

Hastings Women's Law Journal

Volume 3

Issue 1 *Latinas in Crisis: A Struggle for Rights in the Face of Oppression*

Article 8

1-1-1992

On the Night in Question

Kristen Olsen

Follow this and additional works at: <http://repository.uchastings.edu/hwlj>

Recommended Citation

Kristen Olsen, *On the Night in Question*, 3 Hastings Women's L. R. 149 (1992).

Available at: <http://repository.uchastings.edu/hwlj/vol3/iss1/8>

This Article is brought to you for free and open access by UC Hastings Scholarship Repository. It has been accepted for inclusion in Hastings Women's Law Journal by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact marcusc@uchastings.edu.

On the Night in Question

*by Kirstin Olsen**

"Sandra, I wish you'd get to work on your own somehow," snapped Elli.

"Fasten your seat belt, Ms. Draper," replied the calm blonde woman in the passenger seat. She smoothed the lapels of her funereal blue suit with exaggerated equanimity, then stubbed out a cigarette in the ashtray and pulled a LegaLap pad from her zippered leather hip bag, each motion abrupt and decisive. Her hair was cut in the style of all women of the Order, blunt, one inch below her ears, with stark short bangs. "See?" she said soothingly, as if speaking to a grumpy child. "I've put out the nasty habit, so let's be civil to each other. Now strap yourself in. It's the law."

"The law!" Elli snorted derisively. "The law, as Dickens said, is an ass."

"You take too many liberties, Ms. Draper. And I think you do so because you have me at a disadvantage." Sandra cast down her eyes and head, though her large green irises flicked from time to time to the left, to watch Elli's movements.

"Lawyers know zilch about disadvantage. Now, if you don't mind, just shut up for a while, or I'll start shopping for different counsel." Elli started the car with one fierce motion of her wrist, put it in gear, and lurched backward out of her electrokeyed parking space. As they approached the gates, Sandra began to scribble fiercely.

"What are you writing now?"

"Well, in this case, it's a clear case of emotional distress. You're upset, not thinking lucidly. A kind of temporary insanity, a very good defense in almost any case. Juries love the semblance of torment."

"In case—?" asked Elli.

* The author graduated from Princeton University in 1987 with a degree in English and a certificate in Women's Studies. She is the author of *REMEMBER THE LADIES: A WOMENS'S BOOK OF DAYS*, a collection of brief biographies of notable women. She is currently a middle-school English teacher.

"In case you hit the gates, of course, or another vehicle leaving its slot, or a pedestrian just the other side of—"

"Oh, do be quiet. I'm sorry I asked."

Sandra made a note of her client's response.

They drove in silence until they reached the highway, at which point Sandra's notations became more frequent. She peered anxiously at the faces of the drivers near them, strained to see license plates and registration stickers. The LegaLap beeped softly from time to time, eliciting grunts of satisfaction from Sandra and grimaces of profound disgust from Elli. As a sleek machine the color of Sandra's suit passed them, the car's passenger, a man with a short severe haircut and a dark blue suit, waved. Sandra smiled and waved back, watching him wistfully as he sped away.

"You see?" she said in a conciliatory tone. For you, it's only a matter of inconvenience. For us, it goes far beyond that. We're like—monks, now. Monks and nuns. Vows of poverty and obedience—and chastity. We can't get involved in anything that might lead *us* to sue."

Elli only shook her head and gave a short, whispered laugh.

"What?" said Sandra. "You don't believe me. We're different now. We're not bloodsuckers or pirates. We're here to serve."

"You really believe that rubbish, don't you?" said Elli, swerving across two lanes to the exit ramp as Sandra touched a spot on the LegaLap. "Well, you're not leeches any more, I'll give you that. A leech only hangs on till it's full, then has the decency to drop off, sated. You're more like barnacles now—ever present, clinging, multiplying. You don't feed on us anymore; you just slow us down. And we can't stop to scrape the hulls."

"You, more than anyone, should appreciate me. Do you know how many teachers every year are sued by parents, students, their own districts? I protect you. I serve you. I've taken the Oath."

"Oh, come on. You guys take the Oath because you couldn't find work otherwise. There simply aren't enough of *us* anymore, not enough money, not enough blood. The ABA did what it *had* to do to survive. Without the Oath you'd have had to disband entirely. There'd have been a revolt, a rebellion. I'd have preferred rebellion." She paused at the stop light and rested her head, just for a moment, on the steering wheel.

"You are delaying traffic. The light is green," said Sandra. "I advise you to—"

Elli pounded the accelerator with her foot, and the car leaped forward. She drove down the road at precisely the posted speed limit, gripping the wheel tightly, curling and uncurling her fingers around it.

"This is really about last night, isn't it?" asked Sandra in a bland, neutral voice.

"Last night," laughed Elli snidely. "Gee, I'd forgotten all about it."

Well, you certainly chose an appropriate metaphor when you compared yourself to monks and nuns. Not monks and nuns today, of course, but those of the glory days, the Middle Ages. Oh, yes they took vows of poverty, just as you do, but they exchanged personal wealth for the wealth of the Church, for the supreme power of their station. You don't need money; you control everything. Just as it was in the Middle Ages, you are the literate class—only it's law instead of Latin. The language of the powerful. And we can barely sign our names in it."

Sandra touched two more control keys on the LegaLap. "And what does that have to do with the events of the twenty-fourth?"

"Allow me to finish, counselor, if you please. The friars of the Middle Ages were also well known for their sexual perversity. A vow of chastity, it seems, did not free them entirely from their bodily desires. I believe that you and Benjamin enjoy your work just a little too much."

"On the contrary, Ms. Draper, I assure you—"

"Your assurances are valueless. I've heard you offer them too many times to too many people. Your job, your life, is to give misleading assurances to others."

"But you are my client, my only client. I can have no conflict of interest; I serve only you. There is no need to lie—"

Sandra stopped speaking as they entered the school's parking lot. There were too many bodies and interactions to note now; conversation was impossible. In front of the main office, the principal and his lawyer were speaking to the football coach and his lawyers, all four shivering in the stiff cold wind that rushed between the buses.

"I assure you," said the coach's lawyer. "All tests have been authenticated twice. The team is quite free of illicit substances."

"May we see the documentation?" asked the principal's lawyer. "If the state association's lawyers ask for proof—"

"I have the names of the players' lawyers here," said the coach's lawyer passing his LegaLap to his colleague. "You may contact them."

Elli marched through the office, checked her mailbox, passed the envelopes and messages to Sandra, who made copies with her scanner.

"I advise you to record this conversation," she said, indicating a message from a parent. "Our records indicate that she has sued two teachers in the past year alone. Documentation of her remarks could be very useful, in case she alters her story after grades are received."

Elli walked on, talking over her shoulder. "It's probably just about the quiz on Friday. The kid flunked. Didn't study."

Sandra, accustomed to having to stride quickly while taking notes, kept Elli's jacket in her peripheral vision but looked at the LegaLap. "In any case," she said, "don't be rude. If the mother—" She looked up as a door slammed and a lock clicked. She was standing before the faculty

women's rest room. The door was locked. Elli was nowhere in sight.

She shook the doorknob, twisting it. "Ms. Draper!" She pounded on the door.

A muffled voice cried from within, "I'd like to be alone for a moment."

"That is not advisable!" cried Sandra. "You know that I need to be made aware—that I need—Ms. Draper, open this door immediately! How can I prepare your defense if I don't know all the facts?"

The door opened a crack. "I haven't even been accused of a crime yet," said Elli, and she shut and locked the door again.

"How do you know you won't be?" Sandra was frantic. Almost anything could be happening in that rest room. She looked for a window, but the only one was ten feet up, more of a vent than a window, and there were no objects in the hall upon which she could stand. If she went in search of a chair or a ladder, Elli might be gone by the time she returned. Resigning herself, she made the best she could of the situation and leaned against the wall to review some recent cases regarding client malpractice. None had been successful so far; it was still illegal for a lawyer to sue her client.

Inside the rest room, Elli hung her head over the toilet, while Mrs. Hiranata and her lawyer stared at each other in astonishment.

The day continued no better than it had begun. In first period, James Stewart's lawyer insisted that his client could not be denied credit for his work simply because he had not signed his name to the paper. This led to an argument between the lawyer and Sandra that lasted for nearly half an hour, during which two other children's lawyers became involved in a side debate over jurisdiction. Elli worked as well as she could with the others, but the distraction was simply too much. At lunchtime, a former student's lawyer appeared, claiming that her client's psyche had been irreparably damaged by a misspelling of her name in the yearbook. Elli was midway through apologizing for destroying such a fragile ego, and expressing her belief that anyone who could be so fragile was clearly a simpleton, when Sandra cut her off and entered into a brief negotiation over coffee and sandwiches. The other lawyer took an apologetic statement on his LegalCam and left it at that.

"No thanks?" asked Sandra hopefully, as they sat at a table in the lunchroom. "I saved you a lawsuit."

"Oh, yes, by all means, thank you. A hundred years ago, that nonsensical debate would not even have taken place. You and your fellow barnacles—" Elli stopped then, for Sandra had seized her by the wrist. "I beg your pardon," said Elli sharply, jerking her arm away.

"Don't treat me like one of your children," said Sandra. Suddenly her pale skin flushed red as she realized what she had said. "I meant, one of

your students.”

“I know what you meant.” Elli sipped bitterly at a cup of coffee that had gone cold five minutes before while her apology was being filmed. “I don’t expect tact from lawyers. It’s not your business.” Sandra covered her eyes with one hand, dropped the hand, shrugged, looked away, her blunt hair softly touching her cheek. “Please.” She said it very quietly. “I could be your friend.”

Elli said nothing, only sipped again at the coffee, making an ugly face when she realized at last that it was cold.

Sandra put out a hand, almost touching Elli, then drawing back again. “Other Oath-takers are friends with their clients. Or so I’ve heard. You keep resisting me, fighting me. I could be a comfort to you rather than an irritant. I know I could.”

“Then stay out of my bedroom. And get Benjamin to do likewise.”

“I can’t!” The lawyer’s eyes widened, like those of a frightened animal.

“Then go to hell.” Elli rose from her chair and flicked the cold coffee into a sink with a quick jerk of her wrist. She started to rinse the cup, then changed her mind and tossed the whole mug into the garbage. Sandra drew back as if she were in danger and made an entry on the *LegalLap*.

“Elli—” she said. “Ms. Draper—”

Elli refused to respond, returning to the classroom. As they walked through the corridors, two children dashed past them. “Slow down!” called Elli. Sandra made a note of the fact that her client had ordered the children not to run, and was therefore not liable for any damage they might do to themselves. A few seconds later, the children’s lawyers pushed hastily past the lunchtime crowds in a futile attempt to keep pace with their clients. Long after they had disappeared around the corner, their voices could be heard in distorted echoes, calling the children’s names and arguing over which of the students had started the commotion.

The last part of the day was relatively quiet, and Sandra spent most of the time filing correspondence, though she kept a careful eye on the students and made notes of those who were not paying attention. If the parents later called to blame Ms. Draper for their failures, Sandra would be able to testify to the children’s unwillingness to learn. Of course, the students’ lawyers knew this as well as Sandra, and they prodded their young clients now and then, surreptitiously, advising them in whispers to look interested.

After school, Elli made three phone calls to parents, recording two of the three on the advice of counsel, and duly informing the parents that their statements were being monitored. They responded that their own attorneys, naturally, were listening in, and that they would appreciate a

copy of the tape for their records. Before leaving, Elli again checked her mailbox and allowed Sandra to scan the messages. With a sigh, she thought of the time before the ABA Oath. Monday afternoons had been so much more pleasant, if only because the results of the weekend football pool were announced. Since the Oath, there could be no illegal gambling; the lawyers were officers of the court and were inclined to be obnoxious about that sort of thing.

Lifting a satchel of papers and books, looking like a Breughel peasant, Elli tottered towards her car, waving as the assistant principal set the front door's electrokey after her. Sandra made a routine check for dangerous conditions and noted the time her client had left work. Once they were home, she would note all hours spent on schoolwork, in case there came a day when she needed to base a defense on Ms. Draper's devotion to her job.

Elli unlocked her own door and swung the book bag into the back. She sat, locked her own door, and watched with impotent malevolence as Sandra waited patiently for her own door to be opened. How easy it would be, she thought, to drive away without her. But in the back of her mind, her fears mocked her. If she left Sandra here, it would be today of all days that she would have an accident on the highway, and without legal representation, she would be eaten alive by the other party in the dispute. She reached over and unlocked the passenger door. Sandra gave her a cool smile.

"Another day down," she said cheerily.

"Yes," said Elli.

"You're still angry at me."

Elli backed out of her parking slot without glancing over her shoulder. Only after she had pulled into the street did she check to see if there was anyone behind her.

"I'm not angry at you, Sandra. I'm angry at the system. Must you make a note of that?"

"It might be important."

"What, in case I blow up a building someday?"

"Who knows? You're an angry person."

"And you'd better advise me not to blow up any buildings. You forgot to advise me not to blow up a building today."

"You are still angry. Be careful of that orange car ahead. It's registered to a woman who's had three accidents this year."

"Perhaps she's trying to kill her lawyer."

Sandra touched the keypad. "In each case, the damage was to the driver's side of the vehicle. I think attempted murder is unlikely in this case."

Elli smiled for the first time that day. "You're so pathetic, Sandra.

You want me to like you, but you treat me like a child. You tell me not to have any fun. You never leave me alone. And you have no sense of humor."

"And you have no gratitude, no respect for my profession. Without us, you'd be—"

"Alone. Happy. At peace."

"Before the Oath, people broke the law all the time. Now the law is obeyed."

"At the price of privacy."

"Again, the matter of privacy. Be honest. What happened last night still troubles you. You may speak freely with me. I would never act against your best interests."

"All right. Would it hurt you so much to leave us alone for a while? We eat; you watch. We talk; you listen. We make love—or, rather, we don't make love—and you sit perched in the corners on chairs, you and Benjamin, observing, taking notes, like wicked little shadows."

"We strive to be unobtrusive."

Elli shook her head and pulled onto the highway, accelerating as quickly as the car would allow, until the speed hovered just below the legal limit.

Sandra put down her LegaLap and turned to her client. "If I treat you like a child, it is because you are one. You are spoiled and pampered. You are watched, as you say, but you are not raped, murdered, or defrauded. If you feel some delicacy about speaking or acting in front of me, that is a matter for a therapist rather than a lawyer, but consider this: you are permitted to love, and to marry, whereas we must live for our clients alone. Our Oath is one of poverty and obedience to the law, but also one of chastity. We cannot permit ourselves to sink into the morass of emotions and passions and petty grievances; it is our duty, rather, to constrain those forces, to preserve social order."

"So you find satisfaction in voyeurism?"

"Satisfaction? Disgust, perhaps. Sweaty bodies churning under the sheets—grunting—panting—love talk. He hardly notices you in his own self-absorption."

"Who? Benjamin?"

"You are such a fool, Ms. Draper," said Sandra. She opened her mouth as if to continue, then closed it as abruptly. After a pause, Sandra said, "I mean Timothy, of course."

Elli's eyes narrowed. She moved into the far right lane, pulled onto the shoulder, and stopped the car. Her fingers uncurled themselves from the wheel, and she put one strong hand on Sandra's blue-suited shoulder. She brought her face close to her lawyer's, as if she meant to bite her with her bared teeth.

"You have overstepped your limits, Sandra," she said at last, as the bland face stared at her with fear and wonder. "I will begin searching for new counsel in the morning." She took her hand from the lawyer's shoulder, and dragged it across her own visage, as if expecting to erase the disfiguring effects of fatigue and loathing.

"Please don't," begged Sandra, though her tone was still rather too composed for Elli's satisfaction. "I know your legal affairs so well—it would take another attorney a year or two just to familiarize herself with them. Besides, you'll get someone fresh out of law school, someone with no experience. You'll be devoured in an instant by the parents' lawyers, the children's—even Benjamin. Please, start the car, there's a good girl. I won't say anything more about Timothy. I promise."

Elli hardly even heard the last few sentences; Sandra's voice had become a dull drone in the background, a meaningless jumble of phrases. She needed to get home, home to Timothy. All would be well then. They would send Benjamin and Sandra away somewhere. They would be alone for a while. All would be well.

She pulled up to the iron gates of the parking garage and pressed the code number on her dashcomputer; the nine-digit number had been chosen by Sandra and was the Lottery number that had selected Sandra as Elli's personal counsel. Elli reminded herself to change the code; that would send a message to Sandra that the client, and not the lawyer, called the shots. Her bag of books and papers seemed even heavier now that she was home. She selected a few stacks to grade and left the rest in the car; Sandra made a note of it on the LegaLap.

"Elli Draper," she said at the door, and it swung open for her. At the elevator, Sandra said, "Second floor," and the doors closed around them—the metal, enfolding arms of Mother Shelter. Her humming rhythms lulled them a little as they lurched upward. Sandra studied the elevator permit.

"You check it every day," said Elli. "It never changes."

"It's best to be thorough," said Sandra. "Besides, there's nothing else to do for the moment, since you won't be civil to me."

Elli ignored this obvious bid for attention and stepped out of the elevator. Her apartment was at the end of a long corridor. Most of the apartments in the building had been consolidated, walls knocked down, so that Oath-takers could reside with their clients. A few of them were coming home at the same time, hesitating before their doors in pairs before slipping through the welcoming doorways.

"Tim?" Elli called as she entered the house. "I'm home."

"We're in here," called Benjamin from the bedroom.

She knew it before she walked in, actually—Benjamin's moods were even more familiar to her now than Timothy's. The second she heard

Benjamin's voice, she expected the jumble of belongings and memories that she found on the shell-colored carpet. Tim didn't even look up when she came in; he was too busy emptying a shoe box full of jewelry and makeup.

"My client would like to know what you have done with his coin collection."

"Tim, what the hell's going on?"

Benjamin turned to Sandra. "Please advise your client to communicate properly."

Sandra laid her hand on Elli's arm. "He's absolutely right, Ms. Draper. Tell me what you want to say, and I'll speak for you." "Now, Benjamin, what's the matter? I'm sure we can come to some equitable arrangement."

"My client intends to file for divorce, and he simply wishes to establish the location of certain community property before he changes his place of residence."

"Tim!" said Elli, darting past the Oath-takers and shaking him. "Let's get rid of these two. Let's talk this over."

"No point," he said. "Last night was bad enough. Let's just cut our losses."

"Look," she said, "I'm sorry I walked out. I just couldn't take it any more. All of this watching and waiting—they're like ghosts, haunting us. Doesn't it bother you at all? Doesn't it bother anyone in the world but me?" She leaned against the wall, covering her mouth with one palm. He was not leaving, could not be leaving.

"What bothers my client," said Benjamin, "is your failure to produce a child. We've been over this a dozen times."

"Well, how about your failure?" Elli snapped at Timothy, as if he had spoken the words himself. "I can't conceive on my own." She shook her head. "Look at me. Now I'm doing it. I won't listen to him, only to you. Only you."

There was a gray, empty silence following this remark, and she knew that he was part of it. It was over. But, reflexively, as the dead sometimes move from force of habit, she kept fighting.

"Talk to me, Tim. Talk to *me*."

Naturally, it was Benjamin who answered. "We have sworn statements from three medical practitioners testifying to the fact that the sterility is entirely your fault. Furthermore, we have psychiatric testimony to the effect that your mental instability, and your unwillingness to make a good-faith effort, have contributed to damage—perhaps irreversible damage—to my client's sexual performance and self-esteem. Naturally, this makes the marital contract null and void. In addition, if you review the contract, you will note that any sexual inadequacy that results from your

client's actions and that prohibits or delays a new procreative relationship—"

"You're insane," Elli said.

"Sandra," said Benjamin, "I must ask your client to refrain from these slanderous outbursts."

"You get the hell out of my bedroom," hissed Elli. "And you, too, Sandra. This is your fault." Benjamin and Sandra both whipped out their LegaLaps and took notes on the conversation. "Tim, come with me. We'll have dinner together. No lawyers."

"Indeed," said Benjamin. "You seem to wish to avoid the presence of legal representation. I received word earlier today that you locked your own lawyer out of the rest room. Is this true?"

"Don't answer," said Sandra.

"Of course I did," said Elli. "She's a pain in the ass and I'm tired of her. I'd like to be able to wash my face once in a while without observation—or whatever it is that I choose to do."

"Your reluctance to be observed implies guilt of some sort. Drug use, perhaps? Or an illness that you have concealed from my client? Perhaps you don't really *want* to conceive a child. Suspicious behavior, at any rate."

"Tim, send him away!" said Elli. Tim wouldn't look at her.

Sandra stowed her LegaLap in the leather bag at her side and put both her hands on Elli's elbows, ushering her out the door. Elli struggled and screamed; the two lawyers pushed her steadily backward, Sandra shouting, "You see what your client has done to her, Benjamin? I can assure you that we will be counter-suing for emotional distress."

"Where are we going now?" asked Sandra, as the car sped down the highway. "Back to work?"

"No."

"I assure you, I will do everything within my power to get you the best possible settlement."

"The best possible settlement would be the affection of my husband."

"You can't have that. I'm not certain that you ever did. If you were wise, you would be back at that apartment, behaving like a rational human being, and making sure that he doesn't abscond with any of your possessions. I've communicated with the bank already and have frozen your accounts, but Benjamin got control of the safe-deposit box. We'll have to negotiate over that."

Elli pulled over. The shoulder was a narrow one. She got out, slamming the door with a vengeful swing of her arm. "I want to show you something," she said. "Get out."

Cautiously, Sandra got out of the car, with her leather bag slapping against her thigh.

"No," said Elli, "leave the LegaLap there. You won't need it. This is confidential."

"But—"

"I refuse to communicate this information to you if you bring the pad," said Elli. Sandra left it locked in the car as ordered and followed her client to an overlook, which was bordered by a narrow guardrail. "Look at that," said Elli, pointing to the valley. "That's what you've spoiled. You took a good idea and made it a Hydra, two heads growing for every one lopped off."

"What do you mean by Hydra?" asked Sandra, with the calm security of one who had no need for myths.

"Never mind. Suffice it to say that you've strangled us all. And now you've taken a man I love and driven him from me."

"You don't know what love is," said Sandra. "You don't know what loyalty is."

"I do know one thing," said Elli. She smiled a long, slow, sweet, satisfied smile. "I know that you're wearing a suit and high heels, while I'm wearing slacks and flats. I know that I'm in better shape than you are, and that I have the only key."

"Key to what?" asked Sandra. Elli pointed out over the valley. In the second that Sandra glanced in the indicated direction, Elli ran the other way. She unlocked the car door and jumped inside. She pushed the electrokey just as Sandra put her hand on the door and laughed at the lawyer's impotent fury. Reaching into the leather bag on the passenger seat, she pulled out the LegaLap, dangling it between her thumb and forefinger and smiled. Sandra beat her fists against the windows and doors of the car. Elli grasped the pad firmly in her hand and smashed it on the dashboard of the car, closing her eyes and inhaling the dry smoky fragrance of sizzling electrical circuits and melting parts. Blue fire danced on the pieces of the pad, then played itself out and died. When Elli opened her eyes, she could see Sandra mouthing the words, "willful destruction of property."

"Good-bye, Sandra," she said. Elli started the car with one fierce motion of her wrist.