

PUZZLES

“All lawsuits are puzzles.”

It was second semester of law school when one of our professors said that. I know most of my classmates took it as little more than a rhetorical nod at the “game” element of every lawsuit, two sides playing each other and all that. But I knew that wasn’t what the professor had meant. He hadn’t said lawsuits were games. He said they were puzzles. Which is different. Games, they can be unwinnable. But not puzzles. With a puzzle, you always know there’s some possible way to win. You might never find it, it might frustrate you to all hell, you might lose patience and toss it aside, even try to cheat the thing, but with puzzles you always know that somewhere, somehow, some way, a solution does exist.

Meaning, if all lawsuits are puzzles and all puzzles are solvable, then all lawsuits are winnable, which I knew was the real point our professor had been oh-so-cleverly trying to make.

And it was cleverly put.

It also was utter crap, a fact I not only learned soon after hanging out my shingle, but a fact I was also being painfully reminded of that very moment as I sat at my counsel table, leaning over my elbows, listening to my client’s case drain away under cross examination.

I’d literally met her just yesterday: Margaret Flynn, age 78. A friend of a friend of a friend had referred her, so she claimed, though as I later thought about it she never actually put names to that lineage, so who knows? A senior’s shuttle dropped her at my building. I lent her an arm to help her to my office. She was stooped like a white-haired question mark in scuffed red sneakers and a paisley coat-dress sort of thing. She vaguely reminded me of someone I couldn’t quite place.

After a few niceties, Margaret had teared up and explained that her landlord was evicting her, “For no reason. No reason at all.” She’d promised she was a quiet tenant, a good neighbor, and never once late with her rent. “Always on the first,” she’d boasted. She surrendered an envelope to me fat with papers. “It’s all jumbly.” I’d thumbed through them, stopping at a scheduling notice.

“Miss Flynn—”

“Maggie,” she’d insisted.

“Maggie.” I nodded, mirrored her smile with my own. “Your trial’s set for tomorrow, did you know that?”

“It’s my home.”

I nodded gravely, rubbed my cheeks, and thought about how much a last-minute trial, even a short one, would wreak havoc with my week and how I didn’t know this woman and probably wouldn’t make a dime off her case and I was still mentally running through the names of a half-dozen attorneys who either owed me a favor or would love it if I owed them one when I was more than a bit surprised to hear my outside voice suddenly interrupt my thoughts with, “Don’t worry, Maggie. They can’t evict you for no good reason.”

As it turned out, the landlord actually did have a reason.

He was evicting Maggie for violating a “no pets” clause in her lease. Not that he had any proof, of course, unless you counted the fact that Maggie had just admitted on the witness stand under oath that, “Yes,” she did have three cats at her apartment, which, even at that, I have to say was a bit troubling as I distinctly remembered a welcoming committee of four felines, not three, when I’d dropped her off the day before. I couldn’t help wonder which of the four she was covering for and why.

“And do all those cats live with you, ma’am?”

At the podium between our two counsel tables, a lanky chap in department store pinstripes had peeled back another page of his yellow pad and was leaning into the microphone. He spoke with an affected drawl that sounded like he’d rented it special, just for the occasion.

“They’re my children.”

“Uh-huh. But do they live in your apartment, Miz Flynn? That’s really what I’m asking.”

“Well, of course,” she tittered. “They’re *inside* cats.”

Pinstripes pawed at the back of his neck like a mutt digging for fleas.

“No, ma’am. What I mean is—”

“I get the point, counsel.” The judge waved off the question with the back of his hand.

The hand belonged to the Honorable T. Orsen Herbert, municipal court judge, bottom rung of the judicial food chain. Herbert called balls and strikes in courtroom 19A of the minor leagues, home field to those cases wisely deemed too trivial to litter the dockets of the Superior Court Judges on the upper floors. A dingy little rathole, his courtroom was created in the 1980’s from a men’s room and two janitor’s closets and gamely retained all the grace and ambiance of its historic roots. The air was stale, the ceiling stained and uncomfortably low, and every wall was lined shoulder-to-shoulder with bruised file cabinets and sagging stacks of cardboard boxes.

Pinstripes removed two stapled sheets from a manila folder and hoisted them aloft.

“You knew, ma’am, that your lease said no pets were allowed in your apartment, and that if you violated that rule your landlord had every right in the world to require you to move. That’s a fact now, isn’t it, Miz Flynn?”

“I—I’m sure you’re right. I don’t know papers. I just pay my rent.” She turned to Judge Herbert, raised a pudgy finger and braved a smile. “Always on the first.”

“Move to admit the lease, your honor?”

“Without objection,” Herbert ordered.

A few questions later Pinstripes mercifully closed his folder and yellow pad. “Nothing further.” The judge nodded, then planted a weary gaze at me.

“Mister Gideon?”

I’d been tapping the side of my head with my pen, mining for inspiration. I paused. “No questions, your honor.” I resumed mining.

“You may step down, Ms. Flynn,” the judge said. Maggie pushed out of the witness chair, steadying herself at the rail. She smoothed the front of her dress, cupped one hand over the back of the other, then shuffle-stepped back to the empty seat next to me.

“Was that okay?” she whispered.

I touched her arm. “Perfect,” I lied, as the judge intoned, “Call your next witness.”

Pinstripes nodded to the man next to him.

“Plaintiff calls Sarkis Kovich.”

The man shot to attention and marched to the witness stand, right hand already raised to take the oath. Kovich was squat with a face like boiled ham and few strands of gray hair banjo-strung from one ear to the other. His testimony was measured and precise. He was the landlord. His building tolerated no pets. It was in every lease. Strictly enforced. No exceptions. He’d personally seen cats in Margaret Flynn’s apartment on Thursday and posted her eviction notice the very next day. He had no doubts what he’d seen. Or when. His recollection was excellent. All his papers were in order.

“Cross examination, Mr. Gideon?”

“Thank you, your honor.”

For fifteen minutes I poked and jabbed at Kovich's story, trying all my best tactics: coming at the him from different angles, running the clock backwards, pressing for exact words, pushing every button I could think of. For Kovich, it was batting practice, and I could hardly bear to listen as he crushed another of my anemic questions into the left field bleachers.

“A minute, your honor?”

Herbert took pity with a curt nod.

I was out time, out of ideas. ‘Puzzles,’ my ass, I thought, and not for the first time in my legal career. Maggie was a sweet old lady and I'd have gladly paid her rent myself if that's all it took. But she violated the lease. Got caught. And they called her on it. End of story. Sometimes, I'd learned, it's just not that complicated. I turned to Maggie to buy a few more seconds.

Sometimes—

Her eyes shined like mirrors, pink and moist. Her eyelids fluttered and I could instantly tell that she knew. She might be pushing four score years, was a bona fide ‘Cat-Lady,’ and was hoping against hope that friendly-faced lawyer might figure some way to pull a rabbit out of a hat, but I could read it in her eyes. She understood. She knew it was over, though she still forced an encouraging smile as her hands trembled and she tried to quickly hide a nail file she'd been fidgeting with.

Nail file.

That's when it hit me—stooped, paisley, nail file—and just like that I was vaulted back to that sixth grade summer, vacationing at crazy Aunt Viv's lake house. I could hear my mother when she dropped me off, “Remember, Alex, your Aunt Viv is a little . . . well, just be sweet, dear.” I could see myself crossing their back lawn, spotting my aunt on the raised back porch, sitting hunched over a table in a paisley housecoat, working something with her hands, I wasn't

sure what. After mounting the porch stairs and reaching her side, I could finally tell. On the tabletop in front of her a rainbow of jigsaw puzzle pieces surrounded a small island of assembled work, and Aunt Viv was using a nail file to meticulously reshape a puzzle piece, filing down an annoying bulge, enlarging a too-narrow groove, pausing, blowing the dust away, testing to see if it fit, then more filing, more blowing, re-testing, until finally, victoriously pressing it home.

“Aah!” she cheered.

Only then did she look up at me, her smiling face like a broad, chubby sun.

“You’re Alexander.”

“What are you doing, Aunt Viv?” More an accusation than a question.

“Exactly as you see, Alexander. Ex-act-ly.”

Even then I was reluctant to let a witness’s non-answer get them off the hook.

“You’re ruining the puzzle.”

Aunt Viv never lost her smile but didn’t respond. I tried again, pointing to the crazy-quilt of altered pieces in the center of the table.

“That’s not what it’s supposed to look like.”

“Oh?” Now curious. “And how do you know that, dear, when I’m not near finished?”

“Because—” I’d grabbed the lid of the puzzle box and pointed to the picture on its cover, “—that’s what it’s supposed to look like.”

“Is it now?”

I didn’t understand.

“That’s why they put a picture on the box. So you know what to do.”

Aunt Viv patted my hand. “You go by Alex, don’t you.” I nodded dumbly. “Well, Alex, I’ll share a secret just for you and me.” She’d glanced conspiratorially over each shoulder, then

beckoned me with a finger. I reluctantly leaned in. “That picture may be what the box people wanted their puzzle to look like,” she whispered. “But it’s my puzzle now. And Alex, if you’re going to call something your own, then it gets to be whatever you choose to make of it, not what anyone else says.”

“But it’s a jigsaw puzzle.”

She stared down at the assembled mass for a long moment. I couldn’t tell if she’d heard me or not. She finally spoke. “I don’t know what this might be when I’m done, but oh my, what an adventure.” She’d laughed aloud. “That’s the best thing about puzzles, Alex. You get to make it whatever you want it to be.” She wagged the nail file at me. “And isn’t that so much better than just making it into whatever some old box person wanted?”

I recalled that as a 12-year-old I thought what seemed so much better right then was getting away from crazy Aunt Viv. But at 31, at my wit’s end in Courtroom 19A, I wondered if maybe crazy Aunt Viv and my old law school professor might have had a thing at some point.

Make it whatever you want it to be.

I tapped Maggie’s nail file, thought for a beat, then turned back to Kovich.

“Mr. Kovich. You heard Ms. Flynn testify she always paid her rent on time?”

“Yes.”

“And did she?”

Kovich looked amused. “As I recall, yes.”

“Always on the first?”

He nodded. “She was very good about that.”

“Every month?”

“Why—yes, that is correct.”

I stepped to the side of the podium.

“Ever talk to Ms. Flynn when she paid her rent?”

“Did I—”

“Chat. Talk. Whatever. Did you talk with her?”

“No. She pay rent. I write receipt. Nothing more.”

“Ever speak with her any other time?”

“What about other times, Mr. Kovich, when, let’s say, you happen to run into Ms. Flynn around the complex. Ever talk to her then?”

I am paid to work, Mr. Gideon, not, how you say, chit-chat.”

I clasped my hands behind my back and took a step toward the witness box.

“That’s quite a responsibility, being landlord.”

“I suppose.”

“Lots to keep track of?”

“Yes.”

“Difficult decisions?”

“It is my job.”

“Decisions about what the leases say?”

A single worry line momentarily creased Kovich’s forehead. “At maybe some times, yes.”

“Look at Margaret Flynn’s lease, Mr. Kovich, paragraph eighteen, the ‘no pets’ clause.”

Kovich fumbled with his copy. “It says tenants can’t have any pets *li-ving* with them.” I

squeezed out the last words for emphasis. “You see that?”

“Yes.”

“You’re familiar with that provision.”

“Of course.”

“Read it before.”

“Many times I—yes.”

“You’re sure?”

Kovich’s head bobbed with confidence.

“We don’t want you to guess.”

“I do not—” He stopped himself. “I read it, Mr. Gideon. Yes.”

I stared at Kovich, all smiles.

“Now Mr. Kovich, where the lease says you can’t have pets ‘li-ving with you,’ let me ask you this: In your opinion as manager,” I extended him a deferential hand, “if a tenant has a friend visiting, and that friend brings a cat along to visit, that doesn’t mean the friend’s cat is ‘li-ving’ with the tenant, does it? I mean, that wouldn’t violate the lease’s ‘no-pets’ clause, right?”

“Just a visit?”

“Just a visit.”

“Then, no. No violation.”

“You’re sure.”

“We are a friendly building, Mr. Gideon.”

Pinstripes stifled a chuckle.

“And if that friend ended up visiting for the whole weekend, with her cat, of course, would that violate the lease?”

“A weekend?” Kovich pumped his lips like a goldfish, then shook his head. “No. No violation with a visit weekend.”

I nodded. The good student.

“Now suppose, Mr. Kovich, suppose this friend was from out of town and was visiting for an entire month. Just one month, but for the whole month, and, again, with her cat. Would *that* violate the lease’s ‘no-pets’ clause?”

Kovich tipped his head back and searched the ceiling for guidance.

“Mr. Kovich?” I prompted.

“A month? Well . . .”

“The cat’s just visiting, remember?”

“Just visiting.” Kovich nodded and pumped his lips for good measure. “Visiting. Then, no violation. But—” Kovich extended his arm at me with a raised index finger, “—that was not case with tenant Flynn.” He sat back, defiantly folding his arms.

“Alright, let’s talk about Ms. Flynn.” I took another step toward the witness box. “If I recall, Mr. Kovich—and tell me if I’m wrong—in response to your attorney’s questions you told us that you saw cats in Ms. Flynn’s apartment on Thursday and posted a notice the very next day, saying she’d violated her lease?”

“Correct.”

“You saw the cats on a Thursday?”

“I did.”

“That’s what you swore to?”

“It is truth.”

“And that’s what you told us in response to your attorney’s questions?”

“Yes.”

“On that Thursday?”

“I am not mistaken about date, Mr. Gideon.”

You’re certain.”

“I do know my days of week.” Kovich forced a chuckle.

“But Mr. Kovich—” I bit off my words and scolded him with a finger wag “—if you only saw the cats that one Thursday, and if, by your own admission, cats just *visiting* never violate the lease, then the truth is you personally had no evidence when you served your eviction papers that the cats you’d seen in Ms. Flynn’s apartment that Thursday were actually *living* there and not just *visiting*!”

I stood tall and knotted my arms at my chest. A human exclamation point.

“Isn’t that true . . . Mis-ter Kovich?”

Kovich sparked with sudden awareness. “You twist my words, what I—”

I cut him off. “You didn’t really know if they just visiting, did you?” I fixed him with my best sneer. “Or did you even care?”

Kovich’s eyes narrowed. “I—

“Because the truth is you only saw cats that one day. One time. That’s it.”

Pinstripes shot to his feet. “Objection, your honor. Counsel—”

“Just one day,” I pushed.

“Your honor—”

“Admit it, Mister Kovich.”

“Your honor!”

Kovich’s face flushed wine red, but he didn’t appear the least bit interested in being rescued by his lawyer or by his honor. He uttered what sounded like a growl, then raised his thick voice to try to drown out both lawyers.

“What I know, Mr. Gideon, is that—”

But I wasn't ready to let him talk yet. I crowded Kovich further, spearing my finger inches from his face. “But you swore, you swore you only saw the cats that one time. Just once, Mister Kovich. That's what you said. Just one day. Just one time.” I flung his arms wide apart like Christ on the cross. “You weren't lying, were you?”

“Your Honor, please!” Pinstripes shouted to be heard. “Can the witness—”

“You're not trying to tell us—”

Finally, Judge Herbert had had enough. “Order.” His gavel thundered into its wooden base, pounding for silence. “Or-der! Or-der! Or-der!”

I turned to the judge, my hands in palm-to-palm prayer. “Your honor, I just want—”

The gavel hammered again. “Order, counsel.”

“But this witness—”

“Counsel.”

“If you'll just—”

“Mis-ter Gideon.”

“But—”

Herbert leaned forward, his belly smothering the front edge of his desk. He leveled his gavel at me, right between the eyes. “Not. Another. Word.”

I stopped, out of breath. I wiped at my mouth with the back of my hand and looked around like I wasn't sure where I was, then backpedaled at gavel-point toward my counsel table.

“Mr. Kovich.” Herbert turned and zeroed his gavel at the witness. “You may finish your answer.”

Kovich dipped his chin to the judge. “I thank you, mister your honor.” He drew himself to full height in his seat and cleared his throat. “It is truth, I was asked about seeing cats on a Thursday, and it is truth, I did see them on that day. But—” Now he was the one wagging a finger at me. “I was not asked if that was the *only* time I ever see them. No, Mr. Gideon, that I was not asked.”

I stood motionless and imagined the bullseye Kovich must be visualizing on my forehead.

“I tell you now I see those cats many times before that Thursday, Mr. Gideon. Many times. Tenant Flynn had them for so much more than just days or a month as you trick me to say. With my own eyes I see them for many months. Ma-ny, ma-ny months. So, no, Mr. Gideon, those cats are no visitors, of that I know for my own self. No mistake. And,” he tapped a finger to his chest, “if I testify without interruption, your honor, sir, that is my testimony.”

Kovich leaned back and re-folded his arms, gloating over his fallen prey. “So, Mr. Gideon, now have I answered your question?”

He faked a smile at me.

I faked a smile back.

“I think so.”

I tugged the lapels of my suitcoat, then stood at attention, squarely facing the judge’s bench. “Your honor,” I announced, “defendant Margaret Flynn hereby moves for immediate dismissal of this entire eviction case.”

Kovich swallowed a chuckle.

“The landlord’s own testimony has now conclusively proven all of the following.” I held up my hand with one raised finger. “One, that the landlord had personal knowledge for, as he

swore, ‘ma-ny, ma-ny months,’ that Margaret Flynn was keeping cats in her apartment in apparent violation of her lease.”

I extended a second finger.

“Two, that during each and every one of those months Margaret Flynn tendered her rent to the landlord, in full, on time, which rent was duly accepted by Mr. Kovich without him ever saying a thing to her on any of those occasions, meaning, without him ever legally voicing any exception, objection or reservation about the cats he admittedly knew she was keeping.”

Another finger.

“Three, that Margaret Flynn was never told by landlord Kovich that the cats he knew were living with her were unacceptable or that the lease provision against them would ever be enforced against her or against them. Not once. Not ever. Not a word.”

A fourth finger.

“Four, that by electing to accept Ms. Flynn’s rent each month with full knowledge of her cats and without voicing any objections thereto, this landlord is thereby deemed to have legally, knowingly and voluntarily condoned the cats’ presence and waived any objections to them, which means—”

I fanned all five digits.

“—five, that, he is therefore conclusively estopped and legally barred from making an about-face now and claiming that those very same cats he accepted and condoned for months and months and months are now suddenly unacceptable. By law, he cannot have it both ways.”

Kovich looked dumb-struck.

“Those are the landlord’s own facts, your honor, and that is the law. Defendant Flynn hereby moves to dismiss.”

His honor stared back at me, no doubt still calculating just how long he could reasonably hold me in jail for that last stunt. His chin finally dipped in reluctant assent, and he shifted his eyes to the landlord's attorney. "Counsel?" Pinstripes was still on his feet. He rolled his eyes, parted his lips, but no words came out. He dug for fleas one last time, shook his head dismissively and sat down.

"Case dismissed!" Herbert gaveled the lawsuit to a close.

I spun around to face Maggie and squatted, dropping my head level with hers.

"Does that mean . . ." She trailed off, as if she didn't dare say the words.

"You kicked butt, Margaret Flynn," I said. "You get to stay in your apartment." She blushed, smothering her mouth with both hands, then parted her lips to ask another question. Alex read her mind. "All of you. All thr-all of you." I was still dying to know which pet she'd short-counted on the stand and why, but decided that since we were still in a court of law and Judge Herbert was still on the bench, now probably wasn't the best time to discuss the pros and cons of convenient amnesia under oath.

Maggie was all tears and smiles. I patted her arm and gave her my best wink.

"And Mr. Gideon." Judge Herbert. I stood and pivoted to face him.

"Your honor?"

"My chambers. Five minutes."

"Of course, your honor."

I turned back to Maggie, looked down at her nail file and shook my head.