

My First Jury Trial

By Rex Travis

My career as a trial lawyer began a long time ago somewhat traumatically. My law school classmate, B.J. Brockett, knew I wanted to be a trial lawyer. His brother had the misfortune to have a car wreck during our last semester in law school.

B.J. referred his brother to me to handle what became a fairly serious injury case. The client (B.J.'s brother) was southbound on Classen Boulevard in Oklahoma City. It was raining. The client saw a pretty girl at a bus stop and (being a gentleman) stopped to offer her a ride.

He was almost immediately struck from the rear by a car, which was struck and knocked into him a second time by a van belonging to the Oklahoma City Blood Bank. The drivers of both of the rear cars got tickets. My client did not.

Negotiations before the suit was filed did not produce much result. The insurance companies were evidently not frightened by a lawyer with the ink not yet dry on his Supreme Court certificate. I filed suit in the Oklahoma County District Court.



The client ended up going to Santa Fe to live and work and had surgery there for his injuries. I ended up flying to Albuquerque and driving up to Santa Fe to depose the surgeon. Still, no meaningful offers of settlement were forthcoming.

We all appeared for trial before Judge Glenn O. Morris, then an ancient-seeming (to me) judge. At the first recess, he said to me "Young man." (I told you this was a long time ago!) "I need to see you in my chambers." In chambers he said "Young man, why have you not settled this case?" Somewhat unnerved, I said "Well, it's because they haven't offered me anything. Why do you ask?"

He said: "Well, I'm afraid if you don't settle it, I may have to direct a verdict against you on the basis of contributory negligence." I gulped and said, "But judge, you can't direct a verdict on contributory negligence because the Oklahoma Constitution says contributory negligence must always be for jury." He responded, "Well, ordinarily that's true but it was raining and your guy shouldn't have stopped so suddenly."

Sort of shell-shocked, I wandered out into the hall. Then a miracle occurred. The two defense counsel approached me in the hall and asked what it would take to settle the case. I soon got with my client for some authority and we settled the case.

After the judge dismissed the jury, I asked defense counsel, "Why did you wait until we were in trial to try to settle the case?" They said "Well, since it's all over, I guess we can tell you. During that first recess, the judge called us in and told us if we didn't settle, he was going to direct a verdict against us."

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