

**TOO OLD TO BE HIS WIFE, TOO YOUNG TO BE HIS DAUGHTER; Essay -
Correction Appended**

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Body

Essay

THE PARTIES AND their lawyers sat at the huge rectangular oak trial table in the judge's courtroom at 60 Centre Street and squabbled over such issues as payment schedules and time limits as they negotiated their final differences in their fractious and emotional divorce case.

The judge had scheduled the case for trial that day, but the threat that he, rather than the parties, would divide their property had spurred both sides and their counsel to intense negotiating efforts. A few items remained to be thrashed out, the judge had been told, and he had directed the parties to sit at the counsel table in an effort to resolve the few final matters. An hour or so later, the court officer knocked at the judge's robing room to officially present the news that the case was settled and to inquire whether the judge had time to squeeze in a short inquest. The judge grabbed his robe, which was slung over his large leather chair in the robing room, and proceeded to the courtroom, moving quickly up the two or three steps to the bench. The court officer gave an abbreviated announcement, as the judge adjusted his robe around his chair. He glanced at the couple he would soon be divorcing. They were sitting at opposite sides of the counsel table, their heads turned away from each other. Apparently, at least for the moment, their attorneys had abandoned them, perhaps for more pressing business at the telephones in the hallway.

Mrs. Clark, an attractive woman in her early 50s, sat motionless. She wore a bright red suit and a white blouse with a high neck. Essentially a homemaker for most of her 30 years of marriage, she had returned to school to study first social work, and then a paralegal program, but had not been successful in obtaining full-time employment in either field. Her husband, in his late 50s, well dressed in a custom-made tan suit with a hand-painted tie, fidgeted nervously with a piece of yellow paper that apparently contained the calculation of the tax consequences of the property division he had just agreed to. From time to time, Mr. Clark would turn around and smile at an attractive woman sitting in the next to last row in the spectator section of the courtroom. She seemed too old to be his daughter and too young to be his paramour, yet she returned each of his glances with a broad, warm smile.

Soon, the lawyers came tumbling through the outer door to the courtroom, seeming to share in some mutual tidbit of information. Their joviality vanished, however, as soon as they caught view of their clients, and they resumed their usual posture of combativeness.

Charles Buckland

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Your Honor, the husband's counsel intoned. We've reached a settlement of the economic issues so we're ready to proceed with fault.

I'm ready, if you're ready, said the judge.

We're prepared to allow Mrs. Clark to proceed with her claim, said Mr. Clark's lawyer.

She's the defendant, noted the judge.

Yeah, but she counterclaimed for divorce, said Mr. Clark's counsel. Anyway, judge, Mr. Clark is a chivalrous guy. He'll let her be the wronged woman.

What about mutual divorces? said the judge.

Nah, let her be the one, said the husband's lawyer.

Whaddya have to say? the judge said to the wife's lawyer.

It's O.K. with us, he shrugged.

All right, let's get on with it. Take the stand, said the judge, pointing to Mrs. Clark.

Slowly, Mrs. Clark made her way from the counsel table to the witness stand, where she stood uncomfortably, putting her right hand on the Bible offered by the clerk, and then realizing that her left hand was needed there while her right hand was raised for swearing for all to see.

Be seated, said the clerk. Give us your name and address.

Mrs. Clark, Ann Clark, she said hesitantly. 1172 Park Avenue, New York.

Keep your voice up, madam, said the judge. It's hard to hear in this courtroom.

Sorry, your honor.

Ann, said her lawyer, walking close to the witness box, I'm going to have to ask you a few questions, so please listen carefully.

O.K., said the witness.

Ann, are you the plaintiff in this action?

No, I'm the defendant.

O.K., that's right, said her lawyer. Excuse me, are you the defendant, Ann?

All during this time, Mr. Clark was turning furtively to catch the attention of the woman in the back row of the courtroom, who observing his glance would smile and look downward.

Ann, are you a resident of the State of New York?

Yes.

For how long?

All my life, she said.

How many years? her lawyer said impatiently.

Fifty-two, she said.

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Did there come a time when you married the plaintiff herein?

Yes.

When?

Uh, June 24, 1960.

Are there issue of the marriage? the lawyer asked.

What is issue? she said.

I mean, are there children of this union?

We have three grown children. Melisa is 26, Scott is 23, and Susan is 21.

By the way, Ann, have you and Mr. Clark reached agreement on a property settlement?

Yes.

And has that agreement been memorialized in a separation agreement?

Yes.

Your Honor, the lawyer said. We've stipulated that the separation agreement be incorporated in a judgment of divorce to be rendered here but not merged in it.

Noted, said the judge.

Ann, you have not as of this date obtained a divorce in any other court of competent jurisdiction against Mr. Clark, have you?

No.

Is there any other action pending in any court of competent jurisdiction for a divorce between the two of you?

No.

Now, Ann, will you please tell his honor what occurred on Thanksgiving Day in 1986.

I'm not sure I remember, she said.

May I lead, your honor?

O.K.

Ann, wasn't there something that happened at a Thanksgiving dinner in 1986?

Yes.

What happened? the lawyer said.

Well, he just got angry and threw a glass at me.

Did it hit you?

No, but it shattered against the wall and a piece grazed my arm.

Did your husband say anything to you while this was going on? said the lawyer.

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Stan was angry that my parents were an hour and a half late for dinner and became upset when I wouldn't start dinner without them. I guess that's what upset him.

Now, Ann, I call your attention to an incident that happened a little over a month later when you and Stan were in Acapulco on vacation. Do you remember?

There was no response to the question.

Ann, did you hear the question?

The witness's hands moved nervously over the shredded remnants of an empty paper cup in front of her.

Your Honor, can I be more specific in leading the witness?

O.K., O.K. said the judge, but you should have prepared your client.

I know Judge, but we just reached a final settlement of the property issues only a few minutes ago.

O.K., O.K., said the judge. Let's get on with it.

Ann, didn't there come a time in December of that year when you were in Acapulco with Stan, on vacation, that he threw a pail of ice water on you while you were tanning yourself at the hotel pool with your friends from New York? Did he say anything to you when he did that?'

The trembling in Ann's hands seemed to extend throughout her body.

I'll tell you what he said, she sobbed. I'll tell you. He told me he didn't even like to look at me anymore - that I was too old for him - that he didn't love me and hadn't loved me for years. He despised me, and there was nothing I could do - nothing.

Ann, do you need a minute to compose yourself? her lawyer asked.

I'm going to have plenty of time to do that, she answered angrily.

The judge, a learned practitioner of the matrimonial art, allowed Mrs. Clark a moment to recover and then advised her:

Madam, the fact that your husband stopped loving you is not a legal basis for granting a divorce. I'm sure your lawyer has advised you that to be entitled to a divorce judgment you have to establish to the court's satisfaction some evidence of fault. Do you understand madam?

I don't want a divorce, Mrs. Clark sobbed again.

Can I have a minute with my client, your honor? the lawyer asked.

Go ahead, said the judge impatiently.

MR. CLARK GOT OUT of his chair and slammed it in disgust against the table.

Off to the side, Mrs. Clark and her lawyer talked softly for a moment or two.

Your Honor, I think Mrs. Clark is ready to resume the stand, the lawyer said.

O.K., let's go. I hope you explained the rules to her.

Yes, judge.

Ann, I don't want to repeat the last question. You remember it, don't you?

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Yes.

Did it happen that way?

Yes.

And, Ann, do you recall an incident that happened on the first night of the Passover seder in 1987?

Yes, when Stan broke the matzoh, he made a remark to everyone at the table that I would probably lose weight this week because there wouldn't be any bread to stuff my mouth with.

Judge, said the lawyer, looking up at the bench, is that enough or do you want more?

The judge made a sign indicating he had heard enough.

Ann, did these events that you testified to render it unsafe and improper to cohabit with your husband?

Yes.

And, you didn't provoke these incidents, did you?

No.

Your Honor, I have no other questions.

Any questions? the judge asked the other lawyer.

None, judge, and as I stated before on the record, we withdraw our complaint and reply.

Alright, the defendant wife has pleaded and proven her allegations for a divorce on the grounds of cruelty. Submit findings of fact, conclusions of law and a judgment of divorce, and I will sign them. You may step down Mrs. Clark.

Is it over? she said softly.

It's over, said the judge.

As Mrs. Clark moved from the stand to her counsel's side of the table where he was closing his attache case, she looked up for the first time that day at her husband and spoke to him directly.

Stan, can you and I talk privately for a moment?

Look, Ann, stop it, it's over.

Just for a minute, Stan. I want to talk to you just for a minute. We haven't had a civil moment in over two and a half years.

Ann, he snapped. Leave me alone. I want to get on with my life.

And, with that, Mr. Clark bolted from the chair and headed to the back of the courtroom, where he was met with an embrace by the woman who was too young to be his wife and too old to be his daughter.

Mrs. Clark's lawyer shook her hand, told her he had to run back to his office to meet a new client, and left her at the counsel table where she slowly and carefully gathered the many papers that had been such an important part of her life for the past few years.

a David B. Saxe, a State Supreme Court justice, sits in a Matrimonial Part.

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Charles Buckland

Correction

Correction

The title of an essay on page 2 in Friday's **Law Journal** was rendered incorrectly. It should have been Too Young to Be His Wife, Too Old to Be His Daughter.

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