

Philadelphia True Noir

Kingpins, Hustles and Homicides

George Anastasia

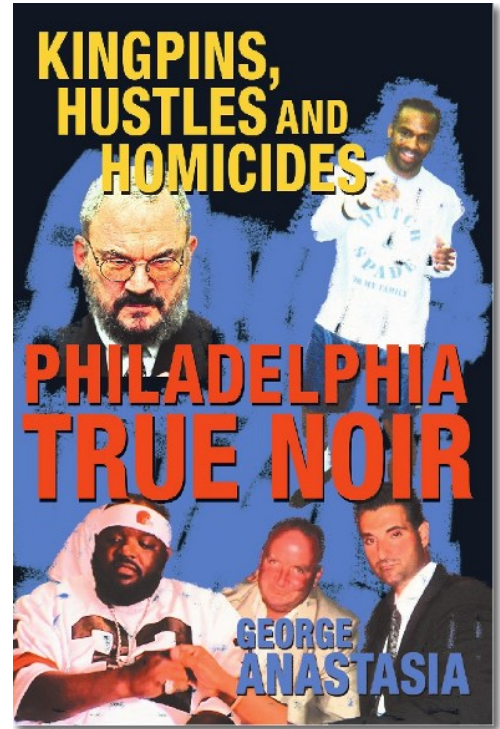
In Their Own Words: The Surreal Relationship of Anne Marie Fahey and Tom Capano

The couple didn't look happy. That's what the waitress told the FBI agent who interviewed her about a month later.

They came in around seven o'clock. It was a Thursday in late June 1996. Anne Marie Fahey wore a light-colored print dress and a frown. Tom Capano was unremarkable. The waitress struggled for the word. Finally she settled on unfashionable, not the kind of customer she was used to seeing in Old City's Ristorante Panorama. It is a place where movers and shakers come for lunch, where lovers come for dinner. It is a restaurant that prides itself on its wine list and menu, that boasts of being a piece of Rome set down in the heart of the City of Brotherly Love.

Anne Marie Fahey and Thomas J. Capano were memorable, the waitress said, because she couldn't fit them into any niche. When an FBI agent showed her a picture of Fahey, she recognized her right away. But she also remarked that the photo made her look "much healthier" than she appeared that night at dinner. That night, the waitress noted, Fahey looked "frail, sallow and washed out." Her hair looked "disheveled and flyaway." She seemed "sad and uncomfortable."

They had cocktails—a vodka sea breeze for Fahey, a rum and tonic for Capano. And then a bottle of white wine. The waitress recommended the fish, which Anne Marie ordered. Capano asked for one of the chicken entrees. They also shared two appetizers, maybe the fried calamari and the bruschetta. Neither ate much and when the waitress asked if everything was all right, Capano shoed her away.



That's one of the reasons she remembered the couple. The other was Capano himself. His look wasn't right for the restaurant, the young waitress said. His large, horn-rim eyeglasses, his barbershop haircut, his conservative sports jacket "all seemed outdated compared to the regular clientele."

Fahey seemed "extremely solemn." She didn't say very much during dinner, which lasted nearly two hours, "barely touched her food," and spent much of the time toying with her wine glass. Capano was "definitely very dominating"; Fahey was "very meek."

They passed on dessert, but Capano ordered a "very cold" glass of white wine for Fahey and a sambuca for himself. When the waitress brought the check, Capano took out a credit card and slid it and the bill across the table to Fahey. The waitress said they left a few minutes later without saying much else. She remembers that Fahey, who had tabulated the bill and signed Capano's name on the credit receipt, "left a very good tip."

Usually, the waitress noted, she is able to tell whether a couple is having a business meeting or is out on a date. But she told the FBI agent she could not figure out "why this couple was there." She recalled "absolutely no joviality or conversation."

Fahey and Capano left Panorama about nine that night. Two hours later, investigators believe, Anne Marie Fahey was dead. The waitress may have been the last person, other than Tom Capano, to see her alive.

This month in Wilmington—absent a last-minute plea bargain or an unexpected scheduling change—jury selection will begin in the case against Thomas J. Capano, the wealthy lawyer and former political power broker accused of killing Fahey on the night of June 27, 1996.

It is a surreal story, a soap opera, an outlandish script from a made-for-television movie: Rich, powerful and secretly obsessive lawyer carries on clandestine, two-and-a-half-year extramarital affair with beautiful, young anorexic secretary to the Governor of Delaware. Racked with guilt linked in no small degree to her Irish-Catholic background, she tries to end the affair. In a rage, he kills her and

then dumps her body in the Atlantic Ocean, 60 to 70 miles off the coast of southern New Jersey. That is the prosecution's theory of the case. That is what will be presented to the jury. There is no body. There is no murder weapon. There is no cause of death. Capano, 48, has pleaded not guilty. He has been held without bail since his arrest last November.

Anne Marie Fahey was killed, prosecutors believe, shortly after Capano drove her back to his home in Wilmington following their dinner at Panorama. The next morning, they contend, he and his younger brother Gerard—who is now cooperating with authorities and is expected to testify at the trial—took Fahey's body far out to sea off Stone Harbor and threw it overboard inside a large trunk.

Only Tom Capano knows the details of Anne Marie Fahey's final minutes, prosecutors say. It is the crucial blank spot in the middle of a troubling, sensational saga that could provide a month's worth of fodder for the likes of Jerry Springer or Oprah Winfrey.

The story has it all: power and politics, betrayal and wealth, sex and obsession. But the most haunting twist is the echo of the voices of Fahey and Capano, captured in more than 50 e-mail messages sent between them in the six months leading up to Fahey's disappearance, including one sent the day before she was allegedly killed.

The messages, better than any witness or other piece of evidence, provide an account of the troubled relationship that prosecutors say ended in murder.

E-mail from Fahey to Capano, January 29, 1996, 7:50 a.m.:

Tom,

First let me start off by saying that I'm sorry for the pain I have caused you over the weekend. I spent a good part of yesterday morning/afternoon at Valley Green Park thinking about a lot of stuff: Us, girls, eating disorder, my family, etc. I desperately want to talk to you, but I'm too afraid to place the call. I do love you Tommy and no matter what happens—I will always love you.

Annie

From Capano to Fahey, next day, 10:59 a.m.:

Annie,

Our system was down yesterday so I just got your e-mail....I desperately want to talk to you, too, and I'll go out of my mind if I don't soon. Please don't be afraid to place the call. I need to hear your voice....Not hearing from you since Saturday afternoon is making me crazy. And you know how much I love you and need you. I'll wait for your call. Te amo [I love you].

Tom Capano was a highly respected and politically connected former state prosecutor and the scion of one of the richest families in Delaware. Fahey was the youngest of six siblings in an up-by-their-bootstraps, Irish-American clan that moved in many of the same political—although not economic and social—circles as Capano.

Only her closest friends knew of the relationship, which Fahey had gone to great lengths to keep secret from her family and boyfriend. Notes in her diary, which her sister read on the night she reported Anne Marie missing, were the first hint to family members and investigators. More details came from letters and the e-mail messages between Fahey's computer at the governor's office and Capano's at the Wilmington office of the Philadelphia law firm of Saul, Ewing, Remick & Saul. The friends in whom Fahey confided filled in the rest.

What emerged is a confusing and sometimes contradictory tale of guilt, anxiety and infidelity that shocked many who knew Fahey and Capano. That Capano might be capable of murder seemed improbable, even to those who thought him smug and arrogant. He had a reputation and a history of political and public service that, on the surface at least, left him above reproach. Beneath that surface, however, investigators say they found a "control freak" who had been manipulating women for a decade and a half.

In 1980, according to an FBI affidavit that is now part of the case, Capano is believed to have hired a thug to harass and threaten a legal secretary who had spurned his sexual advances. Eventually, she quit her job and left Wilmington to avoid Capano. After Fahey disappeared, the thug told the FBI that Capano had

told him he wanted him to "hurt the bitch," had boasted about his power and influence in Wilmington, and claimed that "this is his town, this is his state" and that no woman could turn him down.

Capano and his younger brothers, Louis Jr., Joseph and Gerard, were part of the city's nouveau riche. They moved along the second tier of wealth and power in a city steeped in tradition and proud of its provincialism. There are the duPonts and a half-dozen other families whose roots stretch back to colonial times. And then there are the new arrivals—the bankers, lawyers, developers and politicians who make things happen and get things done.

Successful in varying degrees in their own right, all four Capano brothers and an older sister benefited from the wealth and financial clout accumulated by their late father, Louis J. Capano, one of Delaware's premier builders and construction contractors in the 1960s and '70s.

Over the years, Louis Sr. amassed a fortune in real estate holdings that at different times included office buildings, apartment complexes, hotels, restaurants and shopping centers. Louis J. Capano & Sons was also responsible for building more than a dozen middle- and upper-middle-class housing developments. Nearly everyone who has lived in the Wilmington area has heard of or, more likely, had some contact with a Capano or a Capano-connected business enterprise.

The Capano boys were spoiled, self-centered and for years did pretty much whatever they pleased. But until Anne Marie Fahey's disappearance and the murder investigation in which he quickly became the prime suspect, Thomas Capano had been known as the "good brother."

A graduate of Archmere Academy, a private Catholic boys school, Boston College and Boston College Law School, Thomas was the brother who helped smooth over the problems of his younger siblings even as he moved up the ladder in Wilmington's political and social circles.

"Any time there was a problem in the family, Tommy was the one who would straighten things out," Kevin Freel, a member of one of Wilmington's most active political families, said one night as he sat at a table in O'Friel's, his popular pub.

"He was the good guy. Then this business with Anne Marie happened. You hear about how he was manipulative and controlling and taking advantage. We were sitting here in the bar one night talking about it and saying how unbelievable it was. Then somebody said, 'Yeah, he's acting just like a Capano.'"

E-mail from Fahey to Capano, February 7, 1996, 7:51 a.m.:

Good Morning Tommy,

I'm sorry yesterday was so bad....Sorry I did not call you back last night...wanted to see the last part of NYPD Blue and, of course, I fell asleep and woke up around 1:30....Tommy, I meant what I said on Sunday night about right now only being able to offer you my friendship, and if you cannot deal with that then I understand. I'm still very much confused, and I am trying to work out a lot of personal things on my own. I would like to talk to you about what happened yesterday...but again it is up to you.

Annie

From Capano to Fahey, same day, 9:50 a.m.:

Good Morning Annie,

Thank you for the e-mail....I also watched NYPD Blue and wanted to call you at the end...but thought you might be asleep....I'd like to have dinner with you Saturday night....I understand that you're confused and want to limit our relationship now to friendship. I love you enough to accept that and ask only that we treat each other kindly and honestly. I don't want to lose you. I also think we shouldn't lose the closeness we've developed. If nothing else, you know you can tell me your fears and hopes and rely on me to support you. I still want to be there for you, which, I guess, is the surest sign that I still love you with all my heart. You cannot do all this on your own, Annie. No one can. Let me help....You look like you could use a good meal! And you have to admit I've always fed you well. Te amo.

The Faheys, four brothers and two sisters, had grown up looking out for one another. Their mother died while they were children. Anne Marie, the youngest,

had just started grammar school. Their father, an alcoholic, soon fell apart. He died 10 years later. For the most part, the children raised themselves. And it is with pride that they point to the fact that four of them went on to graduate from college, including Annie, the tomboy who grew into a sophisticated but insecure beauty.

The Faheys all knew that their sister's happy-go-lucky exterior was a thin and easily cracked shell, that inside she was an emotionally frail and easily manipulated young woman full of self-doubt that could be traced to her virtually parentless childhood.

As a college student, Anne had spent a year studying in Spain and dreamed of a career in the foreign service. But at the time she disappeared, the closest the 30-year-old Fahey had gotten was the front desk at the governor's office in Dover. She agonized constantly over her inability to live the life she desired on the \$31,000-a-year salary of a gubernatorial aide.

Tom Capano could give her that life, albeit secretly. He lavished her with clothes from expensive dress shops, a television, books, appliances and cash for trips. He even offered to buy her a sports car—a Lexus 300 SL—and to set her up in an apartment.

Most of Fahey's casual friends and acquaintances had no clue about either her insecurities or her secret relationship with the wealthy and powerful lawyer. Instead, they talked of the smiling Annie, the woman who loved a good joke or trivia question, the comic with the uncanny ability to mimic even perfect strangers, the dark-haired beauty who could easily slip her conversation between English and Spanish, a language she loved.

And they remembered the laugh.

"It would be the middle of happy hour on a Friday afternoon," Kevin Freel recalled. "The place would be packed. You couldn't hear yourself think. But above it all you would hear this warm, wonderful laugh and you'd know Annie was in the room."

There were times, however, when Anne Marie Fahey wouldn't or couldn't laugh,

private times when she was haunted by her own demons and tormented by an eating disorder that left her five-foot-ten frame rail thin.

Fahey and Capano started their secret affair late in 1993. Anne was working as Governor Tom Carper's appointments secretary. Capano, who was then a private lawyer who worked on many government bond issues, was a frequent visitor to Dover, the state capital, about 45 miles south of Wilmington. With their individual political involvements over the years, they needed no introduction.

Anne Marie told only a few close friends about how she was flattered and intrigued by the suave, articulate, high-powered lawyer 16 years her senior. He treated her, she said, like no other man ever had. They would meet secretly for lunch or dinner, sometimes in her small apartment a few blocks from the Wilmington business district, but more often in swank Philadelphia restaurants like the Saloon, Panorama or La Famiglia, where they were unlikely to be recognized.

In the aftermath of her disappearance, friends and relatives described Capano as a predator who played on her weaknesses and took advantage of her kindness. But it was more complicated and complex.

"It was difficult," said Kim Horstmann, a close friend of Fahey's who knew about the affair almost from the beginning.

"She loved him and he really loved her," Horstmann said in a lengthy interview with investigators shortly after Fahey disappeared. But the relationship was fraught with problems, not the least of which was Fahey's guilt over the thought that Capano might leave his wife and four daughters for her.

"She did not want the responsibility of having him leave his wife for her," Horstmann said. "But then she didn't know if she could ever meet a man that would take care of her the way Tom took care of her....She was very confused."

On the one hand, she said, Fahey wanted to get away from Capano. On the other, she would ask, "Will anybody ever love me the way he loves me, or will anybody treat me the way he treats me?"

E-mail from Capano to Fahey, April 29, 1996, 2:08 p.m.:

Hi,

The guys from Smith Barney just left....Anyway, here's the trivia question: Who owns Coach Leather?...I enjoyed our phone call this morning. Thanks for the time. Please call if you can. Oh, almost forgot. If you answer the trivia question correctly, you win a prize. Hope your day is okay.

From Fahey to Capano, same day, 2:26 p.m.:

Well look here Mr. Smartie Pants. The owner of Coach Leather is SARA LEE!!! How do you like them apples? Thanks for making me laugh and getting my mind off my financial problems. Call you later.

Annie

P.S. Nobody does it like Sara Lee!!!

Kathleen Fahey-Hosey last spoke with her sister on the Wednesday before she disappeared. They had gone shopping together at the Talbots in Wilmington. Kathleen chided Anne Marie for trying on an expensive suit that she could not afford.

Anne Marie was supposed to join her brother Robert and his wife that Saturday night for dinner. She was to bring her boyfriend, Michael Scanlan, a young banker. She had confided to her sister and several friends that Scanlan was "the one," that they had been talking about getting engaged.

Kathleen was excited about that prospect. The family loved Scanlan and thought he was a stabilizing influence on Annie. Before they parted, Kathleen also expressed concern about Anne Marie's weight.

"She looked so thin when she tried on the suit," Kathleen said in an interview last year. "I hadn't noticed. She'd wear jeans and a baggy sweatshirt when she came over to the house. But at Talbots, when she came out of the dressing room, I could see how thin she was."

Anne Marie's anorexia often flared up when she was under stress. Kathleen had

no way of knowing the source of the tension. Anne Marie said she was fine and appeared annoyed at Kathleen's comments. She said she would call and told her not to worry.

Around this same time, Capano told Kim Horstmann that he was frustrated over his inability to win back Fahey's love.

"He said that he was very frustrated...because he was...completely in love with her," Horstmann told a grand jury. "He said he could have anybody he wanted and he made the comment again about 'Look where she comes from and I can offer her the entire world. I could buy her anything she wanted. I have more money than I can spend in a lifetime. Am I crazy going after her? Am I crazy to be in love with this girl?'"

Horstmann said she suggested that Capano give Fahey space, that he back off. She and others in whom Fahey had confided also told investigators that at that time, in the spring of 1996, Fahey thought she had reached an understanding with Capano.

There had been a period, shortly after they stopped their sexual relationship at the end of 1995, when Capano had been abusive, calling repeatedly on the phone, sitting in his jeep outside her Wilmington apartment as if he were stalking her. Fahey told her friends—who later told the FBI—that Capano began reclaiming all the gifts he had given her: the clothes, the CDs, the television.

"No other man is going to see you in the dress that I bought you," he ranted. But that time had passed.

There were hints of the turbulence in the e-mail messages, but also indications that things had gotten better, calmer. Fahey believed, it appears, that Capano was content to be her friend. Investigators and her family say that was a fatal mistake.

"In order to understand why my sister was easily manipulated by a guy like Tom Capano, you need to understand the frailties of her nature," Robert Fahey told *The Inquirer* shortly before Capano was arrested last year. It is not pleasant, he said, to have his sister's private life—her hopes, her fears, her

shortcomings—held up to public scrutiny, examined and analyzed, questioned and gossiped about.

"There are many things which we would have preferred not made public that have come out," he said. "You get numb to it...It is what it is...But this guy made a career of preying on vulnerable women. So I guess that stuff has to be there."

E-mail from Capano to Fahey, May 21, 1996, 10:54 a.m.:

*Good Morning Annie,
Glad you enjoyed the fax and that you ate well at Debbie's....I'm worried about you. Don't tell me not to because you know I do. Did you call [your therapist]? Probably not.... Please be sure to give her the \$500 tomorrow since you're out of credit....Could we have dinner tonight? It would be good for me and, at the risk of sounding pompous, I think you might get something out of it too....*

From Fahey to Capano, same day, 12:33 p.m.:

*Hey Capano,
...Please do not worry about me....I'm scared to death that I am killing myself, and that's a positive thing because I am forced to do something to make myself better. It's kind of a bittersweet device if you know what I mean....I almost sent myself to St. Francis yesterday morning because of how weak I felt. Believe me Tommy when I tell you all of this is good for me, because for the first time, I am afraid that I am killing myself....I'm ready to tackle this problem that I have—whereas before I did not see it that way. I know all you want to do is help, and believe me it's greatly appreciated, but I also need some time alone to work out a lot of stuff. I hope you can understand all this mumbo.
Anne Marie*

It was a balancing act for Fahey, like walking on a tightrope. She was trying to keep Capano at a distance without upsetting him. She was in agony over the thought that her siblings might learn of the relationship. And she was terrified that her boyfriend, Michael Scanlan, might find out.

"I don't want him to run," she wrote in her diary. "I don't know what he will think of me."

The one thing she could control at that time was her eating. And so she did. She stopped.

She lost weight at an alarming rate. Kathleen was not the only person to notice. On June 12, while at work in the governor's office in Dover, Anne Marie Fahey fainted. And when she came to, she called the one person she knew she could count on for help. She called Tom Capano, asking him to come and drive her home to Wilmington.

Why Capano and not Scanlan, her boyfriend, the man she hoped to marry? Kim Horstmann was asked that question during her testimony before the grand jury. She had spoken to Anne Marie both before and after the fainting incident and thought she knew the answer.

"She was afraid to death of Michael ever finding out that she had this problem," Horstmann said.

"She didn't want him to think that she was sick. She was aware that she was taking too many laxatives at night and she wasn't eating, but she did not want Michael to know because it would make her look weak in his eyes. She was afraid it might make him think less of her if she had this problem.

"Tom, she felt, was, I guess, more like a father figure to her because they had this friendship and so she could confide in him because he knew about the eating disorder."

A father figure. That's not the role, investigators believe, Capano had envisioned for himself.

"If he couldn't have her, no one would," state prosecutor Ferris Wharton said in what is a simplistic but, investigators contend, accurate description of the motive for Fahey's murder. But it hardly begins to tell the twisted saga of love and betrayal, obsession and control that lies at the heart of the case.

E-mail from Capano to Fahey, June 3, 1996, 12:19 p.m.:

Hey you,

You'll get this after I'm gone but I didn't want the day to go by without saying hi. I know you're having a rough day and hope it doesn't make you crazy....How's about dinner Thursday night? Lobster at Dilworthtown?...AND TAKE YOUR VITAMINS.

From Capano to Fahey, Friday, June 7, 1996, 10:35 a.m.:

Good Morning Annie,

Thanks again for last night. I had a great time and hope you enjoyed yourself. I'm still stuffed....Please call when you can.

From Fahey to Capano, same day, 12:49 p.m.:

Hey,

I am also still stuffed up to my neck. Hey, it was a great stuffing!...I'll call before I leave.

Annie

Investigators say that even as he was writing notes of endearment and support to Fahey in May and June 1996, Capano was carrying on an affair with another woman and apparently trying to start an affair with someone else.

The other "other woman" is Deborah MacIntyre, who has since admitted that she and Capano had been having an affair for about 15 years at the time Fahey disappeared. MacIntyre, who left her job as an administrator at a private school in Wilmington earlier this year, is now cooperating with authorities.

She testified that she met Capano in the late 1970s when he and her then-husband were members of the same Wilmington law firm. She said Capano first told her how he felt about her at a New Year's Eve party in 1981. According to MacIntyre, they started sleeping together a short time after that and the affair continued into the fall of last year.

"I fell in love with him," MacIntyre said while testifying at a pretrial hearing in August. "He was charming....He cared for me....He listened to me. And I needed that."

MacIntyre says she was unaware of Capano's relationship with Fahey. She has admitted, however, that on May 13, 1996, she bought a handgun for Capano. At his request, she purchased the weapon in her name, then turned it over to him, she said.

The gun has never been found.

During this same period, Capano reestablished contact with the woman he had allegedly harassed back in 1980, the woman who said she had fled Wilmington to get away from him. The woman, whose identity has been withheld by authorities, told the FBI that she saw Capano again in 1987, after she had divorced, and he acted "as if nothing had happened." In fact, he asked her out. She agreed. They went to an Atlantic City casino to celebrate her birthday. He bought her a watch and had it engraved to commemorate the event. Then, she said, he asked if she was seeing any other men. When she replied that she was, he called her a "slut and a whore."

That was the last she heard from Capano until January 1996, when, she said, he called her "out of the blue," suggesting that they go out and proposing that she come to work as his legal secretary. This was shortly after Capano had separated from his wife and moved into a home on his own. At that time, investigators say, Capano was continuing his relationship with MacIntyre and trying to rekindle his affair with Fahey.

The woman said that in April Capano took her to dinner at La Veranda, another posh Philadelphia Italian restaurant, and that a month later he lent her \$3,000 to pay off some debts, all the while encouraging her to become his legal secretary. She said she interviewed for the job at his law firm and was hired. She was supposed to start work on May 29. But after a series of phone calls in which Capano complained about the personal greeting on her home telephone answering machine—Capano told her she sounded "childish" and could not come to work for him unless she changed it—the woman thought better of the job offer.

Anne Marie Fahey may have decided that she, too, was better off without Capano.

On April 7, she wrote in her diary that she had finally reached "closure" over Capano, describing him as a "manipulative, jealous, insecure maniac."

In May, Fahey told her hairdresser that she had been trying for several weeks to end her relationship with Capano, who, she said, "was crazy and...scared me." On one recent occasion, she said, they had gotten into a heated argument while sitting in his car outside her apartment.

"Fahey told Capano that she wanted to end their affair," according to an FBI affidavit outlining an interview with the hairdresser. "Capano started screaming and yelling at her and called Fahey a slut and bitch [and] grabbed her by the neck. Fahey jumped out of the car and ran into her apartment."

Fahey also told her psychologist, who later told the FBI, that "Capano had stalked Fahey and threatened to expose their relationship to others in order to force Fahey to continue" to see him. The psychologist said she had encouraged Fahey to report Capano's actions to the attorney general's office, but that she had not.

The psychologist also told the FBI that she thought "the only reason Fahey would have accompanied Capano to Philadelphia for dinner on June 27 would be to break off the relationship."

E-mail from Fahey to Capano, June 26, 1996, 4:24 p.m.:

Lo siento mucho [I am very sorry]. I would like to apologize for being such a downer today. I realize that your day has not been so great either, and I was not much help. I feel like some days I can handle my anorexia and other days I feel overwhelmed by the whole thing. Today has obviously been an overwhelming day. My appointment [with her psychologist] was hard and in depth...and quite frankly it drained all my energy...Right now I am going to focus on trying to get better. Sorry for being such a doggy downer today.

*Take care,
Annie*

From Capano to Fahey, same day, 6:19 p.m.:

Re: lo siento mucho

I didn't get a chance to react to this until after 6:00 and I assume you're gone and won't see this 'til tomorrow....I appreciate the apology, but you don't need to worry about it. I just hope you know that all I want to do is help in any way I can. I promise to make you laugh tonight at Panorama, to order calamari and to surprise you with something that will make you smile. Please call when you get a chance.

Twenty-four hours later, Thomas J. Capano and Anne Marie Fahey sat across from each other at a table in the fancy Italian restaurant.

The waitress remembered them well.

They didn't look happy.