

[My First Trial \(1982\)](#)

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Body

The first day or two of my judicial career as a Civil Court judge was spent observing certain senior colleagues as they presided over their assignments. But after the second day, I think it was in the afternoon, I was back in my chambers when the phone rang. It was Judge Gene Wolin, the supervising judge of the New York County Civil Court, a rather benign fellow, overly impressed with his administrative pedigree who abruptly informed me that I had a trial ready case waiting for me in a courtroom on the 12th floor at 111 Centre Street.

After I hung up, I shouted into the anteroom where my recently hired law clerk, Kathy was sitting. I shouted, "Finally." She responded. "Don't forget your robe." I put on my new silky robe and accompanied by Kathy who was carrying my minute book a large and bulky record book favored by most judges for taking notes of what went on in the courtroom, we made our way to the courtroom. I used to see many judges frantically trying to copy everything that was said by anyone, in their minute book. I too followed that custom for a while anyway. After all, there was a court reporter present always taking down stenographically everything that was being said. But, I quickly learned that unless the lawyers ordered and paid for the transcription, nothing was transcribed and the judge got nothing. So, in many smaller cases, you still needed to take notes.

Anyway, back to the case. I entered the small, windowless courtroom from the back and as soon as I did the court officer banged the side of his desk, and intoned "All rise, the Hon. David Saxe, Presiding." With that, I maneuvered myself onto the bench and sat down in the large chair. The lawyers were standing and so were their clients. The court officer continued "Be seated." Kathy started to walk over to the jury box where I think she intended to sit but I motioned to her to sit in the chair next to my spot at the center at the bench. The witness box was to my right; Kathy was to my left, close by.

The clerk assigned to the Part approached the bench and handed me a dog-eared card with the caption of the case typed on it, the names of counsel and handwritten notations indicating how many court appearances this case had lived through. Given the condition of the card, which everyone referred to as a Note of Issue Card, the case was an old one that had been kicking around for some time.

I asked the lawyers what the case involved and I was told by the lawyer for the landlord, who was bringing the claim, that it involved an action for additional rent under a commercial lease. Anyway, after a rather perfunctory effort to see if the case could be settled, I told the landlord's lawyer to put on his first (and only) witness who was

My First Trial (1982)

some functionary from the landlord's operation. The gentlemen was sworn and the lawyer prompted his direct testimony question, answer, question, answer. Then after the witness identified the lease in question, the lawyer said, I offer it in evidence as Petitioner's Exhibit "1." "No objection" said the commercial tenant's lawyer and the court reporter marked the exhibit which was then handed to me. The questioning continued now focusing on the paragraph of the lease that dealt with additional rent charges that although common in commercial leases often resulted in litigation because of its complexities.

Suddenly, the landlord's lawyer put a question to the witness, (I don't remember what it was) and before the witness could respond, the tenant's lawyer exclaimed "Objection." I was frozen, the proverbial deer caught in the headlights. I realized that everyone was staring at me both lawyers, the witness from the managing agent's office who was testifying, the tenant and the tenant's lawyer, the clerk and the court officer. It seemed like an eternity from the time tenant's lawyer had bellowed "Objection." I knew that I was supposed to do something but my mouth was dry and my head was buzzing.

At this point, I felt something like a finger poking my side. It was Kathy who was looking at me with a look that said "Do something." I felt some sweat gather on my brow, "Objection," the lawyer cried out again, "Leading, Your Honor," as if he had of all things to enlighten me as to the grounds for the objection. "Overruled." I exclaimed in a loud, firm voice showing no sign of the anxiety that was cascading through me. And with that, my very first ruling, the lawyers simply went back to their craft as if nothing had happened. More questions and more answers. I felt a wave of confidence pass over me. This is not so hard after all, I thought. In fact, this is going to be fun.

DAVID B. SAXE served as a judge on the Appellate Division, First Department for 19 years. He is currently a partner at Morrison Cohen. This essay will appear in his forthcoming book, "My Life as a Judge."

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