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PLACE

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# LEO'S DILEMMA

“He’s been here since noon, Moody,” whispered Linda, my long-time assistant. “Said he’d wait for you.”

An old man was in my outer office. I’d just returned from a late afternoon arraignment on a cold December day. He was asleep in my reception-room chair, an ancient Burberry topcoat wrapped around him like a blanket, a cashmere scarf protecting his neck. His eyes were closed and a string of spittle moistened his chin. His troll-like face was wrinkled and his mottled pink scalp was guarded by strands of flimsy white hair in a Rudy Giuliani comb-over. He didn’t look nearly as formidable as I remembered him.

“I know him,” I replied. “Leo Bernstein.”

“Former client?”

“Family friend. Haven’t seen him in what—maybe 20–25 years?”

The whispering woke him. Bernstein opened his eyes, looked around, and found me.

“Mendel? That you, *boychik*?” he said, in a thick Eastern European accent.

Linda’s eyes widened. She’d heard me called a lot of things, but never Mendel.

“It is, Mr. Bernstein. I haven’t seen you in ages.”

“No, you haven’t.”

He rubbed his eyes, paused, looked the place over. “You got a cup coffee? Crown Royal?”

“Sure. Linda, please?”

"Mendel?" she replied.

"My name before I became Moody."

She rolled her eyes and walked away. I turned to Bernstein, now fully awake.

"She your girl?" he said.

"Assistant."

"Too good-looking for that. She should be your girl. You ever get married?"

"Once was enough."

"Kids?"

"Child-free," I replied.

Linda returned with coffee, Crown Royal, mugs, and shot glasses on a plastic tray. Bernstein poured the whiskey and threw it back, letting out an extended "aah" and licking his lips. He poured another and downed it just as quickly. I sipped mine. Bernstein was still sitting, I was still standing, as he reached for a coffee chaser.

"Let's go to my office," I said.

He rose and we headed off. He was slightly stooped, but walked steadily and briskly, with a minor limp. The years had shrunk him down from the six-foot, 200-plus pound blustery bull I once knew. He looked tired and worn, maybe ill, but I imagined plenty of people in their late 80s look tired and worn.

As we entered my office, I asked, "Why haven't I heard from you all these years?"

"I could ask you the same, but I'm not here to chide you, Mendel. I don't have time. I got a problem and I need a lawyer."

"You've got lawyers by the truckload," I said. "What do you need me for?"

"I need a lawyer I can trust," he replied.

"I think I'm flattered. What's going on?"

"It's a long story."

"What's the short version?"

"I have two wives."

"Oh. We'd better sit down."

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Bernstein parked in the old, indecently comfortable leather club chair I'd found at a yard sale. It was where I sat when clients weren't around and I had a minute to myself. Lately, I had way too many minutes to myself.

He was now sipping coffee, coat and scarf still wrapped around him. "I get cold," he explained.

I searched my memory for the last time I'd seen him. It was 25 years ago. I had just passed the bar and been sworn in. I was living at home. Bernstein rang the doorbell at 6 a.m. My parents were up, I wasn't. He marched into my bedroom.

"Wake up, Mr. New Lawyer," he bellowed, shaking me awake. "I have your first client waiting in the kitchen."

Leo Bernstein was a Holocaust survivor and so was the man he brought with him. My grandparents, immigrants themselves, were part of a social network that welcomed the survivors. My grandparents helped them adjust to their new lives in America. They would gather at my grandparents' home to eat, drink, play cards, argue politics, and talk of past horrors. I got to know them



when I was a small boy because instead of hiring a babysitter, my parents would drop me at my grandparents' when they were going out.

The survivors liked me and I liked them. As I got older, I stayed in touch with some of them. They called me Mendel. That was my real name, Mendel Jones. The Jones came from an immigration officer who didn't have the patience to write "Yanovitz" on my grandparents' immigration papers. To the survivors, I remained Mendel long after high school buddies nicknamed me Moody to describe my temperament.

The man Bernstein brought that morning had a daughter with a possession charge against her. I followed up, made a deal, got her off, and became a hero. Soon the survivors were bringing me all their legal problems.

Then they started dying off. Weakened by their life events, they were a vulnerable population, many going before their time. And here was Bernstein, smaller and frailer than the brash, confident man I once knew. The last of the survivors from my childhood.

Bernstein was unique. Instead of being shattered by the Holocaust, he gave it the finger, put a chip on his shoulder, and got rich. Very rich. From a journeyman carpenter he became a builder. From builder to developer. Along the way he bought a distressed factory or two, turned them around, and began manufacturing construction materials. Soon he had a small empire. Then a big empire, and was rumored to be worth many, many millions. He also had a wife and son. I knew and liked them both.

Now, 25 years later, multimillionaire Leo Bernstein was in my office, drinking my booze, and about to tell me a story. I was all ears.

“Two wives?” I asked.

“Yes. For some, one is too many. I happen to have two. But I didn’t know.”

“Didn’t know what?”

“Didn’t know I had two wives,” he replied emphatically, as if I were daft.

“Tell me about it.”

“It began before the war,” he spoke slowly. “I was married young, to Tova, a beauty. Inside a year, we had a son, Jacob. We were living in Dinow, a small town in Poland. Another year and the war reached us. They took us all away.”

“I know.”

“Be quiet. Let me talk,” he reprimanded me. “They put us on a train together, then separated us. I went to Dachau. I didn’t know where Tova and Jacob went. It made me crazy. I was in Dachau three years before I was liberated.”

“What then?”

“They put me in a displaced persons camp. When I got there, every day I asked about Tova and Jacob. First they tell me there is no record of them. Then I am told they are dead. I expected that, but still it was a shock. I tried to cry, but couldn’t. After three years in the camp, I was hollow inside.”

Maybe he couldn’t cry then, but his eyes were welling up now. I offered a tissue. He brushed it away.

“Don’t be so tough. Take it,” I said. He did.

“I met Miriam at the camp,” he continued. “She had a son, Simon. We were lonely, frightened, and we liked each other. We married in the camp. She had relatives in Detroit, so we came here. Later, we fell in love, and I adopted Simon. We tried to have more children, but it was not possible.”

Bernstein stopped and downed his third shot of Crown Royal. I thought I’d be driving him home. Then he pulled out a pack of Chesterfields. I shook my head no. He ignored me, took out an old Zippo, and shakily lit up. He inhaled deeply, as though lung cancer was just a fantasy, and exhaled the smoke in a stream directed to the ceiling.

“I think I know where this is going,” I said.

“If you’re thinking Tova is alive, you’re right.”

I let that sink in.

“This sounds like *Enemies: A Love Story*. Isaac Bashevis Singer wrote it. You know it?” I asked. “A survivor marries the woman who hid him during the war, has a woman on the side, and then his wife comes back from the dead.”

“I know it well. I’m living part of it.”

“Keep going.”

“Five years after we settled here, a telegram came from an agency that had been tracking down people missing in the war. They found Tova and Jacob. They were living in Brazil... Rio.”

“Brazil?”

“She had family there,” he replied.

“They’d been in Gross-Rosen, a slave labor camp. I have no idea how they survived. But they did. Suddenly, I had two families.”

“What happened next?”

“I told Miriam a cousin was found in Rio and I needed to go there. It was a reunion to end all reunions. Tova and I hugged, kissed, danced; we made love. I realized I was still in love with her. But now I had two wives—and two sons. I didn’t know what to do. I wanted advice. I made calls. I talked to people, even rabbis. You know what I learned?”



"What?"

"I wasn't the only one. Lots of people lost families. Some *chose* to disappear and start a new life. Other people *thought* they lost families, but really didn't. And people got separated, went missing, and turned up years later."

"Like here."

"Like here."

"Leo, I never knew any of this."

"I didn't either, and it was my life!" He was yelling.

"But you're still with Miriam."

"Yes. I had to make a decision. Who would I be with? Which one? It was a dilemma, but I was surprised how easy the decision was for me. And how difficult it was to live with it."

He stopped, sipped coffee, dragged on the Chesterfield and extinguished it in the mug.

"Where was this going?" I wondered. Was there some legal work coming out of this conversation? I wouldn't turn it down.

"As much as I loved Tova, I had already grieved for her when I married Miriam. I could not choose Tova and grieve again, this time for Miriam. I chose to stay with Miriam. I dreaded telling Tova. But she surprised me. As happy as she was to see me, she had also built a new life for herself and Jacob. She did not want to come to America. She encouraged me to return to Miriam."

"What about a divorce?"

"Divorce? Divorce? Who thought of divorce? Who could think? I was crazy from guilt and regret asking myself did I do the right thing? I came home and that was that. But I always sent Tova money. A little at first and more as I could afford it. I bought her a house, a car, I sent Jacob to dental school. She never remarried."

"Does Miriam know?"

"No. I never told her about Tova. But she knows I send money. She thinks it's for my cousin."

"Anyone else know about this?"

"Just me. Now you."

"Why now?"

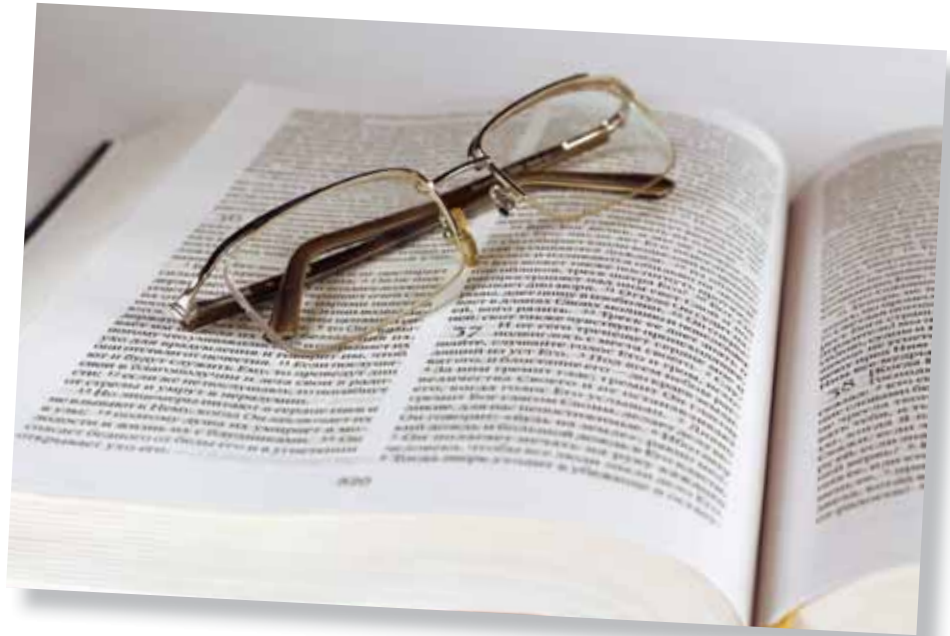
"Because I'm an old man and it's time to make a will."

"You've never made a will? You, with your gaggle of lawyers, no one ever insisted on a will, on estate planning? Leo, you've got a blasted kingdom. What were you thinking?" I was loud.

"Don't raise your voice to me, Mendel! You're still a *pisher*. I was never planning on dying. I went through Dachau! Those *momzers* couldn't kill me; I wouldn't give them the pleasure. You think the angel of death is going to take me on his timetable? No, Mendel!" he yelled back. "I make my own appointments. I'll die when I'm good and ready and not one damn minute before."

He was out of breath, a racking cough convulsing him, saliva spraying onto the front of his coat. He stopped, calmed, and continued.

"But the thing is, I'm ready."



I looked at him more carefully. It was then I noticed the pallor of the skin, the trembling of the hands. I wondered how much was physiological, how much emotional. He lit another cigarette.

"I'm sick, Mendel. Maybe a month or two left. The blotches on the chest x-rays were not so attractive."

Neither of us said anything. I didn't know what to say. A rush of memories flooded my brain. Bernstein, raucous and funny, making the other survivors laugh, telling off-color jokes in Polish and Yiddish, helping them forget for a few minutes the hell they endured. Now he was going through his own misery and his wealth could not save him. I would soon lose a friend I hadn't seen in more than two decades. I wanted to hear the stories again, to have him teach me Yiddish curses again. But it was too late. Bernstein was in my low-rent office confiding in me. His brigade of corporate attorneys had no idea he was here.

"No lectures, please. I got two wives, two sons, a few grandchildren. So, *nu*, who gets my money and businesses when I die?"

"Leo, your lawyers could draw up estate plans on their coffee break. Why me?"

"Because you understand us. You were always smart, a diplomat. No matter what I do with a will, someone will be unhappy. I don't want that. My lawyers are bloodless. They look only at taxes, trusts, and distribution. You'll find a way to spread the wealth without hurting feelings, without everyone going to court. It will be easy. Everything is in my name, corporations naturally, but in my name."

"Everything?"

"Literally."

I shook my head. I thought, "I don't know this stuff. I don't do tricky estate work. Who can I refer him to?" Then I plunged ahead.

"Tova's your wife, Leo. She's always been your wife. Your marriage to Miriam is void because you were already married when



you said your second 'I do.' It doesn't matter that you didn't know, didn't intend to deceive Miriam. The will? Set it up any way you want, but you can't cut out a wife entirely unless she agrees to it."

"What if there is no will?"

"Statutes say it would all be portioned out to your wife and children. But with so much at stake, I guarantee there will be lawsuits. Miriam will probably file against the estate because she's had no reason to think she wasn't your wife for the past 60-plus years, and she won't be too thrilled to learn about Tova either. Jacob and Simon will get in on it, too."

"There will be problems?"

"With all your millions at stake, either way, there will be nothing but problems."

A long silence followed. He closed his eyes and I wondered if he had fallen asleep. I knew there was no easy way out for Leo. Will or no will, there was going to be some nastiness coming. If he died poor, no one would care. Maybe some tension over a gold watch or a small bank account, but this was big, enough assets to fund generations of good living. Legitimate wife and son or not, no one was going to walk away from that kind of loot. There was simply too much at stake. Would they settle? Who knew? I also knew there was money in this for me, but what would it cost me physically and emotionally to be in the middle of a major-league family fight? Was I willing to pay the price of moving up the legal food chain to join the larger predators?

With a snort, he roused.

"Mendel," he said. "I'm 87 years old. Miriam is 82. Tova 88. Not exactly spring chickens. Part of me says leave no will and let the fun begin. Another says make a will, do a plan, give something to everyone, but you say the fun will begin anyway. Mendel, what is the right thing to do?"

"Leo, I'm a lawyer. I'm not qualified to tell you what is morally right."

He gave me a hard look, shook his head, and abruptly rose, handing me a business card. "Thank you, Mendel. I need to think. Send me a bill for your time. I'll call you."

I followed him to the outer office door. Linda smiled at him. He smiled back. We shook hands, his grip trying to show he still had some strength, then he embraced me and walked out with the bearing of a man carrying a heavier load than when he came in. He entered a black Cadillac and was driven away.

Like that, he was gone.

"Next time, close your door. I heard everything," Linda said. "It's an unbelievable story."

"Yeah, and more common than you might think. Let's go to the Onyx Club. Drinks on me. I'll tell you even more unbelievable stories. I've got plenty."

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Three weeks later a couriered envelope from Bernstein arrived. Its contents stunned me. He had created a trust explicitly giving me broad discretion to distribute his assets among Miriam, Tova, Simon, and Jacob in any percentage and amount that I saw fit. He also enclosed an inventory of assets and a retainer for an amount that was more than I'd made in the last three years. I called him, but he was unavailable. His assistant told me the instructions I had been given were clear.

Two months later Miriam called to say Leo had died the night before. The funeral would be in two days, and, by the way, she was not happy with the trust Leo had created. Her attorney would be in touch. Leo had been ill for a year. "Yes, lung cancer," she said, "and he was acting very crazy the last few months."

I knew the fun would soon begin. Not only would I have to act on Leo's behalf, but Miriam had hinted I would have to ward off attacks about my authority to do so. Leo had passed off his dilemma to me. I sighed and called Linda. It was time for the Onyx Club again. ■



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