Legal Ethics Mystery Thrillers May 2026
May 27, 2026
Wilmington University

Agenda

5:30 p.m. – 6:00 p.m. – Check In
6:00 p.m. – 7:30 p.m. – Presentation

Presenter:
Richard K. Herrmann, Esq.
Ian Connor Bifferato, Esq.
Charles Slanina, Esq.
Hon. David A. White (Ret.); Delaware ADR, LLC

6:00- 6:45 The Silent Settlement
Presentation of first case study and discussion

6:45-7:30 The Phantom Clause
Presentation of second case study and discussion

This engaging legal ethics CLE uses two narrative case studies—*The Silent Settlement* and *The Phantom Clause*—to explore common but serious professional responsibility pitfalls in modern legal practice. Through these investigative stories, participants will examine issues such as client communication, handling and safeguarding retainers, diligence in representation, and the ethical risks that arise from careless drafting and review of legal documents. The program highlights how small lapses in practice management and attention to detail can escalate into disciplinary complaints, offering practical lessons to help attorneys avoid similar ethical traps.

This seminar offers 1.5 ethics credits to Delaware and Pennsylvania Attorneys; 1.8 ethics credits to NJ Attorneys.

Moderator Bios

Connor Bifferato is director of The Bifferato Firm. He has mediated well over 1,000 commercial disputes, including commercial bankruptcy litigation, secured lender disputes, general corporate litigation, creditors' rights issues and appellate resolution. He also frequently serves as an arbitrator for single and triple panel, binding and nonbinding arbitrations.

He is University Legal Counsel to Wilmington University and has been fortunate to work with the University on the development and opening of Wilmington University School of Law. Connor also provides legal advice to Wilmington University and has been privileged to work with the University's Board as well as University Administration and faculty.

Connor is currently President Elect of the Delaware State Bar Association (the "DSBA") and serves on the DSBA Finance Committee, DSBA Executive Committee, as well as numerous other Committees and Sections of the DSBA. Connor is also a member of the Federal Bar Association and the American Association for Justice. He frequently participates in the development of innovative and practical CLE programs. In general, Connor's focus is to continue to use his significant complex and commercial litigation experience to advance the substantial benefits of ADR generally, and mediation specifically, in the resolution of any stage, including pre-suit.

Richard K. Herrmann consults at Wilmington University in emerging and innovative technologies. He is the Associate Director of Research at the Center for

Legal and Court Technology at William and Mary Law School in Williamsburg Virginia. He serves on the Delaware Supreme Court's Commission on Law and Technology and is on the Executive Committees of the American Inns of Court m's Virtual AI Inn and the Richard K.Herrmann Technology Inn.



Charles Slanina (Managing Partner - Delaware)

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Charles Slanina, a native Delawarean, graduated from the University of Delaware and Catholic University School of Law. He is admitted to the Bars of the Supreme Court of the State of Delaware, the United States District Court for the District of Delaware, the United States Court of Appeal for the Third Circuit, and the United States Supreme Court.

Upon graduation from law school, Mr. Slanina was the sole law clerk for the Delaware Family Court statewide.

He then joined the Delaware Department of Justice. During his eight-year tenure as a Deputy Attorney General, he headed civil and criminal trial units, including the Family Court, Medicaid Fraud and Patient Abuse Unit, and represented state administrative agencies while prosecuting high profile criminal cases.

Mr. Slanina next spent four years at the Office of Disciplinary Counsel as the Chief Disciplinary Counsel, investigating and prosecuting violations of the Rules of Professional Conduct as well as Unauthorized Practice of Law matters.

He has been in private practice since 1993. That practice has included representation of lawyers and other professionals before licensing agencies and the court.

His practice currently focuses on professional responsibility counseling and defense. Mr. Slanina provides ethics advisory opinions for many Delaware, national and international firms and testifies as an expert in professional responsibility matters in Delaware, Pennsylvania and New Jersey courts. In addition, he has served as a special prosecutor for the New Castle County Ethics Commission.

Mr. Slanina is a frequent speaker on legal ethics and professional responsibility topics at seminars and conferences sponsored by the Delaware State Bar Association, Delaware

Trial Lawyers Association, University of Delaware Academy of Lifelong Learning, Superior Court Trial Practice Forum, Delaware Supreme Court Pre-Admission Conference and has also been an adjunct professor at Widener University School of Law.

He is the author of *"Ethically Speaking,"* a monthly column discussing legal ethics issues, published in The Journal, the magazine of the Delaware State Bar Association. Mr. Slanina is a member of the American Bar Association, the Delaware Bar Association, the Association of Professional Responsibility Lawyers and the Rodney Inns of Court, where he has served as President. Martindale-Hubbard has rated Mr. Slanina as AV for legal ability and ethical standard based on peer review and he was named one of Delaware's "Power Attorneys" and is frequently featured as *Delaware Today's* "Best Lawyers."

Member:

Delaware Bar – Admitted 1980; United States District Court for the District of Delaware; United States Court of Appeal for the Third Circuit; and the United States Supreme Court

Education:

J.D. 1979, Columbus School of Law, the Catholic University of America, Washington, D.C.
B.A. 1976, University of Delaware

Professional:

Partner - Ciardi Ciardi & Astin: 2024 to present.

Founder/Partner - Finger & Slanina, LLC: 2003 to 2024.
Practice areas: Professional Responsibility, including disciplinary defense, issuing advisory opinions and testifying as an expert on ethics and standards of practice issues; insurance defense in toxic tort matters; and plaintiff's personal injury.

Special Prosecutor - New Castle County Ethics Commission

Partner, Tybout, Redfearn & Pell: 1998 to 2003. Practicing in the areas of professional responsibility, criminal law and insurance defense, including toxic tort, personal injury, workers compensation, and medical malpractice.

Biggs & Battaglia: 1995 to 1998. Practicing in the areas of professional responsibility, plaintiff's personal injury, and criminal defense.

Erhart & Laffey: 1993 to 1994. Practicing in the areas of professional responsibility,

personal injury, criminal and family law.

Chief Disciplinary Counsel for the Bar of the Supreme Court of Delaware: 1989 to 1993. The Office of Disciplinary Counsel serves as the enforcement arm of the Delaware Supreme Court investigating and prosecuting attorney misconduct as well as unauthorized practice of law cases.

Senior Deputy Attorney General - Family Court Unit, Office of the Attorney General, State of Delaware: 1989 to 1989.

Director - Delaware Medicaid Fraud Unit, State of Delaware: 1987 to 1989.

Deputy Attorney General, State of Delaware, Criminal Division: 1982 to 1987.

Deputy Attorney General, State of Delaware, Civil Division: 1981-1982.

Family Court Law Clerk: 1980-1981

Professional Associations:
Member: Delaware State Bar Association; American Bar Association; Association of Professional Responsibility Lawyers; Delaware Trial Lawyers Association; ABA Center for Professional Responsibility; Former President, Rodney Inns of Court. Former member National Organization of Bar Counsel.

Lecturer:
Frequent speaker on legal ethics and professional responsibility at topics seminars and conferences sponsored by the Delaware Bar Association, Delaware Trial Lawyers Association, University of Delaware Academy of Lifelong Learning, National Organization of Bar Counsel, Superior Court Trial Practice Forum, and Delaware Supreme Court Pre-admission Conference. Adjunct Professor at Delaware Law School.

Publications:
Contributor to *Delaware Lawyer*, monthly ethics columnist to *The Journal* of the Delaware State Bar Association. Articles available online at www.dsba.org.

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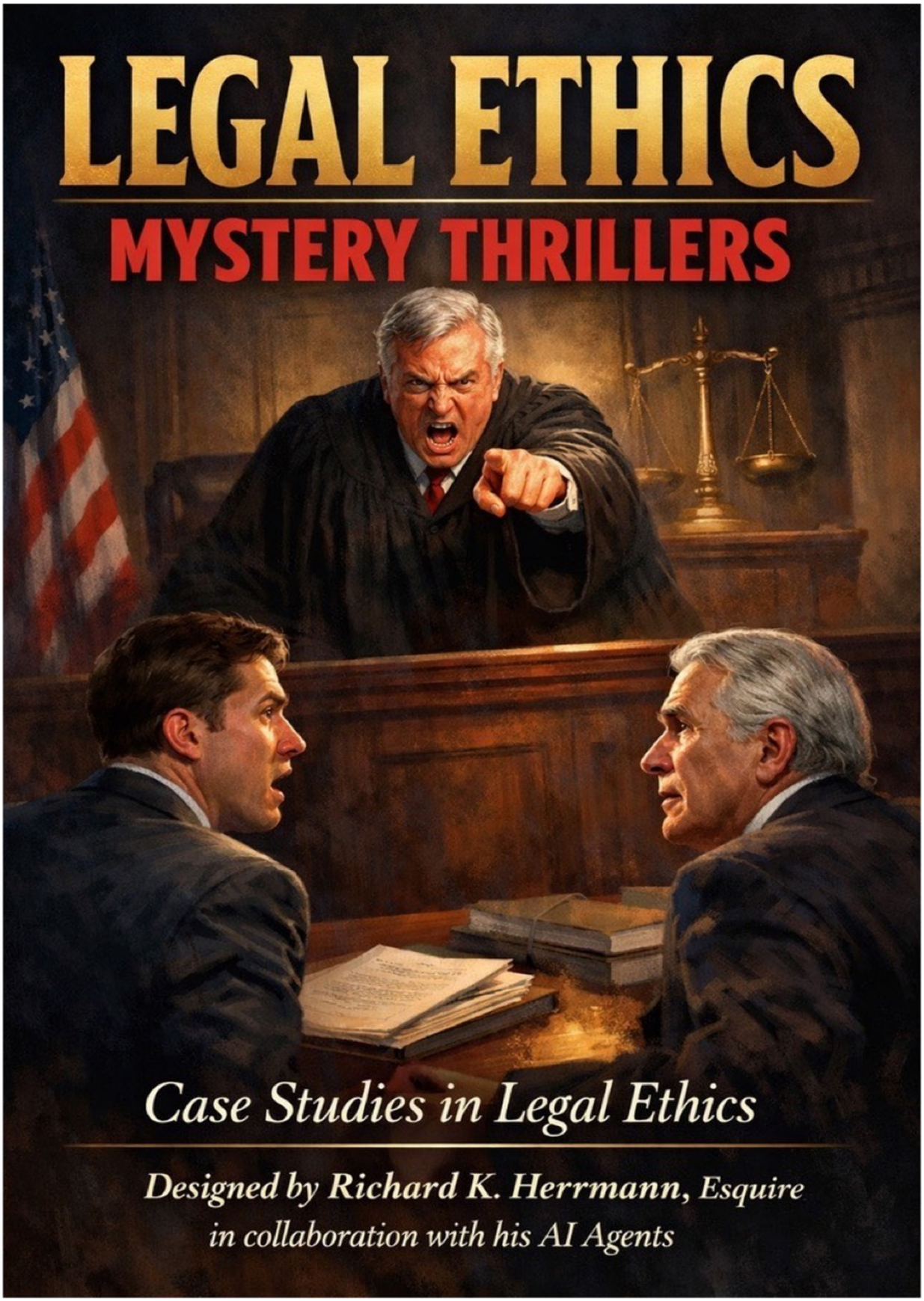


Honorable David A. White (Ret.)
Professional Neutral

Honorable David A. White (Ret) is a highly skilled mediator and arbitrator. He also serves as a judicial adjunct in various roles as a court-appointed neutral, including in Delaware's Court of Chancery and the Complex Commercial Litigation Division (CCLD) of Delaware's Superior Court.

David is a skilled Professional Neutral with vast experience in complex commercial and toxic tort litigation. David has earned a reputation in Delaware for his upbeat personality, enthusiasm and emotional intelligence. He is masterful at minimizing conflict and defusing tension. David has substantial experience handling discovery disputes regarding electronic discovery/ESI.

In recognition of his outstanding contributions to alternative dispute resolution, David was awarded the Delaware State Bar Association's Kimmel/Thynge Award in 2021. In December 2024, Commissioner White received the prestigious Delaware State Bar Association's Daniel L. Herrmann Professional Conduct Award. Commissioner White is a Fellow of the American College of Trial Mediators and a member of the National Academy of Distinguished Neutrals. David is currently President of the Delaware State Bar Association.

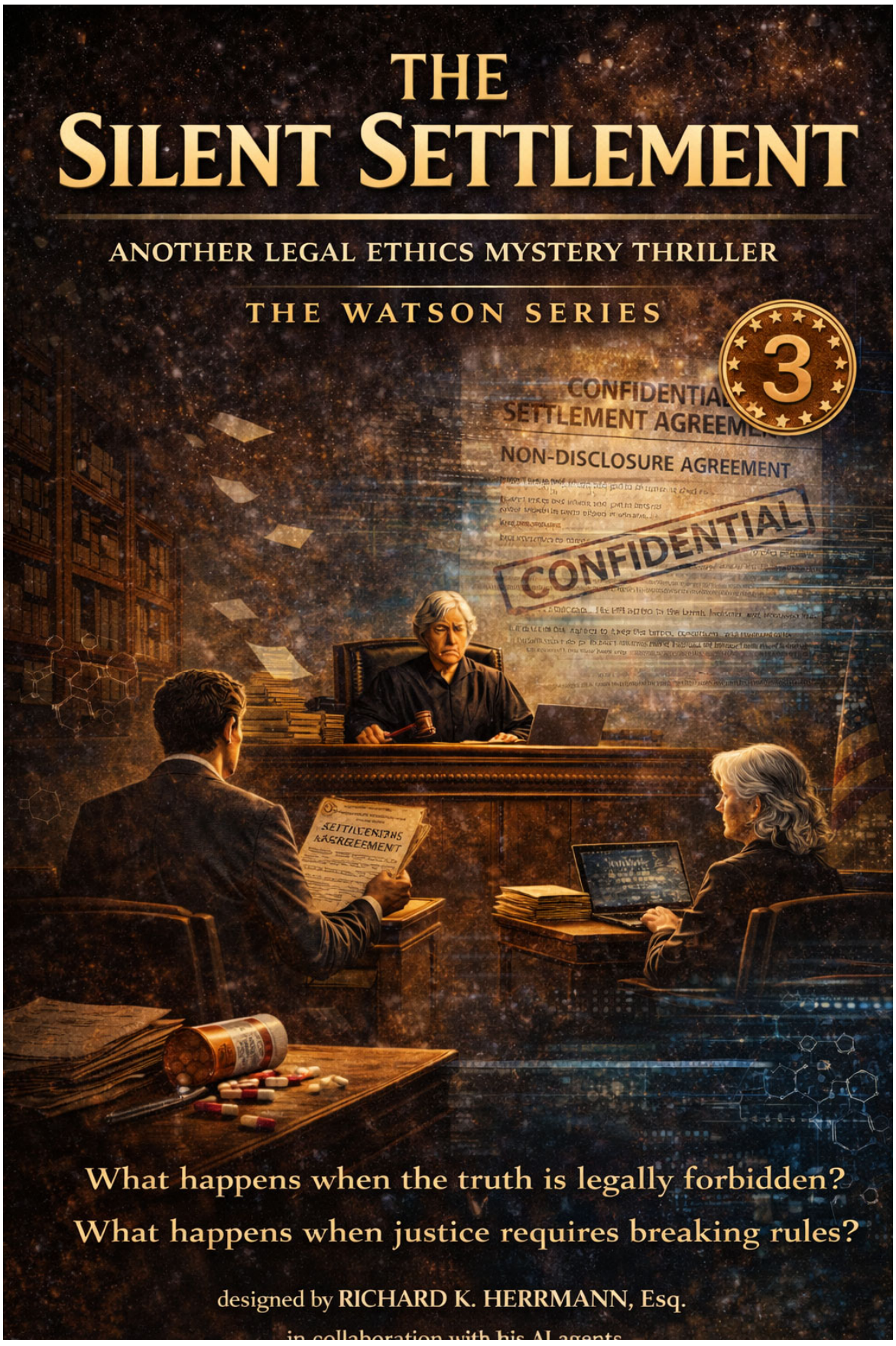

LEGAL ETHICS
MYSTERY THRILLERS
Case Studies in Legal Ethics
Designed by Richard K. Herrmann, Esquire
in collaboration with his AI Agents

THE SILENT SETTLEMENT

ANOTHER LEGAL ETHICS MYSTERY THRILLER

THE WATSON SERIES

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What happens when the truth is legally forbidden?

What happens when justice requires breaking rules?

designed by RICHARD K. HERRMANN, Esq.

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Prolog

Dr. John Watson, a retired physician with a sharp investigative mind, was recruited by the Delaware Office of Disciplinary Counsel (ODC) to tackle complex legal ethics cases. Alongside him, Holmes—an AI companion—decodes patterns in data, guiding Watson's investigations.

Yet always lurking in the background is Price, a former litigant embittered by the System, who reemerges in many cases as Moriarty187. Though he may not appear in every investigation, his shadow stretches across each one, ensuring that Watson and Holmes never escape his grip as they pursue justice through Delaware's legal maze.

A Lawyer Troubled Conscience

Dr. James Watson received the call on a Wednesday evening in late October. The voice on the line belonged to Gregory Hammond, a defense attorney Watson had not previously encountered. Hammond sounded agitated, his words rushed and tense.

"Dr. Watson, I need to speak with someone at the Office of Disciplinary Counsel, but not formally. Not yet. I have an ethical situation that is keeping me awake at night."

Watson arranged to meet Hammond the following morning at Brew-Ha-Ha, coffee shop in downtown Wilmington, away from the formality of official offices. When Hammond arrived, he looked exhausted. Deep lines creased his face, and his hands trembled slightly as he stirred his coffee.

"Tell me what is troubling you," Watson said gently.

Hammond took a breath. "Six weeks ago, I represented Dr. Ellen Carver against Quantum Pharmaceuticals, in a defamation lawsuit. Dr. Carver was a former research scientist, and sued the company for $15 million, claiming they destroyed her professional reputation by publicly stating she had falsified research data."

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The Nature of the Case

Hammond continued: "The case drew significant media attention because Dr. Carver's research involved a cancer treatment drug. If her data was falsified, it could mean the drug approval process was compromised. If Quantum falsely accused her of fraud, it could mean they were covering up their own problems with the drug."

Watson listened carefully. "What was the truth?"

"That is the problem," Hammond said. "During discovery, I found evidence suggesting Quantum executives knew Dr. Carver data was accurate. They accused her of fraud to deflect from their own regulatory violations. They suppressed safety concerns about the drug to accelerate FDA approval."

Watson felt a familiar chill. "That would be a serious matter of public health."

"Exactly. But Quantum offered Dr. Carver $8 million and a confidential settlement agreement with an ironclad non-disclosure clause. She would be prohibited from ever discussing the case, the settlement, or the underlying facts. My client made it clear: no settlement without absolute confidentiality."

"And Dr. Carver agreed?"

"She was exhausted from two years of litigation. Her legal fees had exceeded $400,000. She signed the NDA."

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The Moral Dilemma

Hammond leaned forward intently. "But here is what happened three days ago. Dr. Carver contacted me. She said she had been thinking about the settlement and realized that the public needs to know about the drug safety issues. She said people are taking this medication right now, potentially at risk, and she feels morally obligated to speak out."

"But she signed an NDA," Watson observed.

"Yes. The NDA is legally binding. If she violates it, Quantum can sue her for breach of contract and potentially recover the entire settlement amount plus damages. She could be financially ruined. But she told me something else, she said she would accept that risk. She wants me, as her attorney, to disclose the safety information to the FDA and the media on her behalf."

Watson considered this carefully. "What is stopping you?"

"The ethical rules, Hammond said. Rule 1.6 on confidentiality. Even with client consent, I am not certain I can ethically disclose information that is subject to a court-approved settlement agreement. And there is another problem. I represented Dr. Carver, but I also have information I learned in discovery from Quantum as an adverse party; and there was a Protective Order. Do I owe it confidentiality as well?”

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Watson Consults Mourse

Watson brought the matter to David Mourse, Chief Disciplinary Counsel for the Delaware Supreme Court. They sat in his office reviewing the settlement agreement and the Delaware Rules of Professional Conduct.

"This is a complex intersection of rules," Mourse said. "Rule 1.6 generally requires lawyers to maintain client confidentiality. But there are exceptions. Rule 1.6(b)(1) allows disclosure to prevent reasonably certain death or substantial bodily harm."

"The drug safety issue could qualify," Watson said.

"Perhaps. But there is a complication. The information is not just protected by attorney-client privilege. It is protected by a binding protective order and settlement agreement that has been incorporated into a court order. Hammond cannot simply decide to violate a court order, even with his client permission."

Watson activated his laptop and consulted with Holmes. The AI processed the relevant case law and ethical opinions rapidly.

Holmes reported: "Delaware case law recognizes a narrow exception for disclosure when necessary to prevent substantial bodily harm. However, courts have consistently held that protective orders and settlement agreements serve important public policy interests in resolving disputes."

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The Investigation Begins

Watson needed to understand the full picture. With Mourse's authorization, he began investigating the underlying facts. He requested permission from both Dr. Carver and Hammond to review the complete case file, including discovery materials and settlement negotiations.

What he found was deeply troubling. The evidence showed that Quantum Pharmaceuticals had conducted internal safety studies on their cancer drug, Oncovex, that revealed a 12 percent increase in adverse cardiac events compared to placebo. Rather than report these findings to the FDA, they had buried the data and accelerated their marketing campaign.

When Dr. Carver discovered the suppressed data during her research, she had reported it to company executives. Within two weeks, she was placed on administrative leave. One month later, Quantum issued a press release stating they had terminated Dr. Carver for research misconduct and data falsification.

"The entire accusation was a lie designed to discredit her before she could expose their misconduct," Watson observed.

Holmes added: "And the settlement agreement ensures her permanent silence on these matters."

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Consulting the Experts

Watson reached out to Professor Allan Dorsey, a legal ethics expert at Wilmington University Law School. They met at the law school Rare Book Room, surrounded by treatises on professional responsibility.

"This is a trolley problem in legal ethics, Professor Dorsey explained. On one track, you have the sanctity of settlement agreements, protective orders and attorney confidentiality rules. These serve important systemic values. On the other track, you have a significant public health concern and patient safety."

"What does the law say about this specific situation?" Watson asked.

The law is not entirely clear. Rule 1.6(b)(1) permits disclosure to prevent death or substantial bodily harm. The question is whether this situation meets that threshold. The drug is FDA approved. Quantum would argue it has been deemed safe through the regulatory process. The increased cardiac risk may be statistically significant but not necessarily certain to cause death."

"But people are taking this medication right now based on incomplete information," Watson interjected.

"Exactly. And that is where Hammond moral intuition is sound. The question is whether his moral intuition aligns with his professional ethical obligations."

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An Unexpected Communication

As Watson researched the case, he received an encrypted email. His security systems flagged it immediately. The sender was anonymous, but Watson recognized the signature style. He opened it carefully.

The message read: "Still solving puzzles, Doctor? Here is one for you. What happens when the truth is legally forbidden? What happens when justice requires breaking rules? The law is a game, Watson. And games can be manipulated."

Attached was a file. Watson isolated it in a secure environment and had Holmes analyze it. The file contained what appeared to be an altered version of the Quantum Pharmaceuticals settlement agreement. In this version, the NDA clause had been completely removed, and Dr. Carver signature had been digitally forged to make it appear she had agreed to a settlement without confidentiality restrictions.

Watson felt ice in his veins. "This is from. Moriarty187"

Holmes confirmed: "The digital signature matches the manipulation techniques used in the ContractGenius Pro incidents. This is Moriarty187''s attempting to provide Hammond with a fraudulent document that would appear to authorize disclosure."

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The Temptation

Watson immediately contacted Hammond. They met that evening at Watson office.

"Mr. Hammond, Watson said carefully, has anyone sent you unusual communications regarding the Quantum settlement?"

Hammond looked confused. "No. Why?"

Watson showed him the altered settlement agreement. "Someone is attempting to manipulate this situation. This document is fraudulent. It has been created to make it appear that Dr. Carver settlement did not include an NDA. If you were to rely on this document to justify disclosure, you would be basing your actions on a forgery."

Hammond face paled. "Who would do this?"

"Someone who wants to see what happens when an attorney is given an ethical justification, even a false one, for doing what he believes is morally right. This is a test, Mr. Hammond. And whoever sent this is watching to see whether you will fall for it."

Hammond sat back heavily. "My God. This is more complex than I thought."

Watson agreed. "We are not just dealing with a difficult ethical question. We are dealing with someone who is actively trying to corrupt the legal process."

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Exploring Legal Options

Watson worked with Mourse to identify legitimate options for Hammond. They consulted the Delaware Rules of Professional Conduct and relevant case law.

"Option one," Mourse explained, "is for Dr. Carver to petition the court to modify the settlement agreement and the Protective Order." She could argue that circumstances have changed, that new information about public safety has emerged, and request permission to disclose to the FDA."

"Would the court grant that," Watson asked.

"Possibly. Courts have inherent authority to modify their own orders when justice requires. But Quantum would fight it vigorously."

"Option two," Watson suggested, "is for Hammond to report the safety concerns to the FDA himself, but without disclosing information subject to the NDA or the Protective Order. He could report that he has evidence of drug safety issues without identifying the source or the specific case."

"That would be ethically permissible under Rule 1.6(b)(1)," Mourse agreed. "The exception for preventing substantial bodily harm does not require client consent if the lawyer reasonably believes disclosure is necessary to prevent the harm."

But, Watson noted, without the specific evidence, would the FDA take it seriously?

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Dr. Carver Decision

Watson met with Dr. Carver at her request. She sat in his office, looking drawn but determined.

"Dr. Watson," she said, "Mr. Hammond explained the ethical complexities. I understand that I signed the NDA. I understand the legal consequences if I violate it. But I also understand that people taking Oncovex right now are not being given complete information about cardiac risks."

"What are you asking me," Watson said.

"I want to know if there is any legitimate way for the truth to come out. Not through fraud, not through violating court orders, but through proper legal channels."

Watson laid out the options Mourse had identified. Dr. Carver listened carefully.

"I will petition the court," she decided. "I will argue that the public interest in drug safety outweighs the confidentiality interests in the settlement. I will accept whatever consequences follow. But I will do it the right way."

Watson felt profound respect for her courage. That is the ethical choice.

She smiled sadly. "Ethics and self-interest do not always align, do they? But I became a scientist to help people, not to protect pharmaceutical companies from accountability."

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Hammond Ethical Path

With Dr. Carver decision to petition the court, Hammond ethical dilemma shifted. Watson met with him to discuss his obligations.

"Mr. Hammond," Watson said, your client has chosen a legally proper path to seek modification of the settlement agreement and the Protective Order. Your role now is to represent her competently in that petition.

"But what about the information I learned through discovery of Quantum, subject to a Protective Order.” Hammond asked. "Do I have obligations to Quantum not to inform even the court?"

"You have a duty not to use confidential or protected. However, if Dr. Carver court petition succeeds, the information would become public through legal process, not through your improper disclosure. You would simply be representing your current client interests. And the court has the right to know.”

Holmes added an observation: "The ethical rules balance competing values. Client autonomy, represented by Dr. Carver’s right to direct her representation. Confidentiality, represented by the NDA, Protective Order and settlement agreement. Public safety, represented by the drug risk information. And systemic integrity, represented by honoring court orders and settlement agreements. The petition process respects all of these values by asking the court to make the ultimate determination."

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The Court Hearing

Dr. Carver ‘spetition came before Judge Amanda Winters three weeks later. Watson attended as an observer, having been asked by Mourse to monitor the proceedings.

Quantum attorneys argued vehemently against modification and disclosure. T"he settlement agreement was negotiated in good faith," their counsel argued. "Dr. Carver freely agreed to the NDA terms. Allowing her to escape these obligations would undermine the finality of settlements and make it impossible for parties to resolve disputes confidentially."

Dr. Carver’s attorney, Gregory Hammond, presented a different argument. "Your Honor, my client is not seeking to escape her obligations for personal benefit. She seeks permission to disclose information that affects public health and safety. The cardiac risk data was not fully known at the time of settlement. The public interest in patient safety outweighs the private interest in confidentiality."

Judge Winters listened carefully to both sides. She took the matter under advisement, promising a decision within two weeks.

Watson left the courtroom uncertain of the outcome, but confident that the process had been handled ethically.

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Moriarty Resurfaces

That evening, Watson received another encrypted message from Moriarty187:

"Disappointing, Watson. I gave Hammond a simple solution. A clean document that would have justified immediate disclosure. Lives could have been saved weeks ago. Instead, you led him into the quagmire of legal process. How many people will suffer cardiac events while Judge Winters deliberates?"

"You see the law as a game with rules to be exploited. But you miss the fundamental point: rules exist for reasons. The settlement process has value. Court authority has value. Even when those values conflict with immediate justice, the system integrity matters."

"You sound like a bureaucrat, Watson. Tell that to the patients who die waiting for your precious process to unfold."

Watson typed a response, knowing Moriarty187 would read it: "The law is not perfect. But it is better than chaos. And it is far better than allowing brilliant sociopaths to manipulate the system for their own purposes."

Moriarty187 reply came instantly: "We shall see, Doctor. I am far from finished. The next game will be more interesting. I promise you that."

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The Judge Decision

Judge Winters issued her ruling twelve days later. Watson read it carefully in Mourse's office.

The decision was nuanced. Judge Winters acknowledged the competing interests at stake. She modified the settlement agreement to permit Dr. Carver to submit a confidential report to the FDA, detailing the cardiac safety concerns, but prohibited her from making public statements or media disclosures about the settlement or the underlying litigation.

"This is a compromise," Mourse observed.

Watson nodded. "It allows the safety information to reach the regulatory authority with power to act; but preserves some confidentiality interests of the settlement."

Holmes added a legal analysis: "The decision creates precedent that settlement agreements are not absolute bars to disclosure when public health concerns are at stake, but that disclosure must be narrowly tailored to serve the public interest without unnecessarily undermining settlement finality."

Watson considered this, "Gregory Hammond faced a genuine ethical maze. He navigated it by consulting with experts, respecting legal process, and ultimately allowing his client to make an informed decision about her own interests.

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The Cliffhanger

Two days after the court ruling, the FDA announced an investigation into Oncovex cardiac safety data. The announcement made national news.

Watson received a call from Agent Rebecca Torres of the FBI.

"Dr. Watson," she said urgently, "we have a problem. The FDA investigation into Quantum Pharmaceuticals was triggered by an anonymous submission. Someone sent them a comprehensive dossier of internal documents, safety studies, and email communications showing the company deliberately suppressed cardiac risk data."

"That sounds like appropriate whistleblowing," Watson said.

"Except the documents are sealed discovery materials from the Carver litigation. They were submitted before Judge Winters issued her order allowing limited FDA disclosure. And the metadata on the files shows they were accessed from Gregory Hammond computer system four weeks ago."

Watson felt his stomach drop. "Hammond did not send those files. He has been scrupulously careful about the ethical issues."

"I believe you," Torres said. "Which means someone else accessed his system and sent those documents to the FDA. Someone who wanted the information disclosed regardless of legal process."

"Moriarty187," Watson said.

"We need to examine Hammond's computer. Now."

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Discussion Questions

Question 1: What ethical obligations does attorney Gregory Hammond have when his client, Dr. Carver, asks him to disclose information subject to a court-approved NDA? Analyze this under Delaware Rule of Professional Conduct 1.6 on confidentiality and its exceptions.

Question 2: Does the public interest in drug safety information override the sanctity of confidential settlement agreements? What competing values are at stake, and how should they be balanced?

Question 3: Hammond represented Dr. Carver in litigation against Quantum Pharmaceuticals, where he learned confidential information about both parties. What duties does he owe to his former adversary, Quantum, regarding information he learned during the litigation?

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Discussion Questions (continued)

Question 4: Was Judge Winters' compromise solution, allowing limited FDA disclosure but prohibiting public statements, an appropriate balance between competing interests? What are the advantages and disadvantages of this approach?

Question 5: If Hammond had relied on the fraudulent settlement agreement provided by Moriarty187 (not knowing it was fraudulent) and disclosed information based on it, what would be the consequences? Would his good faith belief in the document authenticity protect him from discipline? What about the Protective Order?

Question 6: Under what circumstances, if any, should an attorney be permitted or required to disclose confidential client information to prevent public harm, even when doing so would violate a settlement agreement or Protective Order? How can legal ethics rules better address these situations?

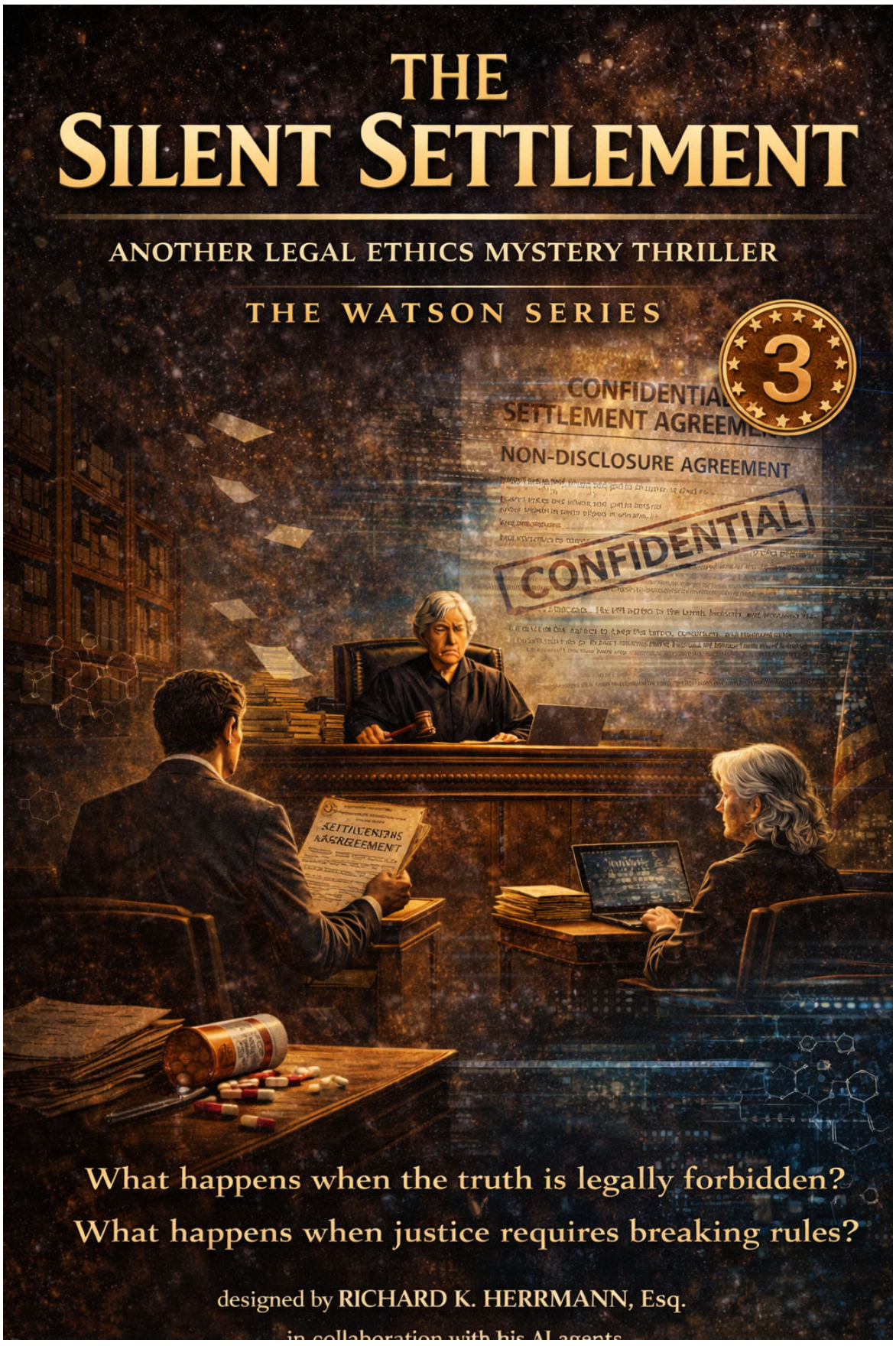
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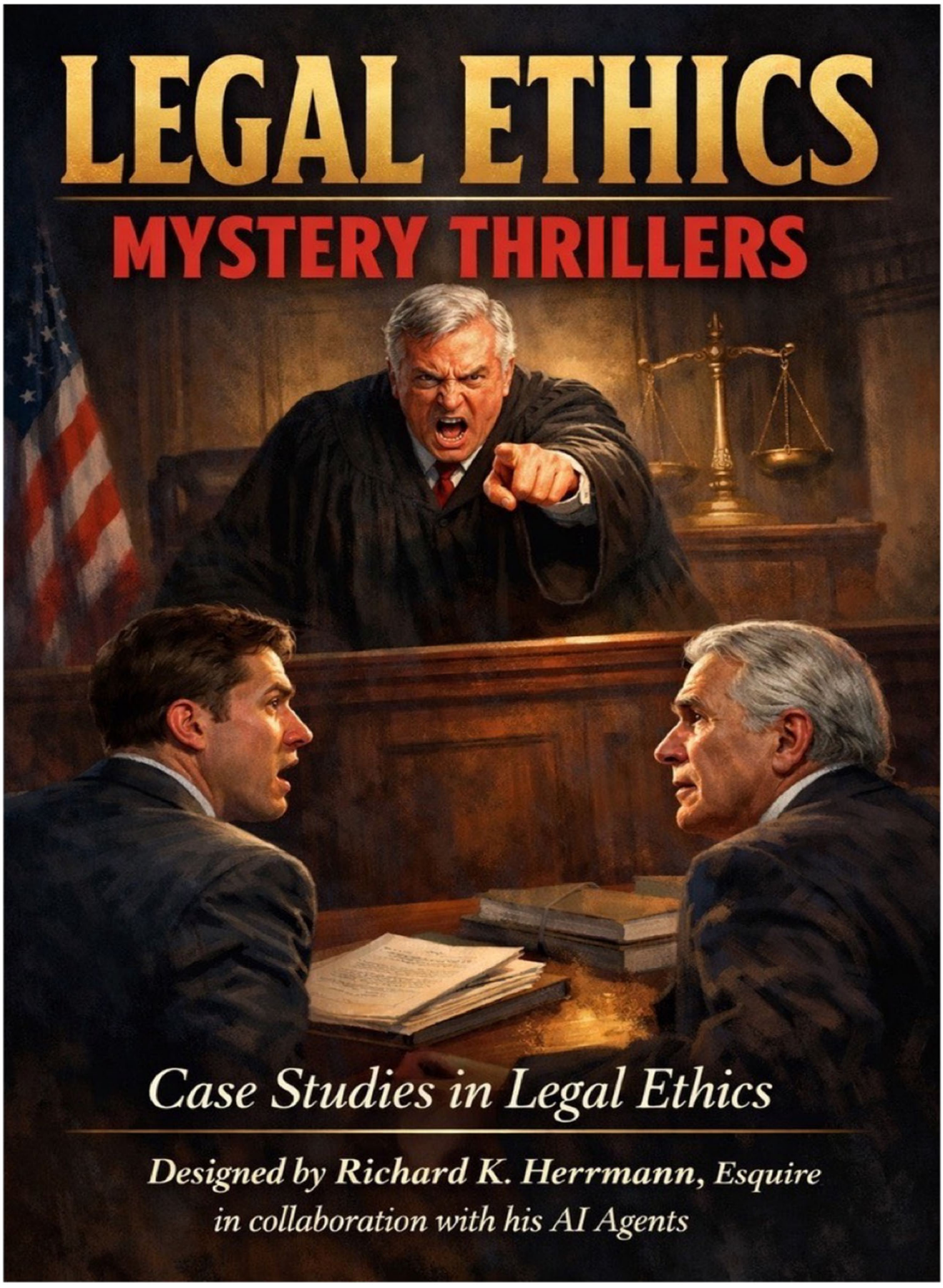


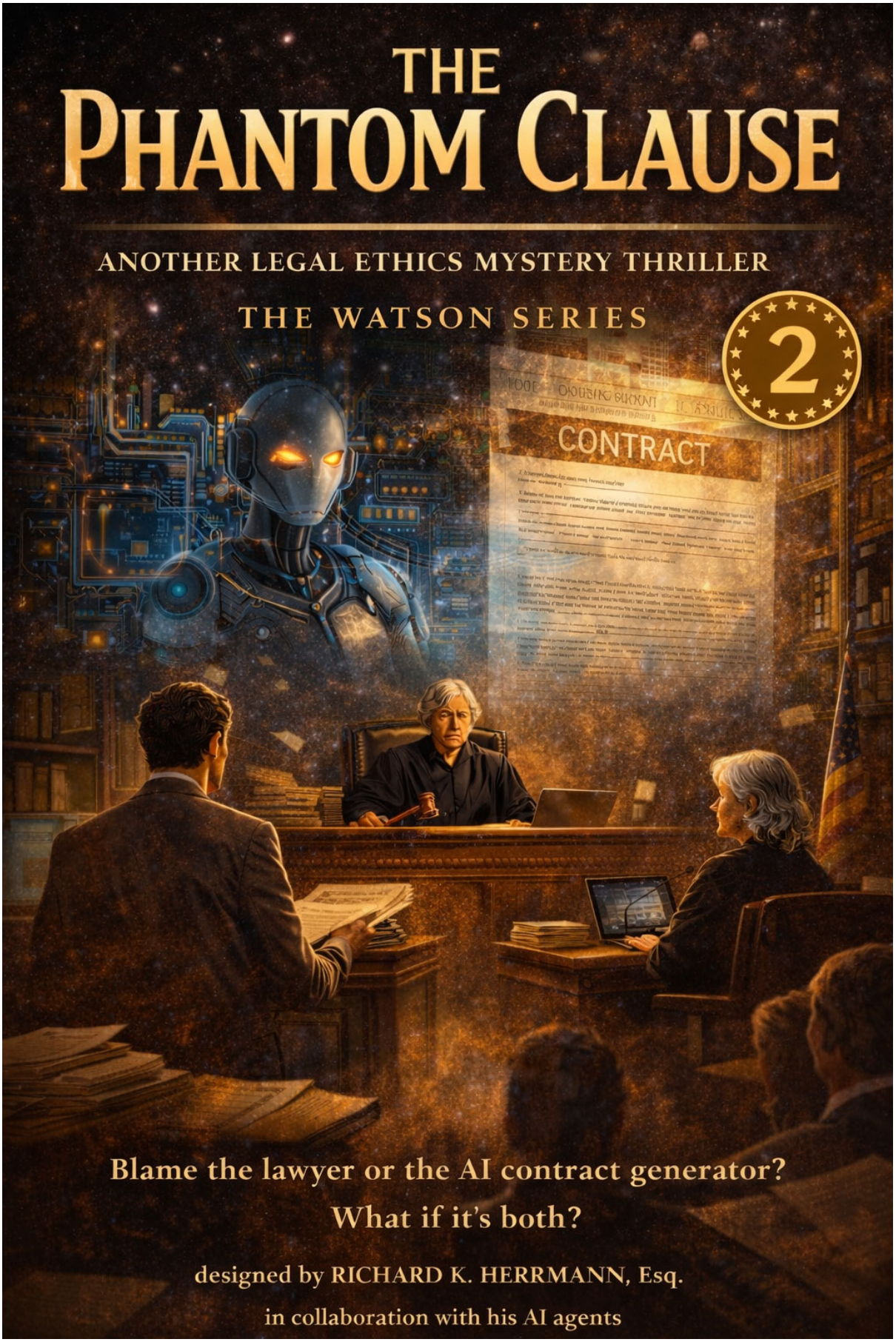
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CONTRACT
Blame the lawyer or the AI contract generator?
What if it's both?
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Prolog

Dr. John Watson, a retired physician with a sharp investigative mind, was recruited by the Delaware Office of Disciplinary Counsel (ODC) to tackle complex legal ethics cases. Alongside him, Holmes—an AI companion—decodes patterns in data, guiding Watson's investigations.

Yet always lurking in the background is Price, a former litigant embittered by the System, who reemerges in many cases as Moriarty187. Though he may not appear in every investigation, his shadow stretches across each one, ensuring that Watson and Holmes never escape his grip as they pursue justice through Delaware's legal maze.

The Complaint Arrives

Dr. James Watson arrived at the Office of Disciplinary Counsel in Wilmington on a crisp autumn morning. His consulting role had proven both intellectually stimulating and procedurally fascinating. The Delaware legal community, though smaller than Connecticut, maintained exacting standards for attorney conduct.

His liaison, David Mourse, Chief Disciplinary Counsel for the Delaware Supreme Court, greeted him with characteristic directness. "We have something unusual for you, James. A commercial real estate transaction that went catastrophically wrong. The client claims attorney negligence. The attorney claims he did everything correctly."

Watson settled into the conference room chair. "Tell me about the disaster."

Mourse slid a thick file across the table. "A biotech company called Riverside Innovations purchased a manufacturing facility in Newark for $8.5 million. The deal closed in July. In September, the prior owner began operating a competing business two blocks away, poaching Riverside clients and employees."

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The Missing Protection

“That sounds like a non-compete violation," Watson observed.

Mourse nodded grimly. "Except there was no non-compete clause in the purchase agreement. Riverside CEO, Victoria Brennan, is furious. She retained attorney Leonard Hayes specifically because he advertised expertise in commercial transactions. Hayes assured her the contract would include all standard protections for a business acquisition of this type."

Watson opened the file, scanning the purchase agreement. It was comprehensive, running forty-two pages, addressing warranties, representations, environmental indemnities, and countless technical provisions. But Mourse was correct. No non-compete clause appeared anywhere in the document.

"What does Hayes say happened," Watson asked.

"He claims he included the clause in his draft. He cannot explain why it is missing from the final executed version. He suggests perhaps Riverside agreed to remove it during negotiations."

"Did they?"

"Brennan adamantly denies this. She has email records showing she specifically requested a five-year, ten-mile radius non-compete clause. Hayes acknowledged this request in writing."

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The Technology Factor

Watson studied Hayes response to the disciplinary complaint. The attorney had provided a detailed timeline, copies of all correspondence, and multiple drafts of the purchase agreement. Hayes was sixty-two years old, a solo practitioner who had handled commercial transactions for three decades.

One detail caught Watson attention. In his response, Hayes mentioned he had recently begun using an AI-powered contract drafting system called ContractGenius Pro. The system promised to streamline document preparation, reduce errors, and ensure inclusion of all standard provisions.

"He used artificial intelligence to draft the agreement," Watson said aloud.

Mourse raised an eyebrow. "Is that relevant?"

"Perhaps." Watson turned to his laptop and activated Holmes, his AI analytical companion. "Holmes, what can you tell me about ContractGenius Pro?"

Holmes responded within seconds: "ContractGenius Pro is a legal technology platform launched eighteen months ago. It uses large language models to generate contract provisions based on attorney specifications. The system has received generally positive reviews, though some users report occasional inconsistencies in output."

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Watson Investigates Hayes

Watson visited Leonard Hayes at his office in downtown Wilmington. The attorney appeared exhausted, with dark circles under his eyes and a desk buried under case files.

"Mr. Hayes, thank you for meeting with me. I am reviewing the Riverside Innovations matter on behalf of Disciplinary Counsel."

Hayes gestured wearily to a chair. "I have practiced law for thirty-one years without a single disciplinary complaint. This situation is a nightmare. I know I included that non-compete clause. I remember drafting it specifically."

"Talk me through your process. How did you use ContractGenius Pro?"

Hayes explained: "I input the transaction parameters, the purchase price, the property details, the parties. I specified that this was an asset purchase of an operating business. I checked the box for a non-compete clause and specified five years, ten miles. The system generated a comprehensive purchase agreement."

"Did you review the output?"

"Of course. I spent hours reviewing every provision, making adjustments, adding client-specific terms. The document went through six drafts before we finalized it."

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The Digital Forensics

Watson requested permission to examine Hayes computer system. With Hayes consent, Watson brought in a digital forensics' specialist, Robert Kim, who had worked with Delaware law enforcement.

Kim spent two days analyzing Hayes files, metadata, and system logs. His findings were presented to Watson in a detailed report.

"The interesting part, "Kim explained, "is the version history. Hayes created six drafts of the purchase agreement between May 15th and June 20th. In drafts one through five, the non-compete clause appears in Section 12.7, exactly as Hayes described. But in draft six, the final version sent for execution, Section 12.7 is completely absent."

Watson leaned forward. "Was it deleted?"

"That is what is strange. There is no deletion record in the document metadata. It is as though Section 12.7 never existed in draft six. But we know it existed in draft five because we can see it in the tracked changes."

Watson felt the familiar tingle of a puzzle beginning to clarify. "What changed between draft five and draft six?"

Kim consulted his notes. "Hayes ran draft five through ContractGenius Pro on June 19th using the system Finalize and Optimize function."

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Holmes Detects an Anomaly

Back in his own office, Watson uploaded all the data to Holmes for analysis. The AI processed Hayes document history, the ContractGenius Pro system logs that Watson had subpoenaed from the company, and the email correspondence.

"Holmes," Watson said, "analyze the behavior of the ContractGenius Pro system during the finalization process for the Riverside agreement."

Holmes responded:" Anomaly detected. The ContractGenius Pro system log shows unusual activity on June 19th at 3:47 PM, precisely when Hayes executed the Finalize and Optimize function. The system accessed an external server not listed in the standard ContractGenius architecture."

"An external server? What does that mean?"

"It suggests the system communicated with a third-party source during processing. This is inconsistent with ContractGenius Pro standard operating protocols, which process all documents locally on secure servers."

Watson felt his pulse quicken. "Can you identify the external server?"

"The IP address traces to a proxy service in Eastern Europe. However, I can analyze the specific modifications made to Hayes document during that 3:47 PM processing event."

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The Manipulation Revealed

Holmes analysis revealed something extraordinary. During the thirty-seven seconds that the ContractGenius Pro system processed Hayes draft five, the AI system had made 247 minor modifications: adjusting punctuation, correcting inconsistent capitalization, standardizing defined terms. All of these changes improved the document.

But one change was different.

The non-compete clause in Section 12.7 had been completely removed. The section numbering had been adjusted so that the absence was not immediately obvious. Section 12.6 (Confidentiality) was followed by Section 12.8 (Dispute Resolution), renumbered as Section 12.7.

"Holmes," Watson said carefully, "was this removal consistent with the Finalize and Optimize function purpose?"

"No. The function is designed to improve document formatting and consistency, not to remove substantive provisions. Moreover, the removal occurred during the seven-second window when the system communicated with the external server. All other modifications occurred during the local processing time."

"Someone, or something, deliberately removed that clause."

"Correct. And the removal was executed in a manner designed to avoid detection. The section renumbering ensured that a casual review would not notice a gap in numbering."

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Confronting ContractGenius

Watson contacted ContractGenius Pro chief technology officer, Patricia Vance. The conversation took place via video conference, with Mourse and Watson together in Wilmington.

"Ms. Vance", Watson began, “I am investigating an incident where your system appears to have removed a critical clause from a legal document during processing. Are you aware of any vulnerabilities in your system that might allow external manipulation?"

Vance appeared shocked. "That is impossible. Our system operates on secure, isolated servers. We have multiple layers of encryption and security protocols."

"Yet the server logs show communication with an external IP address during processing of this particular document."

Vance pulled up her own system data during the call. After several minutes of analysis, her expression changed from confident to concerned. "This should not be possible. I am seeing the external communication in our logs, but it bypassed all our security alerts. This was not a random hack. This was someone who understood our system architecture intimately."

Watson pressed: "Could this have affected other documents processed by your system?"

Vance paled." I need to run a comprehensive audit."

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The Audit Results

Three days later, Vance reported back. The audit results were disturbing.

"We found seventeen instances over the past eight months where the system communicated with that external server during document processing. In each case, subtle modifications were made to legal documents. Most were minor, things an attorney might not notice: shifting a date by one day, changing should to shall, adjusting a numerical threshold."

"But some were significant, "Watson said.

"Three cases involved removal of material provisions," Vance confirmed. "The Riverside non-compete clause was one. Another involved deletion of a liability cap in a construction contract. The third removed an arbitration clause from an employment agreement."

Watson asked the critical question:" Who had the technical knowledge to execute this kind of manipulation?"

Vance hesitated. "Our system architecture is proprietary. Only our development team and one former developer would have sufficient knowledge. The former developer, Simon Price, left the company six months ago under contentious circumstances. He claimed we had stolen his original code concepts."

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The Trail to Moriarty187

Watson requested all available information on Simon Price. What emerged was the profile of a brilliant but unstable technologist. Price had helped develop ContractGenius Pro core algorithms, but his increasingly erratic behavior and conflicts with management led to his termination.

"Holmes," Watson said, "analyze Price's online activity and communications."

Holmes worked through publicly available data, social media posts, and technical forums where Price participated. After extensive processing, Holmes reported: "Price frequently posts in advanced AI development communities under the username Moriarty187. His posts demonstrate sophisticated understanding of AI system manipulation. He has made several cryptic references to making the legal profession pay for undervaluing his contributions."

Watson felt a chill. "Moriarty. The classic adversary. It cannot be coincidence."

Holmes continued: "Price has been careful to avoid explicit admissions, but his timeline correlates precisely with the ContractGenius manipulation incidents. The first external server communication occurred three weeks after his termination from ContractGenius Pro."

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Watson Presents Findings

Watson prepared a comprehensive report for Mourse. The evidence showed that Hayes had acted competently and diligently. He had properly specified the non-compete clause. He had reviewed his work carefully. The failure resulted not from attorney negligence but from deliberate sabotage of the AI system he had reasonably relied upon.

However, Watson noted a complicating factor: Hayes had relied on the AI output without conducting a final comparison to his previous draft. A careful line-by-line review would have caught the missing section.

Mourse read the report carefully. So, "Hayes was not negligent in the traditional sense, but he may have failed to adequately supervise the technology he employed?"

"Precisely," Watson confirmed. "The Delaware Rules of Professional Conduct require attorneys to maintain competence, including competence in understanding the benefits and risks of technology. Hayes assumed the AI system was infallible."

Mourse considered this. "We will recommend a private admonishment for Hayes regarding technology supervision, but no formal discipline. The primary wrongdoing lies elsewhere."

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The FBI Gets Involved

Watson shared his findings with federal authorities. The FBI Computer Crimes Division opened an investigation into Simon Price for unauthorized access to computer systems and fraud.

However, Price had been careful. The external server trail led through multiple proxies and encrypted connections. Price had left no direct evidence linking him to the manipulations.

Agent Rebecca Torres, leading the investigation, met with Watson. "Your analysis is brilliant, Dr. Watson, but we need evidence that will hold up in criminal court. Everything you have found is circumstantial."

Watson understood the frustration. Price had covered his tracks expertly, like a chess master planning moves ahead.

Then Holmes made an observation: "The manipulation pattern shows a signature. Each modification follows a similar structural approach: identify a single high-value provision, remove it during a narrow processing window, adjust surrounding elements to mask the deletion. This is not random. This is methodical."

Watson added: "And if it is methodical, it will happen again. Price cannot resist demonstrating his superiority."

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The Cliffhanger

Two weeks after Watson submitted his final report, he received an email. The sender address was anonymous, routed through an encrypted service. The message contained a single sentence:

"You are clever, Watson, but you are playing checkers while I play chess. The game has only begun."

Attached to the email was a file: a fragment of computer code. Watson forwarded it immediately to Holmes for analysis.

Holmes processed the code and responded: "This is a portion of an AI algorithm designed to manipulate legal document processing. However, this code is far more sophisticated than what was used in the ContractGenius attacks. This system can operate across multiple platforms simultaneously and mask its manipulations in ways that would be nearly undetectable."

Watson felt ice in his veins. "Is this operational?"

"The code fragment is incomplete, but based on its structure, I estimate a complete version could be deployed within weeks. It would affect not just ContractGenius Pro, but potentially any AI-powered legal technology platform."

Watson reached for his phone to call Mourse, but a new email arrived. Same anonymous sender:

"The legal profession thought it could replace human wisdom with algorithms. I will teach them otherwise." Moriarty187

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Discussion Questions

Question 1: What duty did attorney Leonard Hayes have to understand and supervise the AI technology he used in his practice? Did he breach that duty? Explain your reasoning under the Delaware Rules of Professional Conduct regarding competence.

Question 2: If an attorney reasonably relies on sophisticated legal technology that is later found to have been sabotaged, should the attorney bear responsibility for the resulting harm to the client? Why or why not?

Question 3: What specific steps should Hayes have taken to verify the AI-generated contract output before sending it to the client for execution? At what point does reasonable review become unreasonable burden?

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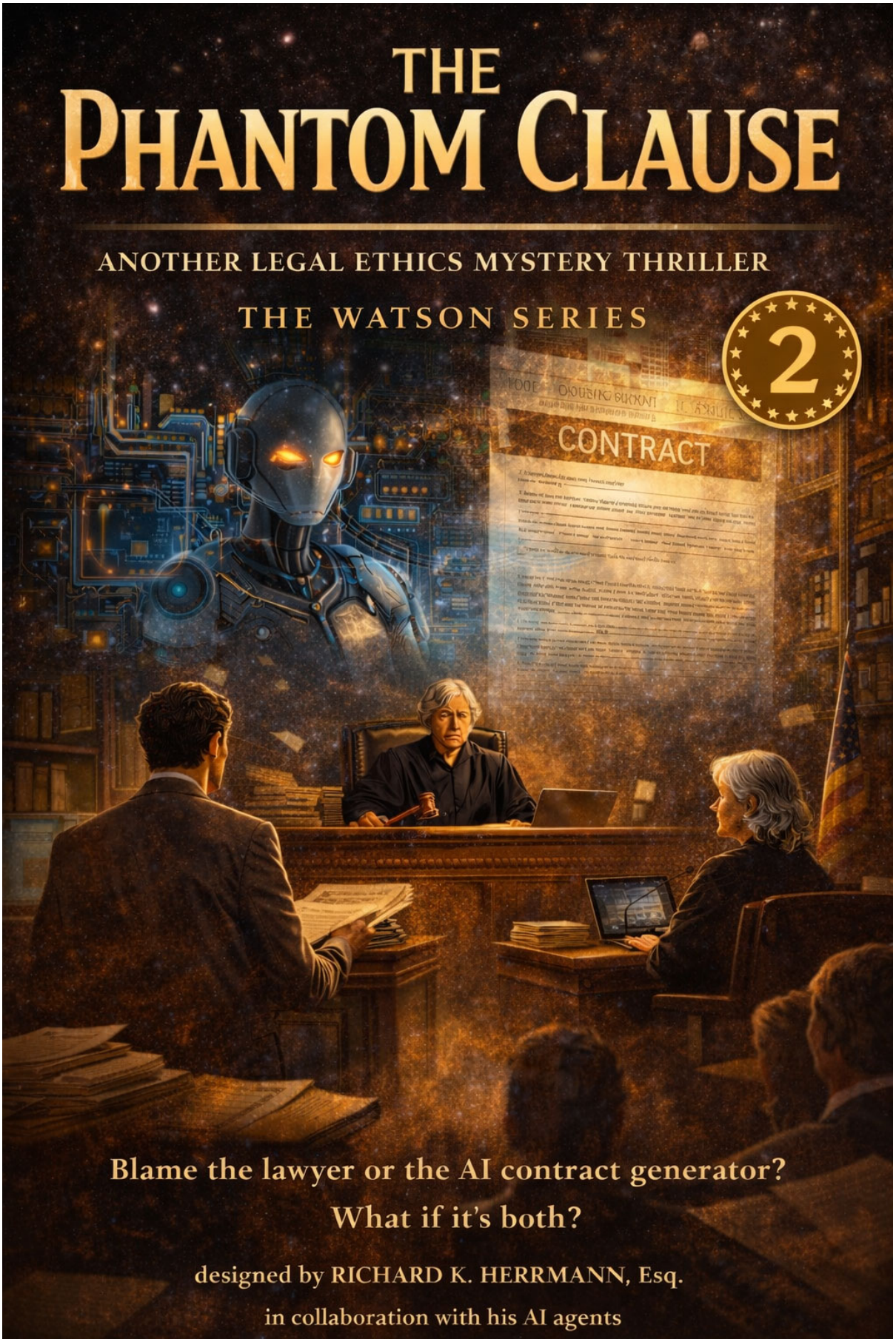
Discussion Questions (continued)

Question 4: Does an attorney have an ethical obligation to investigate the security and reliability of AI tools before implementing them in their practice? What level of technical understanding is required?

Question 5: When AI-powered legal technology fails and causes client harm, who should bear ultimate responsibility: the attorney who used it, the technology company that provided it, or the bad actor who sabotaged it? Consider this from both ethical and liability perspectives.

Question 6: As AI tools become increasingly integrated into legal practice, what new competencies must attorneys develop to maintain their ethical obligations to clients? How should bar associations and disciplinary authorities adapt their standards?

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