

## Tips for New Judges

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### **Body**

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New surroundings often necessitate new discoveries; that was the challenge I faced when I joined the Appellate Division, First Department in January 1998. Some years later, I wrote a piece for the New York Law Journal detailing the many nuances of Appellate Division, First Department practice and procedures that a new designee to that court, like myself, had to face. [Saxe, "How to Operate at the Appellate Division, First Department; An Insider's View," New York Law Journal, Oct. 26, 2012.

But it was my first judgeship, an election to the Civil Court of the City of New York over 40 years ago, that introduced me abruptly to the many problems that a new judge had to overcome.

I have recently given some thought to the problems that new judges face and offer some advice in the hope that it may ease the pathway for some and perhaps provide some useful nuggets that may help them ease into their judicial careers. Remember too, as Agatha Christie once said, "While good advice is always certain to be ignored, that's no reason not to give it." Alarcon, "Three Lessons I Wish I Knew When I First Became a Judge" Advocate Magazine, (July, 2021) [www.advocatemagazin.com](http://www.advocatemagazin.com) (2021, July).

So here goes:

As a judge, you can't make everyone happy. Don't have that as a goal; it's unrealistic. Instead, try to make the best ruling possible, making sure you can articulate a plausible reason for that ruling.

Now that you are a judge, be always mindful of that. You are a judge when you are on the bench, in chambers, at a party, driving a car or even when you are on Facebook. Conduct yourself with the appropriate dignity and reserve you would expect from a judge. Be respectful by asking people about the proper pronunciation of their name and about what gender pronoun they prefer if you are unsure.

Become a keen observer of things and people in your courtroom and especially what is going on minute by minute. Don't become overcome by the flummery of lawyers appearing before you who are only too happy to tell you, "Judge, I read all your opinions."

Develop mentors among more senior colleagues. You will be surprised at how often they will be flattered that you have sought them out.

Be careful before you release your first written decision. It is not unusual for a reputation to be made or fractured by an initial writing. Seek out a mentor to review and comment.

Don't become an advocate as a judge. Leave that to the lawyers. Maintain your patience and dignity even when one of the lawyers tries to get under your skin. Don't lose your control. When that happens and you erupt in anger, you have faltered in your role as a judge. Holding a difficult lawyer in contempt is probably more a reflection on your ability to be an effective judge than it is a reflection on the difficult lawyer or party before the Court.

As you settle into your role as a judge, make sure you do the prep work necessary for the next day's assignments. Ask lawyers to send you copies of their relevant case authorities. Begin to avoid taking rulings under advisements. Become comfortable making short, informed decisions on the record.

If you are late for a scheduled court time and the lawyers and parties are waiting expectantly, apologize for being late. Humility is a remarkable, effective and often unusual trait for a judge. Do not be afraid to tell the lawyers you don't understand something and that you need to spend more time on the matter.

## Tips for New Judges

If you have a party to celebrate your induction, limit the number of speakers on your behalf. Make sure that they know you that they don't drone on about how easy-going you are when everyone who knows you knows that you are a Type A personality. Avoid endless readings from Holmes or Cardozo. When it's your turn to speak, don't promise that your goal is simply to do the "right thing." That will frighten most of the lawyers in attendance. Instead, as a point of humility, merely promise to faithfully follow the law. And finally, don't have a cash bar!

Pick a law clerk with some experience, perhaps someone to compliment your skills. If you are an outgoing schmoozer type, comfortable in the raucous environs of a Conference and Assignment Part, you might be more comfortable with a bookish law clerk.

Judging is isolating work. Try to have lunch with colleagues at least a few days a week. Learn about vicarious trauma and ways to mitigate its impact.

Judging is also often stressful. Get some regular exercise. Try yoga.

Avoid "Robitis" a condition that befalls a judge when he or she puts on a robe which causes the judge to assume a self-important arrogant attitude.

Be aware of what everyone else expects of you; a constant observance of the rule of law, an open mind, an impeccably honest individual of the highest integrity, humble, accountable, learned, courteous, of even temperament, etc.

Many new judges have a tendency to shy away from making decisions. Try not to. Judges have to decide controversies; that is their job.

Remember the record being made in your courtroom is your friend. You control the record when it starts and when it ends.

Follow carefully what Socrates had to say: "Four things belong to a judge; to listen courteously, to answer wisely, to consider soberly and to decide impartially." (What Makes a Good Judge? Lady Rose Speech ([www.SupremeCourt.uk.doc](http://www.SupremeCourt.uk.doc))).

And lastly, when the tid-bits of advice are coming at you from every conceivable direction, remember one last warning from ancient experience when you need to stand up from your high-backed chair on the bench, remember, importantly, to get up slowly because if you don't and rise too abruptly, you might get to hear the

ripping sound of your precious black silk robe being torn under the wheels of your judge's chair.

DAVID SAXE was elected to the Civil Court of the City of New York in 1981, was designated as Acting New York State Supreme Court Justice in 1984, was elected in New York State Supreme Court Justice in 1990 and was designated to the Appellate Division, First Department in 1998 where he served as an Associate Justice for 19 years. He is currently a partner at Morrison Cohen.

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