

10-2007

Ill-Suited to Retail

Myron Moskowitz

Golden Gate University School of Law, mmoskovitz@ggu.edu

Follow this and additional works at: <http://digitalcommons.law.ggu.edu/pubs>

 Part of the [Law Commons](#)

Recommended Citation

Moskovitz, Myron, "Ill-Suited to Retail" (2007). *Publications*. Paper 59.
<http://digitalcommons.law.ggu.edu/pubs/59>

This Article is brought to you for free and open access by the Faculty Scholarship at GGU Law Digital Commons. It has been accepted for inclusion in Publications by an authorized administrator of GGU Law Digital Commons. For more information, please contact jfischer@ggu.edu.

© The Daily Journal Corporation. All rights reserved.

Ill-Suited to Retail

The making of a California lawyer

By Myron Moskowitz

Fat? No way, Mr. Davis. You look terrific in that coat."

"You sure? My wife says checks make me look fat." Mr. Davis turned around, so the full-length triple mirror could show him the back of the coat.

"But these are what we call *subdued* checks." I lifted the sleeve to show him the greenish-blue pattern in the soft wool. "See? They're soft, quiet, not loud like Bermuda shorts."

Quick thinking. "Subdued checks"—yeah, right. Of course checks made him look fat, because he *was* fat: 5 foot 9 with a 52-inch waist. Stripes, checks, or polka dots wouldn't change that. The important thing was that he *liked* the coat—he'd tried on half a dozen others he didn't like—and if he didn't buy this one, he'd walk out without buying anything. And that, my friend, was not allowed at The Store.

From the outside, The Store seemed to be what was then called—back in the 1950s—a men's haberdashery. The ground floor displayed slacks, shirts (sport and dress), hats, sport coats, suits, shoes, underwear. On the upstairs mezzanine were a credit office, a workspace for Louie the tailor (always harried by the half dozen salesmen who had told their customers that Louie would cuff their pants "right away"—despite his backup of work orders), and shelves full of work clothes (overalls, jeans, steel-toed shoes). Nothing too high-fashion or expensive. This was south of Market Street, not Union Square, where toney shops like Brooks Brothers and Robert Atkins catered to the stock brokers and lawyers of San Francisco's financial district. The Store's usual customers in those days were strictly working class: longshoremen, seamen, factory and warehouse workers, and the occasional north-of-Market office worker on his way down Third Street to the Southern Pacific train station on Townsend Street, where he'd hop the 5:30 train homeward to some Peninsula suburb. They needed clothes for dress, work, and hanging around.

But those on the inside saw The Store in a very different light. They called it "The Store," never the name over the front door, which was taken from a town in the English countryside in the vain hope of gaining some cachet. It was a store, a cash cow—and who cared what it was called or even what it sold? If men would pay The Store for the privilege of going naked, that would be just fine with the three bosses: my father, my uncle, and my cousin. The point was to make money, not to supply men with their clothing needs. If customers took their new clothes home and burned them, the bosses wouldn't have cared less.

So, you're probably thinking, what else is new? Isn't that how all businesspeople see the world? Well, sort of, but it's a matter of degree. Some really do have at least some sense of professionalism, of pride in providing a service to the public, of status and reputation and tradition. But maybe they hadn't grown up as poor brothers in the Depression, like Dad and Uncle Willie did, selling socks out of their immigrant father's tailor shop and building the business into the small store it now was, struggling to support themselves and their families while staying on the right side of the law—something quite a number of their boyhood buddies had failed to do.

Money—that's what counted. Money for survival, money for the family, and money for a bit of respect. And since the goal was money, keeping your eye on that goal governed the way the bosses saw The Store.

Here's a good example: A seaman comes into The Store. He just got off a merchant ship bringing in stuff from the Orient. The trip was three or four months, so he's got a nice wad of cash for all those wages he earned but couldn't spend onboard. They sell him a sport outfit for a couple hundred bucks (a lot of money back then). Fine, just what any men's clothing shop would do. But he's got this short-skirted honey hanging on his arm—maybe she saw him flash some dough in a waterfront bar and picked him up. And she might have juiced him up with a couple of drinks. Anyway, while he's waiting for his purchase to be wrapped up, she whispers something in his ear. "She wants a watch," he says. Well, any normal men's clothing guy would just chuckle a bit, or maybe suggest a sleazy jewelry store up on Market Street, probably owned by a poker buddy who could return the favor. But The Store was not normal.

"Myron!" shouts Dad. "Take this gentleman and his friend over to our ladies' watch department." *What* ladies' watch department? This is a men's clothing store, for chrissake.

But I know the routine. I take the seaman and his girl down the street, into a dingy office building put up right after the 1906 earthquake. Up on the third floor, we walk down the faded linoleum to a frosted-glass door that says, in black letters, "S. Bloch. Jewelry & Watches. Wholesale Only." I tell Sam the jewelry guy, "This gentleman would like to see something from The Store's ladies' watch department." Sam plays his role. "Of course! Right this way." When the girl finds one she likes, the seaman asks, naturally, "How much?" While Sam keeps talking about how great the watch is, he scribbles something on a scrap of paper and slips it low-down around the counter to me. I hold it so they can't see, and I take a quick glance: "\$60." So I tell our sailor boy, "Only \$120. A real bargain for a watch like this." That's The Store's rule: Keep it simple—just double the wholesale price.

First time I saw this sort of thing, I was amazed. What other clothier would even think of such a thing? Guy comes into a clothing store for *men's clothes*, and they sell him a *woman's watch* they don't even carry, pocketing a nice \$60 profit for maybe a 20-minute walk up the block with a low-wage kid (me)! I wondered what they would do if a customer had said casually, "I'm thinking of buying a car." Or a house. Or even "I need to get laid."

But by this time, not much amazed or even surprised me anymore. Though just out of college, I'd been working at The Store since I was nine years old, when Dad woke me up early one Saturday morning and said, "Time to learn a trade, son." Saturdays, summers, and Christmas vacations, I brushed suits and ran errands, and eventually started waiting on customers. Not like salespeople do now, standing around chatting about last night's flick, ignoring customers, and even resenting them when they have the nerve—the *nerve*—to intrude on the chit-chat with an inquiry about a product. No, at The Store, if a customer wandered in more than five feet past the entrance and a salesman (not many *saleswomen* in a men's store, in those days) failed to approach him, Dad would jump: "Hey, what am I paying you for? Wait on the customer."

Dad would usually stand at his post behind the cash register, right in the center of The Store, watching everything. Didn't miss a trick. If the customer waved off the salesman, "Just looking, thanks," the salesman was to drop off, give the guy a little space—but not much. If he started to walk out, the salesman was supposed to go after him, "What are you looking for? We have more in the back. Blah, blah, blah"—just keep him from scrambling. If that didn't work, Dad would come around the register and take over himself. And he was good.

But did *I* really belong in The Store? I never thought about it. My career—my fate, my destiny—was mapped out for me from the beginning. Dad, Mom, the whole family just expected, assumed, that I would follow Dad into The Store and become part of it, eventually becoming an owner. And so did I. Even as I saw my college classmates go off to law school, med school, and follow their own dreams, I seemed to lack the imagination (or courage) to see any future other than The Store. I could earn a good living, and even get my own clothes for next to nothing. The owners made decent money, were good to their families, and upstanding members of their communities. I could do the same. Why take a chance on the outside world?

Mr. Davis examined the fabric. "Subdued checks," he murmured.

I turned up the heat. "You know what? This coat makes you look svelte."

Davis howled. "Svelte! Now that's a new one. I've been called a lot of things, but 'svelte'? OK, wrap it up, Myron."

As I wrote up the sales slip, I noticed that Dad had been watching. I glanced in his eye, looking for some sign of approval. Nothing. Dad showed disapproval when a sale wasn't made, but he did not display the reverse. Sticks, not carrots, ran The Store. I shivered a bit, on this warm June day. I glanced at the clock that hung over the back stairs—only eleven o'clock.

"The wife might fuss about these checks, but what the hell—it's my coat." Mr. Davis couldn't do much about looking fat, but he was lucky to get *any* sport coat off the rack, even one with "subdued checks." No other store in Northern California carried his size. Guys like him usually had to have their suits, coats, and slacks tailor-made, at twice the price, and get their shirts and underwear by mail order from some schlock dealer back east. The Store offered them a selection of stuff they could pick out themselves, on the spot, even with some style, and at a price they could handle.

On the whole, the big-and-tall business was good. A new slogan, "Big and Tall, We Fit Them All," was now on The Store's advertising.

This didn't just fall from the sky, Dad made it happen. Dad didn't sit back and wait for business to come to him. He went after it. The Store hustled the big hotels (the Fairmont, the Palace, the St. Francis) for orders for bellman's and doorman's uniforms. It rented out tuxedos to high-school boys for their senior proms. It went after postal workers, who got a uniform allowance from the government. Anything for a buck.

The big-and-tall thing started out just like the ladies' watch deal. Some fat guy like Mr. Davis would wander in, hoping—praying—that this store might have something that fit him. He'd tried countless other stores. Some salesmen were polite, others laughed at him ("Try a camping store. They might have a tent that fits you"). But none had anything for him. So The Store did its usual number, taking him over to "our factory," where the owner might have one or two size 52 portly short coats stuck in the back somewhere. \$30 cost, \$60 price, so a \$30 profit. Not bad, but not a fortune either.

But Dad noticed that there were more and more big guys—fat, tall, or both—who wanted the latest styles and had the money to pay for them. If he could get a supply and keep them *in stock*, he could promote that and draw the customers in, maybe making a bundle.

The problem was the manufacturers. They made money by producing volume, and they saw the market for 52 stouts and 46 extra longs as too small to be worth setting up a production line for each of these freakish sizes. So Dad turned his considerable sales talents on *them*.

He started with a single producer, a maker of high-quality slacks with a factory in Napa, northeast of San Francisco. The Store had bought regular-size slacks from them for years. "I don't know, Jerry," said Dan the owner. "Why should I spend the money to change my whole setup just to make a few pairs of big pants?" Dad had the answer. "Believe me, Dan, American men are getting bigger. The Depression is over, the war is over, and there's more food for them. They

have good jobs, and they can afford the top-quality pants you make. Come on, give me a chance to prove it to you." Dan gave in, on a trial basis. He would make a small lot of slacks in waist sizes from 48 to 60 for The Store.

It worked. One big guy told another, and they dribbled in on a regular basis to buy the pants. With this small success, Dad was able to persuade Dan to add new styles and even more sizes, up to 70.

But this was just the start. Dad flew to New York to inveigle other manufacturers (shirts, suits, coats) to start doing the same thing, making small lots of big sizes for The Store. And then he went to Italy, getting makers of the latest-vogue cashmere pullovers and cardigans in Milan to turn out some *il grande* sizes.

Dad had a bit of luck going for him, a serendipitous confluence of three new phenomena in American life, all coming together in the late 1950s and early 1960s. He saw them and ran with them, so he does deserve the credit. But he didn't cause them.

He didn't, of course, create the fact that American men were getting bigger. Nor did he create the fact that the fashion tastes of American males were rising.

Used to be, men had little interest in clothes. When a man needed something costly, such as a suit or topcoat, he usually brought his wife along to make the choice. All this changed in the early 1960s, when affordable commercial travel by jet plane started becoming available to the masses, and Americans began traveling to Europe and admiring French and Italian fashions. So, American men wanted the fancy knits and shapely cuts, and they kept up with the annual changes. Big men were no different—they wanted the same, even though they knew it would cost them more.

Nor did Dad create the third new phenomenon: the spread of major league professional sports franchises to the West Coast. When I was growing up, San Francisco had the 49ers, but no Warriors and no Giants. Once again, jet plane travel changed this. Eastern teams could move west because jets made it feasible to be in a league that spanned 3,000 miles. And TV brought all these players into everyone's home.

What's this got to do with The Store? Well, many pro athletes are big guys, tall or wide, and sometimes both. And they can be even harder to fit than other large men, because they have big shoulders and chests and relatively small waists. The normal man has about a 6-inch or 8-inch "drop": the difference between chest and waist size. So a 42 coat usually goes to a guy with a 34- or 36-inch waist. But these jocks had 10, 12, or even bigger drops. A fullback or linebacker for the Colts might wear a size 48-long coat with a size 34 pair of pants. No manufacturer made suits like that—until Dad got them to make "tapered" suits and sport coats, with big shoulders that narrowed at the waist.

Pro jocks also have money to burn, and they like to look good for the sports groupies. And not just the jocks on the local teams, but all the visiting teams coming to town. So The Store now had some rich new customers.

They brought with them something even more valuable: publicity. Pretty soon, the local sports pages and gossip columns that followed the comings and goings of jocks were mentioning The Store. (It didn't hurt that one of my duties had been to deliver a fancy shirt to the city's most popular columnist every Christmas.) This brought even more big non-jocks into The Store.

Cousin Les was the one most responsible for the jock connection. He had a way with jocks. When an athlete came in, Les would flatter him about his great game the night before, then wink and whisper about a discount, "10 percent off, just for jocks." He took 10 percent off a price that had been marked up 100 percent over wholesale. But the pros loved being treated special, so they told their buddies about it and kept coming back, always asking for Les.

It had all come together, and it was starting to pay off. The Store was stocking big, pricey clothes: selling shirts up to size 22-inch neck and 38-inch sleeves, shoes up to size 20, pants up to size 70, and suits to size 60 extra long. There was talk of opening more stores, specializing in big sizes. Still in my early 20s, I could look forward to a wealthy future.

The phone by the cash register rang. Les was standing there, but he was busy filling out an order form to buy some shirts, so I picked it up. "This is Mrs. Nyberg, calling from Sacramento. I'd like a suit for our son, Robert." I had waited on Robert, a tall, lanky teenager, about 6 foot 8. I went over to the card file we kept on out-of-town customers and pulled out Robert's sizes, just to be sure. "Forty-four extra long, right, Mrs. Nyberg?" She started crying. "We need a black suit to bury him in. He's dying. A thyroid condition." I didn't know what to say. The Store did not deal with emotions. I just muttered, "I'm sorry." She said, "Thanks. Just send it up with the bill, please. Good-bye." She hung up.

Les noticed my grim face. "What's up?" I told him. Les shook his head, "Too bad," and went back to his order form. I went over to the suit rack and pulled out a black flannel, 44XL, the cheapest suit we carried, marked \$49.95. I took it to the counter near the register and wrote out the sales slip, charging \$49.95, plus tax and shipping, to Mrs. Nyberg's account. Les looked over at the slip.

"\$59.95."

I looked up. "What?"

"You know the policy. \$59.95."

When a customer phoned in or wrote in with an order for an item without mentioning a price, he trusted The Store to charge the price marked on the item. Big mistake. "The policy" was to remove the price tag, then boost the price by five or ten dollars when writing up the slip. So the normal 100 percent markup over wholesale became about 120 percent. No customer ever caught on.

"Les, the kid is dying. Come on."

"Sorry, but not our problem. Business is business."

"This one is different."

Les looked at me, raised his eyebrows, and gave a short laugh. "None of them are different. \$59.95. Write up a new sales slip." He returned to his order form.

I started packing up the suit for shipping. I folded the box wrong and had to redo it. The \$49.95 sales slip I'd written was still sitting on the counter. Les glanced at it, then at me, then back to his order form. I stopped for a moment, looking out the front door into the bright summer day, as if looking for customers. I checked the clock: only 4:30, another long hour and a half to go till The Store closed. Then I picked up the sales slip, ripped out the carbon copy, put it in the box with the suit, and finished wrapping.

When I looked up, Les was staring at me. I took out my wallet and found a five and four ones, that's all. I fished around my pockets and came up with another dollar in change. I put the money on the sales slip and pushed it across the counter. Les hesitated, almost said something, but then picked up the pile and put it in the register.

That evening, when I got home, I phoned a college buddy who was studying law at Berkeley. "So tell me about law school."

Myron Moskowitz (mmoskovitz@ggu.edu) is a law professor at Golden Gate University in San Francisco and author of Winning an Appeal (4th ed., LexisNexis, 2007). Visit his website at myronmoskovitz.com.