

Perspective

What I Wish I Knew Then: Elise Langsam

INTERVIEWED BY STEVE COHEN

Elise Langsam is a solo practitioner whose practice focuses on personal injury and medical malpractice cases. Following her graduation from the University of Buffalo School of Law, she began her career at the New York City Corporation Counsel's office. She then went to work for the legendary trial lawyer Harry Lipsig and, after 15 years, launched her own firm.

Early Experiences

My first job after law school was working in the Corporation Counsel's office, specifically the family court division. My boss was Judge Judy. She was not a judge at the time. She supervised the staff, and I was one of about five or six staff attorneys. We worked in family court, and we prosecuted juvenile delinquents. So basically, we were like Assistant District Attorneys, but we were prosecuting juveniles. The crimes we were prosecuting them for were petty larceny and token sucking.

Of course, if you're under 40 years old, you're not going to know what token sucking is; or probably even what a token is. Entrance to the subway



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required a special coin, known as a token. To get through the turnstile, you dropped a token into a slot, and the turnstile unlocked. Kids would surreptitiously stuff something into the slot just enough for the turnstile to be unlocked and allow the rider onto the platform; but prevent the token from dropping into the coinbox. After the person who just paid was on the platform, a kid would pop out of the shadow, put his mouth over the slot, and suck back the token. It was pretty disgusting, but very common. In 1980 the price of a

token was 60 cents, so the crime was barely even petty larceny. Obviously there were more serious things, as well: There were assaults with weapons. But there was a lot of token sucking in those days.

Trials took about 45 minutes. Often, the accused would be convicted, they would go to a juvenile detention center for three or four weeks, if that long, and then they'd be released. They would soon be back on the street, back to token sucking, and we're back to prosecuting them. It was a vicious cycle. So I said, "This is not for me."

An Unexpected, Career-Defining Experience

I transferred to another division. And the only division that had a spot open for an attorney was commercial litigation. I said, "I'll try commercial litigation." Soon I learned how to build a sewer, how to construct and maintain traffic lights, and all these things that were contract disputes. And I just hated it. It was tons and tons and tons of paperwork. I just hated it. I was about to give up on the law when a case came into the law department. It was 1981,

before most of your readers were even born, and the city was going bankrupt. As a result, the law department had let go of many, many, many, many attorneys and there basically was no tort division left. This case came in and it was a tort case, a personal injury case, and I just happened to be assigned to it.

The case was actually really tragic. It was a wrongful death case involving two brothers in their 20s. They were passengers in a limousine which was hit by a car; and that car was involved in high-speed police chase in midtown Manhattan. The car that crashed into the limo was stolen—obviously an empty pocket. So the family of the young men in the limos who were killed sued the City and the police department.

I was a baby lawyer. I was out of law school a year and a half, and I didn't know anything—really, anything—about trying cases. The juvenile court cases were very cut-and-dry, before a judge, and lasted maybe 40 minutes. Suddenly, now in Supreme Court, I was absolutely petrified. Especially because the family suing the City was represented by the top personal injury lawyers in Manhattan. And unfortunately, my supervisor, quite frankly, wasn't much more experienced than I was. He was an appellate guy, very cerebral, but with no trial experience or trial charisma.

We tried the case, and it was a four-week trial. I did most of the background work. I was going to be allowed to do one cross-examination: of the boys' mother. It was supposed to be a gentle cross. The mother walks into the courtroom and she is this little old Italian lady. She's dressed in total black, mourning black, from head to toe. The accident had happened 10 years earlier,

but she was still dressed in mourning black. During her direct examination she claimed she didn't speak any English. She was basically crying in Italian the whole time she was on the stand. I turned around to look at the jury. They were crying. I mean, I was almost crying. It was so horrible.

So now it's time for my cross-examination. And at the very moment, I just kind of made this gut decision that I was not going to cross-examine her. I had prepared this whole cross-examination, my supervisor had reviewed it. And I just said to myself, "You know what, this is just so tragic. There is nothing I'm going to do to help the situation. And if I keep her on the stand any

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more—with all these tears—it's just going to do more damage than good.

The judge turned to me, and I just said, "No questions, your honor." And I sat down.

My supervisor was kicking me under the table, rolling his eyes at me. He was furious. Without saying a word, he was screaming at me, "Why weren't we cross-examining this woman, as we had planned?"

We actually won a defendants' verdict. The jury was really wonderful. I mean, they were very, very smart. Our whole approach was: Yes, this was a tragic, tragic event. But the police did what they were supposed to do at

the time that they did it. And it was very unfortunate, but they weren't negligent.

The next day, I get a call from the plaintiff's lead attorney. He congratulated me and said I did a great job. I replied, "Well, thank you. But I really didn't do too much in the courtroom." He said that was the point. "You knew. You had this innate trial instinct not to cross-examine that lady. And that was the right thing to do. And I'd like to offer you a job."

I think that it would have been very helpful to understand that it's not always about the law and what you are supposed to do legally. Especially in trial work, you have to be practical. There's a lot of psychology involved. You have to figure out what plays with your audience. As I mentioned, my supervisor at the time was a brilliant guy. But he didn't really have a lot of trial experience. I don't fault him for this. I made this snap decision in the courtroom, because I realized that yes, you can prepare a whole cross-examination with questions that make perfect sense. But in the scheme of things, when you look at the whole thing holistically, it really wasn't going to get me anywhere. So, I think that if I had been better informed about things outside the law—the psychology, the practicality, the whole picture—it would have been helpful for me as a young attorney.

Adversaries vs. Adversarial

I like to advise my young associates: Don't be so adversarial with your adversaries, unless and until you have to. You can have a very lovely working relationship with them throughout the litigation. Not always. It does depend

on the personalities. But I would have liked to have known that I could try to reach out to my adversaries in a more non-adversarial way. You're going to have a trial, and you're going to be in a courtroom, and of course you're still going to be adversarial. But it doesn't mean you can't be collegial with them.

I also think it is very important for young lawyers to learn how to pick up the phone and call people: adversaries and clients. Young lawyers are very, very, very centered on texts and emails. And I think it's really important that you pick up a telephone in many instances, if not in every instance. A client wants to hear a voice on the other end of the phone, at least every once in a while. Not every 10 minutes, but sometimes.

Learning To Say 'No'

You have to know when to say no to certain new business or new cases. And that's a hard thing to do, especially if you're on your own. It's even harder when you're starting your own practice, you want to take every single case that comes into the office. But sometimes that's not the best thing to do. People call you, come to you and describe situations of pain and suffering they've experienced. You have to be able to distance yourself from that because you're the lawyer. They're coming to you for legal advice, so they don't need you to be sympathetic to them. I think as a personal injury lawyer you, of course, are sympathetic. But you need to take that step back and be objective and say to yourself, "How am I going to prove this case? Do I have enough evidence to prove this case?"

Admitting Mistakes

I think the worst mistake I made—and this happened when I worked for Harry Lipsig's firm—was when I missed a filing date for certain papers—and I didn't tell anybody. I was a young lawyer, and I said, "Oh my God." I was trying to fix it myself, and I couldn't. I didn't have the expertise. Finally, I just decided to come clean and I was about to tell my supervisor. But I didn't even get a chance to: It came out because we were notified by the court of this missed filing date. He spoke to me about it and he was able to fix it. What I learned from that is: When you make a mistake, immediately own up to it. Because it's going to come back to bite you anyway. People make mistakes.

The Best Advice Ever: Understanding Perceptions

The best advice I think that I ever got—and I don't know that it was particularly legal advice—was years and years and years ago before there was any social media, before there was branding. The advice was that you need to be conscious of perception.

I don't think I even understood it when it was first given to me. I thought, "What do you mean perception?" To me, it was either this way or that way. In my mind, there was no such thing as how somebody would perceive something. I had no understanding of nuance. I certainly had never seen Rashomon at that point in my life, and I didn't understand that people viewing the same event, looking at the same facts, could see things very differently. It wasn't until many years later that I really understood

what a great piece of advice it is to think about how something is perceived by others.

Loving What You Do

I love what I do. Sadly, so many lawyers whom I know do not like what they do. That is no way to go through life or a career. I tell young lawyers: If you don't like what you're doing, look into another area of law. Don't just throw up your hands—which I was about to do at the beginning of my career. There are so many different things you could do as a lawyer. If you're stuck doing commercial litigation, and you don't like commercial litigation, well, try another area. Think about what interests you. Are you a people person? Are you a contract document person? There is so much out there. You have special skills; you have learned how to look at problems—and opportunities—rigorously. You shouldn't hate what you devote your life to; you should love it.

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