

CHAPTER FOUR

“TRIALS BY FIRE”

The problem with losing legal momentum is it takes major effort to recover. I should introduce Paul's husband Sergei. Sergei had obtained US citizenship via political asylum. In December of 2011 I was working in Denver for the same agency where Paula and I shared the mutual manager. Shortly after the hearing, this manager, a federal administrative law judge, began contacting the office where I worked to create problems for me with my employer. This type of behavior is fairly common in divorces. At the same time, Sergei began sending me harassing emails in which my personal information was being used to fabricate the allusion I was on the chat boards across the internet gloating how I had cheated my ex-spouse and my kids out of child support and that this was a nefarious plan I concocted to “beat the system.” As Sergei was former KGB, possessed a Masters in Computer Science and enjoyed support from his asylum relationship with the government, I knew the man had the means and the mind to create some real trouble. Now I was no expert on the laws of evidence and knew the only way I could get emails in front of a court as credible was through an attorney. I suspected even if Paula's emails weren't accepted as admissible, once the court read the content, it would be difficult to doubt their authenticity. Within a short time, I retained counsel and had the case transferred my new attorney. In the interim, I was starting my second year in therapy as the litigation, and the repercussions involved were causing tremendous anxiety. Night after night, while lying in bed I vacillated between worry and anger. I was stuck with the reality my ex-spouse perpetrated a plan to destroy me personally, professionally, and emotionally.

Counter Punch

My second attorney, Simone, had her hands full. After reviewing the Paula emails, she believed a conspiracy was occurring. However, the initial handling of the case concerning the release of financial discovery had created problems which Simone would have to explain. The way to resolve this was to review child support payments and the party's financial histories. Simone also wanted Paula's medical records as she was claiming she was too disabled to work, which begged the question of parental competency. A hearing to assess Paula's medical records was scheduled in February, but dismissed when Paula was “miraculously healed.” This inevitably forced her to withdraw her claim for federal benefits, a well-played move which saved taxpayers three decades of unmerited disability payments.¹

The first trial was scheduled for July 2012. The oppositions strategy was to convince the court I had not paid child support and had deliberately concealed employment in the process. While child support was always paid in full, (two courts found such) my discovery release had revealed how much I made but not *where I worked* for reasons which I hoped by now were obvious. As this was a fact in evidence it was a matter of keeping the damage to a minimum, and

¹ The calculation for disability earnings is greater than what might first appear. Disabled individuals with children receive approximately three hundred per month per child. After two years of receiving disability benefits (SSDI) the disabled individual qualifies for Medicare. The monthly cost for a disabled individual then is roughly 1200 + plus two children (656.00) plus Medicare cost. At a minimum 22,272.00 per year (excluding Medicare cost to govt.

if possible, derail the oppositions momentum. The practice of law is like the game of chess. Those who prevail look several moves in advance. By now, six months had passed and Simone had included nearly thirty pages of emails suggesting a criminal conspiracy in our defense. Paula was backed into a corner. In a purely defensive move, Paula's attorney Ms. Schwasberg complained I had not released my full tax returns (we had provided the tax transcripts only) and my returns were required direct from the IRS all the way back to 2008. Simone hadn't submitted anything prior to 2011, the date of Paula's filing, as in family court discovery is limited by the date of the filing of a complaint. This was a first for me and I wondered why my previous attorney never mentioned this but instead had thrown us into a quagmire of a discovery release. The court took their position and inquired why more comprehensive discovery hadn't been turned over prior to the litigation. No response from my side. As I sat there waiting for Simone to respond to the question, the silence was awkward. When it became obvious Simone wasn't going to respond, the judge asked her "Well Ms. Leopold, did you read Ms. Schwasberg's demands in her motion to provide the information?" to which Simone responded she thought it was a "*different type of hearing.*" My eyes darted to my attorney while keeping my head straight, thinking "a different type of hearing? what would that be?" The judge continued, "Well Ms. Leopold, it would seem you would read the oppositions complaint and respond to it right?" to which Simone responded, "good point."

"Good point?" I wanted to slide out of the chair and under the table! By the proceedings close, the judge sanctioned me twenty-five-hundred-dollars and a huge dose of humiliation. Although at first it felt like my attorney had driven the bus I was thrown under, that wasn't the case. The court was keen enough to suspect Paula even at this early stage of the proceedings. The emails had done their work. The court was willing to consider their admissibility provided they were forensically verified. Additionally, what was good for the goose was good for the gander, both parties would have to provide full financial discovery from 2008 forward. If there was a paper trail supporting fraud on either side, it would be forthcoming. Simone had delivered a hefty counter punch to Paula's credibility. The next trial was scheduled for November. The court would calculate the incomes versus child support paid. Simone's defense was brilliant.

In an Unfortunately, nearly a year of litigation had already cost me thirty-four thousand dollars and the future would cost significantly more. Litigants lose objectivity and rationality in family court. By now the collaboration between Paula, her husband and now my father *was personal*, I was offended, and motivated by a direct emotional conduit from childhood, a lethal mix which has a tendency to produce inflamed self-righteousness which usually turns out bad for everyone. Having exhausted our savings, I parted with Simone and began preparing for trial as my own attorney, or what is known as "Pro Per." Forensic evaluation of the emails was the next order of business and I had no misgivings this was going to turn out well. Paula's attorney, was formidable with years of experience. If I had any hope of prevailing, representing myself would become a full-time job. I would need to outwit a fox. After returning to Colorado I made calls and found a firm specializing in the forensic evaluation of emails. It wasn't cheap. Besides the emails against Paula, several other emails had to be verified which reversed the portrayal of me as a deadbeat dad. The cost...twelve thousand dollars. At the same time, I filed civil suit against Sergei and Paula for conspiracy to commit fraud. Perhaps defending themselves in a civil suit might throw them off balance and help us recover what would amount to substantial financial expense. I contracted a paralegal to write the suit. I was impressed when I initially called him

and he picked up the phone! Attorneys rarely pick up the phone as they grow weary of clients telling them how to run the case and complaining about the latest bill. Having Simone, my new paralegal and the court now leaning in my direction made me feel better as opposed to Kendra who found my allegations hard to believe because Sergie was “always pleasant to her” (her words). The one person’s opinion who really mattered though was off the radar, Gods. This is one of the problems of self-righteous indignation, it completely obscures rational or reasonable thinking. If that truth was your only take away from this book it would be worth the read!

.....

Now as lead counsel for “my side,” I received the case file, which by this time was quite large. I began the process of familiarizing myself with what had occurred, the arguments made etc. to try and develop a path ahead. The forensically verified emails and Paula’s financial records would be the beachhead of my defense. After a quick review of the file the holes became clear. In response to discovery, Paula withheld years of pay stubs as well as the records from her unemployment benefits claim. Over sixty months of bank statements from her declared bank accounts were missing.² I was livid. The negligence of my first attorney was obvious and to complicate matters she had waived discovery rights against Paula *without my consent*. The file in front of me supported the exact fraud I had been alleging now for nearly a year. The problems were such any first-year law student could see it. I listed the missing evidence, assembled my declarations and called Paula as a witness for trial November 14, 2012. I arranged a deposition on October 17, prior to trial to obtain the missing discovery. The court would require an explanation. I had my ducks in order and a reasonable strategy that would undermine the oppositions credibility. By the first of October I was ready and when I boarded the plane to the Bay Area I had retained the court reporter and the facility to conduct the deposition in Santa Clara where we lived previously. While there, I was looking forward to seeing my kids.

Perspective and Legacies

I stayed in Santa Clara during the forty plus trials and hearings that occurred between September 2011, through August 2015. The travelling back and forth during the proceedings was softened by the opportunity to see the twins. It was in the Bay Area I became “dad.” As such, San Francisco has a personal affection for me. Our house there was the first that actually felt like “home” for me. In the kid’s bathroom, we had a crayon mural that covered the walls of our tiled bathroom representing years of drawings which may sound silly to an outsider but as a parent it was priceless! Like many divorced parents, I learned the community park circuit and passed many hours watching Disney movies together. The Santa Clara home was where I first introduced the twins to Jesus, each night reading the children’s Bible together (one of the best decisions I ever made), Early on I was well aware as a fallible parent it was God who possessed the understanding for what they would face.

Aging has taught me to appreciate how important *places* are in anchoring us to life’s experiences. I don’t remember many of my teachers from childhood but I do remember when they did something remarkable and the environment in which it occurred. My fourth-grade

² After a concession to end the litigation in April of 2013, outstanding subpoenas revealed Paula had not only withheld additional bank accounts, but had transferred money to her husband’s personal accounts prior to initiating the complaint.

teachers reading of the book “Sounder,” was my first introduction to race inequity. My sixth-grade teacher’s effort to return a forgotten baseball glove before summer break was my first experience with a Christian teacher, and my high school English teachers disappointment when she broke up a fight between me and another kid after school. Such events become fixed with the locations, smells and images of the experience becoming fixed points to understand our life, our progress, or how we’ve developed. They also become profound points of reference to help us understand our journey and make sense of it. Human beings are complex in that we simultaneously use spiritual, emotional and physical aspects in intercourse with a physical, emotional and spiritual environment. We interact with the world relationally and practically this way absorbing information and experiences drawing conclusions and making decisions from our perceptual lens. The clarity or at a minimum, the *honesty* of our lenses is crucial in determining our life and our legacy.

The reality is that life and it’s painful experiences can serve as reference points for no other purpose than perpetuating emotional chaos continuously relived by us with the full force of the original incident. Such memories can be triggered by an object, a recollection, a smell or even a visual reminder of an event. Consider the mixed feelings of 9/11 family members when they view the new trade center? We all experience pain to some degree as everyone experiences tragedy and disappointment albeit some greater than others. A question that all of us must embrace is what type of legacy will I leave behind? Painful events don’t exclusively produce negative results. At 42 I was offered the gift of parenting and fatherhood despite the circumstances and *I chose* to take advantage of the opportunity. I had to work to shelve the wives’ tale that mothers are the more suitable caregiver so I plunged (or rather stumbled) into fatherhood. Where previously insecurity fixated me on personal recognition and ambition this was vaporized as I found meaning in being a father. This by the way of observation is one of the reasons men without children rarely grow up. Peter Pan certainly didn’t! As this major transition occurred in the Bay Area, I became spiritually attached to it. Many who suffer from divorce struggle to find meaning in the present. Without a commitment to the belief that a new legacy can emerge the present becomes a recurrent reminder of the pain, nourishing bitterness over the many offenses that accompany it. One of the sad realities of children of divorce is their parents wind up traumatized (often unaware of it) and unintentionally steamroll their kids with ineffective parenting. Not all parents fall apart mind you as many do the hard work of resolving the change divorce brings. More often than not, I have listened to parent’s post-divorce describe how insignificant the impact of divorce was on their lives while the results in their children communicated exactly the opposite! Attachment to either people, places, or things requires examination and an answer to the question what does this perspective contribute to my legacy?

During these trips, I was reminded of failure and the fact my children were stuck between two parents who hated each other. The feelings of grief did subside with each visit slowly. As I continued healing and left behind who I was with Paula to who I was becoming in Christ a long-sought peace painfully and slowly emerged. The fall of 2012 would be the catalysts for major transformation. It would be the point in my life where I broke free of my father’s legacy and started living for my own.

Deposition: The First Attempt

The day before the deposition I went over to the facility to familiarize myself with the environment. It was about four pm in the afternoon. I was anxious never having conducted a deposition and I was hoping not to screw it up! While touring the conference room my phone rang, it was from Paula's attorney. I answered the phone and was addressed by a paralegal who informed me Paula would not be attending the deposition tomorrow as her mother was sick and she needed to take care of her. I just about crushed the phone in my hand. Paula's attorney had already asked to reschedule the deposition once and was now deliberately stiffing me having me incur the loss of time and money in an act of contempt. The deposition was critical to support my arguments without stumbling into a jumble of unsubstantiated hearsay. For the next 24 hours, I drove around the Bay Area visiting my old haunts trying not to worry. When I boarded the plane to Colorado I was feeling defeated. There would be little if any chance to reverse my opponent's momentum now that they had not complied with the requirements of deposition. When I returned, I filed motion to force Paula's attendance at deposition and to produce under subpoena, the discovery they were concealing. Let's just say I was having less than helpful fantasies about retaliating on my ex-wife *and* her attorney. Derailed due to the deposition, I had the fear if I didn't get this trial right the court might spot rule on her allegations. In family court, often an ex-wife can make an allegation and the burden of proof becomes the husbands. The same is true for women as through the Sentinels-For-Christ I've heard tales of similar grief perpetrated by men; angry husbands, who lose all sanity when it comes to modesty, and choose the "overwhelm and destroy" strategy. The family court system in the United States is a broken bureaucracy that often destroys the lives of its participants. Its managed by disinterested employees who lose a little more of themselves each time they are subjected to one more couple trying to destroy each other in court. When we add to this, the attraction of government benefits and the capacity for human hate there's job security for all! It's simpler in China. The spouse with more money gets custody barring some evidence of gross parental incompetence. Not so in the United States where were told from birth women are better caretakers under the cultural assumption because they give birth they *must* be more competent which seems problematic as one remembers it was Eve who handed Adam the apple of death!³ The feminist counterculture demands equal rights, equal recognition and holds employers liable for disability and maternity leave expecting tax payers to carry the tab, and then through the family court system beats the deadbeat dad drum heralding the evils of misogyny for the simple fact *the simple minded will listen!*

No wonder parents, exasperated by this system and after years of abuse resort to desperation. Can you blame them? I'd argue the family court system is a much responsible for family violence as the participants themselves. I'm grateful, in my own ordeal, God provided grace upon grace to keep me from plummeting into "crazy land." Undoubtedly those praying for myself and my family helped prevent a collapse. I've talked with post court weary spouses that were bitter, wounded, hateful, emotionally traumatized and permanently damaged from their experience with court. No one should be subjected to such gross incompetence or apathy. The encouraging news is it doesn't *have to ruin us*, yet for many it does.

The Second Trial November 2012

³ There's no evidence to suggest what type of fruit it actual was in the Genesis account. But there's sufficient evidence to say Adam was the stupidest husband in the world for taking it. This would argue more for joint incompetency more than gender based superiority!

The morning of the trial came and I swung by my forensic expert's hotel to pick him up. We arrived at court at eight forty-five. By now I was accustomed to the particular courtroom we would use and there is definitely something to be said for familiarity. My process server was attending as Paula not surprisingly, regularly claimed she never received documents from us. The case was called and immediately Paula's attorney launched into an attempt to convolute the proceedings complaining of discovery infractions.⁴ Somewhere in her tirade I mentioned I had flown an expert witness to testify to the authenticity of the emails as the court ordered. There was over a hundred and fifty thousand dollars and possible contempt charges riding on whether the court believed his testimony. The judge allowed my expert to go first which stopped their momentum. The examination painfully but thoroughly established two items as fact. One, the emails from Paula's email account containing the plan of disability fraud were authentic and forwarded to my account in 2010 and two, the emails were timestamped nine months before Paula filed a complaint in the family court and written almost one year to the day prior to Paula filing for federal disability benefits.⁵ Paula's attorney was at a loss in her cross examination of the expert as she lacked understanding of email forensics. As the expert explained the forensics process to the court it became apparent someone, had in fact authored the fraud emails and they uncomfortably coincided with my ex-wife's disability claim. Reasonable doubt was established.

After a short recess, we reconvened and it was the other side's opportunity to put Paula on the stand. From there it went downhill. The examination of Paula with an accompanying twenty plus exhibits and a cogent presentation of her as "victim" landed a punch. When questioned by the court over the accuracy of my initial financial disclosures I did as best as I could but I was digging myself out of a hole. Being my first trial experience, I performed rather poorly. My only defense was I was trying to recover from a strategy failure. By trials end, the court was inclined to believe Paula and even challenged whether I paid child support and questioned the credentials of my expert witness. What was meant to be a trial dedicated to computing financials and child support payments never took place. The court concluded my expert failed to establish conclusively the emails were credible and tasked me with doing more to authenticate them, really? The people I had used were the best in the business. Their clients included the U.S. government. They used the techniques that were the industry standard for email forensic verification including the same methods used in congressional hearings including the recent IRS scandal and "Benghazi Gate." There was no doubt the ditched deposition had shipwrecked my effort to claim the offensive.

Up to that point, I had never been associated with anything that felt so out of control or corrupt. Before we concluded, I reminded the judge of the December motion to compel attendance at deposition and noted Paula's 30 months of missing financials. If I was correct, the evidence would implicate Paula and take the spotlight off me. The court acknowledged this which provided the opportunity to also mention Ms. Schwasberg stiffed me at the October deposition. There was a minor reprieve by the judge and something in his demeanor changed. He requested explanation for the failed attendance and discovery production, specifically almost

⁴ Paula's attorney was undoubtedly either directly or indirectly behind the idea of Paula not attending deposition.

By now the court possessed the authenticated fraud emails and the proceedings would continue to be a full-fledged character assassination of the other sides credibility.

⁵ Before receiving SSDI benefits applicants are required to demonstrate on year of no work or employment.

three years of missing bank statements, pay stubs, and unemployment benefit records. We ended the hearing and scheduled another trial January 31, 2013 at which point the judge remarked “Hopefully we can wrap this up.” As we left the court room my expert remarked it was obvious the judge was not feeling amorous towards me, undoubtedly meant to make me feel better, it didn’t. The second trial was very difficult. I was portrayed the villain. Terms like “conspiracy” “negligent father” and spouse abuser were used copiously. I spent the next two hours in a daze taking the expert to the San Francisco Airport for his flight back. As I dropped him off at the terminal he asked if I was going to be all right. I had just had my head served back to and get me and I was in the place where the lights are on but no one’s home. I dropped him off and drove the forty miles back to Santa Clara to my hotel.

A Supernatural Rescue

I didn’t call Merry who had left several messages by now. I couldn’t talk to her. When I arrived at my room I went inside and sat on the edge of the bed with the lights off. I thought “they are going to get away with it.” It was one of the lowest points in my life. I have seldom felt as “empty” as I did that night, tears draining quietly as I looked out the window. I considered hanging myself in the closet. I was a *very* dark moment which I can’t properly convey. In retrospect, I realize I was under spiritual attack. In a fraction of time I saw a little child in the body of a man, frightened, betrayed and worst of all... *powerless*. It also didn’t help I had been dreading this since 2010. In such circumstances, the quality of our lens becomes evident. If our lens promotes distorted perceptions of reality we lose the ability to see alternatives or reality for what it is. No wonder so many suicides occur in hotel rooms away from the support of family and friends. I felt my problems were ruining my family’s life and the system was aiding and abetting a couple of people who probably should be incarcerated. Merry’s life and could find someone else. “How long was this nightmare going to continue?” Rational or “positive thinking” had long since departed depleted by prolonged depression and physical exhaustion. I was broken. I placed my face in my hands. I had hit the bottom and my spirit cried out.

Gods Response, Grace

I wish I could tell you when I asked for help I felt something emotional or spiritual that confirmed the presence of deity in the room. It didn’t happen. I didn’t hear an audible voice either. There was a penetrating clear thought in my mind, where I saw Jesus, the Son of God with the power of creation at his fingertips, standing in a torch lit courtroom in the middle of the night, convened by the very creatures his power created being cross examined by a group of self proclaimed religious experts who demanded he explain why he did such outrageous things like heal people on the day you went to church? His accusers framed him with bribed witnesses as they bribed Judas to falsely accuse him. It was a well contrived plan; convict and discredit Jesus in the eyes of the Jews and get him executed by the Romans for sedition. The gospel of Luke tells us the smartest and brightest men of his time let the proceedings degenerate into blindfolding Jesus, making sport of him, punching him in the face asking him “who it was who hit him last?” “fight club” coward’s version. Then Jesus confirmed his own death sentence by telling them the truth, “Yes, I am the Son of God.” While this image filled my mind, I was stunned by a piercing thought and voice which appeared as clearly as light... “Look what My Son went through.” It broke the downward spiral in the room and probably saved my life.

Depression is an insidious prison for those crippled by it and by the time the individual suspects they are depressed they've already created the power that accompanies its grip. We feel depressed which depletes energy, reducing our mental faculties and because we lack energy, we can't take action to break the cycle of depression, simplistic for sure, but depression 101 in a nutshell for the water cooler debate. When a "depressive mood" is coupled with severe stress or prolonged trial it inflicts *significant emotional distress* which should not be underestimated. For those who have experienced depression I'm repeating history. God in His grace turned the spiritual light on in my hotel room that night and I started thinking about my life, my years in the Catholic Church, the knowledge I had about Jesus and the limited understanding I had of God. I think for the first time in my life I had a glimpse of the humiliation Jesus suffered at the hands of unjust men in an unjust world and I marveled *and cried* at how the Son of God tolerated such abuse the night before he died. I wouldn't have. Earlier in the day if I could have pushed a button vaporizing Paula and the court staff I would have done it. Knee deep in the midst of anger and resentment I couldn't escape the fact Jesus *didn't* strike back. Throughout his trial and crucifixion, he lived what he taught:

You have heard that it was said, 'AN EYE FOR AN EYE, AND A TOOTH FOR A TOOTH.' But I say to you, do not resist an evil person; but whoever slaps you on your right cheek, turn the other to him also. If anyone wants to sue you and take your shirt, let him have your coat also. Whoever forces you to go one mile, go with him two. Give to him who asks of you, and do not turn away from him who wants to borrow from you. Matthew 5:38-42⁶

The next time someone refers to Matthew 5:38-42 allegorical consider this: Jesus really did *turn the other cheek* while having his beard ripped out after being beaten by his accusers and Pilate's soldiers. Jesus *gave* his cloak away. That's right! He had it stripped off by religious hypocrites and in return offered grace! The distance from Pilate's court, and the hill outside of Jerusalem where Jesus was crucified was well over a mile and since Jesus was probably carrying a 50 to 75-pound piece of lumber on his back that qualified him as "going the extra mile." Finally, Jesus certainly "gave to those who asked not turning away for those who *wanted to borrow* when He *gave everything* for us. Jesus understood his purpose. How many of us can say that? He remained resolute until His death, the perfect example of the Father's love, unconditional, unmerited grace towards the graceless. "For God demonstrates His love in that while we were still sinners Christ Jesus died for us."⁷

Be very careful the arguments you entertain which water down the impact of the sayings of Jesus. We westernized Christians who have never suffered significant persecution compared to our brothers and sisters in hostile nations would find puzzled expressions to our "emergent interpretations" of scripture that downplay the cost of discipleship. The same Jesus that says "If any man should come after me he must deny himself pick up his cross and follow me." Is the same Jesus who by the way, carried such a cross.

⁶ Unquestionably portions of the SOTM and Jesus teaching were said for "shock value" to illustrate a point.

However Matthew 5: 38-42 was exemplified in the life of Christ himself, it's not allegorical.

⁷ Romans 5:23

The night of November 12, 2012 passed immersed in grace. My wife Merry found it amusing how easy the U.S. courts were manipulated. She remarked “How was it Americans regularly criticized her country when the Chinese had enough common sense to shelve political correctness when it came to custody and children?” She had a point. Over the next few days I was acutely aware of how the courts appeared unable to administer justice.

Actions and Consequence

Shortly after the civil suit was filed. Now in will the emails in question were in two judicial venues. Paula’s defense at this point was I had planted the emails in her account. Evidently, I had foreseen her disability claim and placed the emails in her account in fall of 2010 to have Paula magically carry out the exact plan of fraud the emails detailed I was alleging a year later. This included by the way, the suggested timeline of implementing the fraud and the exact disability symptoms suggested in the emails which wound up on Paula’s disability application! In the post-trial validation, my forensic expert traced the emails to the same I.P. address used by Paula to send emails to me which ended up being the hard I.P. address registered to the router rented from her internet service provider.⁸ While I began to experience some measure of progress legally, I was oblivious to how caught up I was. I was so intent on avenging myself, I had created a prison of hate which was consuming me and feeding my own bitterness. Instead of attempting to find resolution, I did exactly the opposite. I pushed harder and harder to satisfy what had become an obsession for revenge. Hindsight is always easier. I can give you a hundred reasons why my actions made sense at the time, but knowing what I know now I would have acted differently even if Paula and Sergie maintained their attacks on my family. I also learned from the process, putting your future in the hands of secular courts is a high-risk venture.⁹

The next item of business was the December motion to compel deposition. What I didn’t known at the time was five days after the November trial Paula deleted the email account destroying the evidence of the fraud emails.¹⁰ Preparing for deposition having never conducted on before was difficult. By the time the hearing rolled around the court had a solid motion to produce evidence under court order. The oppositions position was so compromised they didn’t bother responding in declaration. When we arrived in court, they attempted to allege I wasn’t paying child support nor had I paid the twenty-five-hundred-dollar sanction levied against me earlier in July. The court was more interested in three years of missing bank statements, pay stubs and unemployment records. They were ordered to attend deposition January 10, 2013 and for failing to comply with the October deposition, they were sanctioned twenty-five-hundred-dollars effectively washing out my earlier reprimand. It was bad day for the other side and one of the few “victories” I had in court. It was evident the judge was reading between the lines. There would be no winners’ in this ordeal. As Paula’s legal fund was being bankrolled by family, and in part by my father, the litigation would continue. Paula, like many before her, had become stuck in the resentment divorce creates. While Paula’s dissatisfaction might have been aimed at me presently, the seeds of her dissatisfaction were alive and well long before we met.

⁸ Revealed by Subpoena in trial November 2013 in a separate action.

⁹ Matthew 5: 21-23

¹⁰ To Which she admitted in open court and... escaped sanction.

In conversations with post-divorce individuals, its not uncommon for them to explain how easy it is to fall prey to the victim complex. Individuals share they resent the other party's healing as their own evades them. Unwilling to examine their own dysfunction, it becomes nearly impossible not to go on the attack. I have talked to numerous men who regularly have their visitation time cancelled at the last minute for the purpose of creating havoc and emotional pain. They wind up so angry they're prohibited from thinking rationally. The victim complex is counterproductive to healing and if continued it increases in negative rewards. Individuals become "relative historians" of the truth becoming impossible to reason with until they hit their own wall or start the work of forgiveness. Paula and Sergei by virtue of their own choices, were living on one income in one of the most expensive places to live in the United States. The stage was set for victimhood. I'm sure the stress was unbearable on them and caused immense difficulties. Their plan was unravelling and now the hopes of increased child support and a lump sum of money was becoming increasingly remote. The motion to compel attendance and produce discovery prevailed. There was no way to avoid the discovery concealment now; they were court ordered to produce it. The deposition would occur January 10, 2013 with a third trial scheduled for January 31.

Deposition

By now I had experience. I arranged the second deposition with the same legal service and began to write my trial briefs leaving holes to fill in with what I assumed would be evidence obtained at deposition. I had prepared about 45 minutes of questions and I expected no cooperation. Ms. Schwasberg had offered her office to which I declined. The deposition would commence at 9am. The day was over cast and damp. While driving to the deposition I rehearsed what to say to not to forget any crucial details. It felt like a "calm before the storm." I have an innate loathing for conflict and I was definitely way out of my comfort zone.

Paula arrived on time with her attorney and Sergie in tow. We got underway and I unleashed an avalanche. Where were three years of missing bank statements? Where were the unemployment records, the pay stubs? It went on and on which resulted in Paula and her attorney grudgingly producing one stack at a time. Lest they withheld anything, I reserved the right to compel further discovery should they of "forgotten something."¹¹ After the exhibits were marked as evidence I began the direct questioning. Since everything was on the table and my back was against the wall, everything was relevant. It was a sad day indeed for all concerned. I drilled Paula to develop a record for an hour and a half while she squirmed in her seat, Ms. Schwasberg objecting regulalry. Paula contradicted herself so many times I lost count. Learning via subpoena she had destroyed the email account in November I asked what specific date she committed this act to which her attorney requested a recess realizing her client was in a mine field. She took her outside to craft her response. Upon returning, they refused to answer the question which was notated in the record. In the process of the questioning they admitted they used our former manager to contact my work to extract terms of my employment. I saved the best questions for last which revolved around whether she had in fact provided all missing discovery in response to the deposition. This was in part due to a failed effort to conceal records by Ms. Schwasberg at the beginning of the proceeding. While producing records, her attorney snatched one particular piece of paper off the table and tried to hide it by dropping it on the floor.

¹¹ A standard practice that is written into the motions or agreements regarding any discovery.

Frankly it was embarrassing as even the court reporter looked up at that this point raising his eyebrow.

In response to this, I asked Paula if she revealed all her bank records. She hesitated, mumbled something and said there was another account and she reached for the paper on the floor. The subsequent review of the document revealed Paula had in fact not been forthcoming when she was asked in trial whether she revealed all her bank accounts a problem for sure. More importantly, the account revealed Paula had emptied her accounts the same day she signed her income declaration declaring zero assets. By the end of the deposition they were trying to get out of the room so fast they were stumbling at the door like a vaudeville act. I probably had enough information at that time to request a meeting with the district attorney for conspiracy and fraud but my goal wasn't to destroy Paula. It was to stop the bleeding, move on and frankly, forget these two. I offered mercy because three months earlier in the hotel room I had come to a partial understanding of just how much mercy I had received. It was only partial though.

The Third Trial and Reprieve

The deposition proved sufficient to support perjury and conspiracy. The destruction of the email account was devastating to their position. The evidence obtained showed Paula had also concealed the receipt of unemployment benefits apparently to receive a larger amount of child support. It would be hard to dodge this bullet. I prepared a three-hundred-page brief for trial January 31, 2013. At the time, Merry was working full time and in school as well. I can't tell you how many nights after the kids were in bed Merry sat downstairs at the dining room table reading her books and writing papers while I was in the office writing legal briefs. Trial day came on January 31st and I flew in feeling better after the November fiasco. For nearly a year and a half Paula had prevailed in court and now the opportunity to turn the tide was at hand. We were scheduled for another three-hour trial and for the first hour and a half they were on the defensive responding to the concealment of evidence. I had learned by now when not to talk, hold my tongue, and let the court do the work. When the judge realized, Paula destroyed the email account evidence a heated discussion ensued between Ms. Schwasberg and the bench. I have to admit I breathed a sigh of relief and experienced some satisfaction at the pounding they were taking. The court found I calculated *all income* from 2008 forward correctly, and *always* paid child support. The argument of retroactive child support was demolished. While Ms. Schwasberg argued vehemently, the judge finally interrupted her saying: "You're not getting any retroactive child support and he notified her of his work putting your client on notice." I watched a one hundred and fifty-thousand-dollar liability vaporize in front of my eyes. Undeterred, Ms. Schwasberg fired back with "We have an obligation to protect the children and make sure their standard of life is maintained!" which made no sense as the court had calculated and already ruled child support was paid in full,¹² she was yelling at the judge at this point (yelling at the judge is never a good idea by the way), to which the judge responded "Listen Ms. Schwasberg, you're NOT getting the retroactive support!" "She (Paula) was on notice he was working by the emails he sent her." Now the other side was incurring the court's wrath for manipulating the discovery process. The court ordered discovery would remain open for me to subpoena bank records and to obtain the unemployment records. Paula's strategy backfired and

¹² The court had also determined I had overpaid support in 2009. This argument of not paying support was again presented by the District Attorney's office in the subsequent criminal matter.

now “welfare fraud,” was stamped on her forehead. I immediately filed a request to change primary custody. The court scheduled another trial for April 2013 (the fourth in less than twelve months) with the hope we could finally resolve the case. It was a major win as I had prevailed against an experienced family law attorney (for the second time) with God’s help for sure. I requested the missing records by correspondence after the hearing with no response so in February I filed a *second* motion to compel discovery with a hearing calendared March 1st 2013.

I really don’t know why they call attorneys officers of the court. In the Marines, if an officer conducted themselves like most attorneys I’ve met they wound up missing in combat. I guess it’s supposed to establish some form of credibility so the system feels better about itself. I was asked at one point by the judge when I accused Schwasberg of withholding evidence was I accusing an “officer of the court” of impropriety to which I responded “Yes” she lacked credibility. The judge responded, “Now I know you don’t like her Mr. Grier but give her some credit, she’s got no eggs in the game.” While Judge Mitchell was an honorable man, my experience is *most* attorneys, not all, are experts at *distorting* the truth. Particularly those outside of contract law. Make your own judgment but if you’re going to go toe to toe with me in an opinion, litigate twenty of more proceedings first. Fortunately, I’ve had the privilege of knowing some quality attorneys. I wish I could say it was Christ in their life which made the difference but that hasn’t always been the case. I was extremely fortunate to have a family law judge on my case that was competent and I think in retrospect was just. Judge Mitchell would help bring clarity many times in the future as well.

After filing a new motion to compel discovery, Paula’s attorney became my nemesis. In her ten-page declarative response, she argued I violated numerous procedures and should be sanctioned thousands of dollars. This was really nothing more than a smoke screen for the fact they had concealed discovery and it appeared to have been orchestrated by their attorney. They continued the concealment after the January trial which was unwise as I began receiving the results of the subpoenas for Paula’s financial records. These revealed more undisclosed accounts and monetary transfers to her husband’s accounts prior to the litigation. The subpoenas also revealed the closure of accounts after our fall 2011 discovery demand to erase traceable assets. On March 1, at the second motion to compel discovery Judge Mitchell was perplexed why we were back again on a discovery issue, (and I’m sure quite sick of seeing our faces.) He ordered myself and Ms. Schwasberg to work it out in the hallway. Schwasberg claimed she was confused what needed to be disclosed which appeared as a stalling tactic so I said “Let’s go back into court and let the judge order it.” I had prepared a release of information for the unemployment and we both knew the judge would order Paula to sign it. The unemployment records would reveal benefits were received contrary to testimony and written declaration which in themselves alone constituted four occasions of perjury and one preparation of the false affidavit, all felonies. We went back into the court and the judge asked “Have you come to an agreement?” I said “No” and he said “Go back out and work something out, “you two are going to have to learn to talk to each other.” We did, Paula signed the release (although she didn’t date it) causing problems later, but it was a costly loss as they had incurred some twenty-five thousand dollars in attorney’s fees with nothing to show for it. While I was feeling the ordeal appeared to be resolving, my feelings were misplaced. Paula and Sergei would allege I assaulted and threatened to kill them while in conference with Ms. Schwasberg! My arguments with Ms. Schwasberg (whom I had grown fond of) would look pleasant compared to what was coming.