

**Boston Legal
Smoke Signals**

Season 5, Episode 01

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On the Boston Harbor we hear the musical strains of George M. Cohan's Over There as Alan Shore and Denny Crane are riding a small motorboat, dressed in their white Coast Guard uniforms. Alan is standing at the bow holding on to a rope to steady himself while looking through binoculars. Denny is at the stern steering.

Over there, over there,
Send the word, send the word over there -
That the Yanks are coming,
The Yanks are coming,
The drums rum-tumming
Ev'rywhere..

The motorboat passes around a large rocky mound. Through his binoculars Alan sees a yacht with dozens of people on board.

Alan Shore: Twenty degrees starboard.

Denny Crane: Is that right or left?

Alan Shore: I mean port! No, port!

Denny Crane: Hey, I'm the Captain!

Alan Shore: Will you be quiet! It's right in front of us.

Denny Crane: Oh jeez.

The music on the yacht is party music and the people on there all bikini-clad young women, standing around drinking, talking and giggling. Alan sounds a warning blare.

Alan Shore: ***Through the bullhorn.*** United States Coast Guard! Comin' aboard! Nobody move! You're all persons of interest. ***Denny steers the motorboat up close to the yacht, Alan jumps off.*** Who's in charge of this event?

Women in green bikini: I am!

Alan Shore: ***He's tying the motorboat up with the yacht.*** Do you have a permit, Ma'am?

Women in green bikini: For what?

Alan Shore: The right to assemble at sea is strictly forbidden without written and expressed authorization from the United States Coast Guard.

Women in green bikini: What?

Alan Shore: Sorry Ma'am, we're in a war. But, lucky for you, and perhaps me later... **He helps himself to a drink standing on a table.** I am the Coast Guard. **Denny is still standing in the motorboat beaming.** I'm gonna let it go this one time. But I'm going to have to make further inspection of your floatation devices.

Women in green bikini: Brand new.

Alan Shore: Well done! Okay Denny! The situation is... **He turns to find Denny in the hot tub, hat still on, jacket off, cigar in his mouth, drink in his hand, and each arm around a young woman. Denny is chuckling delightfully.**

Alan Shore: How did you possibly get out of your clothes so fast?

Denny Crane: Semper paratus, my friend! **To the young women.** 'Always prepared.' Coast Guard motto.

Alan Shore: **He lifts his drinks to a toast.** And so it begins.



Alan walks into his office, goes to his desk and starts taking papers out of his briefcase. He closes the briefcase and puts it down on the floor, as he turns back to his desk he has a puzzled look on his face. His eyes quickly dart left, right, then down. Bethany Horowitz is there.

Alan Shore: Bethany!

Bethany Horowitz: For the last seven years I've basically had one case that's consumed me. It's against AB Curtis. The tobacco company?



Alan Shore: **A beat.** And how's the family?

Bethany Horowitz: These people have dragged me through discovery; they've exhausted my client's money, my money... They've practically killed my client's doctor! He'd dead, Alan!

Alan Shore: He was a smoker?

Bethany Horowitz: No. But he was in his seventies. They deposed him thirteen times. He died over the weekend, just as we were about to go to trial. No doubt from the stress of it all. Now I don't have a doctor to testify. I'll have to get a continuance, which they'll then turn into ten more continuances while they depose my new doctor thirteen more times. I can't do it! I'm licked.

In the conference room at the morning meeting Jerry Espenson, Shirley Schmidt, Carl Sack, Alan, Katie Lloyd and Denny are present. Denny is nodding off.

Shirley Schmidt: Nobody successfully sues a tobacco company! Even if you beat them at trial, they just appeal. Law firms go bankrupt trying to climb that hill.

Alan Shore: Oh you know how I feel about money. Especially when it's yours.

Jerry Espenson: I must say I echo Shirley's sentiment. I do. I do. Tobacco companies specialize in two things. One: getting people addicted to cigarettes, and two: prolonging and protracting pre-trial litigation. I

tell you, they simply make cases too burdensome even for big firms like us! Certainly more than could be handled by your average dwarf.

Carl Sack: I too am against taking on a tobacco company, the firm absolutely forbids *you* from taking it. Katie? Jerry? Give Alan whatever help he needs. Best of luck.

Alan Shore: Thank you. Denny, I could also use your help if you're up for joining.

Denny Crane: Hm. **He gets up.** Whatever. **He leaves.**

At the courthouse, Alan and Denny walk out of the elevator and make their way through a mob of shouting reporters and flashing cameras. Jerry is carrying Bethany.

Bethany Horowitz: No comment! Nothing to say! Step aside please! No comment! Lawyer coming through. Handicapped! Out of my way!



In Judge Milton Brody's courtroom, Alan, Bethany, Denny and Jerry are at the plaintiff's table getting ready. The defense makes their way towards their table.

Alan Shore: **He casually looks towards the defense, then does a double-take when he notices the blond female lawyer.** Phoebe?

Attorney Phoebe Prentice: **She is startled.** Alan? **Alan gives her the once-over.** Are you joining as co-counsel?

Alan Shore: Yes.

Attorney Phoebe Prentice: Excellent.

Alan Shore: Still married with ah... what is it they're called?

Attorney Phoebe Prentice: Children.

Alan Shore: Right.

Female Clerk: All rise! Three-two-four-six-three! In the matter of The Estate of Michael Rhodes versus AB Curtis Tobacco Cooperation the complainant alleging the civil cause of wrongful death. This court is now in session! The Honorable Milton Brody presiding. Be seated.

Judge Milton Brody: Okay. Both sides stand ready?

Attorney Phoebe Prentice: Well, actually Your Honor the defense would be requesting more time. The

Plaintiff has added a witness to its list whom we've not had the opportunity to depose. Therefore...

Alan Shore: The witness, Your Honor, is a doctor who will only be testifying as to cause of death. We are forced to call him because the doctor we had planned to call, who has been called again and again and again, died this past weekend after being deposed, harassed and intimidated relentlessly for the last seven of his seventy-seven years. The fact is my... ah... uh... defense has employed a plethora of tactics to delay and delay and delay... **To Phoebe.** I'm curious do you have any ideas that speed things up?



Attorney Phoebe Prentice: Well, surrender works quite well and I do know how you love to wave a white flag.

Alan Shore: Objection!

Judge Milton Brody: All right! All right! Ms. Prentice, I will give you a night, one night to review the new witnesses that have been added to the plaintiff's list. We will begin at ten AM tomorrow! Adjourned!

Both parties prepare to leave.

Alan Shore: You know... **He turns to Phoebe but she is walking away with her defense team. Alan shakes his head.**

Both parties are in the deposition room.

Dr. Harvey Loper: Once the cancer had metastasized it became about managing his pain which was extreme.

Attorney Phoebe Prentice: Mr. Rhodes told you that he chose to smoke. Am I right, Doctor?

Alan Shore: Why? Does that make it hurt less? **Phoebe gives him a look.** I'd like to know.

Attorney Phoebe Prentice: May I continue?

Alan Shore: Please.

Attorney Phoebe Prentice: There were many other cancer-causing agents that Mr. Rhodes was exposed to. Right?

Alan Shore: I'm sorry, is that going to be your strategy, that something else killed him?

Attorney Phoebe Prentice: **She sighs deeply.** We can suspend this right now, Alan and go see the Judge if this is all too much for you to handle.

Alan Shore: Don't flatter yourself.

Attorney Phoebe Prentice: Well, I wasn't talking about me, funny that you are. Something on your heart you'd like to share with the rest of the group? I'm sorry, I meant to say on your mind.

Bethany Horowitz: Stop it! **Jerry makes popping noises with his mouth.** You two can get a room, after the trial.

Attorney Phoebe Prentice: **To the doctor.** Ah, was an autopsy ever performed, Doctor?

Dr. Harvey Loper: Oh, we didn't need an autopsy to know what killed him.

Attorney Phoebe Prentice: **She makes a note.** No autopsy.

Maureen Rhodes: Are you kidding?

Attorney Phoebe Prentice: Ms. Rhodes.

Maureen Rhodes: My father smoked for fifty years! He died of lung cancer. Do you really mean to suggest...

Attorney Phoebe Prentice: If I may continue...

Maureen Rhodes: Have you ever watched a person rot to death?

Attorney Phoebe Prentice: Alan, maybe you can contain your client's emotions. If not your own.

Alan Shore: **A beat as he looks at Phoebe.** What happened to you?

Attorney Phoebe Prentice: **A beat.** Alright, I'm done.

Alan Shore: If you plan to march into that courtroom and ask for a continuance...

Attorney Phoebe Prentice: I got what I need. Did you? **Alan doesn't answer.** Thank you. **She and her associate leave.**

Jerry gives a pop. Denny gets up from his reclined position.

Alan and Denny are in Denny's office.

Denny Crane: Is that how you plan to try this case?

Alan Shore: Don't start with me, Denny. Alright? Do you have any idea how many people die every day from cigarettes?

Denny Crane: Oh, please, what else is new? Tobacco kills, big deal.

Alan Shore: Did you just say, "Big deal?"

Denny Crane: Well, it's old news.

Alan Shore: Well, first of all it's not just old news. It's absolutely current. The tobacco industry is more powerful today...

Denny Crane: It's boring!

Alan Shore: Well, have we all just been desensitized? Smoking kills. Whatever. We've all just gone numb.

Denny Crane: **He stops his pacing in mid stride, looks straight ahead, then at Alan.** Why'd you say that? Who told you I went numb? **Alan has a puzzled look on his face.** Who said that?

Alan Shore: What are you talking about?

Denny Crane: You ? Did she call you?

Alan Shore: Denny! **He chuckles.** I don't know what the hell you're talking about. So, why don't you tell me? **Denny keeps on pacing.** You have been in a bad mood all day. What is up?

Denny Crane: Nothing's up. That's the problem. **In a stage whisper.** My junk doesn't work!

Alan Shore: I beg your pardon?

Denny Crane: I went back to the Captain's Quarters with one of the girls from the hot tub. **Alan nods.** My junk failed me.

Alan Shore: Oh.

Denny Crane: I'm done, Alan. Dead.

Alan Shore: Denny...

Denny Crane: I wish it were dead. I'd have made a better show with rigor mortis. Dead. Done. It's over.

Alan Shore: Denny! It happens to every guy!

Denny Crane: Has it happened to you?

Alan Shore: Once.



Denny Crane: **He looks up.** Sh-sh-sh.

Carl Sack: **He comes in.** Hello!

Alan Shore: Hello!

Carl Sack: How'd the deposition go?

Alan Shore: Fine. Why?

Carl Sack: There are rumors you were horrendous. Alan, I'm happy to support your latest tilt at the windmill, but we know one never really beats the tobacco industry. Right? And if opportunity for settlement does come we will take it. Won't we?

Denny Crane: It's receded! **Alan and Carl look toward Denny who is standing and looking down at his open fly.** Like a turtle! Too ashamed to come out of its shell! **He looks up and sees Alan's horrified expression.** What? **Alan and Carl continue looking on in amazement.**

Shirley and Carl are in Shirley's office, both silently reading.

Denny Crane: **He comes in.** Shirley! Can I steal you for a second? It's about my penis.

Carl Sack: **He tries, but doesn't quite manage to hold back his smile.** It's depressed.

Denny Crane: I don't wanna involve you but...

Shirley Schmidt: Don't even go there!

Denny Crane: Okay, okay. Would you at least put on the cheerleader costume for me because...?

Shirley Schmidt: Sorry. Have you tried jumper cables?

Denny Crane: Do you think this is funny? Okay. Would you loan me the cheerleading costume?

Shirley Schmidt: Denny...

Denny Crane: Give me a hand here, will you Carl?

Shirley makes a circular motion with her pointer finger motioning Denny to leave. He leaves with a disappointed look on his face.

Alan is in his office with Bethany and Katie.

Bethany Horowitz: Two witnesses total?

Alan Shore: Bethany...

Bethany Horowitz: I've spent seven years preparing more than fifty experts!

Alan Shore: Bethany... if we let this turn into a science class...

Bethany Horowitz: We have to prove addiction! We have to show...

Alan Shore: You asked me to try this case, so let me.

Bethany Horowitz: Two?!

Alan Shore: **He bends down to put away his briefcase.** I want to rest as close as I can to the emotion of the client's testi... **He turns, then looks around.** Where'd she go?

Katie Lloyd: She left. I must say, Alan, two witnesses seems a bit bonkers. Uh, I hope you haven't gone mad.

Alan Shore: Katie, one problem we have concerning trust, you and I really haven't had a life together yet.

Attorney Phoebe Prentice: **Appears at the door.** Still harassing the younger associates. So nice to see you haven't changed.

Alan Shore: **A beat. A long beat.** Why are you here?

Attorney Phoebe Prentice: Well, I come in peace. A hundred and forty thousand.

Alan Shore: **He laughs.** For a death?

Attorney Phoebe Prentice: That's all we're offering. It's all you could hope to get since we'll appeal any verdict. And why drag this out beyond the time we're still attracted to each other?

Alan Shore: **A beat.** I'm not attracted to you now.

Attorney Phoebe Prentice: Fine. Let's go with that. **To Katie.** When I knew him he was mad, by the way.

Katie Lloyd: I think I'll be going. **She leaves.**

Attorney Phoebe Prentice: I have done hundreds of these cases and they all come out the same way. So why stress yourself, Alan? It's not healthy. You'd be better off taking up smoking.

Alan Shore: **He looks at her for a long moment.** The thing is Phoebe, you look the same... **He walks up close to her.** ...you smell the same... **He takes her hand and kisses it.** ... Hm. My, you even taste the same. **He looks at her for a moment.** But we both know you've changed, don't we? I mean when we were together the very idea of either of us doing battle for Big Tobacco... An industry which systematically kills people. I hope they give you a lot of money, because then of course it would be worth it.

Attorney Phoebe Prentice: Hm. And here you are, at Crane, Poole and Schmidt.

Alan Shore: I don't need to apologize for myself.

Attorney Phoebe Prentice: No you don't. Not when it's easier to just walk out the door.

Alan Shore: I didn't walk.

Attorney Phoebe Prentice: Yes, you did. Yes. You did. You know what? I think that you have changed, Alan. Your eyes look deadened. They say that a man's passion is the first thing to die as he ages, so I suppose that should make it easier for me to be around you because it was your passion that I so fell in love with.

Alan Shore: **He walks up to her, leans in and...** Your offer is rejected. **He goes to the door and holds it for her.** So you can leave now.

Attorney Phoebe Prentice: Okay, Alan. We'll be seeing you then. **She leaves.**



The next day at the courthouse, Alan and Denny make their way through a throng of reporters and photographers. Jerry follows them, carrying Bethany.

In Judge Milton Brody's courtroom Alan has Maureen on direct.

Maureen Rhodes: He first started smoking cigarettes when he was eleven.

Alan Shore: He smoked the defendant's brand?

Maureen Rhodes: Mainly that brand, yes.

Alan Shore: And your father smoked cigarettes for how long?

Maureen Rhodes: Over fifty years.

Alan Shore: Maureen, at some point your father certainly had to know that smoking causes cancer.

Maureen Rhodes: He tried to quit so many times. He was desperate to quit but he was addicted.

Sometimes he could go months without but he'd always start up again, he just couldn't...

A Voice: Oh, baby! Oh! **Everybody looks toward Denny.** That feels so good. Don't stop. Oh!

Denny Crane: **He takes out his cell phone and opens it, the voice stops.** Hello.

Alan Shore: Denny!

Denny Crane: It's my doctor.

Alan Shore: I don't care! **He marches up to Denny.**



Denny Crane: Shhh. I did that but it still doesn't work.

Alan Shore: Get off the phone. Now.

Denny Crane: I gotta get off the phone now. **He closes the phone. Alan gives him a look.** What?

Alan Shore: **He walks back to Maureen. He shakes his head.** I'm sorry. At some point your father did get lung cancer.

Maureen Rhodes: Eleven years ago. He fought it. He had one lung removed. He did everything that... but, um, eventually it went to his brain. In the end it was a miserable, excruciating death.

Alan Shore: Maureen, in fairness, the dangers of smoking have been well known for some time by everybody including your father.

Maureen Rhodes: That fact only made it worse. I had to watch my father do something, over and over, all day, every day that he knew would eventually kill him and he just couldn't stop. He was addicted. Since childhood. Terribly addicted. You don't keep doing that to yourself for no reason! You do it because you physically can't stop!

Attorney Phoebe Prentice: **She gets up.** She has no foundation to give medical...

Maureen Rhodes: He was my father! That's my foundation. **Phoebe sits back down. Alan looks to Maureen to continue.** It wasn't just physical. He suffered the shame of being an addict! And even if you're heartless enough to think, "Well, he signed on for this," I never signed up for it! I'm sorry if I sound selfish, but I never said, "Sure! I'll watch my father go through that agony!" My children never agreed they'd lose their grandpa the way... There was so much pain! So much pain to so many people who never signed up for it.

Phoebe is now up.

Attorney Phoebe Prentice: First let me say how sorry I am for your loss. Losing a family member to cancer is... Is this your first time?

Maureen Rhodes: Uh, no actually...

Attorney Phoebe Prentice: So cancer runs in your family.

Alan Shore: Objection.

Attorney Phoebe Prentice: Your Honor, there has been a recent medical study that found that there is a common genetic variant that actually doubles the risk of lung cancer. **To Alan.** It can run in the family.

Alan Shore: Oh yes, it was just a big coincidence that he smoked?

Attorney Phoebe Prentice: Was your father ever tested for this genetic variant?

Maureen Rhodes: No.

Maureen Rhodes: I understand that your father worked in a paper mill which...

Alan Shore: Are you kidding?

Judge Milton Brody: Mr. Shore.

A Voice: Oh, baby! Oh! **Everybody looks toward Denny again.** That feels so good. Don't stop. **He takes out his cell phone and shuts it off. Alan gives Denny a glaring look. Denny looks apologetically to Phoebe.**

Attorney Phoebe Prentice: Ah, Ms. Rhodes how many houses do you think your father lived in during his lifetime?

Maureen Rhodes: I'm not sure. Maybe six or seven.

Attorney Phoebe Prentice: Did any of them contain asbestos?

Maureen Rhodes: Ah, uh, I don't really know. Perhaps.

Attorney Phoebe Prentice: What about arsenic or silica or chromium? Were any of his houses tested for any of these substances, all of which can cause lung cancer? If you wonder why I ask...

Maureen Rhodes: I don't know if they were tested for these substances.

Attorney Phoebe Prentice: What about radon?

Maureen Rhodes: Radon?



Attorney Phoebe Prentice: Yes. It's a gas, it comes from rocks and dirt. It's trapped in houses and buildings. It's quite common actually. Odorless, colorless and it also causes lung cancer. Were any of your father's homes ever tested for radon?

Maureen Rhodes: Not to my knowledge.

Attorney Phoebe Prentice: I see. Thank you. And again, my deepest condolences for your loss.



At Crane, Poole and Schmidt Carl pressed the elevator button, the door opens. Bethany comes out, followed by Alan, Denny and Jerry.

Carl Sack: How'd it go?

Nobody answers as Alan has Denny by the arm as he marches him down the corridor.

Carl Sack: Okay.

In Alan's office he pushes Denny inside.

Denny Crane: Hey! Hey! You're hurting me!

Alan Shore: What the hell was that with the phone?

Denny Crane: My doctor's idea. He thought it would stimulate...

Alan Shore: For God's sake Denny, I'm in the middle of a trial!!

Denny Crane: I tried putting it on vibrate but it doesn't seem to be...

Alan Shore: I asked you to be part of this case because I could use your help. This is the tobacco industry we're up against!!

Denny Crane: I, I know that!

Alan Shore: It is near impossible to beat them! And my odds do not improve by my co-counsel's phone chirping, "Oh! Baby! Baby!" While I'm trying to cross examine a witness!

Denny Crane: Well, it's a medical emergency!

Alan Shore: Medical emergency? Because you couldn't get it up in a hot tub?

Denny Crane: Hey! Hey! Hey! Just because you're getting your ass kick by your ex-girlfriend! All I did was accept a call. Well, forgive me for expecting a little sympathy! But here I am, I'm struggling with who and what I am, and you as my best friend, treat me with contempt.

Alan Shore: You know? Not everything in life takes a backseat to your sex life. You're not in High School, Denny! As sophomoric as you're determined to be... Sympathy? My client's father is dead! And you're crying because your penis failed. No, I'm sorry, I'm not giving you sympathy.

Denny Crane: I'm just trying to get an erection!!!

Alan Shore: Well, who knows. Maybe it's the Mad Cow. **A long beat as Denny stands there mouth gaping.** I'm sure it's not that.

Denny Crane: What if it is? **Alan is speechless.** My penis has Alzheimer's!

Alan Shore: Denny, you just had an off day.

Denny Crane: **He thinks for a moment.** You said it happened to you once, what were the circumstances?

Alan Shore: **He sighs.** It was with her, actually, Phoebe.

Denny Crane: What happened?

Alan Shore: I was in love with her...

Denny Crane: Oh. That'll kill the moment.

Alan Shore: And she loved me. Just... not enough. I mean, no relationship is ever quite even, there's always an imbalance of sorts. One person loves, or is in love, just a little more than the other but... I just couldn't handle being... So I left.

Denny Crane: Maybe it's not too late.

Alan Shore: She's happily married with children. It's too late.

In Judge Milton Brody's courtroom, Phoebe has Lance Buttram on direct.

Lance Buttram: Personally, I take great offense at constantly being vilified.

Attorney Phoebe Prentice: Well, tobacco companies do make for juicy targets.

Lance Buttram: Let me tell you something, car manufacturers make products that kill, if you want to look at vehicular fatality statistics. Alcohol? Forget it! But we also do some good along the way. Nobody wants to talk about that.

Bethany Horowitz: Oh please, what good? **Alan places his hand on hers to shush her.**

Lance Buttram: How about this, we spend billions of dollars in anti-smoking campaigns and youth prevention efforts. How many industries actually spend money to discourage people from buying their product? That is an unprecedented display of corporate conscience.

Jerry is now up.

Jerry Espenson: In fairness you might have mentioned the American Journal of Public Health study that found that teens who watch anti-smoking ads aimed at young people were actually thirty-six percent more likely to smoke.

Lance Buttram: I don't agree with their findings.

Jerry Espenson: I bet you also disagree with the numerous public health advocates who called for a ban on all youth anti-smoking campaigns funded by the tobacco industries charging they employ insidious reverse psychology deliberately designed to get teens to smoke.

Lance Buttram: Well, there again...

Jerry Espenson: Like cigarettes flavored with chocolate, strawberry and candy spices to lure children.

Lance Buttram: We don't do that anymore.

Jerry Espenson: Because it was finally outlawed! At which point you turned your focus to menthol which is...

Lance Buttram: Menthol is legal.

Jerry Espenson: And profitable. Since it's the cigarette of choice for seventy-five percent of African Americans.

Lance Buttram: Look...

Jerry Espenson: Look at what? Your product, even when used as directed kills one-third to one-half of its

consumers! In fact cigarettes kill more than car accidents, homicides, suicides, AIDS and drugs combined! One death every six seconds. So just during your testimony another fifty or sixty people have clocked out. Your company murders people.

Attorney Phoebe Prentice: **She jumps up.** Objection, Your Honor.

Judge Milton Brody: Sustained. Mr. Espenson, emotion has no play here. And unless you can ask questions we're moving on.

Jerry Espenson: Oh, get a grip, Judge. **He marches to his chair. He stops in front of the Judge.** Sorry.



Trying to Get the Feeling
Written by David Pomerantz
Sung by [Barry Manilow](#)

Doctor my woman
is comin' back home late today
Could ya' maybe give me something?
'cause the feelin' is gone
and I must get it back right away
before she sees that I've been

Up, down, tryin' to get the feelin' again
All around tryin' to get the feelin' again
The one that made me shiver,
Made my knees start to quiver
Every time she walked in

And I've looked high, low,
everywhere I possibly can
but there's no tryin' to get the feelin' again
it seemed to disappear as fast as it came

In Denny's office he is walking around with his fly open. He has a worried look on his face. The scene morphs into a courtroom scene with Phoebe silently arguing in front of a large chart on a stand. Alan has a dreamy look on his face as he focuses on Phoebe's feet and legs. The scene morphs into Alan and Phoebe dancing cheek to cheek in an empty courtroom, then morphs into Denny dancing with Shirley Schmidt-ho, a life-sized doll he had made in Shirley's likeness, back to the courtroom where the people in the jury box rise to stand, suddenly they are wearing choir gowns and clapping. Alan and Phoebe continue dancing, now they are dressed differently, she in a long white dress and he in a tuxedo. Even Jerry and Bethany are dancing, both also wearing coat and tails.

Attorney Phoebe Prentice: All yours. **She is standing in front of Alan, the music winds down as Alan sits there dreamily, then suddenly looks up startled.**

Alan Shore: Excuse me?

Attorney Phoebe Prentice: I said the witness is all yours.

Alan Shore: Oh. **He quickly rises.** Oh. **Grabs both her upper arms as he squeezes past her.** Thank you.



Alan and Denny are in Denny's office.

Denny Crane: Were you delusional?

Alan Shore: Not delusional so much as... I don't know, like I was in another universe all of a sudden. Somewhere on cable.

Denny Crane: There's only one explanation. You're still in love with her.

Alan Shore: No. **He chuckles.** No, I'm just reminded of what it felt like to love her. She said that my eyes... that the fire was gone and that passion's the first thing to go when... That's been one of my greatest fears, Denny. As I get older... "Deadened" was the word she used. Ha.

Denny Crane: Deadened. You in the eyes. Me in the junk.

Alan Shore: On top of it, I'm losing. I think I made a huge mistake not putting up more witnesses. She just put up a mountain of expert testimony...

Denny Crane: Alan, when you step up to do your closings you're anything but dead. She hasn't got a taste of your case yet. She has no idea of how undead you become in that courtroom.

A beat.

Alan Shore: *He pats Denny's hand.* A masterpiece of nature.

Denny Crane: Oh God, she's not that hot.

Alan Shore: I wasn't talking about her. *He gives Denny a self-mocking smile. He sighs.* Denny, I need to go work on my closing. **He leaves.**

Denny Crane: I'm very confused.

In Judge Milton Brody's courtroom Phoebe is giving her closing.

Attorney Phoebe Prentice: As I said, tobacco companies do make for easy targets. And I am sure that there is a part of you that wants to get them, so if you find that my client caused the death of Mr. Rhodes then by all means return with a judgment for the plaintiff. But you simply can't make that finding here. Yes, he smoked. His daughter says that it was mostly my client's brand, but we have no substantiation of that. And while cigarettes may be the most probable culprit, no autopsy was ever done. He wants you to decide this on emotion. But as Judge Brody has already instructed, emotion has no play here. This is a court of law, and as such I will ask that you rule on the evidence. After all, you did take an oath to do exactly that.

Alan is now up. He rises and is startled when he hears a bleating sound. Denny takes out his cell phone and shuts it off. Alan gives Denny a look. Denny puts the phone back in his pocket as he gives the Judge an apologetic look.

Alan Shore: Michael Rhodes smoked cigarettes for fifty years, got lung cancer and died. We all know what happened here. We also all know this death. Everybody in this room knows somebody who has fought the same battle and died this agonizing, brutal, excruciating... **A beat. Alan smiles derisively.** But, emotion has no play here. Michael Rhodes was eleven years old when he started smoking. It was 1948, at that time there was no known risk. And even if there were, at eleven, he certainly lacked the capacity to assume it. And after that he was addicted. They manufacture them to be addictive. In just the last few years they've increased the amount of nicotine in the average cigarette by 11.6% to make them even more addictive. Recently we learned that tobacco companies have been adding an ammonia-based compound to cigarettes for years to increase absorption of nicotine. It's basically the same principle used in crack cocaine. And let's look at the obscene strategy they've employed here. "Smoking may cause cancer but it didn't cause this particular cancer." "It wasn't our cigarettes!" Or, "It was genetic." Or, "Asbestos". Or, "A paper mill." Never do they take responsibility. Ever! And, God forbid,



if you sue them they'll bury you. And your lawyer.

They might even depose your doctor to death for good measure. All their insidious methods and cunning corporate tactics aren't just history. It's what they continue to do now! Today! Because the tobacco industry is like a nest of cockroaches, they will always find a way to survive.

Attorney Phoebe Prentice: Objection! **The Judge raises his hand to shush her.**

Alan Shore: They still go

after kids with one strategy after another. They put up brightly colored ads at kids' eye level in convenience stores. They hire gorgeous twenty-somethings to frequent popular venues and seduce young adults into attending lavish corporate-sponsored parties. Cockroaches will always find a way. They can't advertise on TV but they've hired PR agencies to hook them up with the film industry. And it's working! Researchers estimate that smoking in movies delivers nearly four hundred thousand new adolescent smokers every year. Every time you try to kill the cockroach it finds another way. It has to! Because when you make a product that kills off your

consumers you have to find a way to recruit new customers. They've now got a new feminized version of the macho Camel brand using slogans like Lite & Luscious with hot pink packaging. Virginia Slims advertise their thin cigarette. *Velour* magazine did a whole spread on the cigarette diet. They use social, psychological profiling targeting potential smokers by gender, ethnicity, sexual preferences, socio-economic groups. Cockroaches don't discriminate! Their CEO comes into this courtroom gloating over their anti-smoking campaign which is designed to get kids to smoke! In 2005 they spent fifteen billion on advertising and promotion. That's a 225% increase from 1998 and they have the audacity to declare they're trying to discourage smoking. This is not how corporations with a conscience behave!

How in God's name are cigarettes even legal? Can anybody tell me that? They are a deadly concoction of carcinogens that damage every single organ in your body. Why do we not ban them? Because it's a free country, because freedom of choice is an American ideal worth somebody dying every six seconds? How can any company, especially one with such a conscience, no less, knowingly manufacture a product that poisons its users! And make that product look cool and hip and sexy and fun so they can get children. How can any attorney defend a company that would do such a thing? How can any society tolerate it? But we do! There is no conscience at Big Tobacco. There is no conscience in Washington which has been bought and paid for by this industry. Conscience has to come from you, the jury. If real regulation is to happen, it has to come from you! People are smoking day after day after day. And dying and dying and dying and the tobacco companies keep getting richer and richer. Last year alone they made twelve billion dollars in profits. How can that be? How can that be?

At the courthouse, in the witness room the plaintiff side is waiting. Jerry is pacing with his wooden cigarette.

Bethany Horowitz: ***She notices Denny staring at her.*** What?

Denny Crane: How about, we win, you come back to my place, get in the hot tub, naked, and I'll bob for you?

Bethany Horowitz: That's a pass.

There is a knock on the door.

Attorney Phoebe Prentice: ***She enters.*** Alan. My client has expressed an interest in working this out.

Bethany Horowitz: That's a pass too.

Attorney Phoebe Prentice: Don't you want to hear a number?

Bethany Horowitz: I don't need to hear your number.

Another knock.

Male Clerk: ***He comes in.*** Excuse me, the jury has a verdict.

Jerry Espenson: Already?

Bethany Horowitz: Let's go hear *their* number!

In Judge Milton Brody's courtroom both parties are at their table.

Alan Shore: ***Sotto.*** Maybe we should at least hear what they have to say. It's not too late.

Bethany Horowitz: Yes, it is. For them.

Alan Shore: Bethany...

Judge Milton Brody: Mr. Foreman, the jury has reached a verdict?

Foreman: We have, Your Honor.

Judge Milton Brody: What say you?

Foreman: In the matter of Rhodes versus AB Curtis Tobacco Company on the count of wrongful death we find in favor of the plaintiff.

Maureen Rhodes closes her eyes in relief.

Jerry Espenson: Hot damn!

Foreman: And we order the defense to pay compensatory damages in the amount of six hundred thousand dollars. We further order the defendant to pay punitive damages in the amount of 213 million dollars.

Bethany Horowitz: What?

Attorney Phoebe Prentice: Defense moves for a judgment notwithstanding the verdict.

Jerry starts popping.

Judge Milton Brody: Denied.

Attorney Phoebe Prentice: Defense moves to set aside the award as excessive.

Judge Milton Brody: Denied.

Attorney Phoebe Prentice: We appeal.

Judge Milton Brody: So noted. Members of the jury this completes your service. The court dismisses you with their thanks. And we are adjourned.

Denny Crane: ***To Bethany.*** You gotta feel like getting naked now.

Maureen Rhodes: **She leans over to tap Alan's shoulder.** Mr. Shore. I don't know what to say.

Alan Shore: Neither do I.

Bethany Horowitz: Alan, thank you so, so much. **They hug.**

Attorney Phoebe Prentice: Alan, a second please. In private.

In a witness room.

Attorney Phoebe Prentice: Well! Congratulations. Obviously we'll be fighting this so it will be years and years before this thing is remotely over.

Alan Shore: I've got time. It's not as if I'm dying or anything.

Attorney Phoebe Prentice: No, you're... quite not. **They share a long stare. She takes a deep breath.** Well, I don't do appellant work, so I'll be passing this on to another lawyer.

Alan Shore: I guess this is goodbye then.

Attorney Phoebe Prentice: Yes. **She laughs nervously, then goes over to kiss Alan.** Goodbye, Alan.

Alan Shore: **He watches her leave. After a long moment.** Bye.



On the balcony Alan and Denny are there with cigars and scotch.

Denny Crane: You still have me.

Alan Shore: It's not quite the same. But you know what, Denny? Sometimes it comes remarkably close. What you said to me about being undead in the courtroom... it's not lost on me how lucky I am to have somebody in my life who can... I don't know what I'd do without you. **Denny reaches over and they clink their glasses.**

Denny leans back, takes a sip then sighs in contentment. You know, as much as I hate cigarettes, I so miss the cigarette break. The little respite where coworkers would go outside, be communal, discuss the trivial annoyances and affections in their lives. That always turned out to be anything but trivial. And to think I might not even know you but for the fact that we both like to smoke these smelly cancer sticks that can only be smoked outside.

Denny Crane: Hm.

Alan Shore: That would be a tragedy.

Denny Crane: I especially can't imagine being alone now. When my junk has Alzheimer's.

Alan Shore: Denny!

Denny Crane: It's a symptom. You said so yourself. It figures, for me it would be the first thing to go.

Alan Shore: What's that?

Denny Crane: What? **He sees a white box wrapped with a red ribbon and bow sitting next to his chair.** Oh, I didn't see it. **He starts unwrapping as Alan leans in closer for a look. Denny lifts the tissue paper to reveal the word "Varsity" on a piece of red clothing.** Ohhh. **He touches it reverently.**

Alan Shore: It that the...?

Denny Crane: **He quickly covers it back up and gets up to leave.** See ya!

Alan Shore: Whoa, whoa! Well, at least let me see it. **Denny hesitates then puts the box down and lifts out a red cheerleading costume.** Oh my! **Denny lifts off one piece. Alan gasps.** It's a two-piece, Denny. A share toy!

Denny Crane: Forget it.

Alan Shore: Come on!

Denny Crane: She gave it to me.

Alan Shore: You take top, I'll take bottom.

Denny Crane: Not a chan... , **He gets an odd look on his face.** Ohhh

Alan Shore: What?

Denny Crane: I'm cured. I'm back! I'm gone! **He turns to leave.**

Alan Shore: Whoa, whoa, whoa! Why not savor this moment?

Denny Crane: At my age I'm lucky to last a moment.

Alan Shore: You take the top, I'll take the bottom, tomorrow we'll switch off. That'll be just like the three-way you've always wanted.

Denny Crane: I never wanted you as part of the three.

Alan Shore: Denny... **He puts down his cigar and scotch.** I have never asked you for anything. I am your best friend.

Denny Crane: Oh! Alan!

Alan Shore: How can you possibly be so selfish and cruel? **Denny looks up, Alan gives him a stern look, Denny touches the outfit, Alan changes his look to pleading, then pouting, then to all smiles as Denny holds up the skirt.**

Denny Crane: Don't ruin it.

Alan Shore: **He takes the skirt.** Oh my God.

Denny Crane: See ya.

Alan Shore: What's your rush? Slow down! Treat her right. **He holds up the skirt.** Romance her a little. **He holds the skirt close. He starts swaying his hips.** At least dance with her first.

Denny Crane: Dance!

Alan Shore: Hold her. **He has his hands out front with palms up the skirt draped over them.** Drink her in. **He waltzes.** Cherish her.

Denny Crane: **He throws the top over his shoulder.** Oh!

They both continue dancing with their piece of the costume.

Alan Shore: **He holds the costume up to his cheek.** This is magic!

Denny Crane: This is fantastic. God, are we weird?

Alan Shore: So weird.

Nat King Cole is singing "L, is for the way you look at me. O, is for the only one I see...V, is very, very extraordinary...."

