

FALSE STARTS

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Editor's note: In a composite memoir -- synthesizing people and events -- David B. Saxe, a New York Supreme Court justice, recounts the early days of his career.

Body

It had been over 20 years since I saw him last, but when he entered my robing room late one Wednesday afternoon for a pre-trial conference, I recognized Jack instantly. He had a lot more gray hair than when I worked for him, and was considerably heavier, but he still wore the same cheap sports jackets and outlandish ties that he bought at Subway Sam's on 14th Street. The glasses were the same, too: horn-rimmed and tied around his neck with a tattered piece of cord.

Jack was directed to the plaintiff's counsel's chair by the court officer; his colleague, another veteran, from one of the well-known firms representing insurance carriers in personal-injury cases, sat across the table. When Jack placed his worn, frayed file on the table, aged papers and documents spilled out.

Although I recognized Jack immediately and the yellow note-of-issue card bore out my identification, either he did not remember me or was feigning ignorance.

I met Jack when I decided, after a couple of years of working for other lawyers, that I wanted to work on my own. The only problem was that I had neither money nor clients, nor the immediate prospect of either.

One day, while doing my ritualistic reading of the *New York Law Journal's* classified section, I was drawn to an ad squirreled away under "Help Wanted." "Space for service," it read, "excellent location; near all courts; overflow available; call BA-7. . . ."

I called the number right away and was told to come see the advertiser that evening. I was directed to one of those cavernous buildings on lower Broadway that housed enough lawyers to populate a small state. I took the elevator to the 12th floor and then walked down a dirty, dimly lit corridor toward the office. The door was locked, so I pressed the buzzer and the door opened.

It was after six. Although lights were on and I could hear voices, I stood in the reception area of the suite for a long time before I heard anyone approach. The furniture -- a couch and two chairs -- could have come from the lobbies of those grand old apartment houses along the Grand Concourse in the Bronx. The water cooler was empty and the carpet was in such bad condition that the Salvation Army wouldn't have accepted it.

Something inside me said, "Leave now." If I was disgusted, what would a client think? But I didn't have any clients, so I stayed.

Charles Buckland

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In a moment, Jack appeared, and without even shaking my hand, he told me to follow him into his office.

There were law journals from the beginning of time strewn around; papers and Redweld folders were everywhere; the wallpaper was badly torn. By comparison, the reception area was hospitable. Nevertheless, I needed an affiliation and was pleased when Jack began to explain the proposed arrangement right away, rather than engage in one of those silly conversations that older lawyers sometimes have with younger lawyers interviewing for a job.

"Here's the deal," he said. "You work for me 10 hours a week. In return you get a room, which I'll show you. You can make local calls, and the receptionist will take your incoming calls. On your own work, you have to pay us for photocopying and you can't use the secretary that I share. If you need anything of your own typed, you can subscribe to Mollie's Typing Service. A few guys around here use them. They pick up every afternoon around 4:30.

"If any of the work you're doing for me takes over 10 hours to finish, we can work out an arrangement -- say, \$ 20 or \$ 25 per hour, something like that. Believe me, that's better than I did when I was your age. Are you interested?"

"Yeah, sure," I said. "I want to start my own law practice and this seems like a good way to do it."

"Good. I'll show you your office," he said.

I followed Jack and came to a windowless room. Had it been a prison cell, it would have violated Judge Lasker's minimum space requirements for Rikers Island. And it didn't really have a regular door, just the kind of swinging gate you find in an old-fashioned saloon. I had the strange feeling that it had been a broom closet until Jack's entrepreneurial spirit got the better of him.

But I was not about to be deterred by insignificant matters. Monday, I arrived ready to undertake my responsibilities to Jack and to my future clients, whoever they might be.

When I arrived for work I found Jack sitting in my chair.

"Can you take a deposition?" he asked.

"Sure," I replied, thinking that my two prior experiences made me an accomplished examiner.

He handed me a slip of paper on which was written the name and address of a law firm.

"Be there at 11 o'clock. Here's the file. Our client was a pedestrian. It's a knockdown case. They're taking her deposition first; she'll meet you there. You'll depose the driver right afterward. Any questions?"

"No," I said, and began to quickly review the file, making various notes.

For the next two hours, I reviewed every piece of paper in the file and wrote a list of categories and subcategories that I thought worthy of inquiry. At 10:50, I walked across City Hall Park to the law offices.

The defendant's attorney asked me if I would agree to the "usual stipulations." Not knowing what unusual stipulations were, I quickly agreed. The defendant's attorney wanted to know, it seemed to me, the most minute details of my client's life. The deposition wasn't even half over by five, so we agreed to continue it the next morning. It went just as slowly the next day, finishing with a lunch break at about 3:30 p.m. I eagerly began my examination of the defendant, which must have been initially interrupted at least five times by objections by the defendant's attorney.

"Your question is irrelevant," he boomed. "I'm directing my client not to answer."

"No, it's not," I stammered. "Anyway, have your client answer and your objection will be preserved."

"Don't tell me how to practice law," he sneered.

"Let's call the Special II judge," I said. "We can get a ruling."

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"Do what you want," he said.

I went into the hall and asked a secretary if I could use the phone and was able to reach the judge's secretary, who confirmed my statement. I guess my adversary knew what the ruling would be, but just wanted to unsettle me. Anyway, he continued to object and make speeches but eventually let his client answer. The deposition ended on Thursday around 1 p.m., and I spent the rest of the day carefully summarizing the relevant parts of the examination. All told, the deposition had taken 22 hours.

I spent what was left of the first week waiting for clients to call.

On Tuesday of the second week Jack came into my office with some sheets of paper with scribbling all over them and some financial forms.

"Can you draw up a will?" he frowned. "It's for a good client of mine -- a very wealthy guy. He feeds me a lot of work, so it's important that it's done right. I think he wants some trusts set up, too. If you need some forms, ask Harry Gross in the next suite. We refer business to each other, and he's an expert in estates."

"Why don't you just have him do it, then?" I asked. "I've never done more than a simple will."

"What are you, crazy?" he responded. "If I sent this guy next door, Harry would wind up with all my p.i. work."

I looked over his notes for a while and, not finding them particularly illuminating, I walked into Jack's office. "Look, Jack, I need to interview these people. I can't tell from these notes what they want."

"O.K. I'll call them up but when they come in, I'll do the talking; just write out the questions you want answered."

Anyway, between the interview, my research and my drafts, I had a pretty good version on Jack's desk by Friday afternoon. I had spent 20 hours and had done, I thought, a pretty good job on the will.

I entered the number of hours in my little notebook and waited some more for clients to call.

During the third week Jack handed me a messy Redweld folder.

"Ever do a closing?" he asked. "I represent a guy who's buying a travel agency. The closing is Thursday. Here, take care of it. Go over to County Lawyers; they have some good form books there. Try Rabkin and Johnson."

"Can I get in there?" I asked. "Are you a member?"

"Just act like you know where you're going," Jack said. "If you do, they'll never stop you."

I spent most of a day and a half drafting the documents. The closing was at a lawyer's office on 42nd St., since our conference room had already been rented out to two lawyers. The closing itself lasted no more than four hours. I prepared the closing statement when I got back a few hours later. All told, I spent about 19 hours.

Finally, during the fourth week of my employment with Jack, he asked me to do some research on the validity of Dominican Republic divorces. Research was not Jack's forte -- he didn't even subscribe to the New York Supplement. But a well-researched answer was necessary to advise a new client, I thought. I once again went to the County Lawyers' library and began my research. The result was a detailed and complete memo that I was quite proud of. Between that research and two or three visits to court to conform some orders, I worked 25 hours on Jack's work that week.

With the first month over, I now had a chance to assess my new career and the financial emoluments that lay just ahead. Now, it was true that not a single client of my own had entered my office. But Jack's work kept me pretty busy. So, I calculated my entitlement.

The first week, I racked up 22 hours. I owed Jack 10 hours so I was entitled to compensation for 12 hours at the rate of \$ 25 per hour, or \$ 300. For the second week, my work on the will took up 20 hours. I calculated, therefore, that I was entitled to \$ 250.

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The third week, when I took care of the corporate closing, was a light week -- only 19 hours -- so Jack would only have to pay me for nine hours, or \$ 225. And finally for the fourth week, I logged in 25 hours on the research project so I could bill for 15 hours, or \$ 375.

All told, I figured that he owed me \$ 1,150 for the four weeks I had been there. Not bad, I figured, with the "free" room and a chance to build my own practice. That evening I typed up a detailed version of my time and efforts, and the next morning I walked into Jack's office, sat in the one chair that wasn't broken and presented him with my bill.

"What's this?" he said.

"It's a compilation of the time I spent on work for you this month," I said. "You remember our arrangement, don't you?"

"What arrangement?" he asked.

"Look, Jack, stop kidding. You said you would pay me \$ 25 an hour for any work I did for you over the 10-hour weekly minimum."

"Oh, yeah, but I wanted you to consult me before you started billing me like a law firm. What's this 22 hours for an EBT?" he said.

"You're right: It's a lot of time, but I couldn't help it," I said. "The other guy asked endless questions, and you know I had to prepare, too."

Jack roared, "I'm not paying you to learn how to take an EBT! And 20 hours for a will. What kind of jerk do you think I am? I told you, you should have just gone next door to Harry's office, borrowed a couple of forms and pieced them together. That would have taken you five or six hours at most."

"But Jack, there were some difficult tax questions involved," I said.

"Nothing so serious that it should have taken the time you put in, or that you say you put in," he sneered. "What do you think, I make money on these wills?" He looked down at my time sheet. "This closing -- it says here you spent 19 hours," he said. "How could you have done that when all you had to do was hold the guy's hand?"

"That's not so, Jack. I had to do most of the drafting. I had to keep running over to County Lawyers. You know, if you had some books here, I wouldn't have to be over there all the time."

"Yeah," he said, "if I had books here, you probably would be giving me a bill for double the amount that's here. And research, 25 hours, what kind of bull is this. You should have done a few minutes research. That would have been enough. I'm not paying you to write law review articles."

I stood my ground. "You owe me \$ 1,150, Jack. I might be willing to take a little less, but I did everything that's down on that paper; in fact, I did work I didn't even bill you for."

"Stop it," he said. "You didn't even give me the 10 hours a week you were supposed to. You owe me money. I gave you a room in a suite and you're trying to stiff me."

"You're a real crook," I said. "I'm getting out of here."

"Get the hell out," he roared. "And don't make any calls."

A few weeks later I found a normal job. My sour experience with Jack faded into memory. From time to time, however, I would scan the classified page of the *New York Law Journal*, and through the years I noticed Jack's ad appear with some degree of regularity. "Space for service," it trumpeted. "Guaranteed overflow; well-appointed suite."

I didn't give it another thought until I saw Jack that day at the pre-trial conference. After the conference was over and the two lawyers were given a trial date, I asked the insurance company lawyer if he minded if I spoke privately to the plaintiff's lawyer on another unrelated matter. "Not at all, Judge."

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Jack looked at me quizzically as his colleague left the room. "Do you remember me?" I asked. Jack looked startled. "I worked for you over twenty years ago."

"You worked for me?"

"Yes," I said. "And I see you still have your ad running." I held up a page of the day's *Law Journal*.

"It's always been hard to find the right person," he said. "How long did you work for me?"

"I worked for you for four weeks."

"Four weeks," he repeated. "What happened?"

"Well, you said I should have finished your work more quickly than I did. I felt I put in the time it took to do the work and that you should have paid me for it. In fact, I remember that I did a complicated will for you and you said I shouldn't have taken so much time, but should have just copied a few forms in someone's office."

"Oh, I remember you," he said. "You took it too seriously."

"Too seriously?" I said.

"Yeah, yeah. It's a business. If I had wanted an associate, I would have hired one. You didn't understand that. You really weren't ready to be on your own; you still wanted to work for someone else who had regular clients. That wasn't what I was looking for."

After a pause, he added, "But it's too bad it didn't work out. You know something? With me getting the business and you doing the work, we could have been big -- real big."

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