

SHATTERED JUSTICE

How Unethical Attorneys Can Turn a Simple Divorce
Into a Nightmare

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Scriba Publications 1000 Town Center Drive, 6th Floor Oxnard, California 93036

ISBN: 0615692052

ISBN 13: 9780615692050

Library of Congress Control Number: 2012916227

Scriba Publications, Oxnard, California

Dedication

This novel is dedicated to the thousands of women whose lives have been adversely affected or even destroyed because our divorce courts have let them down.

We have a great justice system in the USA, and while it works most of the time, it depends on honest, hard-working judges who sit day after day in crowded courtrooms trying their best to do what is right. The problem is that far too many judges dislike “family law” and only serve in these courtrooms when they have no alternative. The consequence is that we often see judges in divorce courts who simply don’t care or are prejudiced in their views on marital issues like child and spousal support, and lose sight of the fact that their paramount task is to sit as a court of equity. They decide on who gets custody of children, ownership of businesses and even who gets the pots and pans (and animals). Only the finest of judges should serve in this critical role.

The courthouse in Riverside and the Mission Inn are real, but all characters and dialogue in this novel are fiction. Any resemblance of the imaginary characters to actual persons is coincidental.

Acknowledgment

I want to especially thank my long time friend and paralegal, Lisa Castro, for the time she spent in reading and correcting multiple drafts of this novel and her invaluable creative suggestions. Lisa is a highly talented legal assistant who, as Kelly Parks in the story, should be a lawyer.

Prologue

What does an attorney say when a client asks the fundamental question “What happens if we lose?”

This is the question that every trial lawyer hates to answer because there are no guarantees once a case gets into the court system. Our system of justice in divorce cases is good, but it breaks down when you have a biased or disinterested judge, a corrupt spouse who is willing to thwart the whole system, or an attorney who will cross the line of what is ethical if not actually illegal.

Our justice system works when the people play fair, but when the players fall to the dark side, the whole system of justice is shattered.

The story of Kristin Adler’s divorce is such a story.

CHAPTER 1

A Simple Divorce

Kelly Parks was sitting at a small table in the public waiting room of the Riverside County Superior Court Clerk's office. The room was hot and very small, with a caged counter similar to an old fashioned bank window behind which the teller served customers. Above the opening in the cage was a sign that read "Appeals Clerk."

The clerk, a petite grey-haired lady that looked like someone's grandmother, tried to be helpful. When Kelly arrived that morning, she explained that she needed to review the transcripts of a recent family law appeal.

The clerk looked a little surprised at first but then rummaged around in the back and brought out a small table and a secretary's chair on rollers for her to use. The office was a place for attorneys to bring in and file the voluminous transcripts that are part of every appeal, so there was no real need to provide a place to sit and read.

Kelly had been sitting and reading for several hours and was stunned at what she learned. She worked as a paralegal for Shannon Taylor, a family law attorney in Santa Monica, California, but today she was on her own time. She had recently interviewed a woman who was desperately trying to find a lawyer to help her with a divorce that had gone all wrong, to say it mildly.

The woman's name was Kristin Adler. What she told Kelly, if true, was a shocking story that certainly revealed the dark side of the justice system. Kristin had no money to hire a lawyer, and Shannon Taylor, a single parent trying to run a small family law office, was not able to help.

As the weeks dragged on, Kelly found that the story she had heard stayed with her. The sense of a major injustice finally led her to take a few days off. She drove down to Riverside to read the court files to see what had really happened.

It wasn't that Kristin and her son had been left destitute by the judge's rulings. Kelly had seen and heard of dozens of spouses that had been ruined as a result of a divorce. It was the arrogance and determination of her husband to ruin both her and their son that she could not shake.

Kristin's words were still vivid in her mind. "It was just after we finished dinner that I heard the knock on our door. We were still in our home in Palm Springs and I told Jeff, my son, to go to his room and I walked over and opened the door. There were two ladies in suits and a uniformed police officer standing there. One of the ladies asked 'Are you Mrs. Ralph Adler?' I said yes and nervously asked what they wanted."

Kelly could see that it was still an emotional experience for Kristin and she softly said, "Take your time. We're in no hurry."

After a moment of hesitation, Kristin continued. “The lady asked if Jeff was home and I said he was in his room. She said they were from the Child Protective Services Department and they needed to talk with him. I asked her why and she just said, ‘Go bring your son here. We need to talk to him.’ I looked over at the police officer and he just stood there saying nothing so I went back and brought Jeff out.”

Kristin’s breathing became labored and she kept gulping as if trying to get air. She then blurted out, “The lady grabbed Jeff’s hand and pulled him out through the door. He started screaming and when I started to stop her, the police officer grabbed my arm and said, ‘Stay here Mrs. Adler. They’re taking your son into protective custody.’ And they just took him and drove away. I didn’t see Jeff again for four weeks!”

Exhausted from telling her story, Kristin slumped down in her chair, covered her face with her hands, and began sobbing. Kelly just sat and watched the tears roll down between her fingers onto her chin. It would not be the last time she sat helplessly watching Kristin cry.

Kristin learned later that Ralph, her husband, had filed a report claiming that she had been forcing her son to have sex with her. It was a total lie and the suspicion was that he made the claim so he wouldn’t have to pay her child support.

While Kelly was not a mother, she could imagine the horror that must have gone through Kristin’s mind seeing her son taken away and placed in a foster home for four long weeks while she desperately tried to convince the authorities that Ralph Adler’s accusations were vicious lies.

Just thinking back on what Kristin had said made Kelly’s stomach tighten. “If a man can do this to his own son, what else would he do to keep his millions to himself?” Kelly pondered to herself.

Kelly Parks was 29 years old, five feet six inches tall, had short brown hair with dark smoky eyes, and a very athletic body. She was one of those energetic people who rode bikes, hiked mountains and worked with a Pilates instructor whenever she had the money. Her eyes would sparkle whenever she got excited or pissed off. The latter happened whenever she felt an attorney was trying to take advantage of a client.

Kelly had gone through her own divorce five years earlier. She and her husband had met while they were attending a local junior college. It had been “love at first sight,” and they married four months later. They both got excellent grades and eventually transferred to the University of California at Los Angeles, in Westwood, on the west side of Los Angeles near Santa Monica. But the marriage was not to last. As often happens when spouses try to work and go to school at the same time, the luster of two youths in love began to fade, and they grew apart. When they graduated, they decided to go their separate ways. They had no children; and while the divorce was still unpleasant, it had freed both of them and they were still friends.

Shannon Taylor had been Kelly’s attorney when she filed for a divorce, and Kelly began working as a family law paralegal for her as soon as her own case was

settled. Although she had been a history major, Kelly had always been interested in the law and jumped at the chance when Shannon Taylor offered her the job.

As a paralegal, Kelly was Shannon's key assistant. She quickly learned the intricacies of family law and was especially good at interviewing and preparing witnesses for trial. Even the judges liked her work and would on occasion even ask her questions during a trial. They knew she probably knew the evidence better than Shannon.

Those who knew Kelly personally always remembered most her intelligence and high-energy level. She was constantly challenging Shannon Taylor and any other attorney who she worked with, and she had an unwavering determination when it came to finding missing witnesses and documents needed for their clients to win. Most of all, she had a strong Christian faith and an unfailing sense of right and wrong. If she felt someone was being mistreated, she would come to their defense. But if she felt someone was wrong or not truthful, whether a client or not, she wanted nothing to do with that person. This moral view at times posed a problem because, in our justice system, even bad guys are entitled to legal counsel. But when Shannon reminded her of the rules, she would relent and work as hard as ever but would never like the client.

Kelly loved family law and the idea of helping others, and the clients loved her. She would at times spend hours listening to a client who was being abused by either the spouse or the courts. And this was fine with Shannon Taylor, who otherwise would be doing the "hand-holding."

After Kelly had worked as a paralegal for a couple of years, several of the local judges started encouraging her to go to law school. "You're certainly smart enough for law school," one judge said to her after a brief conference in chambers, "but what's really important is that you have good instincts and common sense. Not many of the lawyers who I see coming through my court have these qualities. Think about it. If you decide to go, let me know, and I'll call the Dean over at Loyola. He's an old friend of mine."

It had never occurred to Kelly to go to law school. She was broke and had to work, and she initially let the idea go. But the judge called her back into his chambers six months later and told her point blank, "I called Dean Grover. I told him your circumstances, and he said you would be a natural for their night school program. So, what do you think?"

Kelly had thanked the judge and seriously began thinking about the idea. She talked it over with Shannon Taylor, who was all in favor of the idea, and she eventually signed up for the LSAT standardized test that all students must take to get into a law school. She was surprised to find that her score was in the top 10 percent. This gave her some encouragement and so she actually called the judge one day and asked if his offer to help was still open.

"I'd be delighted to help," the judge had said. "Get me a copy of your undergraduate academic records, and I'll send them over to the Dean."

And so it was. Two months later Kelly was admitted to the Loyola Law School night program. The campus is in downtown Los Angeles, and if the traffic was not

bad, she could be there in under an hour from Shannon Taylor's office. With her working schedule, she could only take two classes a semester. That meant it would take her five years to graduate if she added some summer classes. The professors loved her determination and were very supportive. She had just completed her third year, and she had the third highest grades in her class.

In the case of Kristin Adler, Kelly had a growing fear that if Kristin's story was true, the family law justice system in California had let her down big time. This was why Kelly had taken time off and was now reading the appellate transcript in the small cramped space in the clerk's office.

Kelly had driven south from Santa Monica early that morning and was at the courthouse before it even opened. Knowing that she was going to search through the divorce records, she dressed casually. She was wearing blue jeans, a light tan blouse open at the neck and a red leather jacket.

Kelly found a public parking garage in the block behind the courthouse and, after parking her car, she walked over to the courthouse. The courthouse was not yet open, and she found a quaint coffee shop across the street.

The sign in front of the cafe read "The Outlaw Café." When Kelly entered, she found it full of police and court personnel. She ordered a cup of coffee and sat and people-watched for awhile. But Kelly was not the patient type and after fifteen minutes of observing, she finished her coffee and walked back across the street to the courthouse. It was still closed, so she occupied her time by pacing up and down the front steps leading to the main entrance until someone opened the door.

There are two sets of steps leading up from the street level to the front door of the courthouse. Kelly counted them all at least a dozen times. Eleven steps from the street level leading to a flat area, and about 20 feet closer to the door, there are another four steps. In deciding how many steps there were in total, she pondered whether the bottom of each set of stairs was really another step. The silly things people do to kill time.

The courthouse in Riverside was originally built in 1926 and is one of the most magnificent old court houses in California. It has a wide marble main hallway on the first floor and the courtrooms themselves are paneled in wood and have most of the original solid oak furniture and decor. The entire building was meticulously restored in the late 1990's and was placed on the Registry of Historic Places in 1998.

When Kelly Parks finally got into the clerk's office, she asked for the appellate transcript of Kristin's first divorce trial. (Yes, there was more than one trial but that part of the story is still to come.)

Two transcripts make up an appeal. One is called the Clerk's Transcript, and it contains all of the pleadings and papers filed with the court. The second is called the Reporter's Transcript, and it contains a verbatim transcript of everything said by the court or the parties and all of the witnesses. This is how the appellate courts learn about what happened at the trial court level.

As Kelly sat reading the transcripts, she recalled what Kristin had told her, and

she could see her horror story unfold page by page. She read the Petition for Dissolution of Marriage, the first document that is filed to start the divorce process; the Response filed by her husband; the original temporary child and spousal support orders; and the restraining orders that prohibited either spouse from selling, transferring or encumbering any of the assets except in the ordinary course of business.

As Kelly read through the initial transcripts, the early rulings appeared to her to be pretty much in order and routine. She noted with interest that the Family Law Commissioner had originally award Kristin \$10,000 a month in child support and \$15,000 in spousal support. This meant her husband, Ralph Adler, had substantial income. Reflecting on Kristin's story, she knew this was just the beginning of the nightmare.

When Kristin Adler had first called Shannon Taylor's office, Kelly spoke with her briefly and had arranged for her to come in the next day. When Kristin arrived, Kelly could see the sadness and despair on her face. She was tall, around five feet ten inches, had sandy blonde hair pulled up into a bun at the back of her head and clear light blue eyes. She was wearing black slacks and jacket with a white blouse, matching black shoes and looked very professional.

But it was Kristin's face and her overall appearance that caught Kelly's attention. She was ghostly thin and had a subdued and beaten down look. Kelly later learned that Kristin was then only 42 years old. And although it was still morning, Kelly could smell the distinct odor of alcohol.

The offices of Shannon Taylor are on the first floor of a small two story building on Santa Monica Boulevard. The other office on the first floor was occupied by a small accounting firm, and they shared a receptionist and a medium-sized conference room. Kelly met Kristin Adler in the reception area and, after introducing herself, took her down the hallway leading to the offices and into the conference room where she interviewed most clients.

Kelly and Kristin sat close to each other at one side of the conference table. The conference room was actually only a spare empty office with a round table that could seat five or six. There was a large French paneled window looking out onto Santa Monica Boulevard with old fashioned Venetian blinds that were overdue for a dusting.

Kelly could tell that Kristin was nervous so after a few pleasantries, she said, "Kristin, just take a deep breath and relax. Remember, we're on your side. You said on the phone that there were two trials and that you basically lost everything. Just tell me what happened as best you can."

Kristin took a deep breath and gave a feeble attempt at a smile and began to tell her story. She explained the history of her almost 20-year marriage to Ralph Adler, who she described as a real estate investor. She reached into her briefcase and pulled out a copy of the Declaration of Disclosure of Assets and Liabilities, a form that must be filed in all divorce cases, and handed it to Kelly. She also handed her a copy of the decision of the Court of Appeal.

Kristin fidgeted in her seat and finally crossed her legs and continued. "We were actually pretty wealthy. Ralph owned a small office building in San Bernardino before we got married and about a year later he sold it and bought another larger thirty- story building. I think we paid only five million dollars for it and it was only partially rented. Ralph is really smart and he redesigned the floor space and turned it into a wonderful medical building. The doctors loved it because it was across the street from the hospital. Ralph was a workaholic and the value of the building when we separated was about twenty-six million. Anyway, that was the source of our income. I think Ralph took out around four million a year. I don't remember the precise figures."

"Any other assets?" Kelly asked.

"We had a beautiful home in Palm Springs, cars and stuff like that. And there was a brokerage account with Morgan Stanley that I think was worth around nine-hundred thousand dollars. And we had several joint bank and checking accounts. I thought the medical building was our big asset, but it later turned out that Ralph was also a partner in a large apartment project in Phoenix. This may seem dumb now, but I just, well, I just didn't ask him much about his business things," Kristin explained.

Kristin was looking down at the floor and after a moment, she then added with great sadness in her voice, "The worst thing is that we have a wonderful sixteen-year- old son, Jeffrey." She hesitated and her eyes filled with tears. Kelly thought she had never seen such sadness before.

Kristin was still looking down at the floor, shuffled a little in her seat and continued. "He takes most of my time and that's why it's been so hard for me to work since he was born."

Kelly could see the tears rolling down Kristin's left cheek as she talked about her son and quietly stood up and walked over to a cabinet along the wall and brought back a box of Kleenex and handed her a sheet.

"I'm sorry," Kristin said. "It's just, well, it's so hard. Even though Jeff hardly ever gets to see his dad, he still loves him. He's a big good- looking kid but they say he has only the mentality of a five year old."

Kristin reached over and pulled out another sheet of Kleenex and patted her eyes before she added, "He just doesn't understand." Kelly knew she was speaking for both of them.

Kristin suddenly sat straight up in her chair and with considerable anger in her voice, she told Kelly about how Ralph Adler had falsely accused her of having sex with her son and how Child Protective Services had taken Jeff away kicking and screaming.

"God, it was awful. He had to live with a temporary family and, well, you can imagine what that did to him. Once my lawyer got the thing to the Juvenile Court judge, he put an end to it and let Jeff come back home, but it was months before he recovered and, except in court once or twice, he never saw his dad after that," Kristin said.

After listening for awhile, Kelly's heart was aching in frustration at what Kristin

and her son had to go through. She could see that Kristin wanted to tell her story to someone, so she just sat and listened until she seemed to relax a little. She then asked, "Kristin, go back to the beginning. Tell me why you were getting a divorce."

Kristin did not reply at first and just stared out of the window. Her breathing became heavier. After a moment of silence, she said in a slow quiet voice, "You know, I thought we had been relatively happy. I knew he wanted me to travel with him, but I couldn't with Jeff. He doesn't relate to adults very well. He's OK for a few hours, but if I'm not home by evening, he goes crazy."

Almost half laughing but in a strained tone Kristin shook her head and added, "I know it sounds dumb now. I knew Ralph could be ruthless in business things, but I actually thought he loved us!"

Kristin looked down at the floor again for a moment, shrugged her shoulders and continued. "Anyway, I was looking for one of our cameras and thought Ralph may have used it so I went out and looked in the trunk of his Jaguar. The camera wasn't there but I saw his Blackberry and got curious. He was religious about taking it with him everywhere, so I picked it up and noticed he had a phone message."

Kristin nervously played with the papers on the table in front of her before she added, "Funny, you'd think I would be over this by now. Five years is enough, right? Anyway, it was a woman's voice leaving an overtly romantic message. As you can imagine, I was stunned."

Kelly remained quiet for a minute to let Kristin regain her composure and then asked, "What did you do then?"

"I called my best girlfriend, you know, the kind you can tell things to and we met later that day and we decided I should hire a detective to find out what was going on. So I did, and it only took him a couple of days to get photographs to prove Ralph was seeing a very young Polynesian looking woman. I later learned her name was Mari Duray. The detective was great. He had a video of them holding hands at an outdoor concert and stuff like that."

"So what did you do then? Did you confront your husband?" Kelly asked.

"After I hired a lawyer, and I finally confronted him, he just said, 'Kris, we haven't had a marriage for years and you know it as well as I do.' He was angry and almost yelling. 'You haven't wanted to do anything with me since that kid was born. Hell, it's just not working. So that's it.' And he stormed out of the room," Kristin replied.

With encouragement from Kelly, Kristin explained how she had finally hired Ken Rapp, a family law attorney in Riverside. He was about 35 years old and was with a firm of five lawyers who specialized in family law. She described Ken Rapp as short, maybe five feet six with blue eyes and premature baldness except for some hair above the ears.

"The first thing he did was tell me to get copies of all of Ralph's business records before he found out I was filing for a divorce," Kristin explained. "He said 'I can tell you from experience the worst battles in divorce cases are over getting business records when the other spouse has control.'"

“I asked him why?” Kristen added. “I thought there was a duty or something that required spouses to list all assets and cooperate in giving financial records. One of the attorneys I interviewed said this was a ‘fiduciary duty.’”

“He smiled when I asked the question and said ‘Good, I see you’ve already picked up some of the lingo. Yes, there’s a fiduciary duty. But it doesn’t mean anything unless you have an honest spouse. And when it comes to protecting assets, it’s funny how simple rules all of a sudden become grey and confusing to most husbands,’” Kristin related.

Kristin continued with her story. “I knew Ralph kept his records at his office in the medical building in San Bernardino, so I waited until Ralph left for a business trip to Phoenix. I got several friends and we rented a van and drove over to the office after everyone had gone home. It was around 10 at night and we emptied every file cabinet we could find into storage boxes. And I took them to Ken Rapp’s office the next morning.”

Kristin looked a little embarrassed and almost smiled for the first time when she recalled Ken Rapp’s reaction. She explained, “I had called in advance. My friends were still with me and he met us in the lobby of his office building. As he walked out to the street and saw the van, he laughed and said, ‘Good job. At least in this case the husband will be the one begging for documents!’”

Kristin added, “With what I also found at home, we had over 80 boxes. It took Ken’s staff the whole day to cart them up to his office on the third floor and stack them along the walls of his conference room. It was actually a lot of fun thinking we had outsmarted Ralph.”

“What happened when Ralph found out?” Kelly asked.

“Ken tried to be very professional. He filed the divorce petition the next day and had Ralph served when he arrived at his office. He had written a letter to Ralph telling him we had the documents, and he was free to make copies. Ken said this kind of cooperation would make us look good to the judge later on. But it didn’t work with Ralph. He was furious and when he got an attorney, they actually filed a lawsuit claiming that I had stolen the documents and he wanted them back with damages. I don’t recall the amount now,” Kristin answered.

“So what happened?” Kelly asked.

“The lawsuit was eventually combined somehow with the divorce case and the Commissioner let me keep the documents and let Ralph send in a copy service to get whatever he wanted. This was all about the same time Ralph had Jeff taken away,” Kristin explained.

As Kelly Parks sat reading the transcript, she remembered back to what Kristin had said about the first trial.

“Ken was very positive about our case,” Kristin had explained. “He was able to get me a good child and spousal support order, but Ralph only paid for a few months and started claiming he didn’t have the money. His lawyer went to the Commissioner and asked that our home be sold and the judge agreed. I didn’t want to stay there anyway so that was OK. But the real problem was money to pay my bills. I was running out of money when Ralph stopped paying. Ken told me it

was OK to take money from our accounts to pay him, so I took forty thousand from a joint account and gave half to him as a retainer. But the rest went to an expert Ken hired so I was pretty much broke,” Kristin explained.

“Of course, I never realized then how bad things would end up,” Kristin volunteered. “Ralph had hired a firebrand lawyer, Peter Novak, and he hired David Blackwell as his accounting expert. Ken knew Blackwell and called him a ‘hired gun’ who will say whatever his client wants. And he was right. His report to the court said the medical building was actually losing money. Ken of course had an expert for us. His name is Ira Penske and he is a real nice guy. He said the building was making lots of money, but the Commissioner said the conflict between the two would have to be decided at trial. But he did divide the stock account, so I got about \$450,000 to live on. By this time, I think Ralph owed me about two-hundred thousand in back support.”

Kelly had been reading for about four hours and decided to take a break and get some lunch. Kristin had told her of a terrific restaurant at the Mission Inn, just a few blocks from the courthouse, so she walked over for lunch.

The Mission Inn has several restaurants and the best for lunch on a sunny day is inside a large courtyard. It was a beautiful day and Kelly lunched sitting under an umbrella. Looking up at the windows and ornate balconies of the hotel rooms which surrounded the courtyard, it was easy for her mind to drift and imagine she was in one of the beautiful old towns built by the Spaniards in Central or South America.

As Kelly was eating, she was thinking about what Kristin had said about the sale of their home. It was valued at four million but when it was in escrow, Kristin’s attorney discovered that the debt was over three million, so when the sale closed, the only money left was six-hundred thousand after the expenses were paid. The Commissioner ordered that Ralph’s half should go to Kristin for past support, but by then she owed her attorney and her expert so much that when they were paid current and given a retainer for the trial, she only had \$125,000 left, and Ralph was still claiming poverty and refused to pay.

As is typical in divorces involving significant assets, Ken Rapp had scheduled Ralph Adler’s deposition. In any lawsuit, the attorneys can force the parties or other witnesses to answer questions almost in a cross-examination style.

Although depositions are actually very informal in that they usually take place in the conference room of one of the lawyers or the court reporter’s office, they are still a serious matter. The witness is required to swear that he will tell the truth, and this oath, along with everything that is asked of the witness and his answers, are recorded by the court reporter. The reporter later types up her notes into a manuscript and the witnesses are required to sign them under oath.

Depositions are an important part of the litigation process because they allow the attorney to pin down a witness’s testimony. If the witness changes his story later on, the deposition can be used to attack the witness’s truthfulness.

But in Kristin’s case, when Ken Rapp started to ask Ralph Adler questions, the

only information his attorney would let him give was his name and address. After every question Ken Rapp asked about assets or finances, the attorney directed Adler not to answer on the grounds that “the answer may incriminate me.”

The right to refuse to answer questions comes from the Fifth Amendment to the US Constitution. It says no one can be compelled to incriminate himself on matters that could lead to criminal charges. In Ralph Adler’s situation, if his assets showed he could pay the support order, or even part of it, he could be held in contempt of court and put in jail.

As Kristin was recounting all of this to Kelly, she added, “But Ken Rapp was not upset. He explained that Ira Pense was a super forensic expert and that he would lay out the assets and income at trial and show that at least twenty-two million of the equity in the medical building was a community asset and I’d get half.”

“And he actually laughed when he said that Ralph had put himself in a real box,” Kristin added. “ He said, ‘By taking the Fifth Amendment and refusing to testify, he will be prohibited from testifying at trial and that will kill any chances he may have had in supporting his claim that the medical building is all his separate property since he had traded his old building for the new one.’”

Kelly knew from working on other cases, that in a community property state like California, unless the parties have a binding prenuptial agreement that protects separate property, a spouse who has separate property can have some or all of it turned into community property without even understanding that it is happening.

The legal theory is that if the value of a separate asset goes up in value during the marriage, the increase can be considered a community asset if the value is due to the spouse’s efforts. The premise is that a spouse’s intellect and work efforts are community assets once the parties get married, so anything produced as a result of these efforts would also be part of the community. The medical building was purchased after the marriage when Ralph Adler sold the small building he previously owned. He got four million and put it into the new building which, over time, had grown in value to 26 million. The increase was due to Ralph Adler’s genius at redesigning the office space to maximize the number of medical suites and because he was relentless at making sure every square foot was leased at good rates.

But from reading the trial brief submitted by Ken Rapp, which was part of the Clerk’s Transcript, Kelly could see he was taking a more direct approach. The law in California presumes that any asset acquired during marriage is community property unless the parties expressly agree in writing otherwise. Ralph Adler was no doubt smart, but he had not thought to have a prenuptial agreement prepared so the presumption would apply.

Ralph Adler had formed a new limited liability corporation, “RH Investments,” to own the new medical building. And even though he was listed as the only owner of the corporation, it was still acquired during the marriage and presumed to be a community asset. Kelly knew that under the law, this meant that Ralph Adler would get reimbursed the value of his contribution, the four million which was

what he got from his original building, but the other 22 million would be community and Kristin would get half. The statute typically applies to down payments on personal homes, but it applies equally to any asset, even an office building.

Kelly thought the trial brief that Ken Rapp had submitted to the judge was well done, and she could see why he was confident that Kristin would be victorious at trial. But she also knew from working with Shannon Taylor that not all judges pay attention or even follow the law.

Kristin had told Kelly that when her case got assigned to the Honorable Harold Ross for trial, Ken Rapp was not pleased, but they really had no option.

The family law courts actually have their own building in Riverside, and that is where the Commissioners sit and rule on temporary orders. There are also several Superior Court Judges there who hear and decide the contested cases.

But in the case of Adler v. Adler, when it came time for the trial, all of the other judges were busy. The Riverside Superior Courts are often backed-up with criminal cases, so they often call upon judges from other counties to come in to help reduce the backlog. As a result, the case was first assigned to a visiting judge from Kern County who had a rather bad reputation, so Ken Rapp was forced to file what is called a "170.6" motion to disqualify him. This refers to the statute that authorizes attorneys to disqualify one judge, and only one, without any showing of prejudice. The attorney need only allege a belief that the judge is prejudiced.

Anyway, Ken Rapp was now stuck with the Honorable Harold Ross. He was 68 years old and long past the time most judges retire. He was tall, about six feet two, had a full head of white hair, tar black eyes and spoke in a deep gravelly voice. Those were the good features. He was also grumpy and impatient even on his good days, and would sometimes cut a witness off from testifying by waving his hand and saying "I've heard enough." He was more recently known to fall asleep during a trial even when a critical witness was testifying.

And worst of all, he disliked hearing divorce cases, even though that was all he had been hearing for the past few years. Attorneys who knew him would move heaven and earth to get another judge.

Ken Rapp had explained to Kristin that many family law attorneys had filed complaints with the state Judicial Counsel about the Honorable Harold Ross, citing his disregard of legal rules and his outright prejudice against wives who were not working, and his newly acquired habit of going to sleep in the middle of a witness's testimony, but nothing ever happened. The Riverside Superior Court was so swamped, that even a bad judge was kept working.

As though all of this was not bad enough, Kristin had told Kelly that the Honorable Harold Ross was also a close friend of Ralph Adler's lawyer, Peter Novak. They both loved golf and played together almost weekly, and their families traveled together to many fancy golf courses around the world.

Thinking back to her conversation with Kristin, Kelly shook her head and said to herself, "Unfortunately, friendship is not a basis for disqualifying a judge. But it

sure should be!”

Kelly Parks had questioned Kristin about Judge Ross and how he acted once he took over the case. “Did you see any prejudice or favoritism towards Ralph’s lawyer?” Kelly asked.

“No. Actually he seemed very fair at the beginning. Ken filed a motion to force Ralph to give us any other financial records he had which weren’t in his office when we took everything. Ralph had vigorously opposed the motion, but Judge Ross still granted it,” Kristin explained.

“Maybe this had something to do with Ralph changing positions. Shortly after the ruling, Ken got a letter from Ralph’s attorney saying that he would permit him to testify. Ken actually was a little disappointed. He said, ‘The good news is we can now take his deposition. The bad news is he’s free to testify and support his expert’s crazy opinion.’” Kristin added.

Ken Rapp quickly rescheduled Ralph Adler’s deposition. He first wanted to know if there were any assets not on the initial Declaration of Disclosure.

“Mr. Adler. I’ve marked as Exhibit A to the deposition a copy of your Declaration of Disclosure. Please look it over and tell me whether you are now aware of any assets owned by you that are not listed,” Ken Rapp asked.

Before he could answer, Ralph Adler threw a glance towards his attorney, Peter Novak, who interrupted and handed Ken Rapp a Revised Declaration. “We did everything so fast after you filed that Mr. Adler neglected to add a partnership interest in Arizona that he has,” Peter Novak explained in a casual off-hand way.

Ken Rapp briefly looked at the new Declaration and became furious that it had not been produced earlier. All of their work with Ira Penske to prepare for trial had been focused on the medical building.

“I suppose you’re gonna say you just forgot this partnership existed?” Ken Rapp asked Ralph Adler with considerable frustration.

“Objection,” Peter Novak said quickly. “Mr. Adler has now corrected his declaration and that’s all that is important.”

After hesitating for a moment, Ken Rapp decided to let the matter drop and have Ira Penske make an analysis and put a value on the partnership.

“Anything else?” Ken Rapp asked with suspicion.

“No,” Ralph Adler answered.

Ralph Adler was Swiss on his father’s side of the family and had a hard “I know better than you” appearance whenever he dealt with money. He was 65 years old, five feet eight inches tall, had bushy eyebrows and penetrating blue eyes. He had been blond when he was young, but he now had pure white hair. He was wearing tan slacks with a white dress shirt and dark brown loafers. He seemed to never blink his eyes when he stared at someone. And he had an annoying characteristic. He almost always had a slight smirk on his face.

Ken Rapp wanted to know about the mortgage on the residence in Palm Springs. Kristin had told him, “Ralph told me he was refinancing the mortgage to

get a lower interest rate, so I just signed whatever he gave me.”

But after Ira Penske was hired and started looking into the financial records, he discovered that the original mortgage was only one million, two-hundred thousand. But when Ralph Adler refinanced, the new mortgage was for three million, five-hundred thousand. Ralph had pulled out two million dollars.

“Mr. Adler,” Ken Rapp asked, “when you refinanced the mortgage, did you take out two million in cash?”

“Yes,” Ralph Adler answered, starring right at Ken Rapp.

“I suppose you can guess my next question,” Ken Rapp said. “What did you do with it?”

After looking over at Peter Novak , Ralph Adler said irritably, “I put the money into a limited partnership in Phoenix, Arizona. We built an apartment complex. It’s called Golden Acres.”

“What is your ownership interest in the partnership?” Ken Rapp asked.

“I have a one percent general partner interest and a forty eight percent limited interest,” Ralph Adler said.

“Who are the other owners?” Ken Rapp asked.

“CW Development has the other GP interest and a forty six percent LP interest. The other four percent is owned by the family we bought the property from,” Ralph Adler replied.

Ken Rapp took a short recess from the deposition so he could speak with Kristin privately. They walked out into the hallway and shut the door so they could talk in private. “Did you know anything about this partnership?” he asked.

“Nothing. This is total news to me,” Kristin said. “I knew he went to Arizona a lot, but we just never spoke about business. He handled everything, and my job was to take care of Jeff.”

When the deposition resumed, Ken Rapp asked Ralph Adler, “Did you ever inform Mrs. Adler of this investment?”

Now looking almost belligerent, and with that slight smug look on his face, Ralph Adler said, “We never talked about business, but she signed the tax returns and could’ve seen the partnership K-1 annual statements.”

Ken Rapp asked Ralph Adler many other questions, including why he had reported Kristin to the Child Protective Services because that could impact what the court would order him to pay for Kristin’s attorney fees. After the deposition, he and Kristin met in his office to discuss the case.

“Things are looking very good for you, Kristin,” Ken Rapp said. “The way I see it, the community has the medical building and now the partnership in Arizona, which I can just guess at this point might be worth another ten or fifteen million. You and Jeff are gonna be just fine.”