterday for an undisclosed amount while the jury was deliberating. Jerry Stryver, attorney for the estate of The Artist, announced that the wrongful death case brought by the estate against The Metropolitan College Hospital and Dr. Christian Godson was settled very much to the satisfaction of The Artist's family. Under the terms of the settlement, the amount was not disclosed and ...

January 5, 1993

New York Lawyers' Daily

...learned that additional conditions of the settlement were that the estate of The Artist not exhume his body or give anyone permission for exhumation and that all records of the Metropolitan College Hospital pertaining to The Artist be permitted to be destroyed... unprecedented...

November 4, 1994

Los Angeles News

Hearings in the dispute between Star Ferguson, executor of The Artist's estate and the

trustees of The Artist's Foundation continued today with testimony by Curtis Berger, Contemporary Art Curator of Christies. Berger, who appeared on behalf of the executor, testified that the value of The Artist's estate approached one half billion dollars. The total valuation of the estate set by the court will determine the fees of the executor and his attorney, which are customarily a percentage of the gross estate. The valuation will also determine the amounts that The Artist's Foundation will be required to disburse. The terms of the foundation charter require that ten percent of total foundation assets be donated each year to the furtherance of contemporary art.

March 15, 1996

The Village Voice

Strom Kazan, film producer and friend of Jerry Stryver, former attorney for the estate of The Artist, issued a press release yesterday regretting the decision of the Appellate Division of the New York State Supreme Court reducing Stryver's fee for representing the estate of The Artist from \$7.2 million to \$3.5 million. Kazan said that the decision was grossly unfair to Stryver, who has already collected \$5 million. Stryver was quoted as saying that he is not able to pay back the difference in the awards and is contemplating bankruptcy.

Newsday

January 1, 1998 (photo caption)

Prayer for Chickens

Buddhist monks pray in a ceremony at a Hong Kong temple yesterday to placate the spirits of 1.3 million chickens slaughtered by the government to stamp out a bird flu. Eighty monks and nuns prayed to speed the birds' souls toward reincarnation.

The End

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This book is dedicated to my primary editor, lover, best friend, fellow traveler, literary author, fan and everything else, Judith Hutchinson Clark.

Acknowledgments

Of course, Judith Hutchinson Clark, editor/agent Grace Monaco, who did not live to see it in print, editor Jessanne Collins, author Judith Kelman, whose praise energized my writing process, neurosurgeon Richard Bergland MD, who diagnosed Sheehan's, surgeon Norman Canter MD, who reviewed the hospital procedures and attorney Kathy Kettles Esq. who got me involved in the whole thing.