

RECKLESS DISREGARD

——
A Parker Stern Novel

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ROBERT ROTSTEIN

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CHAPTER 1

Judicial Alternative Dispute Solutions employs three kinds of mediators. There are the retired judges—former jurists who are sick of government bureaucracy and civil servants’ wages. They get the most lucrative cases. The title *Judge* and the salutation *Honorable* can make an imbecile seem credible. Then there are the idealists, mostly law professors and young lawyers with undergrad psychology degrees who naively believe that they can transform the legal system from adversarial to conciliatory. They do almost as well as the ex-judges—many cases need a touchy-feely facilitator who can convince even the most misguided litigants that their legal positions matter. On the bottom rung are the burnouts like me: the once-driven trial lawyers who can no longer cope with the stress of a courtroom, though I’m not yet forty and supposedly just hitting my prime. We get the dross—the slip and falls, the unlawful detainers, the Worker’s Comp disputes. No matter. There are no winners or losers in mediation, so no pressure. If the case settles, fine. If not, let the judge and jury decide.

I recently became a JADS mediator so I wouldn’t have to try cases anymore. I used to love trials. Everything changed three years ago, when my mentor Harmon Cherry died and our law firm Macklin & Cherry—my only family—broke up when the clients deserted us. Since then, every time I walk into a courtroom, I battle stage fright. I only got through that last trial because of passion-induced adrenaline, in its own way more destructive than the terror. So I began settling cases *before* they get to trial. Parker Stern, warrior turned pacifist.

JADS is housed in a brick and glass low-rise building adjacent to the Santa Monica Municipal Airport. My cubbyhole has a window with a partial view of the north runway, the walls and glass insulated

so thickly that you can't hear the planes take off. I filled the particle-board shelves with books about famous lawyers. I can use the conference rooms so long as I reserve them forty-eight hours in advance. I can call on a case assistant to schedule mediations and manage my docket. I can drink all the tepid coffee I want. What JADS doesn't provide is a salary. Instead, I pay them thirty percent of all revenue I bring in from my mediations. The "eat what you kill" system, they call it.

Except for a computer, my Formica-top desk is empty. Until a few weeks ago, I attributed my lack of mediations to the summer lull. But Labor Day has come and gone, and the lawyers and judges and litigants have returned from vacations, ready to resume battle in their lawsuits. And yet, my workload hasn't picked up. So on this day, I take sips from my fourth cup of coffee, watch the Cessnas and the occasional Learjet take off, and listen to alternative rock music on my computer.

At 10:47 a.m., the synthesized message alert rings. Why do computer notifications always sound like church bells, door chimes, a child's xylophone? Do the tech companies want to convey innocence?

The chat is initiated by someone who uses the handle *Poniard*.

>Mr. Stern, I'm looking for a top trial lawyer to represent me in a possible new lawsuit and you're number 1 on my list

I pride myself on my ability to suss out online phishing schemes or mail spam or a virus-infected file. If the message had arrived in an e-mail, I would've deleted it immediately and blocked the sender from forwarding future e-mails. But this message has come in through the internal JADS chat program, so I assume that someone in the company has sent it. I don't know a Poniard working at JADS, but that doesn't mean anything, because it's a large company.

PStern

>I'm free now. Your office or mine?

Poniard:

>Not that simple. I'm not with your company

PStern

>Then how did you gain access to ResolutionChat?

Poniard:

>I'm good with computers

PStern

>You hacked into our system?

Poniard:

>Not saying yes to that . . . given my circumstances, I used the best method to get your attention

I reach for the telephone to call the head of Information Technology. Even if she can't trace the source of the hack, she can take immediate corrective measures to minimize the damage from the breach. But then:

Poniard:

>You must think this is bizarre. If I were you, I'd be calling IT and running around your office like Paul Revere before Lexington and Concord. But before you do that or shut down the chat program, PLEASE give me a chance. Check your e-mail and read the attachment. I PROMISE you no virus . . . no Trojan horse. Just a pdf image file I'm sure you'll be interested in . . . and you'll see I'm legit

Harmon Cherry always said that a good lawyer must have a relentless drive to uncover the truth. I embraced that advice, often to my great regret. I'm interested in the truth about this Poniard. And without work to do, I'm mightily bored. But there's something else. For the past six weeks, I've been caught in the throes of a low-grade despair that makes the days flatten out, makes the nights sere and empty. The woman I adore left me. Anyway, this silly chat with a hacker is the most amusing thing to happen in weeks, and I want to hold onto it for a while longer.

I switch to Microsoft Outlook. An e-mail from Poniard is at the top of my inbox. The message contains an attachment called *scan.pdf*. I

click the icon. If *scan.pdf* contains a malicious virus, JADS will just have to deal with it.

As soon as the file launches, I recognize the gold-embossed letterhead: *The Louis Frantz Law Office*. Lou Frantz is a bully and a blowhard. Also one of the top trial lawyers in the country, and someone who'll never forgive me for what I did to him in the case we tried against each other a couple of years ago. I'm sure that Frantz would welcome a rematch, but I have no intention of giving him one. I'm now a mediator.

September 12, 2013

Via e-mail

The Individual known as Poniard

Dear Poniard:

This office represents William M. Bishop, Chairman and Chief Executive Officer of Parapet Media Corporation. We write to demand that you retract certain statements made against Mr. Bishop and that you immediately cease and desist from making false and defamatory statements of and concerning Mr. Bishop, to wit, that Mr. Bishop is responsible for the disappearance of an actress by the name of Paula Felicity McGrath. Such statements are made, and continue to be made, in a video game called *Abduction!* (the "Video Game.")

More specifically, the Video Game depicts the circumstances of McGrath's disappearance in 1987, and then contains various levels and scenes that a reasonable person would understand as accusing Mr. Bishop of criminal activity. The language is false and defamatory and has been uttered with malice, i.e., with knowledge of its falsity or with reckless disregard for its truth, all to the grave damage to Mr. Bishop's reputation.

Please acknowledge by September 19 before

the close of normal business hours that you will refrain from all publication, distribution, or other dissemination of the Video Game. Please also make all efforts to retrieve all versions of the game that you have distributed. If you do not do so, Mr. Bishop will have no choice but to file a lawsuit seeking tens of millions of dollars in compensatory damages to his reputation, plus punitive damages. Please also be aware that you will be subject to deposition and other discovery and the obligation to testify in court. The deposition will be recorded on video and will become a matter of public record. Be governed accordingly.

When I finish reading, I can barely steady my fingers to type into the keyboard. William Bishop is a billionaire, in control of a movie studio, a television network, seven newspapers, thirty radio stations, and a record company, among other businesses. And I certainly remember Felicity McGrath. She was an up-and-coming star, breaking out in 1983 in the role of a drug-addicted young housewife in *The Fragile Palace*. She got rave reviews, but after that she became typecast. By 1987 her once promising career was on the decline. And then she vanished.

PStern

>Who are you?

Poniard:

>You read the letter?

PStern

>Yes. Who are you?

Poniard:

>So you don't play video games

PStern

>You're right about that.

Poniard:

*>I'm simply Poniard, a video game developer of some renown among
some people*

PStern

>Legal name, address, telephone?

Poniard:

>I exist here in cyberspace . . . no other address than the e-mail you already have, no other name but Poniard

I should call security or maybe the cops. But I keep typing.

PStern

>And yet you're real enough to accuse William Bishop of kidnapping Felicity McGrath? In a video game? And real enough to get a cease and desist letter from Lou Frantz?

Poniard:

>True

PStern

>Why???!

Poniard:

>Why what?

PStern

>Why did you accuse him?

Poniard:

>He's guilty

PStern

>You have proof?

Poniard:

>Some. I will share that info if you take on my case

PStern

>What motive would Bishop have to do such a heinous thing?

Poniard:

>One theory . . . Bishop was a married man back then; still is to the same woman, an heiress. An affair with Felicity he wanted to keep quiet?

PStern

>Implausible. And even if I thought you could win I wouldn't take it on. I don't try cases anymore. I settle them.

Poniard:

> You've won some high-profile cases recently

PStern

> I've retired.

Poniard:

> You're only thirty-nine . . . looked it up on the Web. Too young to retire! In fact, in the prime of your career

He's right that most trial lawyers don't begin to reach their prime until their mid-forties. They do their best work well into their late sixties and even past that. Lou Frantz, for example, is seventy-two. But I'm not one of those lawyers. Even when I'm performing well in court, the fear is like a dormant virus residing in my nerve cells ready to flare up at any time. As much as I love trying cases, I can't afford to stir up the virus.

PStern

> I can recommend some topnotch trial attorneys.

Poniard:

> I want you! I did my research . . . you know how to handle Frantz better than any lawyer around. And that motherfucker William the Conqueror Bishop killed Felicity. Truth is still a defense to libel, right?

PStern

> Yes, if you can prove it, which you won't going up against those two. My free advice to you is to retract immediately and make this go away. Bishop and Frantz are letting you off easy.

Poniard:

> Will not happen! Bishop has to answer for his crimes!!

PStern

> Why do you care about McGrath? What's your interest in this?

Poniard:

> I want to see justice done . . . that's what all my games are about, and life is the ultimate video game

This particular game has gone on long enough. It's never wise to engage vindictive madmen in conversation.

I switch back to Frantz's letter. I'm not sure why I read it again, why I look at it more closely the second time, but when I see what I've missed, I jerk back in my chair. My limbs thrill with a mixture of anger and excitement, an intoxicating brew. I return to the chat program. Poniard is still there, waiting. How did he know to wait?

PStern

>Still there?

Poniard:

>Still

PStern

>I'm thinking of taking this case on after all if Frantz files

Poniard:

*>Awesome!!! I have resources. I'll advance legal fees in any amount you
say*

PStern

*>Not necessary yet. Notify me immediately if you're sued. How do I
reach you?*

Poniard:

>E-mail

He signs off. Not even a *thank you*.

Harmon Cherry taught me that there are many legitimate reasons for an attorney to take on a lawsuit—to earn a legal fee, to gain experience, to get public exposure, sometimes even to serve justice. But he also said that a lawyer should never take on a case for personal reasons, because the results are more often than not disastrous for both attorney and client. My reasons for taking on Poniard's case are purely personal. Harmon said something else—don't waste time groping for what's been irretrievably lost. I'm not following that advice either.