

# Chapter 1

## *Summer of 2005*

“There has to be a better way,” I muttered, as I replaced the phone receiver on its cradle. I’d arrived at the office long before seven and had been embroiled in activity since the moment I’d hunkered down into my black leather swivel chair. I’d taken part in an early conference call with adversaries and also had papers that needed to be filed in Dallas by four o’clock (five o’clock New York time), and, by the time I’d turned around, the digital clock on my desk cautioned that it was eleven-twenty. That didn’t provide much time before the partners’ meeting, which was at noon at the Harvard Club.

Generally, the meetings were pretty much bullshit, though this one was expected to be important. After covering the usual topics like associate productivity and financial matters, the hot issue was our new policy on pro bono work. Williams Gardner & Schmidt was always among the leaders in *The American Lawyer’s* list of highest profits-per-partner, but its reputation in pro bono was downright disgraceful. Williams Gardner didn’t overtly discourage pro bono, but it didn’t exactly encourage it either, which ultimately sealed the cause’s fate at the firm. Bottom line—associates were terrified to spend time on anything other than billable clients, and partners totally lacked the incentive to initiate pro bono work themselves, acutely aware that every minute of the day influenced their quarterly draw.

Until, of course, the public relations component became a factor.

The meeting took place in the club’s most grandiose space; large Palladian windows revealed the New York cityscape, a gold chandelier hung from the lofty ceiling. Like the rest of the club, the room was old world (and, if you ask me, stuffy as hell), with oak-paneled walls and Venetian sconces. For a blue-collar boy, who had worked his way through Binghamton University and Brooklyn Law, this was a whole other world—an elitist world that, even after twelve-plus years with the firm (that should have been accounted for in dog years), still didn’t feel quite right.

To foster an open discussion, the tables were arranged in the form of a large square with twenty lawyers on each side. Waiters fully garbed in black tuxedos with penguin-tailed jackets carefully served tossed salads, house-cured gravlax, and the main courses, orders which had been taken upon arrival. Cocktail waitresses darted to and from the bar, as the elder members of the firm had no qualms about getting sauced during lunch. Junior partners were uncomfortable with the concept, and, with stacks of work screaming for attention, we knew our limitations and stuck to soft drinks or bottled water.

At twelve forty-five, the meeting was called to order. The firm's managing partner, Wilfred J. T. Schmidt III, cleared his throat directly into the microphone set in front of him, commanding silence. Will had thick gray hair, parted neatly to the side; it was well-groomed and matched his mustache, which was affixed to a square face that projected arrogance. He held his head high and with an air of authority that, despite certain time-imposed wrinkles, spoke of ageless strength. Will sat in the middle of the north side of the makeshift square. His cohorts, cloaked in similar three-piece suits and paisley bowties, acted the part, though there was no mistaking who was in charge. After the meeting, they would retreat to the smoking room to enjoy the finest-grown tobacco, either in a pipe or a cigar, but not before donning ridiculous-looking ascots and velvet smoking jackets.

A recording secretary took attendance and kept the minutes. Will followed the usual agenda and, in turn, introduced the chairperson of each of the firm's committees, starting with finance and going on through recruiting and technology. After a series of brief status reports, Will removed his thick, tortoiseshell-rimmed glasses, set them on the table, and turned to the important topic of the day.

"Thank you, folks. I am delighted with what I have heard today. We remain one of Wall Street's elite and most profitable law firms, which is a testament to not only the fine reputation we have earned and enjoyed over the course of our history, but to the fact that we have not rested on our laurels. Indeed, we continue to perform at the highest level and deliver the best results for both our longstanding clients as well as our new ones. We should all be proud."

“Here, here!” several partners proclaimed, raising glasses in toast and replacing them for a round of applause. Will waited for silence.

“As you know, more and more of our competitors have invigorated their commitment to the community at large ... through what is known as pro bono work, if you will. For reasons unbeknownst to me, we have not made the same commitment,” said Will, rolling his eyes and coaxing raucous laughter from his contemporaries and wry, placating smiles from the rest, “and, as a consequence, we have been chastised by the press as insensitive, money-hungry, selfish mongrels. Once again, I have no idea why ...” he said, receiving a similar, yet more subdued reaction.

“But the fact of the matter is, ladies and gentlemen, this firm has always adapted to changes in the environment.” The members of the small female and minority contingents gritted their teeth and bit their lips, discreetly sharing looks of disapproval with each other. “If we are going to continue to embody the touchstones of leadership and success in our field, then we must also set an example in the community. Accordingly, for all of the foregoing reasons, and based on the feedback I have received from many of you over the course of the last few months, I hereby propose the formation of a new firm committee to be known as the Pro Bono Committee.”

Will paused to take a swig of scotch.

“In this regard, I have already spoken with Ruth Davidson, who has agreed to serve as chair,” said Will, gesticulating toward Ruth, red of hair and pale of skin and dressed in a black pantsuit. She feigned a Mona Lisa smile. “Ruth will coordinate assignments among the attorneys and act as the firm’s liaison to NYC Legal Services, a nonprofit organization here in town which, from what I am told, is the oldest provider of free legal services in the city.

“Furthermore, for this to work effectively, we must institute a formal policy, mandating that each attorney, including partners, counsel, and associates, devote three percent of his or her billable hours to such endeavors. So, if our associates are hitting their mandatory twenty-five-hundred-per-year minimum, an additional seventy-five shouldn’t amount to a hill of beans. And, of course, if they

don't like it, they can always go in-house and never be heard from again," said Will, provoking a mix of snorts and cackles throughout the room.

"I suspect that some of you may do so already, but, nevertheless, I would like to suggest that we all dedicate ourselves to getting involved in more ... charitable activities. By that, I mean get involved in, sit on the board of, or even help run—if you find the time—some type of community or charitable organization. It will be a positive reflection on the firm and may help eviscerate this ... shall I say ... *notoriety* that has become affixed to our fine name that we and our predecessors, including my father, may he rest in peace, labored so long and hard to build. And for those who do spend time on such endeavors, that time should most certainly be credited toward the three percent threshold.

"This has effectively become a cost of doing business, ladies and gentlemen, and we must make it a priority," said Will as he glanced at the recording secretary. He waved his pointer finger, warning that what he was about to say was to be kept off the record.

"But, always keep in mind one cardinal rule," said Will, pausing to accentuate the magnitude of his impending caveat. "This cannot ... will not ... and *must not* conflict with or contravene the interests of our clients. They come first. When in doubt, and in times of crisis, your loyalty is to them, not to some vagabond on the street you're attempting to procure Social Security benefits for, or whatever it is we're going to be doing." Will glanced at the recording secretary again with a nod, and they were back on the record. "And against that backdrop, ladies and gentlemen, I hereby put it to a vote. All in favor of adopting the new pro bono policy I have officially proposed here today say 'aye' and raise your hands." All hands went up to the charge of "aye." "All opposed, say 'nay' and raise your hands." The second choice was met with complete silence until Will raised his hand again and shouted "Nay!" engendering pockets of nervous laughter throughout the room. "No, no, no, of course, I'm just teasing. Let the record reflect that I voted in favor."

A few laughs lingered.

“Splendid! It shall be effective immediately. A memorandum will be sent to all attorneys advising of the new program. Of course, for those overzealous folks among us, you can certainly feel free to start now and apply your time retroactively.” Will took another swig of scotch.

“Oh, there is one more item in this regard that I’d like to discuss. Of course, we’ll be issuing a press release and all that jazz about this new program of ours, and adding a fancy page about this to our Web site, but I feel that, to really get off to a flying start and make an indelible impression, we need ... an *exemplar*, if you will ... someone who will be a positive reflection on our firm and who, shall I say, will make us look good and handle our first case with integrity. And to play that role, I cannot think of anyone more capable or well-suited than our partner ... the recently inducted Chairman of the Trial Lawyers Section of the New York State Bar Association ... Nicholas O’Reilly.”

All eyes fixed themselves on me. I nearly coughed up my sip of cola when I was startled by the unexpected sound of my own name. I quickly snatched my napkin from my lap and wiped my mouth clean. The gravitational pull of Will’s intense glare drew my eyes directly to his. Will was a staunch supporter who had championed my early ascension to partnership. In other words, he had me by the balls. He knew it, and I knew it.

“Nick, my boy, you don’t have any problem with that ... do you?” he asked, his tone set to call for one—and only one—answer: the one I gave.

“No, sir, absolutely not—it would be my pleasure. It sounds like a great idea and potentially a very rewarding experience, Will. I promise I’ll make both you and the firm proud.”

“Good. That’s my boy. I understand the case is some type of family law matter, but I have all the confidence in the world in you, Nick, and I’m sure my partners share my sentiments,” he said, coaxing another round of applause. When everyone quieted down, Will suggested that I contact Ruth Davidson about my assignment. I looked across the room, found Ruth, and nodded.

“Well, I think this is the perfect time for us to break,” said Will. “I thank you all.”

When I returned to the office, I already had a voice mail message from Ruth advising me to stop by and touch base about the project. After I returned some calls and met with a few associates, a couple of hours had gone by and I finally had a free moment to spare.

The firm’s lavish office décor held up to its billing as the “Four Seasons of law firms.” Aside from the faces of those who occupied them, each floor was indistinguishable. The walls were elegant, with patterned wallpaper, decorative sconces, and valuable artwork. Full-time housekeeping tended to the kitchens twenty-four-seven, regularly stocking fresh fruit, snacks, and the finest (and, more importantly, strongest) blends of gourmet coffee. The award-winning library was full and exhaustive, operated by a highly paid, veteran law librarian brought over from Columbia Law School. The firm even had its own cafeteria, which served the same variety of foods you’d find on the “outside.” And, while the quality was comparable, the prices were substantially cheaper, offering yet another incentive to stay put.

Ruth’s office was located two floors below mine, among her colleagues in trusts and estates and tax. I walked past two rows of offices (or cellblocks, as I thought of them) hearing only the whispers of secretaries and the pitter-patter of computer keys. Lawyers’ offices were flush to the outside, the core filled with secretaries and their workstations. Paralegals were doubled up and closeted in stuffy interiors. We were usually in lockdown, meaning doors were always closed. Finally, I reached the grand spiral staircase that threaded the firm’s ten floors. I took my time walking the staircase, which was carpeted in a deep maroon. By then, what was gradually becoming a consistent mid-afternoon fatigue had set in. (At the time, I attributed this fatigue to many long years of being overworked.) I clenched the massive gold railing on the outer edge as I descended. On the way, I passed a handful of colleagues; some ignored me while others offered obligatory, tight-lipped nods.

I found Ruth reclining in her plush leather chair, legs crossed and feet resting on the edge of her polished desk, conversing on the phone in earnest with a client. I straddled

the threshold of the entrance, resting against the doorframe. Diplomas from Duke and Penn Law were prominently displayed amid classic, gold-framed oil paintings. In due time, Ruth glanced up and acknowledged me with a one-second gesture. After putting the client on hold, she lowered her feet to the floor, propped herself up, and exhaled long and hard, as if she hadn't had a minute to breathe.

"Nick, I'm going to be tied up the rest of the day, and I'll also be out tomorrow and Friday, but I left you the file over there," she said, head-motioning toward the rear of her office. I ambled over to the glass coffee table. The file was labeled *Dawn Nelson*. A yellow Post-it affixed to the outside read: For Nick O'Reilly. "Why don't you take it home with you this weekend, read it over, and, if you want, we can talk about it on Monday."

"Sure. What's it about?"

"Well, let's just say it's a far cry from securities fraud," she said, very businesslike. I smiled.

"Oh, and that reminds me—I heard about your big win last week. Congrats." Ruth was referring to a case against an important client, a large insurance conglomerate, that I had got dismissed on the eve of trial. It was the kind of matter that was considered a grand slam for the firm: an opportunity to bill long and hard and get credit for a major victory without subjecting the client to the risk of having a jury decide its fate.

"Thanks—I appreciate it."

I then wished Ruth a nice weekend, but she had already resumed her conversation so the pleasantries went unreciprocated. I returned to my office, retrieved messages from my secretary, Janice Thompson, and carefully placed the Nelson file on my coffee table.

I'd been assigned countless new cases over the course of my career. But Dawn Nelson's case was different.

It changed my life forever.