

Scribbles Squibs* #26 (March 14, 2014):
The Recovery of Attorneys' Fees in Massachusetts
Litigation

By Attorney Jonathan Sauer

I. INTRODUCTION.

Here's a *Squib* we can do rather quickly, kind of our St. Patrick's Day *Squib*. The last one before we go into our one hundred and forty-three part series on how to go from being the guy who empties the waste baskets to the president of a billion dollar per year construction company. (If it were me, I'd go to Walmart and get new glasses: you're gonna need them.) And, this is written specially in honor of St. Patrick's Day, upcoming on March 17, 2014. Perhaps a bit of the blarney here. Maybe more on that later.

This *Squib* explains what happens with regard to attorneys' fees if you win, or if you lose, in a court case in a Massachusetts court. This is going to be one of those 'bad news, good news' types of situation.

Now, for the bad news. Win your case and you earn 60% interest for your contract claim that was pending for five years. Yet, under most situations, a Massachusetts Court will award you for winning your case the munificent sum of either \$1.25 or \$1.50 as an attorney's fee. An amount of money which if added together would not likely buy you a medium sized coffee at a coffee boutique. (DD in East Walpole today charges \$4.16 for a large iced latte. You'd have to win a bunch of cases to pay for one of those babies with your attorney's fee award.)

OK. Massachusetts is the home of the Puritans, a former advocate of the Blue Laws. But, heck, how did *this* happen? Suing is a God-given right! *Isn't it?*

II. MANY EUROPEAN COUNTRIES INCLUDE AWARDS OF ATTORNEYS' FEES IN AWARDS TO PREVAILING PARTIES.

In various European countries, the plaintiff's award or judgment will include the plaintiff's attorneys' fees. The rationale behind this is not hard to understand. A defendant is less likely to drag out a litigation when it knows that other than having to pay its lawyer, it may have to pay the plaintiff's lawyer as well. There's a kind of common sense justice to this. If the defendant on an undisputed claim wants to play, then he should be made to pay. Attorneys' fee awards as part of a plaintiff's recovery have some tendency to reduce the number of litigations any one party can afford. And, such provisions often shorten the litigations that are filed. The fact that the general contractor's payment bond surety in Massachusetts will have to pay for the plaintiff subcontractor's attorney's fees if the plaintiff wins is a significant factor causing earlier

settlements for many of these claims. Massachusetts, however, follows what is known as the ‘American Rule’ as to attorneys’ fees awards.

III. THE ‘AMERICAN RULE’ ON ATTORNEYS’ FEES.

At *Scribbles Squibs*, we don’t usually give quotes from cases or statutes. But, since this is such an important thing for parties involved with Massachusetts construction litigation to understand, for this *Squib*, we’ll make an exception because we want our readers to understand this *precisely*. Besides, for those of our readers who have read all seven parts of our contracts series, they’re practically lawyers now anyway. A little case citation for them shouldn’t be too scary.

As stated by the Supreme Judicial Court in the case of Preferred Mutual Insurance Company v. Gamache, 426 Mass. 93,95, 686 N.E.2d 989 (1997):

“The usual rule in Massachusetts is to prohibit successful litigants from recovering their attorney's fees and expenses except in a very limited class of cases. This rule is known as the "American Rule." See Waldman v. American Honda Motor Co., 413 Mass. 320, 321-323, 597 N.E.2d 404 (1992). Our traditional approach has been to prohibit recovery of attorney's fees and expenses in a civil case in the absence of **either an agreement between the parties, or a statute or rule to the contrary**, and this principle has been applied to deny recovery of attorney's fees and expenses in declaratory judgment actions. See Fuss v. Fuss (No. 1), 372 Mass. 64, 70-72, 368 N.E.2d 271 (1977); Wachusett Regional Sch. Dist. Comm. v. Erickson, 354 Mass. 768, 238 N.E.2d 369 (1968).” (Emphasis added)

IV. MASSACHUSETTS’ COURTS GENERALLY TREAT ATTORNEYS’ FEES AS A ‘COST’, NOT AS AN ELEMENT OF THE RECOVERY.

When a plaintiff wins a case, the plaintiff gets an award of the amount of damages the Court awards plus accrued interest and costs. The paper setting forth all of this is called a ‘judgment’. The paper given to the sheriff to attempt to recover the judgment is called an ‘execution’. This, generally speaking, isn’t issued until more than thirty days have passed from the date of judgment, thirty days being the common period for an appeal must be pursued, should one be inclined in that direction.

In the usual case, the attorneys’ fee award – such as it is – is actually a ‘cost’, not a true element of the award. Here’s what the governing statute says on this point:

M.G.L.A. 261 § 23. Supreme judicial, appeals and superior courts; items of costs

“There shall be allowed, in a civil action in the supreme judicial court, appeals court or in the superior court, in addition to other disbursements allowed by law, the following costs: . . .

For an attorney's fee, if an issue in law or fact is joined, two dollars and fifty cents; if not, one dollar and twenty-five cents.”

The ‘joinder of issue’ simply means that the defendant has filed an answer to the complaint, one of the earliest steps in a litigation. (For those interested in the various steps in a litigation, there is an article on this on the website.) Since more cases are concluded after the filing of the answer of the defendant than before that happens, the award will typically be \$2.50. Don’t spend it all in one place!

V. THE TWO EXCEPTIONS TO THE AMERICAN RULE; OTHER CONSIDERATIONS.

A. Provide for an attorneys’ fee award as a contract provision.

This is the principal thing that a potential litigant can do to protect itself. Namely, make sure that there is an attorneys’ fee award provision in the contracts it signs. The parties in the best position to do this are general contractors (as to subcontractors and subcontracts) and material suppliers. Since the general contractor owns all of the work, it is in the best position to dictate terms to subcontractors, something that all of us know, not requiring any further explanation. In the general contractor-subcontractor relationship, invariably it is the general contractor which prepares the proposed subcontract. As to material suppliers, better credit applications have a provision in them saying that attorneys’ fees are to be paid in the event the material supplier has to hire an attorney to get paid.

Better credit applications don’t limit this concept. It’s an absolute obligation irrespective of anything else, including how much is recovered on the claim. If we have to hire an attorney for *any* reason with regard to *any* amount you owe us, then the customer pays our attorneys’ fees. Period.

For a general contractor, the usual drafter of subcontracts, this term should be defined somewhat narrowly. Namely, the subcontractor is a ‘prevailing party’ only when it recovers *all* of its claims. But, on the other hand, as to the same issue, the general contractor is a prevailing party when *any* of its defenses and counterclaims are sustained by the judge or arbitrator in *any* amount. Having the work, strength of will and negotiating leverage are the factors which usually dictate how such a provision will read. As a contracts lawyer, I must sadly report in my observations through the years, the party who receives the contract often makes *no* attempt to negotiate *anything*. That’s not a good way to start a relationship, when one essentially says ‘I’ll do whatever you tell me to do.’ There are those who will take advantage if someone lets them take advantage and battles over payment and extra work can only be expected with an inauspicious start.

B. Sue under a statute that includes an attorneys’ fee award in it.

Certain statutes - Chapter 93A (unfair and deceptive trade practices) and Chapter 149, s. 29 (claims on the general contractor’s public payment bond) specifically provide that if a plaintiff wins, a part of its recovery will be an award of attorneys’ fees. The amount of such

awards is generally subject to the judge's 'discretion', which can be a scary proposition in many cases because the award can't usually be successfully appealed. In general construction contract matters, there are no general statutes that I am aware of that would help you in terms of providing for an attorney's fee award. There is a statute that might allow for the award of attorneys' fees in cases where one party asserts a frivolous claim or defense. This is, as follows:

M.G.L.A. 231 § 6F. Costs, expenses and interest for insubstantial, frivolous or bad faith claims or defenses

“Upon motion of any party in any civil action in which a finding, verdict, decision, award, order or judgment has been made by a judge or justice or by a jury, auditor, master or other finder of fact, the court may determine, after a hearing, as a separate and distinct finding, that all or substantially all of the claims, defenses, setoffs or counterclaims, whether of a factual, legal or mixed nature, made by any party who was represented by counsel during most or all of the proceeding, were wholly insubstantial, frivolous and not advanced in good faith. The court shall include in such finding the specific facts and reasons on which the finding is based.

If such a finding is made with respect to a party's claims, the court shall award to each party against whom such claims were asserted an amount representing the reasonable counsel fees and other costs and expenses incurred in defending against such claims. . . .

No finding shall be made that any claim, defense, setoff or counterclaim was wholly insubstantial, frivolous and not advanced in good faith solely because a novel or unusual argument or principle of law was advanced in support thereof. No such finding shall be made in any action in which judgment was entered by default without an appearance having been entered by the defendant. The authority granted to a court by this section shall be in addition to, and not in limitation of, that already established by law. . . .”

Also, be aware of the fact that attorneys' fees can sometimes be awarded against attorneys under 'Rule 11' (a lawyer regulatory rule that's fairly common), essentially for the same idea of bringing frivolous claims or defenses.

Lest you become too excited about these two potential opportunities, awards under either are exceptionally infrequent, only very sparingly granted. In my thirty-eight years as a licensed attorney, in none of the hundreds of cases I have been involved with has any such award ever been made. This isn't because of the fact that judges are trying to protect lawyers. The opposite contention could be more reasonably made for, in many situations, judges and lawyers are almost in the position of adversaries. Competent lawyers loathe incompetent judges (and there are more than a few, unfortunately) and conversely. For those who would like a little 'heads up' concerning the judge that they will appear before on something important, reviews of current judges can be found at 'The Robing Room'. There are comments made by individual litigants and by individual attorneys, all anonymously.

Problems also occur between judges and lawyers when one has far greater ability, talent or knowledge than the other. Again, something that happens more than it should seem to.

The reason that such attorneys' fee awards are hardly ever made based on this statute or based on this rule is because of the fact that our justice system is set up to *encourage* claims. Pure and simple. And, that's not at all necessarily a bad thing. A currently-recognized cause of action may only have come about because at some point in time some party and his/her attorney was brave enough to attempt to establish one where it didn't presently exist. Folks, people will either settle their disputes with court cases or with guns. Those seem to be the only two options and examples of each can be found on any television news nearly every day. For the system to work, a novel claim or defense could be either frivolous or, possibly, admirable. And, that's probably the way it should be. However imperfect, the law does try to afford damaged parties a *remedy*, meaning some form of resolution of their problem. And, this can only be done in a system that is sympathetic to new and/or different arguments. A system that is necessarily flexible. How else can judicial progress be made?

C. Because of the many holes 'in the law', work on the things over which you have some measure of control.

One might think, 'well, we don't just need the courts. Maybe the legislature can do something for us'. Indeed, sometimes this is possible, very occasionally startlingly so. Recently, a Massachusetts appellate court came out with a decision that essentially found that there was nothing wrong with 'upskirting', taking the pictures of ladies from underneath. An angered populace and legislature led to a law being passed by the legislature within a matter of days, making this a misdemeanor. Another example: my wife, Sally, is very active in the "Puppy Doe" case from Quincy, where an illegal Polish immigrant is currently in jail on no bail, a rather remarkable result, considering the historic lack of regards for animals in the courts of this country. This is a case where the "alleged" sadist kept a formerly healthy pit bull in a closet, literally torturing the poor thing to the point that when it finally got rescued, the animal was simply too damaged and too much in pain to go on. Sally reports that this is leading people nationwide to look for stronger laws protecting dogs from such savage treatment. This case has certainly changed our lives. As a tribute to Puppy Doe, we adopted a rescue pit bull now named Delilah from 'Dead Dogs Beach' (not a misprint) in Puerto Rico, who has adjusted wonderfully to our other brood of five dogs and currently rules the roost. A tragedy for one dog led to the possible saving of the life of another!

But legislatures don't always or even usually work this well or this quickly. As a construction writer and teacher for many years, I have participated in meetings with legislators who, for whatever reasons, were sponsoring bills at the legislature. In one instance, we met with a top legislator, himself a lawyer, as to various desired amendments to the mechanics' lien statute. After sitting with him for nearly an hour, I came away with the impression that however helpful he was trying to be, he really didn't have much of a clue about mechanics' liens.

So, there will be times when there may not be a law in place that will protect you. An example of an apparent error in the law can be found when comparing the rights of a general contractor to lien the owner's interests under C. 254, s. 2 and the lack of rights for a subcontractor to lien the owner's interests on C. 254, s. 4. In one case, more rights. In the other case, fewer rights. And, this all because of a small difference in wording between the statutes. Statutes are not routinely examined to see if they need to be updated. If someone gets a

sufficient bee in his or her bonnet, perhaps someone will look at this. Other times, a statute may sit for many years and become confusing because it doesn't describe a particular current situation, is inconsistent with other parts of the statute or because there is a hole in the statute, meaning that the statute doesn't even really address the problem.

And, anyone who has had a case decided by a judge, a jury or an arbitrator knows of the difficulties in these systems. While America is supposed to be a nation of laws, those laws are administered by human beings, remarkably inconsistent creatures in which reason and good judgment often seem to take a back seat to lesser ways of thinking.

So, what does one do? I did say something about laws *or* guns, didn't I? Society *does* seem to take a dim view of the latter, particularly in a state such as Massachusetts which holds that a homeowner in the middle of the night in his own bedroom, hearing someone coming up the stairs who shouldn't be there, while desperately wishing to protect his wife and small children even at the possible expense of his own life may, nonetheless, have a 'legal' affirmative duty 'to retreat.' In other words, in this People's Republic, you may have the duty to the bad man to attempt and go hide from him so that you don't hurt *him*?!? What kind of an *idiot* thinks that makes any sense at all? And, this, unlike other states where if you catch your worst enemy in your house at any time uninvited, you may have a nearly unfettered right to simply 'blow him away'. Having such a right *resonates* with people. We pay all these taxes and give up any number of individual rights precisely as part of 'the social contract' between a state and a citizen that the former will protect the latter. But, what happens if the state simply refuses to do its job? Or when it *can't* do its job? It is not for nothing that the Charles Bronson movies and the Clint Eastwood movies have been so very popular. People want 'justice' (however hard that may be to define), something that the legal system often refuses to give or is unable to serve up.

We're talking about how to be more effective and profitable material suppliers, subcontractors, general contractors, owners and sureties. We're not talking about the prosecution of criminals. That is the criminal side of the law. On the civil side of the law, where we live and do business, you *do* have the right of 'self-help' that may be lacking on the criminal side. Namely, know a lot more about what you are doing. Take the time and effort to educate yourself. Know your rights. Know your obligations. And negotiate, read and understand your contracts!

D. Be sure to define in your contract the elements which will determine who would be the 'prevailing party' in any future litigation.

Certain attorneys' fee provisions may award attorneys' fees to the 'prevailing party'. Before we talk about that, here's a tip for better construction contracts. Wherever possible, try to avoid words in your contract that are susceptible to more than one meaning. And, good legal writing – such as the drafting of contracts, releases, settlement documents and other legal documents – should be as absolutely short as possible. A lawyer going on and on with too many pages and provisions can be creating additional sources of potential ambiguity and confusion which, under certain circumstances, may cost his/her client money. Less is more. More is less. Massachusetts case law says that when one party solely drafts the contract, in the

event of an ambiguity in the contract, the non-drafting party gets to pick which interpretation of the contract is most favorable to it. (No case or statute citation here!)

So, lawyers don't like it when judges have to define words from dictionaries. Different dictionaries define different words differently. (That's three different 'differents'!) Elsewhere in this St. Patrick's Day *Squib*, I used the word 'blarney'. Well, do you know what 'blarney' actually means? 'Blarney' can be defined in the following ways: 1. flattering talk; 2. to cajole with flattery; wheedle; 3. misleading nonsense; 4. to flatter or deceive with blarney; 5. flattery designed to gain favor ; 6. influence by using gentle urging, caressing, or flattering; 7. talk that is not true but that is nice and somewhat funny and that may be used to trick you; 8. talk that aims to charm, pleasantly flatter, or persuade; 9. Amusing and harmless nonsense; 10. a friendly way of talking to people and saying nice things about them that makes it easy to persuade people to do what you want. And, there are a variety of additional definitions and variants.

My question as a lawyer – a practitioner of these sometimes dark arts – is when you use an important word in a legal document, what meaning did you *intend*? What meaning did you *want*? Possibly, more important, wouldn't it have been a grand idea had someone thought about these things before you either drafted or signed the contract? By the time you bring that document to your lawyer, the die has already been cast. Namely, courts do not rewrite contracts. If you signed something dumb, then dumb will most likely be what you will get.

We don't like judges using dictionaries. We *especially* don't like arbitrators using a dictionary. Arbitration, a *very* rough approximation of justice in the Wild West, where no one can predict in advance at *all* what *any* arbitrator is likely going to do with *any* case.

So, 'prevailing party'. What does this mean? I had an arbitration once where I represented a general contractor with claims against him by a subcontractor relative to the construction of a dormitory for a public college. The details are a bit hazy but, as I recall, the subcontractor was looking for about eighty or ninety thousand dollars, a pretty significant sum then and now. The general contractor had a provision in its subcontract saying that the 'prevailing' party in litigation would be entitled to its attorneys' fees. (Many of the subcontracts I see that have been drafted by general contractors simply say that only the general contractor will get attorneys' fees if it prevails in litigation, with no mention of the subcontractor's being able to collect attorneys' fees under any circumstance.) In my case, the general contractor had gotten a change order for a portion of the subcontractor's work as an extra, work the subcontractor had, in fact, already performed, for about eight thousand dollars, this, an item in the subcontractor's claim. I told the general contractor that since this pertained to the subcontractor's work and since the general contractor had been paid for this by the owner, the general contractor should credit that payment against the subcontractor's account and pay him that amount. The general contractor – not much inclined to sign checks to anyone, as it turned out – declined. In his defense, the general contractor had spent a lot of money to correct the subcontractor's work. But, as we all know, some general contractors have a tendency to look to make more in these circumstances than they might really be entitled to. The arbitrator gave the subcontractor an award for only the amount of the change order work: about eight thousand dollars. So, we

knocked out eighty or ninety percent of the subcontractor's claim. And the evidence was very clear that this subcontractor had done a very sloppy job.

My guy won, didn't he? My guy 'prevailed', didn't he? The arbitrator, to her credit, did ask the parties to give her contractual and legal guidance on what did 'prevailing party' mean as to this contract and case. Then, she awarded the subcontractor an award of attorneys' fees, costs and expenses in the amount of thirty thousand dollars, this amount to collect eight thousand dollars. (And, remember. By and large, there are *no* appeals from arbitration awards.)

Could this result have been prevented or at least mitigated? Sure. The general contractor should have credited the subcontractor's account for the eight thousand dollars. And, the contract could have simply defined what a 'prevailing party' was/is. It is likely that most arbitrators would have followed the contractual definition and it is almost certain that the vast majority of judges would have accepted the contractual definition, as well.

VI. CONCLUSION.

To this writer, the primary value of an attorneys' fee provision in a contract is not the hope or expectation that my client will actually recover one. In most cases, that would mean that my client would have had to try and win its case. Where only one percent of all civil cases in the superior court will require a complete trial, one of any party's litigation goals is to find ways to shorten the case. In other words, to better work the judicial/court system rather than have that system work you, which is often unpleasant, unpredictable and expensive.

Those who read my writings know that I frequently talk about 'risk management'. Those who think about these things will take certain actions before they are in trouble and before they go to a lawyer with that trouble. For, if the lawyer's first contact with the client indicates that the barn door is open and Mrs. O'Leary's (a good Irish name on this Irish holiday!) cow is in parts unknown, how likely will it be for your lawyer to know where that bovine creature *is*?

Robert Frost wrote that: 'Good fences make good neighbors.' A good New England idea. Here's another. If you put a good padlock on the barn door, the cow will be found *tomorrow* where you left her *today*. Last we were aware of, padlocks made by The Wilson Bohannon Company and by The Strong Arm are made in the USA. Good security ensuring employment for Americans while fully satisfying the 'Buy American' clause of any contract you might sign.

I tell you, when I look in a mirror, sometimes I find myself saying: 'what a guy'!

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* A '*squib*' is defined as 'a short humorous or satiric writing or speech'. Wiktionary defines *squib* as: "a short article, often published in journals, that introduces empirical data problematic

to linguistic theory or discusses an overlooked theoretical problem. In contrast to a typical linguistic article, a squib need not answer the questions that it poses.”

Jonathan P. Sauer
Sally E. Sauer
Sauer & Sauer
15 Adrienne Rd.
E. Walpole, MA 02032
Phone: 508-668-6020
Fax: 508-668-6021
jonsauer@verizon.net
sallysauer@verizon.net
www.sauerconstructionlaw.com

This article is not intended to be specific legal advice and should not be taken as such. Rather, it is intended for general educational and discussion purposes only. Questions of your legal rights and obligations under your contracts and under the law are best addressed to legal professionals examining your specific written documents and factual and legal situations. Sauer & Sauer, concentrating its legal practice on only construction and surety law issues, sees as part of its mission the provision of information and education (both free) to the material suppliers, subcontractors, general contractors, owners and sureties it daily serves, which will hopefully assist them in the more successful conduct of their business. Articles and forms are available on a wide number of construction and surety subjects at www.sauerconstructionlaw.com. We periodically send out ‘Squibs’ - short articles, such as this one - on various construction and surety law subjects. If you are not currently on the emailing list, please contact us and we’ll put you on it. We welcome reader comments and feedback of any kind. Positive comments shall be rewarded. Those with negative comments will probably be shot, that irrespective of which form of justice system we are under.

DO NOT READ ANY FURTHER!

THE FOLLOWING SERVER TEST IS POSSIBLY REQUIRED BY THE SERVER POLICE PURSUANT TO 324CFG1184(s)(x)(1/2). THIS IS KIND OF LIKE THAT THING WITH THOSE TAGS ON THE PILLOWS: YOU *MIGHT* BE TEMPTED. BUT. **DON’T!** I’M SURE THEY ARE THERE FOR A REASON! DO YOU REALLY WANT TO ATTEND A TRIAL IN THE PHILLIPINES OR IN VIETNAM? AT LEAST IF IT IS IN CHINA, YOU CAN HAVE SOME REALLY GOOD RAMEN. AND, HAVE A CHANCE TO LOOK AT MORE AMERICAN MONEY THAN YOU WOULD BE ABLE TO SEE IN, UH, AMERICA

SERVER TEST

(In honor of St. Patrick’s Day, a bit of the blarney don’t you know!)

Scribbles: I thought we didn't do this stuff so much anymore? You know, like, interviews. You know, since the days of *SCRIBBLES* and stuff.

Editor: (Looking surprised.) *SCRIBBLES* isn't gone. It's not dead. Not buried. It's sort of stuck in outer space, as was revealed at the end of *SCRIBBLES #42*, January, 2013. Out there with Patrick Stewart, the Second Captain, if he is not currently doing some Shakespeare play somewhere in some bug-infested park for nothing. The Founder was taken up into that spaceship and he's out there somewhere (he said, pointing). We're expecting him back any day now. Or, perhaps, any year. Possibly, any decade. But, mark my words! There *will* be further issues of *SCRIBBLES*. *SCRIBBLES* is eternal, like taxes and liberals in Massachusetts. Like ice cream and ponytails in Vermont. Like Governor Christie's expanding problems.

Scribbles: So, why are you sitting for an interview?

Editor: We who work with *Squibs* are, you know, kind of like the 'man behind the curtain'. You know, that Wizard guy in that movie where, if things go well, nobody can see him. Except, maybe, for Dorothy. Anyway, we like to put the information out there, run it up the flagpole, see if anyone salutes. But, I read something in the newspaper the other day

Scribbles: A newspaper, like with *paper*? Or, a *digital* newspaper?

Editor: (He shrugged.) Maybe both. You see, I was holding it. In my hands (he said, gesturing.) I figured. A travesty. Somebody's gotta do something for this great Equine-American. And, since no one else was stepping up to the plate, I took out my old wood 32 bat (aluminum bats unheard of in my day), spit out my gum and got into the batter's box. (Looking reflective.) No matter how this at-bat turns out, I hope I'll be able to find my gum when it's over. No matter what 'they' tell you, times are still harder than they are good. (Thinking) God, you know, isn't old-fashioned.

Scribbles: I never thought that He was. But, I'm curious. What did you have in mind?

Editor: Despite the technology thousands and thousands of years ago, God showed that He is hip. I mean, after all, he gave out the Ten Commandments on *tablets*. And, we know that He has always had this thing about Apples. And, I think he wrote a book about Steve. You know, Job. I think it was a printer's error. You know, when they left off the 's'.

Scribbles: Good one! Maybe, two good ones! You starting some kind of fundraiser? Or, a foundation?

Editor: Guys don't use foundations. (She glares.) No, I'm gonna start an organization and solicit charitable contributions from our readers, details at the end of this interview. That's really the *only* purpose to this interview. That, and to do honor to St. Patrick's Day. But, first, a lot of stuff has happened since our last *Squib* that I should talk about. Since I am here, anyway.

Scribbles: Like what?

Editor: Well, take our comments on the ‘alternative’ system of justice discussed in the last *Squib*. Somewhere around page nine. We had a *lot* of interest in that. Battle weary litigants in Massachusetts and other states looking for something cheaper, quicker and, frankly, *fairer* than court. (He looked furtively, side to side.) They wear the black robes in honor of their ancestors. The witches.

Scribbles: So, who can use this system?

Editor: Well, it’s not for everyone. The system, at least traditionally, has seemed to favor folks who have a lot of vowels in their names. I really don’t know why. Possibly because the names are easier to pronounce? Especially, for some reason, vowels towards the end of their names.

Scribbles: What’s so special about vowels?

Editor: Well, there’s only five full-time vowels and one part-time vowel. Since there are more of them than consonants, that makes them special. Not quite unique. Just, special.

Scribbles: Part-time vowel?

Editor: Yeah, that would be your ‘y’. That sucker, well it goes both ways.

Scribbles: (Looking uncomfortable.) Since I’m concerned about our respondent servers – this is a Server Test, after all - let’s move right along. Any other special requirements to use this other court system?

Editor: Yes. Regretfully, this is only open to ‘manly’ men.

Scribbles: You mean you exclude females? I’m not sure I *like* that.

Editor: Not at all! A lot of women are a lot like ‘manly’ men. Except equipment-wise. You know, guys got these things and gals have *other* things. (Leaning forward, confidentially.) I read that in a book. There were references to various things ‘concave’ and other things ‘convex’. I didn’t understand them very good. I’m not so good at math.

Scribbles: This I’ve gotta hear! Some examples of women who are like manly men?

Editor: Margaret Thatcher, she would be one. One of Ronnie’s buddies. Why, that lady had the biggest brass pair

Scribbles: (Spoken as if by the little guy on Fantasy Island pointing up into the sky.) The servers! The servers! Let’s think about those servers! Any other ladies?

Editor: You got Golda Meir. Israel is a country with a lot of tough-minded people. Let’s face it: they *have* to be. For a time, Golda Meir was the toughest guy they had.

Scribbles: Any other examples?

Editor: Maybe Lady Gaga and Beyonce? And, twenty years ago, Madonna.

Scribbles: Why them?

Editor: You'd have to be pretty tough to go on-stage in some of the outfits and non-outfits these gals wear or don't wear. (He shrugged) Kinda hard to have an 'equipment malfunction' when there's not that much equipment in the first place.

Scribbles: The servers!

Editor: (Smirking) Why are we now talking about *waiters*?

Scribbles: Who are today's 'manly men'?

Editor: Certainly not George Clooney. I mean the dude is old. And, he's too pretty. Almost like a gal who maybe has to shave every once in a while. Richard Gere. Now *there's* a guy who is manly. His funny-shaped nose keeps him from looking like a girl. (Reflectively) There's still a bunch of 'em, out there today, even with today's PC. Though, to look at what's on TV these days, you'd hardly know it.

Scribbles: Where can one find them, then? (she said, looking down, with extreme concentration)

Editor: (Looking slyly). Would this be for the article? Or, possibly, for *personal* use?

(No answer.)

Editor: Well, a lot of them are contractors. The vast majority of which read this virtual rag. Every single word. I mean, they figure that if someone is actually trying to help them without their hand sticking out, only a fool wouldn't take advantage, right? And, in fact, there's an organization in Massachusetts that seems to be infested with them, totally dedicated to the idea of the 'manly man'.

Scribbles: What would that be?

Editor: There's this trade group involved with maybe burying pipes and stuff? Maybe like those artesian wells that rich people dig just to wet the grass? Or, maybe like that guy who writes those girly novels about putting love letters in bottles and then buries them? I'm not really too clear on the details. But, for whatever reason, they seem to like to put stuff in the *ground*. I think they started off doing something legitimate, like burying 'time capsules' and maybe building bomb shelters ten feet underground so that the Russkies couldn't reach their customers with their nukes for the first thirty seconds or so. All bets off with the thirty-first second, however. All disclosed on page 138 of the 'exceptions'. (He laughs) Not that anyone's

gonna be around to make any warranty claim! But, for whatever reasons, business fell off and they had to create some new business opportunities. You know, so they could keep the old lady in designer jeans. These are *tough* guys! I mean, a number of them when they are digging, they just use their *hands*. Even through *rock*. I mean even with ledge, they don't need dynamite!

Scribbles: Well, how do they get rid of the ledge, then?

Editor: They just kinda pound it with their fists.

Scribbles: (She winces.) Doesn't that kinda hurt?

Editor: Nah! Didn't I say these guys are tough? (Looking out the window, reflecting) They *do* go through a lot of hand-cream, though. But I gotta hasten to say, there's not like much perfume in it. Manly men are not much for perfume. Anyway, these guys are also pretty *brave*. A number of them even work for the MHD. (Looking confused) They may have changed their name a coupla times recently. But, it hardly matters. It's still just a number of letters.

Scribbles: You mean they use acronyms?

Editor: Geez, I'm sure I wouldn't know about anything like that. Guy gets older? He's gotta expect to take medicine for *something*. Also, it's a kinda guy thing to have these errors in judgment. Particularly at night? Especially when liquid spirits are involved? I mean, after all, *boys will be boys!* Anyway, since they're among the toughest and the best manly men out there, they thought they should create some *tests* to kinda see who measures up. Who deserves to belong. Their check's clearing for the dues - a rarity for some contractors - just might not be enough. That is, other than the associate members. I mean, if those guys want to send their checks in, I don't know a contractor organization that won't accept them. (He laughs) A lot of those guys went to college for a while and everything! They go to these dinner meetings, buy drinks for everyone at their table and they think they are hot . . .

Scribbles: Careful!

Editor: I was gonna say 'stuff'.

Scribbles: What's wrong with associate members?

Editor: I'm sure not that much! It's especially tough, though, with the lawyers, now that law schools actually have more female students than male students.

Scribbles: Why does that make it tough?

Editor: Because now, for the first time, they have the opportunity to *breed*.

(She shuddered)

Editor: Tell me about it! Back in the day when the mouthpieces were almost only males, the fact that they would devour each other on a regular basis at least tended to keep the numbers down! (Thinking, then looking fearful.) What if they had a lot of *female* architect students along with the males? Going to bow-tie school?

(She shuddered *more*)

Editor: (Nodding his head) Almost too scary to contemplate, I know. But, getting back to the ditch diggers. You go to one of their dinner meetings - you know, break bread and ravioli, once and awhile maybe some heads in the parking lot and such when they got a load on - and they give them the **main** test. Right there out in the *open*. In *public*. Where everyone can *see*. Where success can be praised and failure condemned. The thrill of victory. The agony of defeat. Stuff like that.

(*Scribbles*, drumming her nails on the table.)

Editor: One of them looks chipped (he said, pointing.)

Scribbles: It's not chipped! If you *must* know, I sorta unconsciously chew them. Especially when I get nervous. Like *now!*

Editor: (Oblivious, as are most males with many male-female interactions not involving sex, dinner, divorce lawyers or dealing with the in-laws.) Well, back when we first started going to dinner meetings – slightly after The Flood, when the waters had receded and there was land you could actually walk on – the food at the dinner meetings wasn't that great. Frankly, most of it was simply *terrible*. I mean, they had the 'cash bars' to sorta fortify the members who knew they had to go in and eat that s . . .

Scribbles: Careful!

Editor: As I recall, ABC dinners were about \$30.00 per. The AGC dinners were \$36.00 per and they were *measurably* better. I mean, they could afford it, after all. Generals. Some would say making a living off the sweat of another man's brow. Goes to show, though. What King Solomon said in the Book of Ecclesiastes: 'There's nothing new under the sun.' He also wrote the Book of Lamentations. You'd be sad, too, if you had, like, one thousand wives and concubines. In case you want to look it up, here is the reference: I Kings 11, verse 3. By the way, that's in, like, the *Bible*. Not in, like, The Encyclopedia Britannica. (Looking confused) I'm not so sure, but maybe they don't actually make it like a book these days.

Scribbles: Why do you suppose they don't make books so much anymore?

Editor: Maybe they are running out of trees? But, King Solomon said all this stuff. It's in the book. And, if it weren't true, I doubt they would print it. Maybe because of some possible liability issues and such.

Scribbles: I'm not so sure about that. Folks? They're gonna like sue God?

Editor: Sure! Where's he gonna be able to get a lawyer? Especially, one that he can afford? Just on this planet alone, he's got seven billion mouths to feed.

Scribbles: Wow! I thought Solomon was supposed to be this smart guy and stuff.

Editor: I guess even a genius can have a bad day. (Frowning) I'm not sure that The Founder *ever* does but he seems to be in outer space at this precise moment and he picked a wireless plan that does not afford coverage. (He mimes. In the style of Charlie Chaplin) Can you hear me *now*? How about *no*? So we can't actually speak to him. (He brightens) At least he can't be calling in here making folks work after five. Makin folks work on weekends. Why that son of a
...

Scribbles: Careful!

Editor: Lots of folks have bad days, I guess. I mean that it is conceivable that even Scott Conant might lose on a *Chopped* episode, especially one featuring raw red onions. Even our much-beloved Geoffrey Zakarian – a Worcester, MA boy, I might add, before he moved to Gotham City – could conceivably lose on *Iron Chef*. (Sighing) Thinking about King Solomon, I cannot say why one man should have been so burdened, so punished in this life. Sure, he was a king and stuff. And, maybe, his father - he was the second son of King David and Bathsheba – kinda took liberties with a competitor for a beautiful girl's, his mother's, hand. (Shaking his head from side to side.) You have any idea how *tired* this guy musta been? Day in, day out? Kinda wearing himself out? Continually? But, that's not even the worst part of it.

Scribbles: What would that have been?

Editor: That would be the one thousand mothers-in-law and common law mothers-in-law he had, each one pointing out his faults, loudly inquiring why he hadn't made more out of himself.

Scribbles: (Looking down at her notes). I haven't like read the Bible as many times as you have but didn't Solomon say in one of his books that 'All is vanity'?

Editor: I think the translators maybe got it wrong a tiny bit. You know, the Bible was written in several different languages and has since been translated into some other languages and then into various editions reflecting changes in language and speech. The one I have here (he said, pointing) is 'All is *vanities*'. And, why wouldn't it? That many women sort of competing over the same guy, each one would want her own dresser and stuff. Look in the mirror, put the gunk on her face. Trying to improve her chances at getting face time. Standing out from the rest of the, well, herd. (Looking thoughtful.) I suppose that each one of them musta had her own bathroom, too. Otherwise, how would any of them gotten out of the castle in the morning? Same with the King. I mean he gets a call from the Government Offices? Some factotum calls him on Monday morning at eight and says, "look, here, King, they're kinda staging a coup'. It wouldn't look good to not show up for *four days*. Maybe that's why a lot of those kings never shaved. They couldn't wait the 96 hours to get to the sink. Anyhoo, these ditch diggers – or whatever they are or really do – pondered the eternal, complex issue of putting together these dinners.

Scribbles: Which is?

Editor: Well, what do you give them: chicken or roast beef? Figuring that these were real men, some time ago, the decision was made to give them *both*.

Scribbles: So, *that's* what makes a real man? A guy who can eat two dinners?

Editor: Not at all! Almost *anybody* can eat two dinners. But, the real men? They ask for *seconds!* And, plowing through the second one simply an awesome sight to behold!

Scribbles: So, what's this system of justice like?

Editor: It's one of those good news, bad news things. The bad news is that there are absolutely huge filing fees.

Scribbles: More than, like, with the American Arbitration Association?

Editor: Even more than them, if you can possibly imagine that. Until I, myself, saw the actual numbers, I couldn't believe it.

Scribbles: I didn't think that was even possible! For anyone to charge more than the AAA.

Editor: I know (he said sympathetically). No one can. But the good news, the cases are over within thirty days after they begin, there is no discovery, no court appearances (unless someone gets caught) and, best of all, no appeals. (Reflecting.) Maybe the AAA charges so much cause no one can appeal their decisions. Kind of the idea behind buying really expensive bicycles. You pay more the less weight you get.

Scribbles: What about pleadings?

Editor: There aren't any! (Reconsidering, not uncommon for older gentlemen.) Maybe I've gotta change that last answer a little bit. I'm told that sorta towards the end of things, there is some pleading. Actually, a *LOTTA* pleading. But, it never seems to work and then, bang, the case is over and all but one goes away happy!

Scribbles: Are you admitted to practice before this court?

Editor: (Looking down at the floor, clearly embarrassed.) No. (He said in a whisper.)

Scribbles: Why not?

Editor: (He sighed.) Two reasons. First, my name ends with a consonant, not a vowel. Maybe I would have had a chance had my name ended with a 'y'. Then again, maybe it didn't make much difference. But, even worse (he said in less than a whisper), I am not a 'manly man'.

Scribbles: You're not?

Editor: No. You see, I enjoyed my gastric bypass operation so much, I actually had three of them. My hospital at one point stopped sending me mail addressed to 'Patient' and sent it instead to some guy named 'Profit Center.' So, I don't eat so good any more. I'm embarrassed to say that I can't eat even *one* of those ditch digger dinners, let alone ask for seconds. You see, I try something like that and I'll begin what we call in the small tummy biz 'foaming'. I guarantee you don't want to know about *that*. And, if that's not gross enough, we've got this thing called 'dumping', which is not at all what you think it is but is still bad enough. (Brightening) I'm not exactly sure how he did it but my surgeon got to retire early. At the age of 31. But, turns out after he was gone that he was apparently a real underachiever.

Scribbles: *Huh?*

Editor: He didn't get the 'profit center' concept down pat as quickly as most. That is why he had to work deep into his pre-middle age. I mean the guy is a *retiree* and he still gets carded!

Scribbles: I'm just a little bit curious about that operation. Don't they, like, make your stomach a lot smaller and stuff?

Editor: They do. The average person has a forty ounce stomach. When you have the operation, they reduce it in size to one or two ounces. It stretches in time some but it's still pretty small. Eat three or four bites? I'm full. Also, you need only take a *really* small drink and you're feeling pretty good. It's pretty embarrassing, though.

Scribbles: How's that?

Editor: You belly up to the bar. Hitch up your pants so . . . well, let's just say, you hitch up your pants. Bartender brings over the peanuts or popcorn, whatever. Makes a quick wipe in front of you with that dirty rag they all seem to have. Then, he goes, 'what do you want, pal?' Then, you go, 'give me the very best single malt you have.' He looks at you with some respect. Then, you have to ruin it by saying, 'Only, serve it to me in a *thimble*.' Guy laughs for at least five minutes or so, maybe even busts a gut, and then you get your drink. Even *more* embarrassing when you order a double.

Scribbles: So, why did you have three of those operations?

Editor: (Shrugging) I just wanted to get it smaller. So, each time, they made it smaller. It's now only half the size of my bellybutton.

Scribbles: Wow! That's pretty small!

Editor: Not really! You see I have a really big . . .

Scribbles: Careful!

Editor: belly button.

Scribbles: What else happened since the last *Squib* came out?

Editor: Well, for one thing, we heard from all but one of our wealthy contractors/readers, who verified that they are still filthy rich, could retire whenever they want to but, for whatever reason – *I* think because of the poor quality of day-time TV – they don't.

Scribbles: So, who didn't we hear from?

Editor: We didn't hear from M. He's a mouse. Third cousin to Ratsputin, one of the partners here at *Scribbles Enterprises International*. (Turning towards the camera.) For our newer readers, let's face it, Ratsputin is kind of a rat.

Scribbles: That sounds a bit weird to folks not familiar with some of the shenanigans that go on around here.

Editor: It's not such a big deal. Anyone familiar with a buncha lawyers has probably dealt with a whole lot of them. You get divorced? The old squeeze's mouthpiece is probably a rat. I could give more examples. Anyway, I found out through one of the other rich guys that two of our very best readers were a bit hurt that they weren't mentioned by name.

Scribbles: They being?

Editor: Two dogs, both very important to us. First initials 'B' for Betty and 'D' for Donald. They are quite wealthy. For example, they only fly first class. And, they've got a really nice place out there on Nantucket. Twenty acres right on the water. I've been there myself several times. We left them out of the last *Squib* not because we didn't think about them but for server issues. Somebody reading about them mighta got the wrong idea. You know, B and D. And such. (Looking at the camera again, like they used to do in the Office. In both the English and American versions, although the American version clearly better. But, again, that's what she said.) But, guys, your Uncle is thinking about *you*.

Scribbles: Tell me about them.

Editor: Well, Donald? He's the older one, a guy. He's mostly retired. His sister, Betty, is considerably younger. She works security. But, she is truly *terrible* at it.

Scribbles: How so?

Editor: It's because she's so *lazy*! Where she works, just for fun and to get out of her mansion, they had to put up signs near each door and each first floor window: "If you are a burglar and are planning on breaking in, please check in at the President's office so that I can bark at you a little bit." She figures: '*What!* Why should I get out of my chair? Especially now that I've got it all warm and comfy. They are not *paying* me enough for that.' That's kind of a little joke. In that they aren't paying her anything.

Scribbles: So, how does a dog get to be rich? And, how do you know that *they* are rich?

Editor: (Muttering) I don't like multi-part questions. I could never be the President, having to remember those sixty part questions. Five parts into it, I wouldn't remember the first part. The more I think about it, I'd just *hate* being the President.

Scribbles: Why?

Editor: Maybe because I'd hate to borrow one and one-half trillion dollars from the Chinese every year? It can become a really bad habit. One that could get worse. I mean you do it today and then ten days later you might want to do it again. Maybe they should have a twelve step program for chiefs of state who borrow too much. And, a lotta folks don't think the current one is doing so good.

Scribbles: Why not?

Editor: I gotta say I don't understand high finance? I can't even balance my checkbook. One good thing about the Great Recession, though. There's hardly ever any money in my account. Kinda cuts down on all of that math. Let's see. What is the President doing wrong? (Thinking.) Well, we borrow so much money from the Chinese, has he even looked into whether we could get like a volume discount? And, shouldn't we be getting a whole mess of toasters and such for being such good customers? Do the Chinese even give us free checking?

Scribbles: We were talking about Betty and Donald. I was asking why you think they are rich.

Editor: How come you get to ask all of the questions and don't have to answer any? Let's see. Betty and Donald. I think they got rich because they were in on the ground floor of some high end pet food company. I mean Donald took some flying lessons just out of his trust fund allowance. And, that involved buying quite a few planes. That's not something you see every day.

Scribbles: I mean, how can he fly? Does he have like 'opposed paws'?

Editor: I don't think so. Far as I know, all of his paws get along. Anyway, he took lessons for years and got pretty good. First he had the Cessna. Then the Gulfstream. First, visual flight rules. Then, instrument-rated. First, planes with propellers. Then, the jets. Only problem is that I may have mentioned. That he's getting older? I don't think he sees so good anymore. A year or two ago he was flying a big jet for an airline. They liked him because he's not interested in any pay. Says it would put him in a different tax bracket. Anyway, he's got two or three hundred passengers and crew and he's trying to park the darn thing. Only, he kind of misjudged the gate and drove right into the terminal. Made a mess of the plane. And, although nobody got seriously hurt, a whole bunch did sue for their relatively minor aches and pains. And, the airline's insurer paid real fast 'cause the airline put a lot of pressure on their insurance company. They didn't want their customers to know that they had been flown by, well, by a *dog*. (Smiles broadly)

Scribbles: I don't know what you are smiling about. I mean it's good that nobody did worse than getting a bit banged up. But, what's so funny about that?

Editor: Well, he had one of the flight attendants pass out a whole mess of our business cards. You know, like after the accident? We picked up more than one hundred cases! We collected a lot of money for these people and got to keep a third. You know, contingency fees and such. (Smiles more broadly.) You can keep this construction law stuff. We're going big-time! We are now *aviation* lawyers. (Looking side to side, seeing if anyone is nearby.) Next month we're gonna kinda 'salt the clouds' so to speak.

Scribbles: What do you mean?

Editor: Well, one of our new businesses, we're gonna offer some charter trips for some of our wealthy clients and their guests. They'll have two different choices. First we run one through an airline and the plane will be flown by one of their own guys. No one will know from nothing. Or, if they want, they can take our second charter, also run through an airline except that this time, there will be a different pilot. First one will run about three grand to start and up, per person. Second one, we'll do it for two hundred fifty per head and up. All the hotels, foods, sights identical for each of the two charters.

Scribbles: How can we afford to do that? You know, offer such discounted fares?

Editor: (Grinning like a cat. Just not like the cats on the last page of this *Squib*.) Oh, didn't I tell you? Donald will be flying the cheaper one. You see, he just doesn't . . .

Scribbles: I know! He doesn't see so good.

Editor: He basically sees ok to *fly*. He just doesn't see so good to *park*!

Scribbles: (Nose wrinkled) Any other interesting mail?

Editor: So, we got some mail about the justice system and some mail about all the rich guys, gals, dogs and one mouse we know. But, the third thing? Why, the U. S. Postal Service left off virtual bag after virtual bag of email to the point that we virtually had no place to put it all.

Scribbles: What was that about?

Editor: Well, it was in response to our comment in the last *Squib* to the effect: "When was the last time you had an intelligent conversation with a horse?" Lots of folks wrote in on that one. (Tearing up) About one of my best friends ever. (Sobbing) Mr. Ed.

Scribbles: Like from whom?

Editor: Well, we heard from Flipper. And, from Bonzo. For some reason, he doesn't seem to be making so many movies anymore. It can't be because he is old. I mean even The Arnold is

still making movies and who could be possibly older than him? But, mostly from Mr. Ed's grandchildren and great grandchildren. I also heard from Fury's people and from Flicka's people. Silver sent a nice card. I mean, it was a *Hallmark!* What else can I say? It seems that Mr. Ed's last resting place is, quite unfortunately, rather humble. I didn't get all of the details; with the hoofs, their printing isn't so good, hardly better than mine. If Mr. Ed even has like a stone or a memorial plaque, it's pretty humble, you can hardly read it and almost no one even knows where he is. Bunch of these guys wanta build a more suitable memorial to Mr. Ed. I mean he was one great horse. They've got some preliminary drawings from their architect. . . .

(She shivered, involuntarily.)

Editor: I know, I *know*!! Gives me the heebie-jeebies, too, just thinking *about* it. It's some pretty big money to build this thing. According to the architect's estimate. Which, most of the time, is sort of like a weather report in New England. Maybe good to have something rather than nothing. But, probably, not much by much.

Scribbles: So, what do they have in mind?

Editor: Depends on whether or not it's just Mr. Ed in the statue or something more fancy. Like, if Wilbur is standing next to him. One 'alternate' has a lot of Mr. Ed's favorite sayings engraved into stone. Then, there's another thing. Are we talkin' granite? Or, are we talkin' marble? And, if it is marble, we talking domestic or Italian? And what grade? The list of issues goes on and on. The thing being designed by an architect and all, they figure they better have a *huge* contingency to cover at least some of the errors. There were a whole bunch I picked out myself just skimming the preliminary bid book. It hasn't been finalized yet. I figured that's about all the attention a bidder would probably give it prior to bidding. You know, like if they had the time and stuff, to skim it before putting a price in. Then, hope like heck they don't get the job. I mean, who knows what they mighta left out? The worst thing that can ever happen to a contractor is that he might actually get awarded a job they bid.

Scribbles: (Looking confused.) If they never actually get a job, then how do they make any money?

Editor: I'm not so clear about that? Maybe from selling one of their boats or motorcycles?

Scribbles: So, what kind of errors were there? You know, in the preliminary bid book.

Editor: (Shrugs shoulders) Just a lot of goofy stuff. You're reading about Mr. Ed's Memorial and then you have a few pages describing the play equipment on a playground. A few more pages about the Memorial and then they describe how deep the water pipes are supposed to go under Route One in Saugus. Few pages later, they describe the project sign. For some reason, they want to call the Mr. Ed Memorial 'The New Scituate High School'. Thing's going to be built in California but only DCAM-rated contractors can submit bids. At least twenty pages describing the emergency generator. I don't think a Memorial needs an emergency generator. Stuff like that.

Scribbles: So, how much? What are we talking about here?

Editor: They figure between \$875,000 to \$1.2 million, minimum, to do it right. (Shrugging his shoulders) One of the relatives wants to put in like a movie theater next to it, which would run Mr. Ed episodes all day, kinda like that thing Mickey Mouse has on Main Street at Disney World that probably nobody ever goes to. What? I fly all that way and pay \$200 per day per person and we're doin' this so we can go and see some black and white cartoons featuring a *mouse*? But, for the Mr. Ed Memorial, doing something like that would triple the cost because of stuff like air conditioning, the snack bar and the gift shop. Especially the gift shop. But they have income projections which show a healthy return on investment. One of the guys is even thinking about approaching Gene Simmons so that they could develop a whole line of Mr. Ed collectibles. Along the lines of what he did with KISS. I'm not talking about the part of marrying Shannon. That was something different. I don't see that show advertised for A&E these days so maybe he isn't so busy.

Scribbles: Wow! That seems like a lot of money!

Editor: (He shrugged) His last years, he was kinda ignored by his 'buddies', especially after the series was cancelled. And, there was no big insurance policy to pay final expenses because, back in the day, they didn't allow animal members into AFTRA. So, a bunch of us have decided to take the bull by the horns.

Scribbles: I thought that Mr. Ed was a *horse*?

Editor: Funny! Really funny! (Turning to the camera, this project to be the subject of "The Building of Mr. Ed's Memorial", which Netflix might pick up as a three part series. A four part series, if a segment is included on suing the architect for all the errors and cost overruns.) My friends, Mr. Ed really needs us. He was a great Equine-American, well before they got recognized as a minority group deserving protection. Please send your tax-deductible contributions with a check made payable to *BUILD MR. ED 'S MEMORIAL* in care of the *Scribbles* Castle. And, be generous! We're only accepting contributions in multiples of ten grand per. And, money being tight these days, as always, I've talked with a number of the contractor trade groups and they're willing to help some. In principle, a few of them agree that you can, with their blessing, deduct a small portion of what you would otherwise spend on their multitudinous and never-ending advertisement campaigns for ads in books that no one ever reads for the purpose of helping to fund this noble effort. Maybe even take a little slice off of your PAC contributions for the same reason. They figure, what? These various reps and senators didn't get to be where they are by not being able to pay for their own breakfasts. I say, 'Yes, they can' pay for their own pop tarts. And, it doesn't take a Village to feed the Massachusetts legislature. I mean, most of our readers have to pay for *their* own breakfasts, right? Does any rep or senator ever offer to help *them* get a McDonald's breakfast value meal? Especially, the ones with the Newman coffee? Which they need large, starting the day as early as most of them do so that they can get to the marinas before all of the good boats are sold?

Scribbles: Has *Scribbles* made a donation?

Editor: As Curly would say, "Soitenly!" (Opening a drawer in the desk, he points at a lot of multi-colored checks in a fairly big pile.) The top one is ours.

Scribbles: (She looks.) Wow! That's for half a million dollars!

Editor: (He shrugged.) Well, I think we should do it right. (Eyes misting up.) He was really *something*. It's not that well-known but Mr. Ed was one of the very first of the talking horses. Not such a big deal today, granted. After all, various parts of horses seem to host any number of TV news programs. But, back in the day? He was something *really* special. (Looking side to side, somewhat conspiratorially.) He was an avid reader and could quote entire passages out of Chaucer. I know that that might not sound like much. But they were written in Middle English, not spoken for hundreds of years. (Making choking up noises.) He was so darn smart! I wish that I had a quarter of his brains!

Scribbles: Darn smart?

Editor: You've got me so scared about those server policemen that maybe I'll even start chewing *my* nails. You know that there's supposed to be seven words you can't say on TV? These servers sometimes get me so rattled that I don't even allow myself to *think* them anymore! Next thing you know, the NSA is gonna put little recorder pellets in the water which, after you swallow it, can keep track of your thoughts. Disgusting habit, by the way. Chewing your nails.

Scribbles: Not if you wash them afterwards. Like I always do.

Editor: As I always do.

Scribbles: I thought you didn't chew your nails? You were saying?

Editor: He said lots of really smart and important things.

Scribbles: An example?

Editor: Like from the first episode. Wilbur asks Mr. Ed what his name is:

Wilbur: Look, uh... I'm sorry but you've been talking to me all day and I still don't know your name.

Mr. Ed: Call me Ed. Mister Ed.

Wilbur: What kind of a name is "Ed" for a horse?

Mr. Ed: What kind of a name is "Wilbur" for a man?

And, then, another time:

Wilbur: Ed, I want you to consider me your two-legged father.

Mr. Ed: That would not work. Every day when I was little, I would always walk around singing "What Kind of Foal Am I?"

And, then there was this one:

Mr. Ed: Wilbur, why don't we write a letter to Dear Abby? She could give us advice on what I should do.

Wilbur: Okay, we'll write Dear Abby. How's this? "Dear Abby, my horse told me that he wants to leave home and have his own swinging bachelor apartment. Do you think he's right? Signed, Butterfly Net." Because that's exactly what they'll throw over me.

Mr. Ed: You don't have to say your horse told you. Tell her it was your cat.

Scribbles: When is Mr. Ed's great grandson, you know, like going to get all this money?

Editor: I sent him a text message. Whenever he feels like coming by, he can pick up whatever checks we have received. Next time he is, you know, in this neck of the woods. Maybe doing trails in Dover or whatever. At the Myopia Hunt Club. If he can wait a few months, we hope to have the whole fund put together for him. And, once we have the money, final plans and specifications then in six months. They can't finalize the design until they know how much Memorial we can afford.

Scribbles: (Looking back at notes from an earlier notepad.) I have here that you said four years ago that no plans are *ever* 'final' plans.

Editor: Don't believe everything that you read. Let me see that! (He reads her notes.) OK. I wasn't taking all of my medicine those days. I'm *much* better now. Once we have the final bid documents, we go to bid and then another six months or so, the project should be built. That is if we don't go with the Italian marble. I mean, I'm told that Italians can be temperamental and, also, in Europe they don't like to work more than thirty-five hours per week. When I was a lawyer, I could work that many hours in a single *day*. And, we've learned from the National Public Radio campaigns how to motivate the givers. Silver Mr. Ed Club members (twenty grand or more for a contribution), they'll get to go out to California and meet Mr. Ed's great-grandson. Gold Mr. Ed Club members (fifty grand or more for a contribution) get to meet the great-grandson *and* be remembered on a plaque somewhere on the memorial. Platinum Mr. Ed Club members (one hundred grand or more for a contribution) get to be in our documentary. And, they'll even get some lines to say.

Scribbles: For five hundred grand, what do *you* get?

Editor: I get to write the screenplay for the documentary. For free. By the way, I misspoke earlier.

Scribbles: Which time?

Editor: Funny! I think NPR calls its contributions 'investments'. That seems to appeal to their liberal contributors. So, maybe that is how we should phrase it, too. (Turning to the camera.) Friends. Those of you who loved – no, make that, *love* – Mr. Ed. Please be generous in making your *investment*.

Scribbles: (Packing up her papers.) By the way, Happy St. Patrick's Day!

Editor: You, too! After the Parade, I think I'll pick up a pizza or something. Too much of that corned beef gives me the gas.

(IF YOU HAVE GOTTEN THIS FAR)
NOW YOU'VE *REALLY* DONE IT! THERE WILL BE A MESS OF GREEN G-CARS
SCREECHING TO A HALT IN FRONT OF *YOUR* HOUSE IN *THREE* MINUTES.

I GIVE ADVICE FOR A LIVING.

GO OUT THE BATHROOM WINDOW.

NOW!!

(And, *no*, there is *not* enough time for you to go and look for Teddy! He's a big bear now and he can probably take care of himself. Provided that you pay for his breakfast. I mean, we all have our *needs!* Below, our two newest readers! They are from the recently-created DFE classification. That would be *Disadvantaged Feline Enterprises*. If it were *me*, I'd bid their work. They're gonna have a *lot* of it. For generals, they aren't that bad to deal with. They don't seem to say that much. Almost no letters or emails to have to respond to. They don't seem to have a particular interest in money. But, if it were me? I'd keep a *healthy* distance away from those claws. They can get in some pretty foul moods sometimes. Like, when someone doesn't clean their box *hourly*. Or, doesn't feed them Fancy Feast 'or *better*'. (That's sort of like a contracting term, they tell me.) Theirs is a first generation family business and I think they'll do well. They come from a very good family. Some say that their Mom has her moments, at times. But, hey, who's *purrfect?*)

