

Scene 1: Recruitment

(TOM OLDER is barely discernable in the gloom upstage, but he walks rapidly forward into the spotlight)

TOM OLDER

In limine, lawyers call it, meaning "at the threshold." In that place, be it the threshold of a trial or of a career, deceptively small things can have enormous consequences.

In my case, the deceptively small yet very consequential thing was my law school grade average, which was quite good - but not quite outstanding. Good enough, that is, for the big law firm whose offer I'd accepted, though a little short of enough for a federal judicial clerkship. But then -

(Lights come up on JUDGE BRECKER sitting in a chair on one side of the stage, and on TOM YOUNGER sitting in a chair on the opposite side of the stage.)

JUDGE BRECKER

The law clerk I was expecting suddenly backed out and took an offer from a law firm. Blame student loans, I suspect. Anyway, I guess you'll do, young man. Your credentials seem to be in order. I know it's late in the season, but I'm offering you a clerkship, if you like.

TOM YOUNGER

I have a commitment with a firm already, Your Honor.

JUDGE BRECKER

Well, there aren't many blue-chippers left this late in the year and it isn't long before your clerkship here would start. I have to know quickly whether you're in or out.

TOM YOUNGER

I'll need to talk to the firm. Let me call Your Honor tomorrow.

JUDGE BRECKER

See you do.

(The lights fade on JUDGE BRECKER and come up on HIRING PARTNER sitting in another chair.)

HIRING PARTNER

Well, I understand, Tom. A clerkship with someone like Judge Brecker would be a great credential. No one here would hold it against you that you called off your plans to be an associate here. We'll miss you, of course, but we'll understand.

TOM YOUNGER

Naturally, I'd like to come back here after my clerkship.

HIRING PARTNER

Hmm. Well, we can't make any promises. We can't know yet what our hiring needs would be next year. If we could fit you in, we'd love to have you back, though.

(Lights fade on HIRING PARTNER and on TOM YOUNGER. Lights up on JUDGE BRECKER.)

TOM OLDER

So on the strength of this semi-assurance I told the Judge yes. It wasn't that I was passionate about the prospect of going to work for him, any more than he was passionate about employing me, but I thought I could probably get back to the big firm after the clerkship year. And a federal clerkship trumps a year at a big firm in the pecking order of credentials. So it was worth the slight risk. Or so I thought.

(A pause.)

I had miscalculated the risk. The Judge was fine, I guess, for two months. Then the Judge was dead. Stroke.

(Lights out on JUDGE BRECKER. Lights flash up on HIRING PARTNER.)

HIRING PARTNER

Gosh, Tom, I'm really sorry, but at this short notice we have nowhere to put you. We'd be glad to consider you if anything turned up, of course. And we probably could start you next year.

(Lights out on HIRING PARTNER.)

TOM OLDER

And so there I was. I was a brand new player in this game, when the music stopped, and all of a sudden I had no chair. I had a schoolteacher girlfriend who couldn't contribute all that much to household income. I was, as they say, a

motivated seller of my services. And then, to my surprise and delight, I found myself dealing with a motivated buyer, Sheppard Schwartz. Mr. Schwartz had been my trial practice teacher at the law school. And he had a sensational practice.

(Lights up on SHEP, sitting behind a desk, as TOM YOUNGER, in an office chair of his own, rolls up to him.)

SHEP

There's a lot going on here, Tom. We're adding new lawyers and practice groups all the time. And the cases! We're defending the Speaker of the Legislature on a ridiculous ethics inquiry, for one thing. And we represent the wife of the president of that shipping company in her divorce - you probably read about that one in the papers. We have a big philanthropist (I can't say who) being investigated for tax fraud. And we have a condo case, biggest in this state's history. We're looking for a bright young guy to take over the third chair on that.

TOM YOUNGER

Take over? Was someone sitting in that chair before?

SHEP

(draws a droll face)

There was. But he recently left us. He may not have been the best fit for the job, actually. But his loss will be your gain. This job is perfect for you. We'll throw you into deposition practice on Day One, because each unit owner has a tale of grief: water problems and power problems and heat pump problems and doors installed wrong - it's a clusterfuck, Tom. And every one has to give a deposition to tell his or her story under oath. Xavier, my second chair, and I will take the big deps: the architect and the sureties and such. You'll have all the rest. And you'll write the motions. A talented writer like you should have no problem. And we'll start working you into some of our other stuff, too. You'll learn a ton. It'll be great! What do you say?

TOM OLDER

What did I say? What could I say? True, this wasn't quite the white shoe firm I'd been working towards, but it certainly was an exciting prospect: working really big cases with the man the big guys turned for a really big case. It

was a little unflattering to have been called in as the last-minute replacement not once but twice in my first year out. But I knew I was good, and whatever skills defending depositions might require, I had no doubt I could develop.

SHEP

We'll have a lot of fun, I promise you that.

TOM YOUNGER

I'm excited, Mr. Schwartz.

SHEP

Shep.

TOM YOUNGER

Shep, then.

Scene 2: Orientation

TOM OLDER

And depositions I did.

VOICE OF OPPOSING COUNSEL

(to unseen clients, in a singsong voice)

Now this is not a marathon. If you need to take a break, for instance to use the facilities or get a glass of water, just finish answering the question and let us know. If you don't understand a question, just ask me to rephrase it. If you do answer a question, I'll assume you understand the question. Is that fair? Are you under the influence of any medication which might affect your ability to answer questions truthfully? Are you ...

(VOICE fades out)

TOM YOUNGER

(in an equally singsong voice)

Objection, asked and answered. Objection, not reasonably calculated to lead to relevant information. Objection, seeks hearsay. Objection, seeks a conclusion of law. Objection, no foundation for that question ...

(TOM YOUNGER fades out and the lights on him go down.)

TOM OLDER

There were over a hundred unit owners who had to be asked about their cold, wet, ill-built apartments, and they mostly told the same story. It was slow-going routine bulk work. You had to sit with each client and go through the same process to get them ready to testify. No wonder Shep had no interest in doing that part. It had to be done, though. And I was certainly getting trained in how to defend a deposition, me, wet behind the ears, against four or five slightly older lawyers who knew how to take advantage of my ignorance at what I was doing - until I caught on. None of it mattered anyway, since eventually the case was headed for a settlement. Which I guess was the best kind of training - low stakes.

I also got to watch what the depositions of actual consequence for the settlement looked like. Shep let me tag along for the big ones, taking or defending the testimony of architects and construction foremen and expert witnesses. He was damned good. Even as a newbie I could see that. Shep

could nail an opposing expert to some fact or document or bit of earlier testimony in another case like an entomologist pinning a bug to a display board. Along with Xavier, his faithful Number Two, he could get any fact in evidence and keep any fact out of evidence. And I got to watch it all.

And he let me sit in the library and write the motions. Lots of depositions breed lots of requests to the court to keep things out of or force things into evidence, and sometimes one party would ask for sanctions against another for real or supposed violations of the rules.

It was while I was sitting in the library that I first met Celia. After we'd introduced ourselves, she had a question for me.

(Lights come up onstage, revealing a backdrop of a bookcase of law books with a library table in front of it. The backdrop could be a projected photo. TOM YOUNGER and CELIA are sitting on opposite sides of the table.)

CELIA

So you're the new Richard?

TOM YOUNGER

Richard?

CELIA

You're third chair on the condominium case, right? Shep's new bright young man?

TOM YOUNGER

Well, I guess. I mean, I am on the condominium case.

CELIA

Then you're the new Richard. The old one had to leave.

TOM YOUNGER

What do you mean, had to leave? Why?

CELIA

(Quizzically)

Is that a polite question to ask?

TOM YOUNGER

I don't know. Was it a polite thing to say that he had to leave?

CELIA

Probably not. Let's just say that he got too close to clients. That covers a multitude of sins.

TOM YOUNGER

Implying there were sins to cover.

CELIA

Everyone has sins to cover.

TOM YOUNGER

Not me.

CELIA

Ah, but then you're new here. They'll come in time.

TOM YOUNGER

(A touch of flirtation)

Do you have sins?

CELIA

(Also a touch of flirtation)

Wouldn't you like to know?

(A beat)

Ach, you're a man; you have sins.

TOM YOUNGER

Well, if you don't want to talk about yours, tell me about somebody else's.

CELIA

That's your sin, then. You're a gossip. That's a trifling sin, Tom. You'll have to do better if you want to succeed around here.

TOM YOUNGER

(now really piqued)

What sins, for God's sake?

CELIA

Well, there's Gil. He likes to chase us round the furniture.

TOM YOUNGER
(not quite getting it)
You mean he plays tag?

CELIA
Of a sort. Not with you, of course.

TOM YOUNGER
Why not?

CELIA
Tom, Tom, you can't be this thick and survive! Why do you think?

TOM YOUNGER
(the penny dropping)
Oh.
(A beat.)
Does he catch people?

CELIA
Not me! That would be pretty gross. But I don't think he was seriously trying to catch me. I work with Shep.

TOM YOUNGER
Meaning there are people he does try seriously to catch? People who, say, aren't protected by working with Shep?

CELIA
Now you're not being quite as thick. Good work, Tom! And there's another problem, because the firm is growing so much. It used to be the women knew who the handsy guys were. Now, with all the new people around, there isn't always a book on everybody.

TOM YOUNGER
So what do you do?

CELIA
Make assumptions. The more money the handsier, until you know better. And there's a lot of money. At least that's the way it seems.

TOM YOUNGER
What do you mean, the way it seems? Don't you know?

CELIA

Well, lots of people are acting rich. But when you hear the words "line of credit" too often, you add a mental asterisk. 'Cause you know what that means: tomorrow's prosperity today. Makes you wonder what's going to happen tomorrow. And another word we hear sometimes is "guarantees." When Shep and Gil and their friends import new practice groups, they promise the new guys lots of money. But there's no free lunch; the new guys have to earn the firm enough to justify the guarantees. And what if they don't? So how well off is everybody really? We don't know.

TOM YOUNGER

But surely the firm can afford whatever commitments it's making?

CELIA

We certainly hope that.

(Lights down on CELIA and TOM YOUNGER.)

TOM OLDER

After that exchange, Celia refused to be drawn out further. But she'd said enough to orient me a little, and I was grateful.