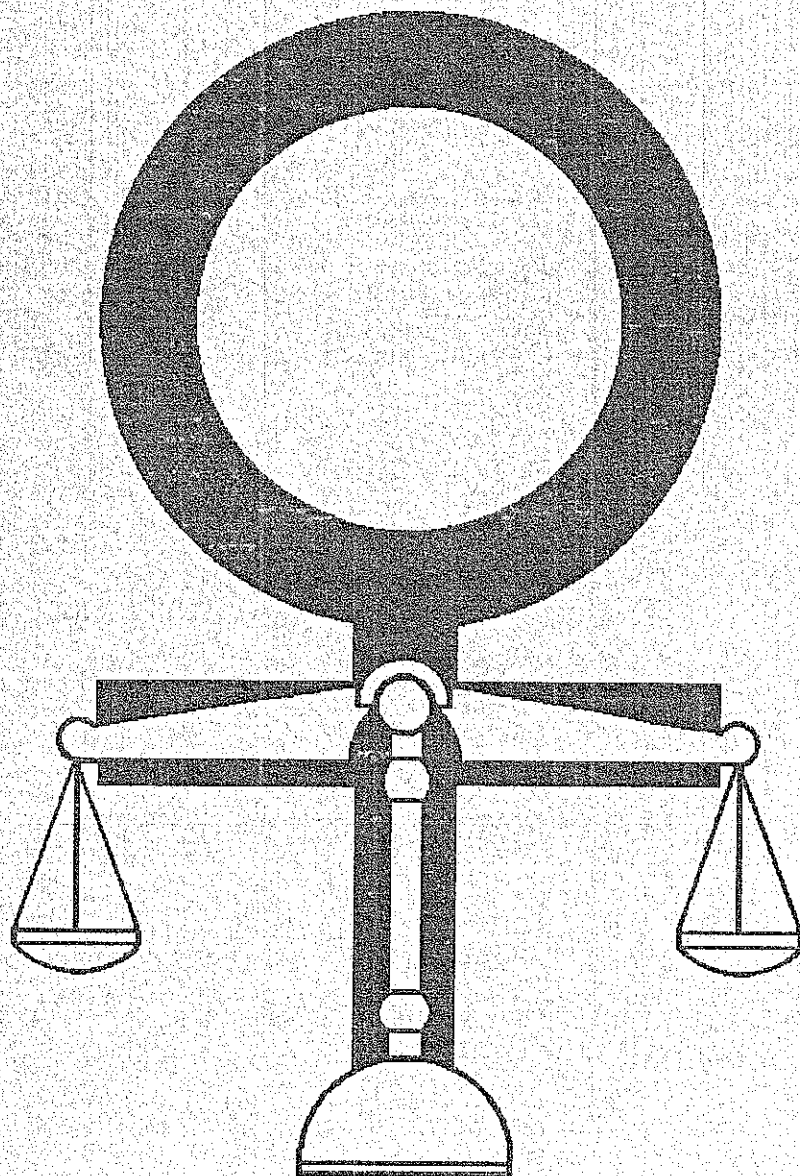


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CREATIVE WRITING

PATRICK'S CASE

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This narrative, from beginning to end, is the purest of fictions. Nevertheless, as scholars in the Law and Literature Movement have been teaching us, narrativity, law, and jurisprudence are essentially connected in ways that proponents of law-as-argument have never conceived. We often hear, these days, about how the law should be conceived in terms of stories. No doubt this is true—in part. But, both argument and narrative are indispensable—at least in litigation—so both are necessary. It is no accident that all really good trial lawyers end up marvelous storytellers. Logical inference and the elucidation of informal fallacies, however, remains important in the law, even though it is part of the mythos of trial lawyers that logic is not their bag. Perhaps they hide their prowess at informal logic in order to appear as people of the people. Nevertheless, masterful closing arguments weave narrative and argument into seamless wholes. That is part of their mystery and, hence, their luminosity and power. Cross-examination is often the testing of suggested inferences. Moreover, lawyers who try cases have always known that jury cases essentially involve fiction. In its absence, there could be few, if any, factual disputes. Without thematic unity, a lawyer's presentation will lack persuasive appeal. So even though law-as-argument and law-as-story are not comfortably connected in current legal theories, they are both essential to legal process and practice. If narrative is the yin of the law, logical inference is its yang.

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I. Preface

Not long ago, I taught a seminar for third-year law students and graduate students studying law, which I entitled "The Professional Lives of Lawyers: The Law, Ethics, and Management of Professional Organizations." The over-all approach was designed to distinguish sharply between what lawyers usually call "legal ethics" and the ethical problems arising in professional lives of lawyers. The former field should probably not be called "ethics" at all but "the law of lawyering," to use Geoffrey Hazard's felicitous phrase. I was more interested in exploring what philosophers and ordinary people call "ethics," namely: Questions about what states of affairs are good (or bad), what actions are obligatory (or, at least, right), and where happiness is to be found. I restricted the range of questions to the professional lives of lawyers, thereby aligning the course with the approach to business ethics that is alive and well in most universities. Having set up this problem, I let legal rules seep back in to determine the extent to which they might shape the contours of ethical and decision-making contemplation in professional life.

As the term developed, class discussions centered more and more upon gender-based problems. These seem to be the problems on everyone's minds just now. Two students in the eighteen-member class were LL.M. candidates. At the time of the course, these two lawyers had been in private practice for five years or more. One of these class members, a woman, was in firm practice, while the other, a man, had switched from a law firm to a corporate law department. One member of the class was a paralegal working his way through law school. Two other members of the class were advanced M.B.A. students who were employed as business managers in law firms. One of them, a woman, had single-handedly managed an eighteen-person firm, while the other, a young man, was a junior manager in a two hundred-person firm.

Near the end of the course, I distributed the materials that follow. A major section, which is here entitled "The Story," is really a scenario for the course's final examination. The students were given the examination questions two weeks after they were given "The Story" and one week before the exam was scheduled. The philosophy behind "The Story" is simple. Law firms are not engines of efficiency. They do not conform to the image of the firm found in textbooks of classical microeconomics. A soap opera, such as *L.A. Law*, presents a much closer picture of the social life of law firms.

During the examination period, students were asked to bring a clean copy of "The Story," and I randomly selected three questions to which they were to respond in a three hour period. (I have a feeling that I would have served the students' interest better had I given them a more orthodox

final examination, but there were practical reasons why that was not possible). The random selection of the questions was designed to ensure that each question would be thought through prior to the exam.

II. The Story

This story recounts a sexual harassment case that involved some rather privileged people. I knew virtually everyone involved. I was, for quite a long time, a denizen of first one large law firm, and then another. My specialty then was employment law planning. Now, I am a solo litigator handling mostly professional malpractice and some employment cases. I have handled a number of cases involving providers in the mental health care field. That fact, curiously, is obliquely relevant to my tale. Eventually, I represented one of the people in this story, the accused, although mostly as a sounding board. The law firm involved was and is a very prideful, national law firm with a high profile and an even higher opinion of itself. Given the peculiar facts surrounding the participants, including myself, a person with average curiosity and rudimentary knowledge of legal directories could identify the cast of characters in the course of an afternoon. For reasons which will become obvious, some of the players need or desire anonymity. Therefore, I have concealed my own identity and the area of the country in which the events took place. I have also changed all the names and have taken some trivial liberties with background facts. When I say that this is the story of a sexual harassment case, I do not imply that there actually was harassment. That clearly was the charge, however.

III. Patrick

Patrick was the accused. When these events happened, he was a middle-aged white male. In order to understand his lawsuit vulnerabilities, it is necessary to know a bit about him. Patrick came from a solid people—well-educated. His father was a physician, while his mother was the youngest child and only daughter of a liberal labor lawyer. The central secret of Patrick's life was that his mother and father were not married. The result was that Patrick had a pervasive sense of illegitimacy. He was a constitutional outsider who at least halfway yearned to be on the inside. He never felt good enough and sometimes felt completely unworthy. Patrick also never really felt completely accepted. He had a strong drive to be well thought of by older men whom he admired. The first shrink he ever saw told him that his life would be a search for a real father. Patrick believed that his mother never got over his father. She kept pictures of him for years and was all aflutter when she met him with Patrick after a

twenty year hiatus.

As the years went by, his mother became evermore marginalized (sociologically speaking) and evermore eccentric (behaviorally speaking). Young Patrick seldom saw his father, but Dad the Elusive paid handsomely for his son's education—sending Patrick to boarding school, an Ivy League college, and a graduate year at Oxford. This all happened before Patrick got caught in the draft.

Even though no one physically or sexually abused Patrick, he had a rotten childhood. Patrick often said that he hated being a kid. He had extremely poor eyesight, and he did not wear contact lenses until he was in college. He was terrible at sports; he made up for his clumsiness and physical cowardice with brazen defiance of authority and an enormous vocabulary over which he developed the control of a fencing master. Boys' boarding schools are rowdy, macho places; however, a combination of Coke-bottle glasses, clumsiness, a big mouth, and ostentatious academic prowess is a prescription for persecution. Renegade critics of authority and established patterns who yearn for legitimacy are seldom psychologically integrated, much less happy.

Many people like Patrick study sports so that they can "pass." Ernst Cassirer, for example, is said to have learned the rules of certain sporting contests, so that he could talk to his acquaintances, even though he never actually played or saw any of the games. Patrick had no interest in passing. His limitations at sports grew into willful and ostentatious ignorance when he became a man. For example, when people began discussing sports in his presence, he would ask questions like: "Basketball. Hmmm! Is that the one that's played on a small wooden stage with a large round ball?" There was a passive-aggressive dimension to all this, of course. Patrick played the wide-eyed ignoramus about sports, but one had the sense that his self-deprecating jokes were ironic. If you knew much about him, you knew that the subtext of his jokes was that sports were unworthy. Such double messages were characteristic of Patrick. For many years, Patrick lived in the sub-text.

Not all of Patrick's sports humor was self-depreciating. These sorts of jokes even permeated his law practice. I recall a response he once filed in the smaller Federal Seventh Circuit. The appellee had lost and was now seeking an *en banc* rehearing. Patrick knew that at least two of the judges who would be reading the papers were musically knowledgeable. He characterized the appellant's motion as "making about as much sense as a marching band—drill team and all—playing the *Carmina Burana* during halftime at a high school football game." On another occasion, I recall that Patrick was arguing an appeal in the Oklahoma Supreme Court. Here, one of his clients was a Texas corporation. The argument was held in early October, about ten days before "Texas-OU Weekend," which

occurred every year in Dallas during the Texas State Fair. As his argument began, Patrick remarked to the court that in his opinion "Texas was, historically, as good a football team as it was because the institution had to overcome an unconscious shame at being saddled 'ghastly orange' as the dominant school color." That did not go over well, even in Oklahoma.

Irrespective of the butt of Patrick's sports humor, there is paradox here. For an avid ridiculer of sports, Patrick had a strong desire to win. One could see this in everything he did, and some things he did not do. Patrick never played cards, for example, because he couldn't play just for fun.

Because of the kind of kid he was, Patrick had a lot of time on his hands. He mostly read. His wife was fond of saying that he had no role models as a child, so he grew up modeling himself after characters in English novels. There were more than a few traces of this trait, even in middle age. He never ended sentences with prepositions, and he always got the "who/whom" rule right. Patrick never ordered tea in a restaurant by saying: "I would like hot tea, please." Patrick would quizzically ask: "Have you tea?" (A life can be grasped in the raising of an eyebrow observed. One can discern the meaning of a pair in how they stand next to each other. This truth explains why juries are encouraged to heed the demeanor of witnesses and parties). Of course, a lot of Patrick's more complex discourse had the same quaintness about it. Many people thought Patrick was phoney, even flaky, when they first met him. Most people change their opinions of Patrick to some degree. Still, they wondered why someone as shrewd as Patrick would affect so much eccentricity. Occasionally, people realized that Patrick was putting down ordinariness. When they realized this, they didn't like it.

I knew Patrick's mother somewhat. She was a devout woman of great warmth and discerning intellect. She was also an accomplished musician in her youth, having played both cello and piano. Arthritis destroyed these skills, however, as she approached middle age. Then, she replaced music with the systematic study of religion. She built a chapel in her spare bedroom of her house where she prayed and studied alone everyday. Patrick's mother was one of those well-informed, liberal Episcopalian women at whom Walker Percy poked so much fun. She loved incense, statues of the Virgin Mother, brightly colored Mexican icons, gold Eastern churches, and the stripping of the altar on Good Friday. She read Cardinal Newman, developed an encyclopedic knowledge of the "Oxford Movement," and talked about "going over to Rome." Still, she was earnest and well-meaning, as well as pious. By the time I met her, she had an expectant helplessness about her so that one wanted to care for her. Perhaps she was a bit of a martyr. Patrick, who acquired her passion for

music, if not her talent for performance, told me that her helplessness stretched back far before the time she was impaired by arthritis. He has more than once joked that he played Master Helpful to his mother's Mrs. Hint all of his life. Patrick also told me that, as a consequence, he feels guilty if he is not helping women in need. As for his father, I did not know him at all. Patrick said he didn't really know him either, but I do know that Dr. Father taught his adult lawyer-son a great deal about medicine, so at least they spent some time together. Patrick's relationship with his father is something he kept to himself.

Patrick entered law school at twenty-five, after distinguishing himself in Vietnam. He did so first by staying out of the way and second by abusing as many substances as he could. The Army had assigned him to write reports demonstrating the tactical brilliance of field officers and the strategic insight of war planners on the scene. Patrick regarded this entire enterprise as a joke and spent most of his semi-sober time reading strategic theory the stuff of von Clausewitz, Thomas Schelling, Edward Luttwak, and the like—while listening, bleary-eyed, to Nineteenth Century Romantic music. He also told me he really came to love this type of music while drunk or stoned. He said he loved to listen to Tchaikovsky, drink Jack Daniel's, read Schopenhauer, and then pass out. The Army apparently didn't notice him much. But when I came to know Patrick, he could not stay out of the way. He was too willful, too angry, and too oriented to conflict. Perhaps the hash and the booze saved him from himself for a time.

Patrick excelled in law school after his hitch. He was fifth in his class and Order of the Coif. He easily could have been one of the elected editors of the Law Review, had he bothered to run. As it was, he served on the staff and published both a Note and a Comment. The former drew letters of commendation from professors, lawyers, and one well-known judge of scholarly distinction, while the latter won an award for excellence in the study of corporate law. During law school, Patrick continued to indulge his passion for cold gin and hot whiskey, although he stopped abusing other substances. He also added reckless womanizing to his roster of activities. Patrick could never explain to me (or to himself) why he had not found this pastime sooner. He and I always found that strange.

Patrick's avocations didn't change much while he clerked for several years at two different appellate-level courts, one of them a court of last resort. Patrick was a quick study and wrote rapidly. He has joked many times that no one who could read 500 words a minute and had passed "Baby Logic" in college should spend more than thirty hours a week being an appellate judge. Even Patrick did not conform to this maxim during his second, and higher, clerkship. Instead, he gave up sleep.

Things did not change much when Patrick returned to his alma mater

to teach. Given his clerkships, Patrick started by teaching appellate procedure and running an appellate clinic. He was a pretty good stand-up classroom "Socrates," as well as a terrific lecturer, so the law school asked him to branch out. Patrick picked the law of business organizations as his second specialty. As a result, his pace became more frenetic. This was exacerbated by the fact that he pursued a Ph.D. in politics, on the side. The law school didn't mind, since lawyers are hounds for credentials. For its part, the Government Department was extremely tolerant, and it permitted Patrick to write a dissertation entitled *Some Aspects of the Legal History of Corporate Governance in Nineteenth Century New York*, even though his course of study had been political theory. Patrick did not publish this dissertation as a book, but he put a number of papers in law reviews and legal history journals around that time, and several were based upon his Ph.D. thesis. The law school did not give him tenure after a few years, however, in part because of his unquenchable thirst and provocative lust.

Patrick was also devoted to political incorrectness. Although he was a liberal Democrat in his personal views and had gone on civil rights marches in the South in the 60's, Patrick indulged himself in torturing stiff-necked, humorless liberals. Patrick thought such people insufferable, even though he agreed with them, bottom-line. I can be a little pious myself, politically speaking, so Patrick occasionally turns on me. For example, he occasionally calls me for lunch and inquires whether I would like to have "Chink Food, Gook Stew, Wop Noodles, or Frog Delight." He now and then refers to those of Hispanic heritage as "Messkins." Although always joking, I have even heard Patrick use the dreaded "n"-word to puncture the pompous, even though he hasn't a racist bone in his body. Many others have heard these things as well.

So Patrick loves paradox. He also loves the language of the street: He has a passion for cussing, and he revels in the ribald. He knows he is (almost) the most cultured intellectual to be found outside an Ivy League English Department. Yet he loves to pepper his discourse with words like "cocksucker" and "motherfucker." Certainly, Patrick loves to shock.

Strident feminists were a special target of his. While teaching at the law school, Patrick frequently referred to women law students collectively as "Portias." When people mentioned this to him, Patrick would refer them to the Rumpole stories. He once nicknamed the President of the Associated Women Law Students, "Princess." There was a storm of protest over the "Princess" appellation—much more than the simmering resentment over the "Portia" pattern. In fact, the parents of Princess were "wheels" in the leading local country club. Princess had gone to *St. Someone-or-Other* Episcopal Country Day School and to Waldemar—a summer camp for which registration is required at birth and where she was

"Ideal Girl" in here last year. In fact, at that time she was doing her provisional year in the Junior League. In other words, as usual, Patrick was right.

But, the worst is yet to come. During his next to last year at law school, Patrick told a "dumb blonde" joke in class:

Q. Why did the Queen of the Rose Festival stare fixedly at the carton of orange juice?

A. Because it said, "CONCENTRATE" right there on the front of it.

Patrick's stated purpose was to illustrate problems involving ambiguous language and context, and he used another example along with it drawn from the movie *The Ruling Class*. In that movie, the character portrayed by Peter O'Toole thinks he's God and an official of an English courts has come to see if he is a lunatic. They have the following exchange:

Q. Tell me, sir. How was it that you first came to believe that you were God?

A. When I prayed. As I did so, I discovered that I was talking to myself.

Interestingly, there were no complaints about the sacrilegious exchange from *The Ruling Class*, but his other choice of examples excited a hurricane of whining. When the student newspaper asked him about these accusations, Patrick responded that his critics would be better served by joining the girls' basketball team than by criticizing his pedagogical technique.

Patrick wrote somewhere (obviously in his own defense) that there was a long and distinguished history of law professors verbally torturing law students as a process of "toughening them up." After all, judges could be curmudgeons, opponents ugly, cross-examinations vigorous, and negotiations murderous. Negotiations are particularly problematic, Patrick thought. They are informal, no one is regulating them, and good, "Prince-of-Darkness"-type negotiators have sixth and seventh senses for discovering any sort of weakness, including psychic, and then manipulating it, sometimes subtly, sometimes not. Hence, not only resourcefulness and level-headedness are required in all these contexts but also a thick skin and humor. Patrick explicitly argued that when feminists took the position that women should be exempted from law school hazing, they were doing a disservice to their constituents by arguing for a position which would leave them less than fully prepared for practice. Patrick's essay, of course, triggered yet another series of intemperate responses. He now admits privately that his theory was probably more a rationalization for his own hostile conduct than it was an authentic, intellectual argument or a heart-felt view of the world. Nevertheless, Patrick still professes that the theory

of what he said was true, even if its spirit was subject to self-deception. "An accused criminal can be framed and still be guilty," he remarked. "So, when is the error harmless?"

During the Christmas break of his last year teaching, Patrick went to Eastern Europe in the hopes of observing institutional collapse. If he saw any institutions collapsing, he didn't remember, because he suffered a prolonged alcoholic blackout. Some kindly policeman in a Polish village put him in jail for a few days, and that was the end of his drinking career. Patrick told me that he'd blacked out before, but this one was all that he could take. He told me it lasted longer than the previous ones, which usually stretched from the late evening until he passed out in bed. Patrick also thought that he might have hallucinated; he had a dim "recollection" of trying to hustle people off the street in order to prevent their being shot down by gangsters.

Patrick approached sobering up with relish. He tells a very funny story about attending his first A.A. meeting in Warsaw. The language of the meeting obviously was Polish, and he understood very little of it. A.A. meetings are the same all over the world, however. There are "Speaker Meetings," "Step Meetings," "Tradition Meetings," and "Discussion Meetings." Step and Tradition Meetings may be lectures, or they may be discussions. Coffee is the preferred beverage everywhere, and, at that time, most people smoked up a storm. Now there are separate rooms for smokers and non-smokers, at least in this country. Patrick observed only a smoky room and a group of very happy jabbering men. They hugged him repeatedly and gave him copies of the Big Book in Polish, Russian, and German. One or two took him aside and spoke to him very earnestly and very slowly. He had not the foggiest idea what they were saying to him, although he can make a pretty good guess now. After Patrick returned to the States, I first got to know him and we've been, more or less, hanging around together ever since. (I suppose it does no harm to record that we are both non-drinking, recovering alcoholics).

At first, Patrick didn't know what to do with all of the extra time on his hands. He had several extra new hours a day as the result of the fact that he quit drinking and therefore, quit frequenting bars. Also, Patrick had always used booze as a crutch for relating to women, so he was suddenly nervous, even timid, about returning to his former sport. He also realized that he had mistreated many women, and he felt real, honest, healthy shame about this.

What Patrick now did instead of drinking and womanizing was to throw himself into the making of money. Most law school professors, who are not complete geeks and who know about things relevant to matters of private law, can double their incomes from a consulting practice. As the result of his writings, Patrick was a recognized authority on appellate

practice and on certain components of corporate law. In blue-stockings practice there is always a demand for this combination, as a result, Patrick had no trouble finding consulting work, especially in the corporate arena. Patrick was astounded at how easy it was to make money. He thought that the law of corporate governance was child's play for anybody who had real familiarity with political science, and he thought that writing merger and acquisition plans looked a lot like the reports he prepared when he was in Vietnam. Patrick found it very odd that people were willing to pay him large hourly fees to frame arguments he tossed off in classes for nothing. Patrick's consulting practice fit well with his academic work, so that most of his consulting opinions were transformed into law review articles.

So Patrick's life was very busy, but it remained empty. He had nothing at all in the way of a relationship of the heart, and for all his passion for the life of the mind and for all his intellectual pursuits, Patrick had little stomach for solitude—hence, his frantic pace. In addition, Patrick now thirsted for "The Genuine": Intimacy, community, a spiritual life. He returned to the Church, even though he couldn't quite say that he actually believed in God; he tried yoga; and he read everything Robert Bly ever wrote and listened to everything he ever recorded; he went to many more Meetings than I did and tried several other support groups. (He later joked about being the son of Stuart Smalley). Some of this was a passing phase, however. Many neophytes in A.A. go through something like this.

Unfortunately, Patrick was also vulnerable to another active addiction. In retrospect, Patrick would say that he was not in very great danger. I dissent. The addiction that was about to grip him was work, and, of course, it had its benefits. Patrick, to this day, regards work-addiction a/k/a "workaholism" as a relatively minor affliction. He sees it as saving him from more serious addictions. (I suffer from the same affliction, but I do not regard it as a minor matter. I have come to see that it tears at the fabric of home-life just as badly as alcoholism does, although in different ways and at a different pace). I suspect that Patrick's unhealthy connection with work had been with him all along. It had simply been anesthetized by his even more unhealthy connection with alcohol. In retrospect, Patrick would say that his meanderings among various support groups was a diversion. After his workaholism bloomed, Patrick probably spent as much time devoted to the self-help enterprise as he had formerly, but he attempted to obtain it through reading. In the years I knew him, Patrick read virtually every self-help book ever published. He even read books about the history of self-help movements. I found this very odd. Eventually, Patrick told me that he never learned much from these books.

Fortunately, before Patrick became completely obsessed with work and buried in these self-help books, an exquisite woman found him at some sort of insight weekend she was leading, and they got married. Eventually,

they had four children—two girls and two boys. “The perfect family, plus one, who is the best of all,” Patrick says. Patrick’s wife, Savannah, was a Jungian analyst who was also impressed by the work of James Hillman, a renegade from orthodox Jungianism and a man of first-rate imagination. Savannah had taken her Ph.D. in psychology at a Catholic university that combined Jung and phenomenology. She later completed her formal analytical training in Switzerland, where all good Jungians go. Savannah’s third-greatest virtue was her combination of warmth, openness, and straightforwardness. Her second-greatest virtue is her humor. She is, hands down, the funniest person I have ever known. Patrick also adores her wit, although he is sometimes, perhaps too frequently, the butt of it. Savannah’s greatest virtue was that she forced Patrick to go underground with his self-help books. She couldn’t stand the sight of them, and she even tore up some of the trashier ones. Patrick and Savannah talked together more than most couples, and they looked marvelous together. Nevertheless, wit and anger tend to go together, so there was also some friction, although no real violence. Savannah’s throwing shoes and a few books now and then surely doesn’t count as meaningful violence.

After several years, for reasons subject to no one’s influence, the empty place Patrick had first tried to fill with alcohol and then with work began turning into depression. Patrick did not see that his obsession with work and his compulsive habits were very much the wrong road. Instead, he tried to work even harder. Sometimes he succeeded. Sometimes he could barely function at all. This created alternating cycles of frenetic work followed by long days spent in the office with the door closed when he got very little accomplished. At least he didn’t drink. Still, Patrick’s depression, when combined with his quasi-obsessive work habits, created significant tensions at home. Savannah, a woman of strength and character, was not the easiest person with whom to live. Besides the problem of wit, she was highly intuitive, as befits a really good therapist. Savannah had the most remarkable insights. Unfortunately, she lacked tact in expressing them to Patrick, and she had a fiery temper. Because of her profession, the two of them classified her as the normal one, the sane one. Couples often do this and often do it mistakenly. Patrick and Savannah went into marriage counseling after being married for eight years or so for reasons which will shortly become apparent, and Patrick told me that their therapist thought that Savannah was as narcissistic as he.

All of these problems converged in Patrick’s forty-eighth year after he had been in private practice for ten years or so. He said occasionally that he has enjoyed his law practice immensely. I doubt it. I think he was bored a good part of the time, although that would be hard to tell from the surface. His practice was highly prestigious and highly lucrative. Patrick had a knack very few business litigators share: He had a flair for the trial

of lawsuits. Somehow, Patrick could bring boring corporate disputes alive; his sense of the dramatic could make even business-dispute depositions lively. Written transcripts of them are vivid reading. This special talent was perhaps Patrick's most important gift in the practical, work-a-day practice of law, precisely because it is so rare. It turned out that Patrick was, along with his other enviable talents, an ingenious, off-the-cuff cross-examiner. As a result, his practice spread to business litigation and even to white-collar criminal defense. Still, as I see it, his worldly, even glamorous, law practice quickly became routine. I gave him a couple of medical malpractice suits, which he tried in the spirit of gambling. His technical cross-examinations were dazzling with perfect blends of simplicity, vividness, logic, and admission. Even that excitement didn't do too much for him. Patrick's emptiness, his inner-nothingness, demanded another feeding.

At this point, Patrick's mother died. They were not very close, by Patrick's choice. (For reasons I did not understand, he asked me to go to the funeral). The funeral service was quite a show. Patrick, who had acquired his mother's taste for ritual, loved it, even though he was on the verge of tears much of the time. Afterward, as Savannah and I walked out of the church, she remarked to me, "Patrick might now go a little crazy." Sure enough.

IV. Brandi

Within six months, Patrick commenced a clandestine affair with a second-year associate in his law firm named Brandi. It was an old story. She said she wanted to learn and, of course, Patrick wanted to help. She suggested she might like to collaborate on some scholarly writing. Again, Patrick willingly obliged, playing Mr. Helpful to her Miss Hint, and he mistook his need for a feminine audience for Brandi's having the magical properties of a muse. Patrick hadn't written anything in a couple of years, and he had asked me more than once whether he was stuck. I knew Brandi slightly, and there was no magic in her. She was a nearly-brassy blonde, who couldn't distinguish Mozart from Mahler or Thomas Mann from Thomas Wolfe. But she said she wanted to learn, and Patrick loved both to teach and to save. All he asked in return was adoration. In the midst of all this turmoil, he bought a bright blue, and very fast, motorcycle. Not even Brandi would ride it.

When Savannah heard of the affair, she was furious and very hurt. Shortly thereafter, she threw Patrick out. She also "keyed" Brandi's new convertible, writing "SLUT" in large letters on its hood. Savannah also tore up a fair number of the self-help books Patrick read compulsively, including even *Iron John* and all of the Jungian stuff on mid-life she had

given him. Savannah had come to think that Patrick's reading of psychology was obsessive and nothing more than a way to celebrate his own narcissism. She thought that Patrick had in him more than a little of what Jung called the *puer aeternus*. She did not think, however, that his compulsive reading of the sophisticated self-help literature was therapeutic. As with everything else she did, Savannah's disposal of the self-help books was done with flair. One-third of them she reduced to ashes, which she sprinkled around his office at the firm early one morning. The smell of ashes hung around the place for days. The second one-third she stuck in his bed. After he moved out, Patrick acquired a large, high, and very fluffy bed of which he was very fond, even irrationally proud. Savannah short-sheeted the bed and stuffed wadded-up pages from self-help books above the short sheet, below the short sheet, and in the pillowcases. The last one-third of the books she dumped from a bushel-basket onto a restaurant table where he was having dinner one night with Brandi. Most people who heard the story were mortified; Savannah herself was embarrassed by it later—but not Patrick. He loved the swashbuckling drama of it all and had probably been hungering for just this sort of passion from Savannah. She didn't let him down. Toward the end of their separation, Savannah blackened both of Patrick's eyes. Their marriage counselor was aghast, but Patrick thought the incident was amusing, even though thereafter he had to change his contact lens prescription every six months. He seemed to enjoy Savannah's passionate attention and thought he deserved what he got.

Savannah pulled herself together fairly quickly in many ways, and as it turns out, there were lots of men from thirty-something to fifty-something who wanted to take her out. So, date she did. Patrick was even enlisted to baby-sit while she went out. Although he denies it, Savannah and I agree that Patrick was jealous of the attention she received. Patrick regarded Savannah as a higher-quality woman than Brandi. He was sure that Brandi was dull, while Savannah was not; he wasn't sure that the men Savannah was dating weren't better specimens than he. In any case, Savannah's willingness to move on, if necessary, combined with her willingness to say, out-and-out, that she still loved him, seemed to bring Patrick to his senses. The way Patrick describes it, against considerable odds, he had the good judgment to ask Savannah if he could come home. (The way Savannah tells it, Patrick begged her in tears to take him back, and she reluctantly agreed). In any case, the leadership of his firm breathed a sigh of relief and paid Brandi a bonus to cover her moving expenses to one of the firm's West Coast offices.

I never liked Brandi. Perhaps it was because I admire Savannah. Perhaps I don't think Patrick really liked her either. Perhaps I did not like her self denigration. Perhaps it was because she did not like me. Many

professionals and staff around Brandi were initially very impressed with her. She made an excellent first impression, and she was not without talent and stamina. These features do not account, however, for the power she seemed to radiate. She had pellucid blue eyes, which drew men in. She was what the Jungians call an "Anima Woman": Such a woman can accept all sorts of projections from men and make the men feel as though that is who she is. (I didn't realize this for a long time because Brandi was slender and rather athletic, whereas my stereotype of the "Anima Woman" was a rather plump motherly type projecting a sense of nurturing). Because she was a *tabula rasa*, she functioned much like a blank movie screen. Brandi also had a dark side; she was manipulative, mendacious, and empty, empty, empty. She and Patrick were completely wrong for each other, even setting aside the difference in their ages, tastes, and command of English language. Brandi knew this. She once said to me, "The great difference between Patrick and I," (so help me, this is exactly what she said), "is that I appear to be completely conventional, but I am the opposite. Patrick appears to be very unconventional, but this is merely superficial. Deeper down he is utterly conventional, a regular Robert Young." I suspect that Brandi was completely wrong. Even if all she said to me was false, she would still be right about the discrepancy. Patrick was, in essence, a sophisticated, legal intellectual, whereas Brandi was a grasping intellectual feather-weight whose idea of a good time was to go to a discount mall. Their principal bond, to the extent that one could know about such things, was that they were both workaholics and both sought meaning through work.

One of the unfortunate things about Patrick's affair with Brandi, from a professional standpoint, was that they became more and more indiscreet. Indeed, in the end, the affair was rather public, so it became the object of a good deal of gleeful and spiteful gossip. The ostentatious nature of Patrick's relationship with Brandi also humiliated Savannah. This is why she hit him. I think it took her years to come to terms with it, and she is not over it yet.

Brandi was a woman to be pitied, in some ways, I suppose. She was in way over her head with Patrick. I'm sure he was not entirely truthful with her, so she managed to get caught in the riptide of a first-class mid-life crisis, which did not end well for her. I do not mean to imply that Brandi did not make her own contribution to the entire fiasco. She did not trust her own legal abilities and used Patrick both to learn from and to ride to semi-glory. She also seems to have had some need to take men away from other women. She had a history of similar conduct before they met, according to Patrick, and she subsequently had a torrid affair with the managing partner in the office to which she transferred. Of course, he too was married.

This man's name was Brandt. Like Patrick, he was a first-class lawyer. He probably had a wider reputation in commercial legal circles than Patrick did. After the story broke about Brandt's affair with Brandi, Patrick and Brandt had dinner together at a national partner's meeting. Together they decided that Brandi really had to go, and they arranged to set her up in her own law practice. Each of them gave her \$20,000 to start her own law firm. They each also guaranteed payments to her every month for a year. Unknown to her, the firm was actually paying this tab. In exchange, it got a release. The firm also guaranteed Patrick and Brandt that it would send Brandi a substantial amount of business over a two-year period. I thought this was a nice way to get Brandi out of everybody's hair and keep all the skeletons neatly in the closet. Brandi's practice took off very nicely, of course. The last anyone heard, she was awash in simple-minded corporate business and miserably unhappy.

Brandt and Patrick, of course, could not resist sharing notes. One of the more interesting items was that Brandi had repeatedly asked both of them to send her flowers. Patrick had catered to her wishes; Brandt had not. I thought her request was odd. Perhaps the best story Brandt tells concerns how he discovered that Brandi was having yet another affair with yet another fortyish lawyer, who was a substantial partner at another law firm. Brandt was a creature of habit. On Saturday mornings, he worked from 6:00 A.M. to 8:30 A.M. and then watched his sons participate in whatever sport was in season. On Saturday afternoons, he usually took them to college games. One Saturday morning, Brandi called him at his office to confirm whether he would be there later. He told her he had to go to one of his kid's football games. By coincidence, Brandt's secretary, who knew of their affair, remarked that she didn't trust Brandi. As Brandt tells it, the nervousness in Brandi's voice caused something to click and revelation swept over him. He left the office immediately and drove to her house. There was a strange car in the driveway. Brandt had a key to the house, so he could enter quietly. He found Brandi copulating in her bed but stood quietly in the doorway to her bedroom leaning on the door jam until she noticed him and screamed. Brandt said that he found the entire incident deeply pleasurable and hilariously funny. He said he felt angst and anguish during the drive to her house, but it all disappeared as soon as he got there. Brandt knew the man in bed with Brandi quite well, and he knew his wife. In fact, his wife and Brandt's wife worked together in the Parent's Club at the private school that all their children attended. I suppose Brandt was right to find this humorous. It is the stuff that comedic movies are made of, but it is also a situation that might lead to violence.

Patrick and I discussed at some length whether he should tell the story to Savannah. He was concerned lest Savannah think he had a continuing

interest in Brandi. Eventually, it was decided that he should make a disclosure. Our theory was that Savannah had a need to think badly of Brandi, and this would provide her with the perfect excuse. In fact, the story had an interesting and catalytic effect on Savannah. She had thought for a long time that Brandi has an archetypal need to take men away from other women. The story brought this idea into focus for Savannah. In fact, she began thinking that she was seeing a good deal more of Brandi's pattern in her therapeutic and consulting practices, as well as in the culture at large. Savannah is now busy writing a book about career women and their struggle with men, time, children, and glass ceilings. This book is to be entitled, *The Dark Side of Aphrodite*.

Men commonly complain that the workplace, especially law firms, is filled with overly aggressive women. Savannah thinks there is another side to this. She thinks there are a lot of "Anima Women" in the ranks of female professionals. She also believes that Brandi is a daughter suffering from a type of Mother Complex, already familiar to Jung, and discussed today by such Jungians as Jean Bolen and Linda Leonard. Savannah thinks that Jung's Mother Complex takes a special twist in modern society where there are lots of career women. First, she observes that the sanctity of marriage has declined, and she concludes that many career women regard married men as fair game. Savannah believes this to be an emblem and a consequence of the increase in the independence and aggression characteristic of professional women. She also thinks that the careers of many women stall or misfire one-fifth to one-quarter of the way through. On average, this appears to happen to women somewhat sooner than it happens to men. Part of the problem, of course, is structural and external, and part of it results from the glass ceiling. Savannah hypothesizes that many women whose careers are permanently stalled look for ways through the glass ceiling or away from it. One way through it for the younger woman lawyer whose career is stalled at the senior associate or junior partner level is to latch onto a much more senior lawyer. Savannah also hypothesizes that professional women bear animosity towards the wives of more senior male partners in their firms because these wives are regarded as having it easy. This animosity is especially strong among those professional women whose careers have stalled. Savannah conjectures that women in this situation involve themselves with senior lawyers, at least partly, to express hostility against these lawyers' worthless wives. Savannah thought this pattern might even be displaced anger towards the mothers of these professional women. This part of Savannah's theory is a reworking of Jung's Mother Complex in the context of a professionalized service economy.

There is a far simpler explanation in Brandi's case. She is an archetypal user—Predator, Third-Class—sleeping her way to the middle.

Curiously, both Savannah and Patrick reflect this hypothesis. Patrick thinks Brandi was a relatively innocent kid who got corrupted, misdirected, or something of the like. Patrick's account is flawed by its motive; it permits him to be the central character in Brandi's drama—the powerful corrupter of the relatively innocent.

V. Sybil

Like Patrick, Sybil was a legal intellectual. Approximately twelve years Patrick's junior, she came to his firm after running a civil clinic at a major state university law school. Sybil, too, had a workaholic streak, but she defined work more broadly than Patrick. For the adult Patrick, "work" meant The Law. For Sybil, "work" meant The Life of the Mind. During the time she was with Patrick's firm, for example, she read two or three novels a week, took night classes in creative writing, and kept an extensive head-heart journal. Patrick always thought that Sybil was at least as bright as he was. He was dead wrong about this.

Patrick frequently showed poor judgment about women, and he often misjudged their intelligences. People who knew Patrick used to joke about him. They would say, "You can always trust Patrick's evaluations of people, and his recommendations of them, at least if the people are men." Patrick himself said that he could not recognize any disturbance in a woman short of really bizarre craziness.

Patrick's firm and Sybil found each other through an ad in the *National Law Journal*. Sybil looked good on paper. She majored in a solid subject, English literature, at one of the premier state universities in the west; she attended a prestigious law school in the South where she was the Editor-in-Chief of one of the secondary law reviews. She clerked for two years for a federal circuit judge and worked energetically in a second-tier national business litigation firm before she went to work running an advocacy clinic at a somewhat work-a-day law school. Most interestingly, Sybil served in the military police for several years before she went to college. Much of her time was spent as some sort of detective. (She was an Army brat. Her career enlisted-man father was apparently something of a rascal, who became abusive over the years). In any case, everyone was intrigued by Sybil's background in criminal investigation. Patrick's firm earmarked Sybil to work for Sandy, one of the business litigation partners, doing investigative and discovery work. Sandy was a thoroughly decent, if insecure, man who was no match for Sybil. Patrick thought that Sybil's intellect and learning made Sandy anxious. I suspect that her bountiful rage made him nervous, and his intuitions were sound. In any case, Sandy began to freeze Sybil out shortly after she arrived.

Sybil became a mid-level associate employed but at sea. She needed

a new boss, and Patrick needed help. Although several attorneys worked directly for Patrick at that time, over the course of a year, or so, he came to depend upon Sybil heavily. They put out a lot of work together. She became especially proficient at the investigative work which is frequently done in preparing for high-level employee terminations where either honesty, competency, or sobriety is an issue. Patrick developed a checklist for performing these investigations, which is odd because Patrick cared much more for theory and insight than for methodological completeness. Along with the checklist, he also prepared a model for a termination opinion letter. His approach was to defeat any possible claim for wrongful termination based upon the legal opinion letter and investigation it presupposed. It was always intended in these cases that the opinion letter be produced in discovery if wrongful discharge litigation ensued, even though the letter was protected by the attorney/client privilege. The opinion letters were real show pieces. During several years, Patrick wrote a book-length manuscript on how to handle these cases, and Sybil not only read and understood it but also added to it. She could also write the formula letters extremely well. The only weakness Sybil had in this area of the practice was that she was not a very good witness. Usually, Patrick would actually sign the letter and would be offered up as the testifying witness. Aggressive attorneys pushed beyond Patrick and deposed Sybil. Such lawyers were few, however, so she gave a couple of depositions but never testified at a trial.

Patrick and Sybil talked endlessly about the law and about its practice. According to Patrick, they became good personal friends and confided in one another extensively. Sybil, for example, knew all about Patrick's affair with Brandi. He analyzed it with her at some length, so she was aware of how he felt. Conversely, Patrick emotionally supported Sybil through a miscarriage and her second divorce; he celebrated with her when she acquired a new boyfriend and later listened to her analyze what she came to regard as this man's many deficiencies.

Sybil was far from at peace with her family. Her mother had been an incompetent parent, similar to Patrick's mother. For example, both mothers left Christmas trees up until after Epiphany. I watched Patrick and Sybil argue over which of their mothers left the tree up the longest. Sybil also had continuing anger towards her father. She described him in the foulest of terms, but she went to see him several times a year. She also repeatedly wrote about him at length in her creative writing classes. Patrick told me this, and he was the only person at the firm permitted to see Sybil's essays about her father. He never showed his copies of them to me nor to others in the firm. Patrick did tell me that the two of them "shared" a good deal of family history.

In any case, Sybil's family was a mess. There is a story about Sybil's

mother, which reveals a good deal about their relationship. When Sybil was a teenager, she managed to obtain a reasonably well-paying evening job by lying about her age and getting a hardship driver's license. Her mother, then finishing college, was trying to figure out a way to buy some land in the country where she could grow blueberries and build a house. Sybil's mother had some familiarity with growing blueberries from her youth. She managed to persuade the state department of agriculture to run tests on soil samples from the land she wanted. It agreed that the land was suitable for growing blueberries. Sybil volunteered to turnover a large fraction of her wages to her mother to assist in purchasing the land, so it was done. Sybil's mother managed to persuade some friends to help her lay a foundation, put up some walls, throw together a roof, and create a sort of high-end, flat-roofed shack on the land. Sybil and her mother lived there for a couple of years, while her mother tried to grow blueberries. The effort came to nothing.

Toward the end of this interval, Sybil's dad unexpectedly showed up and took her deep-sea fishing. They caught a hundred pounds of some sort of fish, and Sybil brought it home. Sybil's mother recognized that the fish might supplement the family income, so she wrapped it up and put it in the deep-freezer. At this point, Sybil's mother graduated from college, and they moved two hundred miles away so her mother could take a job. Her mother did not pay the electric bill back at the blueberry farm, so the local co-op turned off the power. Within a very short period of time, the place began to stink. Although the land was in the country, the stench was so awful that a group of neighbors broke into the house, identified the problem, dug a deep pit, dumped the freezer into the pit, and covered it over.

Patrick loved this story, and I've heard him say more than once that he thought his mother was susceptible to just the same kind of snafu. Patrick described Sybil as his "*soror mystica*," and he frequently called her "sister Sybil."

Patrick was also quite familiar with some parts of Sybil's sexual history. She had gone through a lesbian phase while in the service, and she was very uncomfortable about her sexuality with men. She apparently had a good deal of trouble coming to orgasm and asked Patrick a large number of questions about this. She also had a teeth-gritting aversion to fellatio. She wanted to overcome it and asked Patrick how to do so. Oddly, Patrick was not comfortable discussing that subject with her face-to-face; he basically told her to relax. I briefly saw a letter he wrote to her on this topic once. It was written in the form of essay that he titled *On the Fallacy of Necessary Fellatio*. The letter was signed: "Your friend, Folliato Dativo." I can't say anything more about the content of the letter because I wasn't permitted to read it. Interestingly, the letter was never

produced or even mentioned during the proceedings I am about to describe.

For all of Patrick's dependence upon Sybil and his willingness to increase it, there were problems all along the way. To put the matter simply: Sybil had trouble being a grown-up lawyer. She couldn't make decisions when the chips were down. This was true even though she understood the law and the facts perfectly well. Frequently one felt as though she was seeking Patrick's permission to proceed. Once, when she couldn't find Patrick, she called me, and I had the distinct feeling that she was seeking my advice. Of course, I wasn't even part of their firm. Sybil was an odd contrast to Brandi, who was a "damn-the-torpedoes" kind of "kid." Patrick, ever the helpful ersatz-therapist, tried to get to the bottom of this problem, but he never did.

However, for all their confiding, Sybil concealed much of herself. After a time, Patrick began to hear stories about Sybil. Just a few of these stories will suffice here. Other lawyers told him of Sybil's wild drinking in bars that sometimes ended in indiscreet (and even dangerous) sexual escapades, sometimes in fits of rage, sometimes in maudlin weeping, and, occasionally, in all of these. One such foray occurred in the lounge of the athletic club where most of the lawyers of Patrick's firm, who were so inclined, worked out. A large group of lawyers from several firms were there. Some jocular discussion broke out about the sizes of various body parts. Sybil and Dick, a young lawyer from another large firm, became the center of the dispute. Sybil had the poor taste to make jokes about his name, and he responded in kind: "Tell me! How many of you are there, really?" This banter evolved, somehow, into a game of "I'll show you mine, if you'll show me yours." Bets were placed, and both Sybil and Dick retreated to the men's room for "Show But Don't Tell Much." After a half hour or so, Sybil poked her head out and ordered champagne. The waiter brought a magnum, two glasses, and some sort of lewd letter from the lawyers at the two tables. After another hour, Sandy knocked on the door, and they invited him in. The two of them were sitting together, backs against the wall, straight-legged upon the floor. Dick's coat and tie were gone, as were his shoes. Sybil's purse was open on the wash basin counter; her bra and pantyhose flowed out. Sandy did not understand the significance of this; when he remarked about it to the associates present at the bar, several of them knew that Sybil wore no panties under her hose.

Another barroom incident took place during Monday night football. The evening started with Sybil attending a political reception nearby for a local candidate. After knocking back several drinks and swilling down most of a fifth-sized bottle of Gallo Hearty Burgundy, Sybil headed-up an expedition to a bar around the corner. It not only had a big screen TV, but also a small dance floor. *In media res*, Sybil flipped on the jukebox, over the loud objections of several sportsmen, and began a lilting strip on the

dance floor. She got most of her clothes off. Of course she converted the good-ole-boys, even the Oilers' fans, and the bartender joined her in the dance. He got down to his underwear before Sybil leapt up on the barstool and asked the dancing bartender to pull off her shoes. The bartender ended up kneeling in front of her and somehow his head ended up more or less between her legs. (Of course, it must be remembered that Sybil does not wear panties under her hose). At this point, the associates, whom Sybil had lead into the tavern, left. Of course, they tried to get her out of there, but they failed. Later, one of them told Patrick that Sybil's car was still parked nearby the next morning. It should be noted that Sybil had not yet left her marriage.

Sybil's vulgar conduct after drinking was not was always sexual. Once, after an early evening round of drinks in the club atop their office building, Sybil and another associate left for the parking garage below the building. It took three elevator bank transfers to get there. When they got to the last elevator, Sybil announced she needed to go to the bathroom. Her companion suggested they go back to the office. Sybil said, "No." She removed her hose in the elevator, and when they reached their parking level, she went into the stairwell and urinated on the floor. Sybil did not remember this incident the next day.

These stories came to Patrick from younger attorneys who claimed to be eyewitnesses, and they had an eerie familiarity. They also reminded Patrick of his former self. After a time, Patrick also heard from a paralegal named Patricia that she had to help Sybil look for her car "the morning after" several times. The same paralegal told Patrick that Sybil frequently came to the office late-ish, hands shaking, and immediately closed herself up in her office. It was Sybil's habit to work regularly until at least the mid-evening, and sometimes she worked quite late. When Patrick was traveling, they frequently spoke on the phone from 9:00 P.M. to 10:00 P.M. in the evening. Patricia eventually reported that Sybil occasionally brought a large bottle of wine into the office in the evening. According to Patricia, no bottle, once opened, ever went unfinished.

Clients liked Sybil at first, according to Patrick. This observation must be taken with a grain of salt, of course, since Patrick was not a good judge. Even he admitted that over time Sybil developed troubles with client relations. The first incident arose when Sybil told a client that it was taking her longer to get a project done than had been anticipated because she had never worked on a problem of this type before. The client looked up Sybil's billing rate and called Sandy to discuss the matter. Sandy agreed to reduce the charges for Sybil's time, and he spoke to Sybil about the indiscretion of her disclosure. Sybil denied unequivocally ever telling the client that she was a novice in the area. Those who knew this particular client were inclined to believe him. To be honest to clients in

such matters is not the best business policy.

In-house counsel for another client asked that Sybil be removed from a case. According to the client, Sybil seemed skittish, distracted, and less than devoted to the cause. In-house counsel cast about for extraneous reasons why Sybil should not have been involved in her corporation's case in the first place because she was so convinced of Sybil's incapacities on powerful and global but inarticulate intuitions. In-house counsel wondered out loud to one of the senior partners of the firm whether Patrick and Sybil were having an affair and, hence, whether Patrick was being too helpful to Sybil. This rumination made its way from the senior partner to "Quark," the managing partner of Patrick's office, and from Quark to Patrick. Quark asked Patrick point blank whether he was having an affair with Sybil. Patrick unequivocally denied it and was, Quark told me later, shocked by the question. Given his history with Brandi, Patrick should have understood that the very asking of this question required a "divorce." Alas, Patrick didn't get it. Patrick saw himself as standing up for his subordinate. Patrick believed in loyalty. He fervently embraced the maxim: "The first rule of politics is, help your friends." He also thought he needed Sybil.

Sybil was obsessively organized. In fact, as things evolved, she spent far more time on organization than on substance. Nevertheless, because Patrick was willfully disorganized (or, at least, affected that appearance), they made a good team for awhile. However, Sybil's numerous organizational projects got out of hand; paralegals and secretaries were cursed with mountains of meaningless clerical work, such as hour upon hour of labeling (probably unnecessary) file folders ostensibly needed for organizing documents produced in discovery. What saved Sybil was her innate intelligence, her broad grasp of legal principles, her extremely long days, and her consistent hourly billings of 230 hours per month. For a long time Patrick saw himself as needing Sybil's devotion to organization and to getting the job done.

As time progressed, however, Sybil also had more and more difficulty getting work done correctly and in anything even remotely resembling a timely manner. Sometimes she looked wrong somehow. Her hair would be askew; rumpled clothes would not quite match or fit together; sometimes a shirttail would be hanging out, or her makeup would just look wrong. She seemed to have to concentrate hard on very simple matters in conversation. Even Patrick noticed Sybil's social skills deteriorating. Once, when Patrick and Sybil had to travel to Omaha, they arrived late in the evening and had to wait in line to get a rental car. Both the rental car attendant and the woman she was waiting on were rather heavy-set. Sybil became agitated. She turned to Patrick and said in a loud voice: "I love coming to the mid-West. Corn-fed wholesomeness everywhere. It does

my heart good to know that I'm better looking than at least these fucking women!" Patrick wanted to shrivel up and disappear. Sybil took no notice.

Finally, Sybil's relationships inside the firm ranged from problematic at the high end, to disastrous on the low end. In the three or so years she was with the firm, Sybil went through five secretaries; she caused two of them to resign. Two of the other three would have resigned but for the fact that they were longtime employees, and the partnership trusted their accounts of dealings with Sybil, so it reassigned them quickly. The recurring complaint of the secretaries was that Sybil treated them abominably—imposing irrationally short deadlines, demanding unnecessary Sunday overtime, yelling at them, criticizing them for allegedly improper telephone etiquette with clients, accusing them of going through her desk and office, and blaming them for things that were none of their doing. Though Patrick never witnessed any of these incidents and had a hard time believing the reports, he had particular trust in one of the secretaries and felt that there was credibility in numbers.

Perhaps the most severe problem Sybil had with internal office relationships was with the paralegal assigned to her. Patrick took his own paralegal, Patricia, and assigned her to Sybil in the hope that this chain of command would mollify the secretarial revolt, and smooth the flow of work. Most of the secretaries liked Patricia, and she was skilled socially. The idea seemed natural, since Patrick was out of town or otherwise away from the office a good deal. The arrangement failed. According to Patricia, Sybil immediately set about creating a semi-paranoid wall of isolation around the two of them. Sybil attempted to convince Patricia that she (Patricia) had been transferred to her (Sybil) as a last chance before being dismissed, that she should trust only her, and consequently, that she should report nothing to anybody else, not even Patrick. Sybil insisted upon imposing the same sorts of irrational deadlines upon Patricia that she imposed upon the secretaries; Sybil demanded unnecessary weekend, even Sunday, work, even though she knew that Patricia was the mother of a young child and that her husband worked weekends. Sybil was also hypercritical of Patricia's work product.

Sybil's view of the matter was that Patrick had harshly criticized Patricia before reassigning her. Sybil perhaps saw herself as trying to do Patrick's will by saving Patricia from dismissal. Sybil simply refused to believe that any of her assignments or deadlines were unreasonable, and she thought the weekend work simply went with the territory. Some of Sybil's views on this matter were not without merit. According to Patrick, he outlined some of Patricia's problems to Sybil and asked if she might not help bring her along. I think the trouble was that Sybil could not think except in terms of blacks and whites and, therefore, she vastly exaggerated

Patrick's critique of Patricia plus gave it her own strange twist. I have never understood how someone who resonated so subtly with literature could have such a cut-and-dried mentality when it came to dealing with real people in the real world.

The managing partner at Patrick's regional office was nicknamed "Quark" because he had studied physics in graduate school before going into law and because his real name was Quincey Quigley. Quark was nervous about Sybil before she was even hired. Indeed, she was hired against his better judgment. He permitted it, however, because he was in one of his democratic moods. (Quark was like a sine wave. At times, he simply ran the show. At other times, he appeared to want advice. Yet, at other times, he wanted fellow partners to make decisions in concert). In any case, Quark was generally ill-informed about the various negative stories which were building around Sybil, but his intuitions about her made him jumpy. After a year or so, he began putting pressure on Patrick to get rid of her, and he increased this pressure at periodic intervals. In order to understand the configuration of forces, it is necessary to say something about Patrick's firm.

VI. The Firm

Patrick's firm was a sizeable law firm serving the interests of business entities and their senior executives. Its home office, of course, was in New York, but it had branch offices in a half a dozen cities, including Houston, Texas, where most of the action in this tale took place. Patrick had started in his firm's New York office, but his practice was truly national in its scope, so he thought he could run it from anywhere in the country. Consequently, when Savannah got an offer to join a Jungian institute in Houston, Patrick signed up to take the Texas bar. His firm had several sections: General corporate, securities, employment, labor, environmental, and a huge litigation group, of which the trial teams and Patrick's appellate team were a part. There was also a tiny criminal section. Section lines were fuzzy, so Patrick worked in several different areas. Patrick's stationing of himself in a provincial office aided him in weaving across section lines that are necessarily blurred in multi-officed national law firms. His firm prided itself on being client-centered, and it had done a good job down-playing sectional boundaries. At the same time, the law firm had only a bare semblance of democratic organization among the partners. In reality, the fundamentals of the organization were determined by three of the most powerful partners, but with respect to the day-to-day operations, each regional office was a fiefdom organized in whatever manner the regional managing partner saw fit. As things evolved, all of the regional managing partners managed their offices by authoritarian modes, but

Quark's methods were particularly autocratic.

Relations between Patrick and Quark were paradoxical in a variety of ways. They took delight in one another's intelligence, even though they seldom seemed to agree. Quark was then, and is now, a truly extraordinary lawyer. In the twenty years I have known him, he has never tried a case, but he plans them exceedingly well, and he takes an extraordinarily sound deposition. Quark looks like a lawyer of leisure. He never appears to live at the frantic pace some of us do. Appearances can deceive, however. Quark was an insomniac. As a result, he worked on his cases during the wee hours. Quark has an exquisitely refined sense of the relationship between risk and settlement. His aim is always to settle every case. He litigates high-dollar matters, and he does not want to see them in the hands of a jury, because he regards most individuals and all groups as fundamentally irrational. Quark is the only litigator I have ever met whom Patrick would describe as a brilliant lawyer.

Patrick also believes that Quark was a man at war with himself: Fascist versus democrat; sadist versus nurturer; manipulator versus straight-shooter. I think Patrick is generous. He had a weakness for Quark; he loved him like a brother. Patrick drove Quark crazy, however, with his exuberant erraticism and joyful unruliness, and Quark would punish Patrick continually for it. At the same time, Patrick found several things very disturbing about Quark. First, he subscribed to a theory of management and psychological style that extolled control through silent brutality. Quark was a master at withholding approval. Frequently, he would be silent when "strokes" would have been appropriate. Other times, he put people down brutally. Even when he praised the work of subordinates, his voice had a phony tone, and his smile in these situations was never quite right.

Second, Quark explicitly extolled the glories of Machiavellian management. Patrick never believed him and saw him as a fellow ironist. I am not so sure, and I think Patrick perhaps wasn't sure either. Patrick suggested that if Quark were really a follower of Niccolo, he wouldn't say so. My response was that even the wily Florentine had spoken. Quark took this as evidence that not even Machiavelli was a Machiavellian. Third, Quark openly advocated the virtues of authoritarian political organization and spent most of his free time reading German and Russian military history. He enforced his will only by fits and starts, but his heart was never really democratic. Even Patrick agreed with this point. Finally, Quark was avowedly antifeminist. He did not like women lawyers and said so in private. He tolerated them in lower echelon positions for reasons of political correctness. Quark's aversion to women and his put-down approach to management drove more than a few women attorneys out of the firm, and no woman ever succeeded in his regional office. Quark

himself almost never worked with women lawyers, and he avoided them socially like the plague. There was even a standing joke about the office "Boys' Club," which consisted of Quark and his young male sycophants. (They lunched together; played basketball together; went to movies together, when the group wanted to blow off a sleepy afternoon; and they talked endlessly among themselves about the office). If a woman so much as touched Quark, he recoiled. If a subordinate woman touched him, he harshly ordered her, "Don't touch me!" Then he explained loudly, "I don't like to be touched!" After this happened several times, when new women came on board, they were warned. He did not completely restrict this type of incivility to subordinate women. Sandy's wife once stroked his prize leather jacket as part of congratulating him on having such a fine garment, and he barked at her as well. It was a standing joke in the office that no one could understand how he could have produced even the one child he and his wife had.

Patrick was an advocate of hiring more women lawyers. He saw it as his social duty, and it was probably also a generalized expression of his will to helpfulness. The trouble was, of course, that Patrick had lousy judgment about women. His recommendations simply could not be trusted. Issues regarding women lawyers brought Patrick and Quark into conflict several times. The worst of these was over a candidate named Charity. She was an experienced corporate litigator and Board Certified appellate specialist. She was stuck in a third-rate commercial litigation firm near where she grew up in West Texas. Patrick thought she should play in the big leagues. Charity was a plucky woman, opinionated, quick to answer, and unforgiving. She was the divorced mother of a young daughter and deeply angry. At the same time, she had a nimble, imaginative, and perhaps even deep legal mind, although she was not so well-educated as, say, Sybil. I am sure of this, because Charity has done a good deal of contract work for me over the years.

Patrick sponsored Charity to be a fourth year associate. Quark disliked her immediately. He recruited at least one of the boys from the "Club" to oppose Charity's appointment. Quark also demanded Charity's law school transcript, even though she had clerked for an intermediate-level state appellate court for three years and had been out of law school for nearly a decade. Patrick went along, although Charity recognized immediately how insulting this request was. Finally, at a recruiting luncheon, Quark cross-examined Charity without mercy on a variety of current legal topics. Charity writes better than she talks, so the encounter was painful. In fact, it was so excruciating that Patrick intervened in the process several times and eventually left the table to cool off. For her part, Charity was infuriated and deeply hurt. Charity is not inarticulate, exactly. Her problem is that she sees many dimensions to every legal

problem, and she tends to rush from point to point, as she thinks of them—rather like a pinball. In any case, after the lunch, Charity wrote to Quark in bitter terms declining to be considered further. The letter is an underground classic worth reprinting:

I generally respond to rude, abusive treatment by ignoring both the conduct and the actor. However, I am so upset about the way I was treated by you in the job interview yesterday that I simply must reply.

I have never been treated so badly in a job interview. Your behavior was very unprofessional. I do not know why you felt you had the right to humiliate me the way you did, but please be advised that you grossly misjudged your prerogative. You were palpably hostile and condescending. Why did you presume that I did not have better things to do than to spend a day traveling to Houston and being insulted and made a fool of by you? The only reason I did not walk out of that luncheon was because I abhor public scenes and I did not want to embarrass the others in attendance.

If your deliberate behavior was calculated to offend me so much that I would not think of associating myself with a law firm such as yours, you have succeeded. However, a polite rejection letter would have sufficed.

This matter is concluded.

Quark was so shaken by this letter that he affected a cavalier manner and showed it off at several firm functions. Those who knew Quark thought he was working through his anxiety and looking for affirmation. Quark contends that it was his intention after the lunch to send Charity to New York for an interview with the women partners. He has stated repeatedly that he did not trust his own judgment in these matters and wanted their input. No one believed him.

Over the years, Quark's sexism became more and more pronounced. He announced at a meeting of the Houston partners, who were all male, that he was no longer going to work with women. Some of them tried to talk him out of his decision. Oddly enough, Patrick defended him. Partly it was Patrick's knee-jerk application of "help your friends." Partly it was based on Patrick's judgment that the firm was safer if Quark stayed completely away from women. The problem in his mind, of course, was not sexuality but brutality. Patrick was not enticed by the defense Sandy suggested privately: "Quark's unfortunate conduct is not gender-based. The firm has nothing to worry about. Quark treats everyone like shit."

A couple of years later, Quark wrote in the annual evaluation of one of the senior associates that she "was a good role model for the other women associates, since she was stable and focused." The woman associate who received this evaluation was, of course, outraged. Quark's remark is the kind of statement that, if dissected, is manifestly true; however, his remark is politically incorrect on its face. Even if the remark was true, it left out much that was important. After all, might not a

capable woman associate also be a role model for a male associate? Does it not also bear thought to wonder why a senior male associate couldn't be a role model for a female associate?

VII. Patrick and Sybil

As indicated, Patrick thought that he and Sybil were quite close, even though Sybil was less forthcoming than he was. Patrick chalked up the differential to Sybil's hang-ups. He may have misjudged the extent to which Sybil genuinely wanted close, albeit platonic, intimacy. Perhaps something told Sybil to keep her distance. Perhaps she even subtly tried to convey this message to Patrick. If so, that is the sort of signal that Patrick would miss, unless it were quite clear, because he lacked a sense of personal boundaries. Perhaps her desire for distance is also a sort of thing which Sybil would be fearful of disclosing explicitly. It became clear after a few months that Sybil had no future in Patrick's firm absent his active sponsorship. Sybil understood that her career at the firm was, therefore, dependent upon Patrick's goodwill. She may have come to believe that Patrick intended to exploit her strategic vulnerability and her fears. If so, her reaction was concealed because everyone agreed that she sought his company.

The two of them suggested many books to one another, and they really discussed the books in great detail—not like those wretched book clubs where the reviews are written out and the discussions are pseudo-learned and not like luncheon book chat, either. Sybil was even more enamored with the self-help "literature" than Patrick. She kept lengthy, introspective journals. They also shared a love of real literature. Patrick had spent a fair fraction of his youth reading fiction, although his semi-obsession with work had diminished that interest. Nonetheless, Sybil tempted him successfully with the novels of Richard Russo, Susanna Moore, and Mona Simpson, and Patrick responded by introducing her to Tillie Olsen, Peter Taylor, and Robertson Davies. They shared a love of the novels of Walker Percy, except for *Lancelot*, which Sybil adored and Patrick disliked. (Patrick also passionately despised Moore's *In the Cut*. This fact surprised everyone). Patrick also introduced Sybil to the use of audiotapes. Whenever Patrick drove somewhere, even back and forth to work, he listened to tapes in the car—Homer, Shakespeare, Dickinson, Whitman, Conrad, Joyce, Updike, even some United States Supreme Court arguments. Eventually, he had me doing it too, and, of course, Sybil joined us. I ran into Sybil on an airplane once; she was sitting in seat 4B, eyes closed, listening intently to a tape of Eliot's poetry. I did not disturb her as I stepped past into coach.

Over time, Patrick gave Sybil increasing responsibility. She took

depositions all over the country; she handled parts of trials; she prepared and filed appellate and appellate-type briefs. Patrick authorized her to sign his name at will, a practice which Quark thought was dangerous and irresponsible; I thought this was odd as well because as Sybil's role grew, Patrick increasingly complained about her. We talked at length about how to persuade her to stop drinking, and Patrick was disconcerted when he discovered that she lied to him. It puzzled me why Patrick placed so much trust in Sybil, when he knew her to be unreliable. I suspect he was on some sort of mission. Perhaps he thought he could "save" her. Perhaps he thought that if he lavished trust upon her with faith that she would respond by becoming more responsible and trustworthy.

Patrick unquestionably played Mr. Helpful to Sybil's Miss Hint. Now, everyone has heard about people who cannot abide the idea of staying on the upper floor of a hotel. Sybil's quasi-phobia was the reverse. She could not stand staying in a hotel where her room could be reached easily from the outside. Once, upon a discovery expedition, a travel agent selected what turned out to be a resort hotel consisting of a number of large cottages. The agent reserved two of them. Sybil could not stand the idea of staying by herself and made this fact clear to Patrick. Mr. Helpful offered to stay with her if she wished. They agreed that he would stay in the downstairs bedroom, while she took the upstairs. So they spent the night with Sybil in the upstairs bedroom and Patrick in the downstairs bedroom.

The two of them tried to write together, of course. They produced manuscripts on several legal topics. Patrick prided himself on writing fluidly and very quickly. Sybil took pride in her research, and Patrick trusted her, although, as it turned out, her library work wasn't as thorough as she advertised. Patrick charged Sybil with putting the termination letter checklist and commentary into publishable shape. It should have happened quickly because much of the writing was done, but it didn't. Perhaps they would have published their work in time but for the events I will now describe.

VIII. Termination

After three years, Sybil's work deteriorated quite noticeably. Timeliness was probably the most visible problem, but there were other more serious problems. Her once crisp and hard-hitting, yet scholarly prose decayed into nearly unmanageable mush. She even had Patricia, the paralegal, write pleadings for her. Sybil's female associate friends deserted her because of the furies she unleashed on them from time-to-time. In sum, Sybil's drinking was becoming a serious problem. Patrick and I intervened in an effort to induce her to stop drinking, and we dragged her

to an A.A. meeting, which she obviously hated. Patrick encouraged her to see a psychologist, which she did. Patrick also believed that all truly literary people have a strong religious impulse, so he encouraged her to return to church. She told him that she was in the throes of a religious struggle. So they talked about the sacred seriously for awhile. He has not told me any details.

Sybil's judgment became greatly impaired. About six months before the firm let her go, Patrick was infuriated by an incident where Sybil cut a deposition short in order to attend an evening poetry-writing class. Patrick asked her about this, and she gave an account that was manifest nonsense. He resolved then and there to get rid of her, but Quark suggested that they warn her by placing her on some kind of probation. I was always puzzled by Quark's reluctance. He wanted her gone and had been asking for her dismissal for some time. Suddenly, when Patrick wanted to fire her, Quark balked. My own guess is Quark had a will to fight with Patrick. The two of them never really engaged in easy constructive dialogue. They always sparred; there was always an element of contest about their discussions; they disputed everything. They argued for years, for example, over whether the phrase "true facts" was redundant, and hence, whether there could be such a thing as a false fact. There was jocularly mixed in here, of course. Patrick used to walk into Quark's office, get his attention, and then remark: "The sun rises in the east." Quark would then ritualistically look out the window and scrutinize the western horizon. This exchange was good-natured but meaningful. I suspect Patrick also had some need to oppose Quark.

The last two straws, according to Patrick, came together in time, although they were otherwise unrelated. The next-to-the-last-straw pertained to a research problem. The two of them were working on a brief that advocated the existence of liability insurance coverage. In order to obtain coverage, the plaintiff's injuries had to be classified as injury to the body, as opposed to pure (non-bodily) mental anguish. Patrick had the short end of the stick, so he needed all the favorable cases he could get. He charged Sybil with finding them. When she presented her research memorandum, Patrick asked her whether she had "plumbed the depths of the law." As usual, Sybil assured him that she had. However, this time she had not. She had missed a favorable case decided by the New York Court of Appeals, the court of last resort in a very influential jurisdiction. In Patrick's mind, I suspect, this was a greater sin than the last straw, a much more dramatic incident.

Sybil was charged with handling a controversy involving a bank and one of its corporate customers. The case was already in litigation when Sybil took it over. Shortly after they met, Sybil and the opposing counsel, who was representing the bank, took up with one another but tried to keep

the matter secret. Shocking as it may seem, this sort of thing is much more common than one might realize. Clients surely wonder how adversaries can keep everything straight. In the case of Sybil and her opponent, neither made any disclosure to their firms nor to their clients. In addition, Sybil tried to keep the affair secret from Patrick, although she had told one or two other people in the office. When Patrick discovered the relationship, he was stunned. Such an undisclosed liaison certainly violates the disciplinary rule prohibiting the appearance of impropriety, and not making proper disclosure to the clients simply made the matters worse. Patrick ordered the matter disclosed to the client immediately. When Sybil did not do so after three weeks, Patrick resolved to get rid of her. The affair in and of itself was bad enough, but Sybil was a talkative drunk. He thought an intimate relationship under those circumstances was folly.

Patrick went to Quark. They agreed that Sybil should be terminated that very day. Quark offered to do it, but Patrick refused. His stated reason was that honor required him to discharge his own assistant. In retrospect, Patrick also believes he was on a macho trip. Patrick had been the "terminator" for his regional office virtually from the time he arrived. Quark just couldn't do it, although he was brutal in lesser contexts, and Patrick had a sneaking pride for his willingness to do necessary but unpleasant jobs. Some people think Patrick had a mean streak. My suspicion is that others in the office exploited Patrick's desire to prove himself tough, so Patrick became the doer of dirty deeds. In any case, he delivered the termination message to Sybil in the presence of Quark and Sandy. The three of them antecedently agreed that Sybil would officially get sixty days in which to look for a new job but could have another thirty days if she needed it. They also agreed that she would stop working on firm cases but would have access to her office during the two-month interval. The idea was to make it easier for her to find another job.

Quark ordered Patrick not to give Sybil any help in finding her next position without his review and consent. Quark's intent was that Patrick would get out of the way and stay out of the way. Quark wanted market forces to produce their own result, and he wanted to let the firm's bureaucracy handle recommending this particular departing lawyer in accordance with the firm's policies. (The firm's policy was neither to recommend nor not to recommend anyone. The firm disclosed date of hire, date of departure, if known, and nothing else). Unfortunately, Mr. Helpful could not leave well enough alone.

IX. Post-Termination

Almost as quickly as he discharged Sybil, Patrick met privately with her and offered to help her find a new position. In particular, he offered

to write a letter of recommendation. He invited her to review drafts of the letter as was his custom. Sybil concurred (at least ostensibly) in both the project and the process. The two of them must have known, at least initially, that they were flouting fixed firm rules.

For several weeks, Patrick contemplated the letter he should write and prepared various drafts. He provided them to Sybil and invited her comments. She asked him several times to mention this or refer to that, and he did so. Patrick also rewrote sections of the letter to make her performance appear as positive as possible and wrote completely out of the letter any hint of her problems. Patrick is a marvelous writer of recommendations, as many passionate teachers are, and this letter was a masterpiece. It was truthful in what it said, item-by-item, but substantially misleading on the whole because of what it did not say and because of its tone of unequivocal enthusiasm.

Patrick told me later that a particular encounter during this process stood out in his mind. On the sixth or seventh draft, he invited Sybil to comment on the letter as a whole. She declined with a nervous shrug, and Patrick thought she had a very odd expression on her face. He told me later that he felt disconcerted momentarily at her reaction and had a lingering discomfort about it. The thought of being set up, however, never entered his mind.

Several days later, Sybil came to him and told him that she was meeting with a potential new employer and that she needed the letter right away. Patrick told her that the letter was finished and that she should feel free to have her secretary finalize it, and he would sign it. He did not see a finished draft again. Several days later, Patrick asked Sybil what happened to the draft, and Sybil reported that she was in a hurry and had to leave without it.

Two weeks later Quark told Patrick that Sybil had asked for a meeting and indicated that she would bring counsel. Quark asked Patrick if he knew anything about it; Patrick said he did not. The meeting was for 10:00 A.M. At 9:45 A.M., Sybil came to Patrick's office with two Styrofoam cups of espresso-strength coffee. Sybil took up her usual position, and Patrick sipped his coffee for a few moments in silence. Sybil said, "I was treated like shit here, and I don't intend to take it lying down."

"It seems to me you brought your troubles on yourself," said Patrick.

"I don't think so," said Sybil, "I mean to take somebody down with me. Most of my troubles came from your oppression and from the negative atmosphere around you. If it weren't for that, I would have been fine. You are a control freak, although most people don't seem to recognize it. Your insistence on running everything I did completely destroyed my confidence and my initiative."

Patrick was outraged! In his mind, he was anything but a control freak. "This is bullshit. I never controlled you. In fact, I did nothing but encourage you and save your ass. What I wanted was to work with you. A sardonic outlook is not the same thing as negativity, and I don't think I've ever oppressed anybody in my life."

"You are a self-deceiving son-of-a-bitch," snarled Sybil. "Why don't you ask Brandi if you oppressed her by lying to her about whether you would really leave Savannah. And why don't you ask Savannah whether you didn't oppress her with your obsession with Brandi. You are a liar. You are a liar through-and-through. You lie with your soul." Sybil seemed to be growing progressively more nervous, as well as angry, and Patrick wondered if she had taken a morning nip.

"What are you going to do?" asked Patrick.

"You'll find out, shortly," replied Sybil, her voice shaking. "But in the meantime, I didn't want to blind-side you as you did me." At this point, Sybil got up and left the room leaving her mostly full cup on the desk.

Patrick is nothing if not consistent. He remembers with crystalline clarity what he thought as Sybil made her way out his door. "How could you possibly regard this as anything but blind-siding me? You are about to go to my partners and ruin my career, all upon a quarter hour's notice. You are good deal crazier than I thought."

Later that afternoon, Quark met with Patrick. "The gist of Sybil's accusation is that you tirelessly campaigned to seduce her, and then got rid of her when it became clear to you that she would not put out. So we have a *quid quo pro* case. Sybil is also claiming that your ceaseless sexualization of the relationship made her miserable and prevented her from performing. She is even claiming that you drove her to drink. Her exact words in summing up her complaint were that you 'isolated her to create a private sexually charged atmosphere and that you oppressed her with unceasing sexualism.' That bitch is beginning to talk like you. Obviously, we have a hostile environment case, as well as a *quid quo pro* case. Finally, she is claiming that your foul mouth was deeply offensive to her, and she is suggesting that this too constitutes part of a hostile environment case. She specifically said: 'It was not the scatology that bothered me so much as it was the alley-level references to human copulation.' I think she is talking about how often you say 'fuck.'"

"Did she have anything else to say?" Patrick tried to quip.

"Alas, yes!" Quark remarked. "Sybil is claiming that the firm should have realized your sexual proclivities as a result of your relationship with Brandi. Thus, she is trying to tag the firm for your alleged misconduct. The foundation of the whole argument is that she claims that you never thought she was anything less than a fine lawyer. On that basis, she is

claiming that you got rid of her for other reasons. The only other reason possible, she says, is sexual. The cornerstone of the case is a letter of recommendation Sybil says you wrote on her behalf. She intends to use the letter of recommendation to demonstrate that we had no good reason to fire her and that we must, therefore, have based our dismissal on her refusal to have sex with you." Quark made it clear that Sybil was not claiming that the two of them had sex, but only that Patrick had pursued it.

At this point, Quark handed Patrick a copy of the letter of recommendation. "I suspect this letter is a forgery," said Quark. "You were directly ordered not to issue such a letter, and the signature does not quite look like yours. At worst, I figure she signed this letter after you wrote it. I know that you let her sign almost anything for you."

As Patrick tells it, as he examined the letter, his stomach plunged through his feet. The letter was his polished prose, and the signature was his as well. "It's mine all right," he said.

"God, damn it! We told you not to do this," Quark said.

"I didn't!" said Patrick. "I don't remember signing this letter. I had no intention of signing it, until you had read it. I have no earthly idea how this could have happened." I don't see how Patrick could have been telling the whole truth.

Quark shrugged. "There is, of course, also a slander allegation," he said. "She says you have told various people that she is a drunk and a slut. We are putting the firm's commercial general liability carrier on notice. You'd better notify your homeowners carrier."

"Is truth still a defense?" said Patrick, affecting cheerfulness. This remark and its accompanying posture set the wrong tone entirely and absolutely infuriated Quark.

X. Inquiry

Matters proceeded swiftly. The management committee of the entire firm convened a meeting. Patrick flew to New York and presented his version of the facts, together with a written report. For once, Patrick managed to take his own problems entirely seriously, and he refrained from irony, sarcasm, and most humor. On the other hand, Patrick pointed out that had he genuinely wanted to seduce Sybil, the way to do it would have been to accompany her to a bar during one of her drinking escapades. That is something he never did. The firm's chief employment lawyer took responsibility for preliminary negotiations and for an extensive interview with Patrick. She explained to Patrick that she was his lawyer, as well as the lawyer for the firm. Patrick asserted his innocence and demanded a full investigation. The firm, through its employment lawyer, Prudence,

indicated that there would be no investigation until after a serious stab at settlement was made because of the danger of making the legal situation worse (perhaps through invasion of privacy or slander) and because of a potential adverse impact upon firm morale. After settlement, Prudence stated, there would be a full inquiry. Patrick was ordered to have absolutely nothing to do with the case. He was not to initiate any independent investigation; he was not even to read the law.

Patrick realized immediately that the firm's "approach" was self-defeating nonsense, from a legal standpoint, so he hired me. I had done a number of these kinds of cases on both sides of the docket, and Patrick knew he could trust me. I thought it was a good idea for Patrick to retain outside counsel. I did not think well of the firm's employment lawyer because she lacked nerve. I also thought she had a limited grasp of the situation in Houston. In any case, I made a number of recommendations. First, I told Patrick to cooperate completely with his firm and with Prudence in developing information. The firm had told him that they would supply him with a lawyer. That lawyer, Prudence, would have a duty to act in Patrick's best interest. Once an attorney-client relation was formed between Patrick and a lawyer, she would have an absolute duty to place Patrick's interest above any other client she might have and above any institutional affiliation she might have. (This is one reason why conflicts of interest are so difficult for lawyers). I told Patrick that he should rely on whatever advice he received from her. Second, and this piece of advice is not entirely consistent with the first, I told him to disregard their demand that he not develop his own sources of information. Third, I told him to obtain an affidavit from Brandi to the effect that he had not sexually harassed her in any way at any time. Fourth, I told him to put his homeowner's carrier on notice because there appeared to be claims of slander that were potentially covered under his policy. Sixth, I suggested that Patrick document as thoroughly as possible the general hostility of his office towards women so that he could demonstrate that this attitude stemmed from other sources. Seventh, I suggested that he expressly involve me in the negotiation process on his behalf.

Patrick took some of my advice. He accepted the firm's offer of a member of the firm as his lawyer. He developed his own sources of information. He obtained wonderfully detailed recollections from various associates, paralegals, and secretaries. He requested that I interview Brandi, however, since he had promised Savannah that he would have nothing further to do with her. I interviewed Brandi several times over the telephone, and she ended up preparing and signing an affidavit disavowing any sexual harassment on Patrick's part. She went further and indicated that she never heard of any such thing, had never seen the slightest indication of this sort of conduct on Patrick's part, and indicated that she

had heard that Sybil had created some sort of difficulty between a partner and his wife at her former firm. True to Brandi's nature, she couldn't give something without demanding something in return. She wanted to take a swipe at Quark, so her affidavit contained a paragraph denouncing what she took to be his antifemale behavior toward her. (I never told Brandi, but Quark believed that Patrick was nothing but a fall-guy in this whole scenario. Quark said that if Sybil had not attacked Patrick, she would have come after him). Patrick did put his homeowner's insurance carrier on notice, and he sent me a lengthy memorandum regarding the sexist atmosphere in his office. He declined, however, to involve me in the negotiations process. He did this because when he announced that he had retained me, Quark became apoplectic, and Patrick didn't want to risk any further deterioration of their relationship.

After several desultory exchanges between Sybil's lawyer and the firm's employment lawyer, the two sides set up a mediation. It was attended by Sybil and her lawyer, Patrick, Quark, Prudence, and representatives from the firm's commercial general liability carrier and Patrick's homeowners' carrier. The mediation lasted from mid-morning until late evening. It was unusual in two respects. Usually, each side tells its version of the story in the opening session. In this mediation, only Sybil told her story, and she told only pieces of it. Lots of it didn't need to be told. Everyone knew about Brandi and about Patrick's love of foul language. According to Patrick, almost all of what she said was true in bits and pieces. When the segments were strung together and interpreted, however, the whole story was not only misleading, but also horrifyingly false. One neat example arose out of a discovery expedition that Patrick and Sybil once made together. Sybil said that Patrick took her arm, and she counted this as offensive physical contact. According to Patrick, it was true that he took her arm. The fact was that she had been drinking at dinner; she was weaving a bit, and Patrick was trying to make sure she did not fall backward down an escalator. Sybil also said that on that trip Patrick suggested that she come to his room and offered her a key. According to Patrick, that also was true. They were trying to leave on a 7:00 A.M. plane at Sybil's request; the hotel restaurant did not open until 6:30 A.M., and they were trying to figure out whether they could get room service at 5:30 A.M. before leaving for the airport. The purpose of having breakfast together was to dictate a report on their expedition while things were fresh in their minds. There was some discussion as to why Patrick didn't dictate the report on the plane. The answer to this question worked nicely to Patrick's advantage. The dictation equipment, which was standard issue at Patrick's firm, picked up airplane noises and secretaries begged him not to dictate on airplanes. There were even general delivery e-mail messages denouncing what the staff called Patrick's "Airplane

Tapes."

The second, unusual characteristic of this mediation was that Sybil read an essay she had written at the opening joint session. She had xeroxed copies of the essay; she provided copies to everyone present and asked them to follow along as she read. The general theme of the paper, which made no reference to her, was that large law firms encourage sexual contact amongst attorneys by the way firms operate. I tried to obtain Sybil's permission to reprint her essay as an appendix to this narrative, but she refused. In general, her essay pressed three themes. First, she pointed out that major law firms require long hours with people working in teams. This puts men and women together in cooperative endeavors, not only for long periods of time, but also at times when sexuality predictably emerges, such as late at night. Sybil didn't exactly object to this arrangement. Indeed, she took it as a fact of life. Nevertheless, she was bothered by the extent to which law firms were unconcerned. Second, she affirmed Henry Kissinger's famous remark that "power is an aphrodisiac"; she also pointed out that most powerful partners in law firms are male and many associates are female. Long hours plus extensive travel place powerful males with women who are at the tail-end of training programs that engender aggressiveness, thick-skins, and moral (shall I call it?) sophistication. Sybil suggested that this second characteristic of law firm life at least nudged men and women in sexual directions, and she expressed concern that law firms were apparently oblivious to sexual problems. Finally, she delivered a lengthy exposition of the ideas of Mona Harrington found in *Women Lawyers* to the effect that women lawyers are treated as beings with bodies, whereas men are largely treated as disembodied. She illustrated this with the fact that Patrick made daily references to her appearance: "Nice dress"; "Terrific haircut"; and "Love your earrings."

Patrick consulted me by phone a couple of times, but I played no effective role in the mediation. Patrick argued against a settlement. He pointed out that the Brandi facts would never be admitted into court because of evidence rule 404(b). And if it were admitted, Brandi would place it in the proper light. Moreover, many of the associates would testify and tell outlandish Sybil stories that would more than neutralize her version of what happened. At first Patrick was apparently quite insistent, as well as articulate. He really did not believe that Sybil would risk the publicity that would surely follow her if she filed her suit and submitted to discovery. I supported him in this view. However, Patrick and I did not prevail.

By the end of the evening, the case settled for \$150,000. The carriers paid \$100,000, and the firm paid the rest. Patrick put up only mild opposition by the end. According to what he told me later, Savannah had realized that Sybil's intention was to dredge through Patrick's past, and

Savannah had no stomach for it. Savannah told me that evening, when I tried to turn her around, that she believed that Sybil would press her case. Savannah is very intuitive, almost prescient, so my own conviction that Sybil would cut and run was shaken. Then again, Savannah was an interested party. I knew both the insurance adjusters through other cases in which I had been involved over the years. I talked to them later and asked them why they settled this case. Both adjusters gave me exactly the same answer: There was pressure from the firm to settle it; Patrick admitted to making some derogatory remarks; Patrick had an affair with a female attorney in the firm; and the amount they had to pay was not much in excess of what the defense costs would be. The firm believed that its \$50,000 was less than its unreimbursable-by-insurance expenses and opportunity costs. No doubt the firm was right about this. At \$200 an hour, the opportunity costs alone would exceed the price of settlement, once more than 250 hours from a mid-level partner or higher were required. I expect that Patrick himself would have devoted at least that much time to the case. I asked Quark about the opportunity costs, and he confirmed that the firm engaged in the same arithmetic.

As economically rational as this decision was, the firm's negotiating stance was amazingly soft. It did not take advantage of the "Airplane Tapes." It did not confront Sybil with her drinking, although Prudence mentioned it privately to Sybil's lawyer. Even more interestingly, the firm had an extraordinary wild card, which Patrick uncovered completely by accident. Someone, he never knew who, informed Patrick by phone-mail message that the police had arrested Sybil again for public intoxication one week before the mediation. It seems she was jumping around half-naked on a roof, screaming and yelling at a man on the balcony below. All this took place at 4:00 A.M., and there was an arrest report. Patrick obtained it and turned it over to his firm, but the firm never did anything with the document. I thought their inaction was very strange. Both Patrick and I tried to get Prudence to produce the arrest report at the mediation, but she refused and would not discuss her decision.

After the mediation, settlement documents were prepared and executed in relatively short order. I reviewed them once but made no significant contribution. The documents were purely routine. They involved a record of payment, mutual releases, confidentiality agreements, and the like. The ex post facto investigation the firm promised was never done, even though Patrick asked for it several times. I found the settlement profoundly offensive. There are many injured people in the world with missing fingers, slashed faces, and broken bodies who are unable to collect these kinds of damages. I am not particularly niggardly when it comes to paying truly injured victims. I believe in making payments for pain and suffering, and I believe in mental anguish awards. I do not believe in what used to

be called "heart-balm" damages. A kid on a bicycle ran into my Suburban not too long ago, and, although the child was clearly at fault, I was absolutely mortified. The thirteen year-old boy got up, brushed himself off, and said, "Don't worry. No blood, no foul." This overstates the case a trifle because there is such a thing as a simple fracture, but the boy did have a point. There is only so much money in the national treasure trove, whether from public or private sources, to pay those who have been victimized. Hurt feelings and even walloped self-esteem are not high on our priority list. At the same time, I recognize, that "heart-balm" damages have been available in surprisingly large sums for many years. A substantial part of Richard Rovere's book *Howe and Hummel* concerns how two unscrupulous shysters blackmailed New York City playboys based upon theories of breach of promise to marry. At the turn of the century, they were routinely able to extract settlements in excess of \$25,000. In 1995 dollars, that would be substantially more than Patrick and his friend paid.

XI. Aftermath

No one fared particularly well in the aftermath of this incident. Sybil affiliated with a law firm that competed directly with Patrick's firm. Within a year of joining her new firm, one of Patrick's junior associates saw her on the street, and she was obviously pregnant. Within a month or so, rumors began to leak out. Sybil was pregnant, all right, and she was not married. After she had the baby, someone disclosed the identity of the father. He was a junior associate in her new firm, about ten years younger than Sybil. Patrick knew enough about Sybil to have the courthouse records checked. The firm's runner discovered a paternity and child-support action. The petition, the answer, an order approving a guardian, the guardian's report, and an agreed order specifying child support were all filed on the same day. Sybil was represented by the same lawyer who represented her in her accusation against Patrick. The local gossip is that she wanted the child, not the man.

Savannah's diagnosis of this situation was swift. She had met Sybil a number of times, and had warned Patrick about her. Quite appropriately, we all thought. Savannah was angry at Patrick for having ignored her advice, but she hadn't said much about Sybil because she had said so much about Brandi. Now she spoke. Savannah thought it obvious that Sybil lacked a real maternal, nurturing, child-rearing spirit. Savannah was inclined to think that Sybil wanted the child in order to give herself yet another obstacle to overcome. She thought that Sybil loved to play the victim and that she loved to reek "vengeance" on a victimizing world. Finally, as in the case of Brandi, Savannah classified Sybil as a mild

borderline. This means that Sybil was subject to instability of various sorts, including her moods, her relationships with others, and her image of herself. Sybil exhibited this pattern by wobbling back and forth between over-idealization of people followed by over-devaluation—tough destructive impulsiveness, which includes drinking, sexual promiscuity, drunk driving, and perhaps some others I don't know about. It also included bouts with depression, irritability, or debilitating anxiety, as well as inappropriate and intense anger. One of the associates told Patrick that when she refused to go with Sybil on a drinking expedition, Sybil became so incensed that she growled at her like an animal. In addition, it is obvious that Sybil was more than a little angry at Patrick for getting rid of her. Given the peccadillo with opposing counsel, it is difficult to understand how Sybil could justify her anger. Patrick says he never saw the anger, but he agrees that he certainly saw the anxiety. Borderlines are also cursed by having fragmentary selves. One of the hallmarks of the borderline personality disorder according to section 301.83(3) of the DSM-IV is a marked and persistence identity disturbance that is often manifested by uncertainty in some of the following: self-image, sexual orientation, long-term goals or career choices, type of friends desired, preferred values, and attitude. Sometimes borderlines shift from needy supplicants to righteous avengers overnight. Sybil showed every one of these symptoms, plus chronic feelings of emptiness, which also characterizes the borderline. (The only classic symptom of the borderline that Sybil did not appear to show was the propensity towards undertaking frantic efforts to avoid abandonment. However, Savannah speculated that Sybil's post-termination attack at Patrick was a way to prolong their relationship and to ease the pain of abandonment. Mostly, I think the facts of Sybil's life fit Savannah's diagnosis, but this one is a stretch). Savannah predicted that Sybil would use her new daughter to assuage her emptiness and anger. She thought that this project would fail in about two years when the child started to acquire some independence. Ironically, Sybil's mother moved in with her to take care of the child.

The last I heard, Sybil's new firm had placed her on some sort of probation, and she had started going to A.A. meetings by fits and starts. I have never seen her at any meetings, and I have never heard her mentioned, even obliquely, at the "Lawyers Concerned for Lawyers" group. The rumor around town is that she was a splendid mother for about 18 months and then passed the mantle to the child's grandmother.

Patrick has been in disgrace in his law firm ever since Sybil charged him. His draw has not risen, and his distributions from profits were more than cut in half over the next two years, while the profits of other members of his partnership class have risen sharply. Patrick figures he is paying for the firm's settlement with Sybil. Work mysteriously finds its way away

from his desk. He hasn't billed time to regular institutional firm clients in quite a long time. He has some of his own clients, but these are also dwindling because the firm is complaining about them: "They insist on rates that are too low"; "they don't pay their bills quickly enough"; "they won't consent to unproblematic adverse representations"; "is the XYZ Corporation really suited to our [blue-stocking] practice?" Somehow, when a law firm doesn't like a client its account does not receive first-rate service. I'm not sure how all this works, but I understand some of it. Associates are not assigned in sufficient numbers to get the work done. The cadre of paralegals is too busy. Overtime budgets are mysteriously curtailed and so on. The client eventually gets the message, and if the lawyer doesn't change firms, the client changes lawyers.

Patrick's disgrace is not restricted to monetary and economic matters. He has also been sent part way to Coventry. Partners who were warm to him before are now cool or even cold. People who engaged him in dialogue at length now pass him in the halls with hardly a word. Partners and associates alike who sought him out for advice and counsel now go elsewhere. Anyone who has been around a relatively large law firm for very long knows that these kinds of events and patterns are no less real and significant.

Not all of Patrick's problems are of the firm's making. Many people react negatively to him. He has a good heart, but one can't always see that this is so. Patrick has a lot of anger in him, and he has a bent toward self-injury—what is commonly, albeit metaphorically, called "self-destruction." He also has an arrogant streak, and some people who put up with him before now tend to avoid him. In addition, Patrick also contained within him the opposite of arrogance, namely the desire for intimacy. Patrick's drive for relatively unstructured closeness was probably oppressive. He had a poor sense of boundaries; to put the matter metaphorically, he did not always recognize where he ended and somebody else began. He would probably have trouble working with a woman who did not wish to be close to him. He would probably telegraph this fact, and such a woman might feel violated in some way. None of this has anything to do with overt sexuality. Perhaps, most significantly, Patrick has a big, as well as dirty, mouth. His behavior during recruiting nicely illustrates this. Patrick frequently questioned law student associate candidates regarding their views on legal policy and jurisprudence. (In fact, he did the same sort of thing Quark did to Charity but without the hostility.) Patrick thought this was a good way to find out whether attorney-recruits had the stuff of debaters, which he considered crucial for litigation. Law students are not used to this kind of sport, at least during recruiting, and they don't like it. Consequently, Patrick was eased out of visiting law schools and seeing prospects, even though he was more familiar with how first-rate law

schools worked and knew more members of the faculties than anyone else in the firm.

Patrick also had a weakness for strong-looking women with intellectual-appearing backgrounds. He nominated several such law students as candidates for hire, but the firm rejected them every time. Perhaps the firm showed wisdom here because appearance and reality sometimes diverge. Patrick could not reliably pick out integrated, intelligent, strong women. He seemed to permit appearances to triumph over actuality. Savannah saw deeper; she thought Patrick had some sort of "blind-spot" for women afflicted by borderline personality disorders. According to Savannah, not only was Sybil virtually a paradigm of such a person, but Brandi was probably a diluted case, too. Charity may have had traces of it, as well, although I've never seen it. Savannah also thought that each of them had a broad streak of neediness and dependency, in other words, that each of them was Ms. Helpless (sort of). It took him years to admit that he did not have good judgment about women and that he could not recognize a contrived facade. Paradoxically, this eventual admission immediately hurt the feelings of Savannah and his loyal women friends. Patrick pointed out to Savannah that she picked him, and that's why the relationship was on a sound footing. Savannah didn't like that alternative either.

In any case, Patrick finally woke up to the fact that he was more or less *persona non grata* in the context of attorney recruitment. Thereafter, he attended some attorney recruiting meetings with his partners and argued for hiring people he was dead set against, and he argued against people he favored. These ironical performances were ambiguous; people did not know what to make of them although they knew something wasn't right, and they did not endear him to at least some of his more rigid and easily confused partners. Irony got even Socrates executed, and, while Patrick is bright, he is no Socrates.

Patrick also ran into difficulty with a variety of the firm's bureaucratic policies. Ever since he was a law student, Patrick had published articles in law reviews and occasionally in magazines for practicing lawyers. Like most large firms, Patrick's firm officially endorsed the usefulness of publishing. Indeed, the professional managers of the firm distributed a monthly newsletter which frequently contained tips on business development. Publishing and speaking were always on the list of things that lawyers and firms ought to do. The firm's official position was nothing more than lip service, however. In fact, leaders of the firm were privately inclined to believe that publishing was not a good idea. The principal reason appeared to be that they thought it diverted the attention and energies of lawyers, consumed firm resources, and created the danger of a law firm partner embracing a position inconsistent with the position

he might want to take in the context of representing some client. In the service of its latent hostility to writing and publishing, the firm adopted a set of rules designed to discourage publication. Papers had to be submitted to a committee. As a result, there was a lengthy waiting period. Perhaps the most officious partner at the firm was appointed to coordinate the review of all papers and speeches.

Here is the text of one of his memoranda on the subject:

I recently sent out a reminder that all articles, etc. which you may wish to have published on topics relating to matters in which our clients are interested (e.g. insurance coverage, claim handling, etc.) must be reviewed by me before being submitted to any potential media. I should also have reminded you that the same policy applies to speeches, CLE panel participation, or other oral presentations.

In addition, in order to expedite the review process and to save potentially wasted effort on the part of all concerned, anyone contemplating publishing or making a formal oral presentation on such a topic should, as a first step, provide me with an outline of no more than four pages in length. As to informal oral presentations, a telephone conference prior to a commitment being made will probably suffice.

Please let me know if you have any questions.

Patrick was the only person who published much, so the intent of the scheme was fairly obvious. In any case, the system led to trouble.

Patrick flouted the firm's anti-publication rules as best he could. On at least one occasion, he published an essay under a fictitious name. On other occasions, he published papers bearing Brandi's name. Yet another time, a journal invited him to submit an essay, which he did; then someone at the journal sought the opinion of a partner at Patrick's firm, and the firm somehow withdrew the essay from publication without Patrick's knowledge or consent. His reaction was less than affable. He wrote memos to the partner in charge of the publication board addressed to the "Commissar of Thought" and to the "Obergruppenführer." In a nationwide general partners' meeting, Patrick referred to the Publications Review Board as the "Publication Politburo" with its own "K.G.B." He also circulated an e-mail message to the firm suggesting that the Review Board's name be changed to the "Publication Court of the Star Chamber." Patrick professed to believe that these kinds of remarks were nothing more than robust and healthy debate, and when people suggested to him that his epithets and mini-diatribes were unwise, he sent them copies of First Amendment or Supreme Court opinions. He also gave the partner in charge of publications review a copy of Leo Strauss' *Persecution and the Art of Writing*. Patrick inscribed it:

*To a fellow lover of the truest freedoms:
thought, argument, and speech.*

*Patrick,
Your admiring friend*

The partner in charge was not amused, although I suspect he did not know who Strauss was, much less what his views were. Even I was surprised by Patrick's spiteful and immature antics. He usually had pretty shrewd judgment about the importance of smooth social relationships. Although he was relatively short on guile, Patrick knew well that the skid-greasing hypocrisy of the smile and the handshake are crucial to both business and law practice. Patrick understood this, taught it to his mentees, and practiced it, in a limited sort of way. On the matter of publishing, however, Patrick's judgment deserted him completely.

Patrick also developed a new practice that made many of the senior lawyers of the firm uneasy. Patrick's character and his experience made him a virtually ideal expert witness. He had deep knowledge of corporate governance, and his knowledge extended across its entire theory and practice. He had a Ph.D. in the subject, and he had published extensively on related matters. Patrick was familiar with the sociological, business, and organizational-economics literature on corporate governance and business management. He was also familiar with burgeoning literature on business ethics. As a result, Patrick received more and more inquiries about being an expert witness. He thought this was just grand. His interest in it was partly narcissistic, no doubt. He thought it was more fun to be the witness than to be the lawyer because he liked to show off what he knew, and he took some pleasure in tormenting lawyers who tried to control him. This proclivity encompassed both the examining lawyer and the lawyer who was, as they say, protecting the record. Savannah watched him testify in trials a couple of times, and thought he was a trifle showy. She thought that his son-of-the-English-novel attributes were distracting. She sent him to expert witness school as a Christmas present, and he came back with a much simplified and more restrained demeanor. Patrick also enjoyed being an expert witness because he could charge premium fees. The senior management of the firm, however, took a dim view of these activities. The reason they gave Patrick was that they were concerned that he might take views inconsistent with the official view of firm clients, and it was feared that transcripts of his depositions and trial testimony would be used against the firm and clients of the firm in other context. Patrick thought that these fears were absurd and took the projects that interested him. The firm accepted the premium fees and permitted Patrick to open new files.

Patrick's conflicts with senior management were not restricted to his

insistence on professional independence. On occasion, he openly criticized the activities of some of his senior partners. It was as though Patrick's judgment was deteriorating further. Perhaps the most dramatic of these encounters arose when one of the named partners of the firm testified as a fact witness in a hearing in Silver City, Nevada. Patrick's firm was representing the Beaumont Corporation against Fletcher, Inc. Fletcher, and its counsel, undertook to secure the disqualification of Patrick's firm, upon the grounds that the firm had done some minor work for one of its subsidiaries five years before and in a somewhat different context. The work had been handled under the supervision of one of the named partners, so he was called upon to testify. This gentleman managed three separate times during his testimony to describe the dispute before the court as nothing more than a "pissing contest." Patrick, who yielded to no one in his enjoyment of foul-mouthed cussing, found it offensive that this kind of language would be used by a lawyer under oath in court. Patrick issued an e-mail memorandum for general consumption inside the firm, which could only be called a "broadside," detailing the ethical and decorum rules of a number of jurisdictions upon the sorts of things that should not be said in court. The last page of his memorandum was a computer-graphics depiction of two young boys conducting a "pissing contest." Just in case the point had been missed, Patrick provided a caption: "It's more important to look good than to be good." This was a slogan the gentleman in question repeatedly used in his own mentoring. As if to suggest complete corruption, he would add: "Frequently, however, the best way to look good is to be good." In any case, the testifying partner, as one might expect, did not appreciate the prose, the art, or the caption. I winced when I saw the thing. Patrick's judgment once again had deserted him. The Sybil matter seemed to have made him self-destructive. I suppose I breached the attorney-client privilege when I showed the thing to Savannah. Her reaction was pretty much the same as mine.

There seemed to be a difference between the sorts of things that Patrick consistently did before and then after the Sybil fiasco. This change was not a move from gray to bright yellow. Patrick had always taken some perverse pleasure in creating confusion about himself. Lawyers love to see themselves as practical people, and they are, for the most part, downright skeptical of academics. Lawyers are, by and large, anti-intellectual. After a decade of law practice, Patrick was about as practical as you can get, and he resolved complex business disputes right and left. I have even heard him say that linear intelligence is not always a component in resolving problems. At the same time, he took delight in permitting people with intellectual stereotypes to believe that he did not have a practical bone in his body and that he was a woolly-headed academic through-and-through. He read the *New York Review of Books*

around the office and asked one self-important partner at an annual dinner if he did not think Dostoyevski was an over-rated novelist. Patrick's creating confusion was problematic for two distinct reasons. For one thing, it created uncertainty about who Patrick really was. Second, many people felt manipulated by Patrick when he endeavored to foster confusion, and they didn't like it. They also understandably didn't like his patronizing or making fun of them.

This catalog of vices may make Patrick sound like a problematic fellow and an unworthy partner. Patrick's roster of vices, however, was fairly short in comparison to those of most of his colleagues. Large law firms are crazy places. Unlike some of his partners, he was not mean-spirited, cruel, small-minded, or even greedy. However, Patrick did take pleasure in enunciating provocative maxims: "Never tell the truth when a lie will do"; "religion makes most sense when set to music"; "proximity breeds desire"; "if a thing is worth doing it's worth overdoing"; "life is talk, not chat"; and after the Sybil fiasco, "never, never, never help a damsel in distress." (Patrick was, when he wasn't kidding, truthful, reliable, and authentic. Patrick was always semi-addicted to epigrams. He thought that it was a valuable way to teach. Perhaps his favorites were: "The first rule of civil procedure is 'Always proceed civilly'"; and "do not multiply points of error beyond necessity." Patrick's skills as an aphorist were not infallible, and his days as a partner were numbered.

XII. Finale

Savannah and I eventually intervened with Patrick. We showed up at his office one afternoon, closed the door, and sat down. Savannah opened the discussion by saying: "Patrick, I love you deeply. You know this. But you are going to hell in a hand basket." I think Patrick knew she was right. He told us that he had let the Sybil thing get the better of him, and he told us that the way the firm handled the dispute was gnawing away at him. He simply could not figure out why the firm didn't play its trump cards at the mediation. He also said that he was beginning to get paranoid. He had begun to wonder whether the firm's failure to play the trump card was not in the service of getting rid of him. I've always thought that common sense, like the knack of the historian, is having an intuitive sense of how things do not happen. I've always been pretty sure that a large organization would not conjure up, much less execute, such a daring, subtle, and complex plan. Savannah, however, didn't think Patrick was being paranoid in the least.

One can see how much Patrick had come apart by what he said next. "Savannah," he said, "tell me what to do." Savannah had apparently anticipated this because she suggested that he leave his practice behind for

a few weeks so they could go to Europe. Fortunately, it was early June, so all of their children were about to go the Hill Country in Central Texas for camp. Within a week, I put the two of them on a plane for London, and they remained in the British Isles for three weeks.

When they came back, Patrick hired me again. He explained that he had come to the conclusion that Prudence, the employment law partner of his firm who had represented him in the Sybil matter, had committed malpractice by failing to play the trump card and by failing to press the case against Sybil hard enough. He conjectured that the reason this happened was because she was also representing the firm, and the firm wanted to put the entire mess behind it. In other words, Patrick suggested that the law firm in which he was a partner was always his lawyer and committed malpractice against him. Some of the principal damages he has sustained are interwoven with the behavior of the firm. His distributions have suffered, for example; he has sustained mental anguish as the result of the way his partners have treated him since the settlement with Sybil; the performance of the firm has caused him to act strangely, which behavior has compounded his problems with the firm; and his prospects for a stellar career were now considerably less than they once had been.

I told Patrick that I thought he had the elements of a *prima facie* case. I explained that any possible damage award would be diminished by comparative fault on his part, both in giving mixed signals to the firm during the resolution of the Sybil matter and as a result of his affair with Brandi. I also told him that he may have failed to mitigate his damages by not coming to terms with himself quickly enough after the settlement with Sybil. Nevertheless, I thought that some sort of meeting with named partners was appropriate. The question in my mind was whether or not I should attend the meeting. I thought it was a mistake for me not to attend the mediation, and I thought I should have probably been more involved in dealing with the preparation for the mediation. This time, however, Patrick and I both agreed that I should not attend. Therefore, we spent a couple of afternoons thinking through his presentation to the named partners. We decided that the pitch should be that Patrick realized that he was becoming more and more separated from the mainstream work of the firm and that he had resolved to develop his own corporate, litigation, and expert witnessing docket over a period of three or four years. Patrick was to indicate that he had a sense that the firm was uncomfortable with this but that he needed some sense from the firm as to where it stood on his developing this book of business. Patrick was also to sound out the named partners about opening an office in Palm Beach, Florida because Patrick's practice would be such that location wouldn't matter. Patrick and I thought that presenting the problem in this way would signal the firm that Patrick was willing to leave if that is what the firm wanted.

Patrick met with his named partners in New York several days after we brain-stormed and rehearsed. The meeting went off like clockwork. Patrick presented his "concerns" and his "program." The named partners indicated that they were aware that Patrick wasn't happy and that it would probably be best for all concerned if Patrick went his own way. Patrick indicated that he didn't see how he could do that because he had four children to put through private school and a family with expensive tastes. The meeting ended without any real resolution. However, before Patrick left the firm's offices that afternoon, he received the request to remain for the night and meet with the named partners again in the morning. Unbeknownst to Patrick, Quark flew into New York City that night from Houston. The four of them met the next morning after breakfast with the business manager of the firm, Larry Lawson. Larry indicated that he had spent most of the previous night, at the partners' request, running a series of numbers. And he made a presentation to Patrick which involved roughly two years severance pay and full benefits. That offer was in the range of what Patrick wanted, so he took it without hesitation.

The deal was papered that summer; Savannah closed her practice; the children took leaves of absence from their schools, and the entire family went to Europe for a year, where Patrick rested for a while, did some serious therapy, and started a book. I visited them several times over the year. By Christmas, Patrick was back to part of his old self. In some ways, he regarded the Sybil incident as a blessing because it brought him face-to-face with the dark side of Mr. Helpful. I tried to get Patrick to join my practice, but, frankly, I don't think my carpet was thick enough for him. Patrick likes to see himself as an outsider, but he has a weakness for wealth and prestige, all the same. Patrick's academic friends found an appointment for him, teaching corporate law and civil procedure. Ironically, Patrick's appointment was at the very same university where Sybil ran the civil clinic several years before.

I went to see him "perform" as an expert witness the other day in a state district court in Houston. He seems to have come into his own. Not only has he toned down his elitism and his showiness, but also his diction is much less quaint, and he seems less staged. It is now plain for everyone to see that there is now a fully genuine person sitting before the jury testifying. Over lunch, after he testified, Patrick told me that he had given up on self-help books. He confessed that his addiction to them was a substitute for real engagement. I don't see Patrick and Savannah as much as I would like, but I have remarried and my husband doesn't care for them much.

XIII. The Final Exam

This is a final examination in a course that is focused on managerial, ethical, and legal dimensions of law-firm life and the same features in the professional lives of lawyers. As the course developed, gender problems loomed larger and larger into our discussions, so the narrative foundation for the examination has a strong gender theme.

You have now had "The Story" for a week. It is a week until the final examination. Printed below are questions on which you will be examined. You will be asked only three of the ten questions below. You may choose to discuss the materials that have been assigned, in whole or in part, or upon which one or more students has reported during the term. Obviously, you are not expected to describe all of these sources, or even any of them, if your mind has the right mental combination—imagination and a boldly analytical cast. At the same time you should remember that lawyers love not only good reasons and good reasoning but also authority.

You may bring absolutely nothing to the examination with you, except for writing instruments. The reason for this is quite simple. Several years ago, a colleague of mine gave a similar examination and permitted students to bring anything they liked. The students banded together and wrote out model answers, which were verbatim replicas of one another. The students complained when identical papers received rather different grades. Although I do not know this for a fact, I suspect that this examination procedure embarrassed someone. I have the profoundest of desires to avoid embarrassing anyone. Consequently, I will not use that formula.

1. Did Patrick harass Sybil in either a legal or moral sense? Was the law firm a "hostile environment" in either a legal or a moral sense? How can the legal/moral distinction be drawn, in this context, if at all? Did Patrick's firm engage in gender-based discrimination against Sybil?
2. Is Patrick's foul mouth a form of legal or moral sexual harassment? If it is legally actionable, is the law firm liable as well? Do Patrick and his law firm have a First Amendment defense? (In discussing this question, consider the moral dimensions of heavy-duty cursing in gender-integrated professional workplaces. Be sure to compare and contrast Patrick's foul-mouthedness with the speech of a racist pig in a racially-integrated work environment, and be prepared to analyze whatever analogies surface).
3. Suppose all the facts are the same as in "The Story," except that the following is also true. Patrick is an avid aficionado of high-class pornography, of which he has a large collection. Patrick has concealed this

fact from both Savannah and Brandi. However, sometimes when he and Sybil travel together, he reads things like *Dearest Pet*, Midas Dekker's book on bestiality, while on the plane. On occasion, he also leafs through sexually-explicit books of art photos—stuff like Mapplethorpe and books like *Patterns of Desire*, *The Whimsical Watercolors of Joyce Kozloff*. Would this kind of conduct amount to or exacerbate sexual harassment? Why?

Now suppose Patrick enjoys all sorts of pornography, including the lowest of the low. He never presses the stuff on anyone, but he keeps it in his desk and in a box on his bookshelf marked "PORN—LOW CLASS"; he also carries it with him in an extra briefcase on trips and generally does not conceal his interest in the stuff, although he doesn't flash it around. Occasionally, he is seen thumbing through what appear to be decks of cards, although he never shows these cards to anyone.

Do either of these scenarios constitute actionable sexual harassment when conjoined with "The Story?" Would either of them be a factor to be considered in a sexual harassment case? How might this work? Are there moral problems? Are there management problems? If there are, how should they be addressed?

4. Peter Rutter, in his book *Sex and the Forbidden Zone*, argues that all sexual contact between those with moral authority and those in lesser positions is injurious. Rutter's general idea is that "*any sexual behavior by a man in power within what I define as the forbidden zone is inherently exploitative of a woman's trust.*" PETER RUTTER, *SEX IN THE FORBIDDEN ZONE* 21 (1989) (emphasis in original). "Because he is the keeper of that trust, it is the man's responsibility, *no matter what the level of provocation or apparent consent by the woman* to assure the sexual behavior does not take place." *Id.* (emphasis in original). Rutter believes that the forbidden zone—which he tends to restrict to doctors, therapists, pastors, and lawyers—creates a "nonsexual guardianship of a woman's development." *Id.* at 54. He postulates that sexual fantasy and desire easily enter the picture. *Id.* According to Rutter, this is especially true because "sexual intercourse is the ultimate symbol of intimate human relationship." *Id.*

[T]he *symbol* of sexual intercourse lives in our psyches independent of the act, as an inner way for us to understand what it means to be passionately and meaningfully involved—with another person, irrespective of sexuality; with our own bodies and psyches; or with life itself. Sex can be an act, but it can also be a highly meaningful metaphor. . . . Images of sexual contact with forbidden partners often represent a need to make inner contact with a part of ourselves depicted by the forbidden partner's image. . . . [T]here is a tremendous potential for people to involve themselves in exploitative sexual acts because of the confusion between sexual intercourse as act and sexual intercourse

as symbol.

Id. at 55 (emphasis in original).

Obviously, the relationship between a partner and an associate is partly a teaching relationship. Partners are mentors and associates are, to some extent, like graduate students. In fact, a partner who nurtures an associate is not only a teacher; he or she is also responsible for getting the associate in the right places at the right times, in contact with the right people, into the right networks, and so forth. Not only is there a substantial relationship of dependency and subordination, but the natural flow of a successful mentoring relationship also involves respect and admiration. If this is true, how should Rutter's ideas shape the law? (In the context of this question, if you have concluded that Rutter is wrong or overstates his case, please feel free to articulate your critique here).

5. Libertines degenerate. To put the point in the jargon of the day, men who harass women do it increasingly as they apparently succeed in each short-term venture. This appears to be the lesson of Robert Packwood, although it does not appear to be the lesson of Clarence Thomas. In light of this fact, if it is a fact, how should legal remedies be shaped? How should law firms try to monitor the sexual behavior of members and other employees of the law firm? Are there any differences between law firms and other commercial entities? Law firms and universities? Law firms and other professional organizations?

6. Was there legal malpractice in the firm's representation of Patrick? If the elements of the *prima facie* case are met, what defenses might the law firm raise? Did Patrick's firm treat him in a morally appropriate way? Can safeguards can be devised inside law firms to maximize the moral quality of the ways that firms treat their members and other employees in times of crisis? How can scapegoating be minimized?

7. Explore the moral and legal dimensions of Patrick's treatment of his law firm. In particular, reflect upon the fiduciary duties Patrick may have owed to his law firm. Did Patrick treat his firm in a morally upright way? What can be done in law firms in general to enhance the maturity and personal growth of members and other long-term employees without the institution becoming intrusive or even totalitarian?

8. Sybil read a paper at the opening session of mediation arguing that law firms encourage sexual relationships among co-employees. How does a law firm balance the tension between being overly inquisitive about the lives of its members and employees and dealing with trouble while it is still brewing, before it becomes a crisis?

9. Without regard to Patrick's conduct, Sybil was clearly deteriorating as a functioning human being from the beginning of the story, and probably before that, until its end. If the relationship between a law firm and the associates in the firm is viewed strictly as that of employer-employee, then arguably the law firm has absolutely no responsibility for pro-actively attempting to help. On the other hand, the time and emotional commitments a law firm requires from its members and associates—clearly, "It isn't just a job. It's a way of life."—suggests that a pure employer-employee model is wrong, headed as a moral matter. Explore the legal dimensions of the law firm's responsibility, if any, including its potential liability to clients if it fails to act on information it has. Explore the ethical and moral dimensions of the law firm's responsibilities and limitations on its responsibilities. After all, a law firm that is overly intrusive in the lives of its members, associates, and staff would be a totalitarian nightmare. Finally, discuss managerial problems facing the firm's leadership.

10. *Alcohol is the number one cause of management, ethical, and legal problems in law firms today.* Explore the truth of and foundation for the last sentence.