

Michael Cowen: [00:00:00](#) This is Michael Cowen and welcome to Trial Lawyer Nation.

Intro: [00:00:03](#) When the jury panel comes into the courtroom and the bailiff says, all rise, I know we're here. And it doesn't matter who they are, nobody should be above the law. A lot of us talk about that, but you actually done it. That's how you also maintain quality control over your practice. Yeah, that's a question I get asked a lot. Here's the answer. Welcome to the award winning podcast, Trial Lawyer Nation, your source to win bigger verdicts, get more cases and manage your law firm. And now here's your host, noteworthy author, sought after speaker and renowned trial lawyer, Michael Cowen.

Michael Cowen: [00:00:38](#) Today on Trial Lawyer Nation. I'm here with Rex Parris. Rex is an incredible lawyer out of Lancaster, California who's gotten fantastic results. We're talking to eight and even so I think some nine figure verdicts. Is that right?

Rex Parris: [00:00:51](#) That's correct.

Michael Cowen: [00:00:51](#) He's been nice enough to let me come to his office and talk to them about how he got to be where he is. And the things he's learned that worked for him that maybe will help us become better lawyers.

Rex Parris: [00:01:04](#) Well, you know, I'd like to say it was all planned, but the life was never planned. I mean, you certainly have plans, but they've never work out the way you think you would hope.

Michael Cowen: [00:01:15](#) I agree, before I started law school, I had lunch with my uncle who was the chief of staff for a state senator that got elected on a tort reform. A platform and a guy named Bill Summers who started the Citizens Against Lawsuit abuse group, and I promised I would never be one of those plaintiff's lawyers. Yeah, four years later there I was.

Rex Parris: [00:01:39](#) You know, the story of the guy who started the micro, you know, to cap medical malpractice in California and successfully did so ended up with just a horrible, a medical malpractice case and was capped at 250.

Michael Cowen: [00:01:58](#) Oh my gosh.

Rex Parris: [00:02:00](#) He wrote about it just, you know, it was just horrible then of how the world turned on it. Yeah, and what if we had been able to do it again.

Michael Cowen: [00:02:14](#) So what are some things you've done, I guess, to get the, the skills that you've developed as a trial lawyer?

Rex Parris: [00:02:24](#) Well, you know, the first thing I did was I had to learn that it was a scale. You know, because, I think too often we somehow are imbued with the thought that there are a certain number of people that are born with the talent to be a trial lawyer. You know, where the reality is that they're just skills. Anybody who gets through law school certainly has the capacity to learn those skills and do a magnificent, not just a good job, but a magnificent job in the courtroom regardless of what their IQ might be or the school they went to or who their parents were. All of the things that we somehow think are determinative of it really are, you know, it, but it took a long time for me to find out. It was until I went to the Trial Lawyers College and, it was, Paul Luvera that said these are just skills and you've got to learn them one at a time. And they're discrete skills. And the problem that we also seem to have is, you know, you don't learn how to take a deposition. You learn how to ask different types of questions. You learn how to mirror the person you're talking to, you learn how to listen to him, you learn how to, how to get him to keep talking, you know, and those are all very discrete skills. And as soon as I grasped that, that's really what I was looking at. I knew it was going to be easy because I can learn anything. Yeah. If it's learn able, I can learn.

Michael Cowen: [00:04:05](#) When did you go to the Trial Lawyers College?

Rex Parris: [00:04:05](#) 96 or 95.

Michael Cowen: [00:04:11](#) Actually I went 98 so very, very close. And it's interesting the difference. I mean, how long have you been practicing when you went on?

Rex Parris: [00:04:22](#) I started in 80. Yeah. So probably 10 or 15 years.

Michael Cowen: [00:04:29](#) Yeah, It's interesting to see the difference between having a set of skills first and then going. Whereas when I tried a few car wreck cases, but I was three years out of law school. I think the plus of that is that I got exposed a lot of things really early and didn't have bad habits to unlearn. I think the minus is at 28. I don't know if I was quite ready to be as real as I needed to be to fully develop and appreciate and take advantage of everything there. There's a lot of, I think in trial working out a lot of learning to trust strangers, a lot of the jurors, a lot of, you know, just having more life experience I think. I think being a parent, for example, something we try cases and understand loss and

understand, uh, just going through tragedies and losses. Among my life has made me a better lawyer if that makes any sense.

- Rex Parris: [00:05:25](#) Well, I think as we age we certainly learn what's important and what's not. Yeah, and you know, I mean I'm okay. I really don't think it's any of my business, what you think of me. But when I was younger I was really concerned about what people thought about me.
- Michael Cowen: [00:05:46](#) Yeah.
- Rex Parris: [00:05:47](#) You know, when I find myself going down that path, now if I stop, it's really none of my business. What you think of me.
- Michael Cowen: [00:05:55](#) Really.
- Rex Parris: [00:05:55](#) Yeah. I really think because as soon as I start being concerned about what you think, then you are now in control of how I behave. Yeah, and I've never found that to be beneficial.
- Michael Cowen: [00:06:11](#) So besides the Trial Lawyers College, what else have you done to try to learn the skills that you need to be a great trial lawyer?
- Michael Cowen: [00:06:20](#) Well, what the trial lawyers college gave me was just the recognition that they are skills, and so then I ended up doing a lot of NLP seminars of that kind. A lot of public speaking seminars, a lot of voice seminars that have anything that I could see that was a, a had a skill set that could, you know, cross domains that that's what I would do. Uh, and then somehow I ended up just studying a lot of cognitive science. And you know, we've had a renaissance in that in the last 15 to 20 years and every day there's something new and exciting coming out about how people make decisions and how you can, you can persuade people and how you can interact and engage people. And you know, if, if I have one, one regret about aging is that that journey will end. You know, cause I really do enjoy getting up every morning and studying this stuff.
- Michael Cowen: [00:07:27](#) That's amazing. It's amazing to me how the more people I've met that are, I guess, viewed as being at the top. The one thing I've seen in common, it's the constant desire to learn more. That constant application of that. I mean, they, the, you also, who's most people say, well, you've already made it. You've already figured out. Seem to spend a lot more time trying to get better.

- Rex Parris: [00:07:53](#) Yeah. Well, yeah, I've never been comfortable with the view, other people's view of my success because I certainly don't feel it. You know, I certainly don't identify myself as that. We're in with my assistant Evelyn's with us and last week she saw one of my presentations for the first time and before it started, I was telling her, watch what happens. This other person, it's not me, it's somebody else. He gets up and does this three hours, you know, but what we're doing, but I really don't relate to them, you know, because I still have the same fears and the same insecurities that I've always had it there. They're not as pronounced. They're not as as mind numbing as they have been at times or as paralyzing. But they're still there. And, but I, you know, I get up and I do this thing for three hours and take any question that comes and just have the best time, but it's not me. I don't know if I've articulated that well. No, but that's learning. That's what I do, you know, and I learned how to do that. But again, they're just skills and they're not really my personality. Does that make sense? Yeah, it does.
- Michael Cowen: [00:09:28](#) So what are some of the things you learned from your research and cognitive science that have been useful in a courtroom?
- Rex Parris: [00:09:35](#) Well, it's everything from where I stand to where I look and where, what I do with my hands. What I do with my body. You know, it's how to keep the fear level down by controlling your heartbeat. You know, what his fear of fear is something that's going to happen in the future. It's not something that is happening now. You know? I mean, you're still breathing. You're alive. Nobody's got a knife in your back. I mean you're just afraid that that might happen. Right? So it's a future event and you, it's impossible to be afraid if your heart rate is not too fast. Now I do want an accelerated heartbeat because it puts you in the zone, you know, to call Yerkes you were where you are in the zone of peak performance.
- Rex Parris: [00:10:22](#) But I want that to be between 90 and a hundred. Anything over a hundred. I started losing cognitive capacity. So now I have you know, I mean, think science is wonderful today. I wear a watch and it tells me when my heartbeat greets you, does that hundred and then I have techniques I use to lower it. If that occurs, like the teacher, all of those to my lawyers. Like how do you lower the heart rate? There's a thing called combat breathing. You breathe in and accounted for holding for a count of four, breathe out at a count of four, holding for a count of four. You know, it's a four box, the four you do that depending on if you have time. You know, usually the time I most afraid is right before I start to pick a jury. And that's always scary for them. But I always have time, you know, and I, you know, the

first thing you do is what do you see? Well, we're sitting in this room and I'm looking at your, your fancy tape recorder with the cheese to a microphones on it and it's black and it's got a red light on it. And it's what do I seek? Right? And then it's, what do I feel? Well, you know, I'm feeling the floor on my left foot and cause my foot is bent on my toes. And what do I physically feel in the chair? Then what do I feel emotionally? Well, I'm a little nervous that this might sound pretty stupid. You know, this might sound crazy. So a little nervous about that. I'm a little apprehensive of. And then when I get to that point, then I breathe, I do the four box, I do that for a little bit and then it's, I'm back and I say that to myself. I'm back and I smile and I'm back. You know what I'm ready to go off. And I find that the reason you do that is it brings you into the present fear or something that happens in the future. So get out of the future, take yourself into the present, lower the heart rate, and then dive in the pool, you know, get ready to perform. I found that to be very successful.

Michael Cowen:

[00:12:31](#)

You know, I've been trying something, and I don't know if this is similar to what you're describing, is when I'm in trial, I try to have the joy of being in trial and let the outcome take care of itself. That doesn't mean I don't work really hard and I don't really want him to win, but like the more I want to win and I worry about wanting to win the less I trust the jurors and then that comes through either in body language or eye contact or something. And I just say, I'm just going to trust these people to do the right thing. I'm going to put on the best trial and have fun doing it. It seems to work better.

Rex Parris:

[00:13:03](#)

Yeah, absolutely. I know exactly what you're saying. The last few trials we've had, have been horribly injured people, but I got to do them with my sons who are now lawyers. You know they're late twenties, early thirties, and uh, in, in big trials, you know, something terrible happens every day. You know, they find some record, they'd find some witness, they find something and they got some motion in other always something happening. And, and you know, the, we always dump it on each other at the end of the day, you know, because we give you as little time as possible to deal with it. So as those things would occur, I kept telling them, I don't know how, I don't know what's going to happen tomorrow and I don't know how we're going to do it, but when this is over, we will be better off than when it started. It will work in our favor. And that just always seem to happen. Now why would that happen? One is our client didn't do anything wrong. Our client is the victim here, right? All we have to do is get those facts in front of the jury. So all of that stuff they throw at you nine times out of 10 if you don't panic it,

it'll be fine. You know? And what I find is usually beneficial because we, you know, we, since they were little, I was teaching them reversals. You know, I hate to try a case against a bad lawyer cause he doesn't give me anything to work with.

Michael Cowen: [00:14:42](#) What do you mean by reversals? I've heard you talk about that before.

Rex Parris: [00:14:44](#) So you know, the classic reversal is well in every scene of every movie or every play, there's a reversal in value. You know, like it, it'll be Star Wars. You start out in the desert, desolate, poor, and next thing you know you're in that by the end of the scene you're in the empire with all of its grandeur. You know, there's a reversal for, you know, the greater the contrast, the better the, so in a, in a trial, in commercials, you know, they'll go that, you know and have some favorites that they use, but it's, you can see how it reverses and comedy is a reversal of what you're going down one path and then you're off into another, you know, it's a reversal. So I always pointed out the reversals to the kids so that when they got here and were lawyers, they would fully understand it. And now they do have, but like they used to do this, they used to stand up in their closing and say he's just wants you to be their lottery ticket. Right. His lottery ticket. They compare the verdict to the lottery ticket you've had that?

Michael Cowen: [00:16:00](#) You know, I, until I heard one of your podcasts done. I've always limined that out. I'm not, I don't think I'm going into now, but I want to hear it.

Rex Parris: [00:16:08](#) Oh no, you want to, you want them to say it. If they don't say it, I figure out how to say it and blame them for it. But so, you know, I'll pick up a piece of ribbon. Here it is. This is that super four state power ball lotto ticket. The money he was talking about. And I'm looking at my client. And it's yours! It's \$164 million dollars and it's yours. But you've got to give up a few things. And then you go through all of the things they've given up. I never go through what's been done to them, but because of what's been done to them and because of the pain and suffering they have, what have they given up? You know, and it, it's oftentimes just being able to hold your spouse at night, but you can't bear the touch. You know? I mean my life would be so much less if I couldn't hold her at night, you know, because in how I know it would be so much less because when she's mad at me and I can, I feel so adrift. Right. And I think that's a universal feeling. And you go through those things and by that time your client is usually crying and then you turn to the jury and anybody want it? Do you want it? And they'll shake their

head, no. Then you know, you're okay. You know, they quit using that with me.

Michael Cowen: [00:17:44](#) I bet. Can you explain a little bit more about the difference between what they've gone through and what they've lost?

Rex Parris: [00:17:51](#) Well, you know, most of us have been trained to present the case in pain and suffering context as to what's been done to them, you know, but in Western culture, and I don't think any culture bad stuff doesn't have a value, you know, it's well being that equals wealth in America and in Western culture. You know, what would Steve Jobs have given for a pancreas that were right? Wellbeing is wealth. And so that's what we talk about is what aspects of that well being have been taken away and juries are much more inclined to compensate you for stuff that's been taken away and stuff that you've been denied rather than in the classic one I always use is the corns on my feet. You know I've got corns. I've had them since I was 35 and you know, they get in the way of a lot of things when I used to ski, you know, they would hurt and my client, the snow boot on, you know, and ski boot on it.

Rex Parris: [00:19:05](#) They, I'd have to go to a pedicure, get a pedicure every now and then. And back then when you were sitting in a pedicure chair, people looked at you kind of funny. And they are, I try to shave them myself. And I'd cut them and, and I mean, they're just a mess. And you know, I live in Lancaster and I'm the mayor of Lancaster. You can't be the Mayor of Lancaster if you don't wear boots. And if the corns get too bad, you can't wear your boots. Right? Uh, so I got these corn, what are you giving me for them? I'll sell them to you. You can have them. It's, it's ludicrous to make that argument. But that's what we do time after time after time in front of a jury. So yeah, we talk about the pain and suffering, but that's not what I asked that for. And sometimes I'll even say, take, keep it, it's yours. You know, you got a discount. Don't give us one dime for the pain and suffering. Just compensate for what they took. And you know, that's a whole different argument isn't it?

Michael Cowen: [00:20:12](#) How do you discover, you know, because everyone's life is so different. How do you discover what they took?

Rex Parris: [00:20:18](#) Well, you got to get to know your client real well. You know, we do a lot of things in that regard. We'll hire a psycho dramatist to come in. We do the different role reversals, go visit them in their home, made sure they visit you in your home. You know, before I go to trial, we always have them over to the house. I mean they have to be our friends. When we go in there.

Because the jury will pick it up if they're not and they have to be comfortable enough with us to be in our home. And until that happens, you know, they have this, this image of us as their lawyer that is usually larger than life and not anywhere close to reality. My barbecue doesn't taste much different than yours, you know? I don't know I find it a lot easier to do the trial. Some of these trials take months and I'm away from home if my wife has met the client and knows them, you know, is concerned about their wellbeing.

Michael Cowen: [00:21:24](#) I'm going to have to try that. I mean, I've been really good about going to people's homes and I find you just get a different feeling. And one you do get tangible things. You do see the pictures on the wall and you know, things they love to do, the people they love and then you'd get to meet those people and discover more stories about them that the client might not tell themselves or might not tell as well. Uh, but even when there's not something specific, I just found the emotion carries through when you get a feel for something.

Rex Parris: [00:21:55](#) You only have your friends over to the house. You know, I mean most, most things in life, there's a circularity to it, and it doesn't really matter where you disrupt the circle. Do you become friends and invite them over and the friendship seals or just invite them over? Yeah, but yeah, that's always essential. And you know, you can love anybody. You know, it, it requires of you, if you ask 36 questions and share that information with somebody, you can go on the Internet and get it and then just look at each other's eyes for four minutes. You develop a relationship, you know, we're not nearly as complex as we like to think we are.

Michael Cowen: [00:22:56](#) So how do you present the, what was taken away from the client that, you know, when you're presenting your evidence?

Rex Parris: [00:23:04](#) Well, you don't present it through the client, you're presented through the relatives and neighbors. You know, we're, we're always looking for the signal of trust through the noise. I mean, we're bombarded with noise, you know, and especially trial as you know, you've got two guys trying to sell you and they're probably both overselling and in this mistrust that a jury has to have and always will have. So they're looking for signals of trust in the noise. And I think the, the best signals are the people that know them the best. You know, what are the neighbors say? You know, like my mail, I love the lawyers that work here are they, they really do well and they really struggle to learn this stuff. And as a result, you know, every one of them that has

been to trial has come back with million dollar verdicts right out of the box.

Michael Cowen: [00:24:01](#)

Wow.

Rex Parris: [00:24:01](#)

You know, now, but again, keep in mind, you know how you get a \$50 million verdict? Say no to the \$20 million offer, right? I mean, not so easy. You've got a great case to start with the uh, but you know, this, this one case was not worth nearly the money. They got that in traditional settings until the neighbor came in and testified and he said, you know, he used to be out in his yard all the time. You know, he'd talk, we would, you know, while he was working on the yard I'd be working on the yard. But you know, I haven't seen him for the last couple of years. You know, I see him every now and then go in. That house hasn't really talked much until you called me up and asked me to come here. That's, that's a real signal of trust. You know, that this is real stuff. And so we're always asking, where's the signals of trust that we can show the jury because that's what they're looking for.

Michael Cowen: [00:25:02](#)

And how do you find those people?

Rex Parris: [00:25:05](#)

Go knock on the door.

Michael Cowen: [00:25:07](#)

I mean, what I tell the lawyers that work for me is that the less likely the jury is to believe that they'll get any of the money - the witnesses - the more likely they are to be believed.

Rex Parris: [00:25:19](#)

I think that that's true.

Michael Cowen: [00:25:20](#)

So you know, you have spouses are very compelling as far as the stories they can tell, but they share the bank account and then, I find that the further out you get. And so I think one thing we've been doing is we've, you know, I got this from Rodney Jew. He asked, what did they love to do before, what are they left with and what are their hopes for the future? And so it takes time. But we start, you know, one day just what do you love to do? And tried to get a good list. And then we asked, well, who did you, who did you do these things with? And, and just spend the time and find out, okay, well who are the people you love to play basketball? Who did you play with? And if you love to take your kid to the park, did you ever go with anybody else? And you go through each of those things and then you've got to interview all those people and then find out which of them actually make good witnesses.

Rex Parris: [00:26:03](#) Remember not to leave them up there too long. Yeah. Juries want that case to move fast. And that took me a long time to realize. That's why we use a lot of video deposition testimony in the trials. You know, we as much video as we can.

Michael Cowen: [00:26:21](#) Really? Cause that's, you know, I've heard the opposite, but obviously you've done very well. What's your thinking behind using a lot of video and trial?

Rex Parris: [00:26:28](#) Well let me explain why I think it doesn't work, is you go in and you do your standard deposition, you know, the way we've all been taught. So what the defense will do is want to play the whole thing. And then you've got to fight like hell, just have the clips you want to be played.

Michael Cowen: [00:26:49](#) Let's just play it all the way through Your Honor, and they're asleep, you know, 15 minutes into the three hours.

Rex Parris: [00:26:54](#) So you're always running that risk. But you know what we've we've settled on is okay, we got the report. Doctor is this, you know the expert, this your report? Yes. Everything in there true? Anything you want to change? No. So this is what your opinions are? Well Blah, blah blah. You know, and then I cross examine him. And just as if I was in front of the jury. And then I'm done. I'm not really there to find out all of his opinions and everything else. I'm there to cross examine. I'm creating the video for the trial and I don't want to put other stuff in there that that is going to bore the jury to death. So if you start with the end in mind that the purpose of this deposition is to play it to the jury and stay with that, you get a much better deposition. The other thing is is you depose my expert. Chances are I'm going to spend two hours deposing. I mean, you know, the old, the old saw that you don't want to tell him anything, that you don't want to give him anything. They, when does that ever happened? When is it that they ever learned something in the question you asked in a deposition they didn't already know, right. Or, or found some great advantage? No, I want to take, especially if it's a percipient doctor, you know, treating doctor, I want to get his testimony now. How's it going to play in the jury? The other thing I want to do is if it's a witness for us, I want to take it, I don't want the other side to take it because that sets the frame, the tone, you know, and I want his best foot out there to begin with because I want to be able to play it to the jury. If you start looking at trials that way, two different results.

Michael Cowen: [00:28:51](#) And what's the logic of, you know, when do you, let's say you a witness, you could bring live or you could do video. Let's say it's the neighbor for example.

Rex Parris: [00:28:58](#) Well, you almost have to bring them, right? But now he's got a depo of what I want it to be.

Rex Parris: [00:29:05](#) Yeah. Right. Instead of what he's going to have to get around. You know what I mean? It's a much better springboard for him to go.

Michael Cowen: [00:29:14](#) But you never use video when the witness could come live.

Rex Parris: [00:29:17](#) Well, how do you do that?

Michael Cowen: [00:29:19](#) Okay. Well I guess everyone stayed separate roles. Texas. We can, I guess we're allowed to use -

Rex Parris: [00:29:24](#) We do unavailability unless it's an expert or by stipulation.

Michael Cowen: [00:29:28](#) No, we are allowed to use the deposition for any purpose.

Rex Parris: [00:29:31](#) We can do that of a party. Not a witness. Wow. That's great. That's great. The uh, and you know, goes faster. Jurors are bored to death half the time. Yeah. We're finding the shorter, the trial, the bigger the verdict.

CRP Break: [00:29:50](#) We'll return to part two of this podcast in just a moment. Each year the law firm of Cowen |Rodriguez |Peacock pays millions of dollars in co-counsel fees to attorneys nationwide. Are you an attorney with a catastrophic injury or wrongful death case you'd like to discuss with host Michael Cowen? If so, you can reach Michael by calling (210) 941-1301 or send an email to Michael@cowenlaw.com we now return to the rest of this episode of Trial Lawyer Nation.

Michael Cowen: [00:30:22](#) What are some of the things you've, you've learned that have helped you in trial?

Rex Parris: [00:30:24](#) Well, the latest thing we've been working on the last couple of years is one time I was interviewing Robert Sapolsky who's a primate, but a neurobiologist out of Berkeley. One of the smartest people I've ever met, talking to having read his books. I've heard his latest book is Behave Humans at Their Best and at Their Worst. So, you know, I was just thrilled that I got to interview him. We're talking about all kinds of stuff that happened, just a tangential, application and uh, that, okay, well

tell me some stuff lawyers could use, you know, which was the purpose of it. And he said, well, first of all, why are you always trying to find the emotional sympathetic jurors? Empathetic people don't act. Chances are they're not even going to call 911. They're going to be very upset. They're going to have moat, but they don't act. And that got me thinking about a few things. And then he said, and why would you want to make jurors cry? And why would you want to make jurors angry? Because when you do that, they feel bad. Right? When people feel bad, what do they do? They go play with somebody else, right? They turn away from you and in a trial setting they turn to the other side. Because you are making them feel bad. So that goes against all we've learned, doesn't it?

Michael Cowen: [00:32:09](#) Yeah, absolutely. Yeah.

Rex Parris: [00:32:11](#) And so, but the last few trials, that's what I've been looking for. And I presented to the very end and the Dalai Lama has a saying that in the face of anger, justice evaporates. And I think that's true. I think that's true. I think that when you start playing with the anger emotion with the jury, it could go against you just as well as in to go for you. I find that just by presenting it, uh, and, and giving them the rules and showing them why the rules say this is what you compensate for and presented it, present it in a cogent way. You get it. I also find, you know, we use a lot of facial expression. Uh, we were doing a lot of work with a computer, can now read facial expressions and charted out for you and all, and all of the work we did on it, 10 minutes to us that in the closing and we were joyful and we had the jury joyful, much bigger awards.

Michael Cowen: [00:33:22](#) Really?

Rex Parris: [00:33:23](#) Now there are times you want them sad and angry. You don't, don't get me wrong, but do you want those emotions from the witnesses? When you have witnesses on the, on the stand, you don't want the mirroring knew for those emotions. And for years, I mean, I can make anybody cry, you know, I, but because I'm very emotional, I have very poor, I have emotional abilities and you will mirror me. And you know, and I used to, you know, have jurors crying, but they didn't do what I wanted them to. Why was that? Now I know why it was and it's a different result. I don't want to be responsible for those emotions.

Michael Cowen: [00:34:10](#) Oh, okay.

Rex Parris: [00:34:10](#) And the closing or the opening, right. Those emotions will come out from witnesses and the facts that they hear. Right. But I don't want to be the percipient cause of it. See the difference?

Michael Cowen: [00:34:24](#) So the, like say the defendants.

Rex Parris: [00:34:26](#) But what I also, what he also said and I believe Sopolsky said. You don't want empathetic people. You want detachment, you know, you, you are going to do better with people who are detached. And when you look at the jury instructions and all of the things they have to compensate you for. Yeah, that is what we want because each one of those things as a price tag and then there's the temporal aspect that it's multiplied by how much time do they have. These things been lost. And you know, I categorize them all, have nice columns and there it is. And if you follow the rules you will look at each and every one of these things. And, and I talked about at the very beginning when we do jury selection is what are the diamonds in your life? What makes you happy? What makes you excited about getting up in the morning? You know, what are those things? And usually it's your children and your family and the things you do with your family. It's the experiences you have, you know, that that really is what satisfaction, life satisfaction comes from, is the experiences. And so I catalog all of those experiences. They'll never have.

Michael Cowen: [00:35:44](#) Are you the one that came up with the diamonds thing?

Rex Parris: [00:35:46](#) Yeah.

Michael Cowen: [00:35:46](#) I heard it. A guy named Bruce Phillips told me he learned it from you and I've been using it and my trials. And so thank you.

Rex Parris: [00:35:52](#) It really works.

Michael Cowen : [00:35:53](#) It really works. And it really...

Rex Parris: [00:35:56](#) Want me to do it?

Michael Cowen: [00:35:58](#) I'd love for you to do it. Yeah.

Rex Parris: [00:35:59](#) So you talk to them in jury selection about what are the diamonds in there and uh, you know, diamonds. It's those priceless moments. Remember the commercial Master Card commercial with priceless. It's priceless in your life know. And then I learned what those things are, I also say it in voir dire now, and this, this trial, we're going to be asking you to

compensate them for the diamonds in their life that were taken away. Now if you were to imagine it being a bag of diamonds that the defendant stole and then lost forever threw when the river lost it. You wouldn't give them a discount you, but it would also be a very easy trial. You'd take each diamond, how much did it weigh? What was its clarity, what was its value? And you add them up and if it's \$300 million, it's \$300 million, nobody's going to just, you wouldn't discount it. Would you know? Would you add more because you were sympathetic? No. It's what it is, right? This case is like that, except it's not going to be as easy to value each one of the diamonds in their life that has been taken. Then you know you that in the closing all of pictures of diamonds and you know, it's a good metaphor. It's, it's really an accurate metaphor of what they're doing.

Michael Cowen: [00:37:29](#) One thing I've really liked about it is that, you know, the defense likes to kind of poo poo the testimony about the family relationships, about the things they, you know, they love to do. They can't do any more and about our friends and family and neighbor witnesses. But when early on voir dire people are telling us that these are the most important things in their own lives. Then when the defense has to discount them as comp a slap in their face saying.

Rex Parris: [00:37:56](#) Yeah. It really is. It really is. And you know, by that time I don't see them doing that. Yeah. I mean by that time that the defense is all over the board, they don't know what hit them, you know, it's not the trial they were expecting. But again, I prefer to have a much more experienced lawyer than an inexperienced lawyer because they gave me this stuff to work with.

Michael Cowen: [00:38:19](#) Also, you don't want to become Goliath. You don't want to be the, I mean, if you're so much better than the other side, it can. I think it can be a disadvantage.

Rex Parris: [00:38:27](#) I don't, I used to subscribe to that, but I don't anymore. Okay. I think the jury is looking for credibility, but you have to remain credible. You know, I will, I will do nothing to disrupt that credibility of, I'll concede the point before that happens, you know, and I also frequently, if they make an objection and we're arguing and I realized they're right, I will say no, they're right. I withdraw it, I'm sorry. But you know, the other thing I've learned is I've learned the evidence code and I know the numbers. I know the section to cite. I don't say hearsay. I say section 12 under hearsay. You know, I have this section and the reason I do that is not for the judge, but for the jury. You know, I'm the credible source here. You know, I have to be the most knowledgeable person in that room. Uh, and you know, you

stay out of the fights with the other side. I just stay out of it. The other thing I do is, the only time I ever really get angry is when the other side will demean the court. If they're demeaning to the court, then I'm up. You know? And the reason for that is because one of the things I argue is just how important what we do with this house is, and you don't, the judge can be wrong, you know, and we should be firm and our argument, but never demeaning.

- Michael Cowen: [00:40:02](#) What's an example of like someone demeaning the court?
- Rex Parris: [00:40:05](#) Well, you know, they do it with tone. They do it a thousand different ways. Just don't you ever do it. I always stand up when I talked to the court. Everybody in my team stands up when they talk to the court, you know, it's always Your Honor. It's, you know, I'm trying to think of the many times it's happened when I've seen them in between the court. I'm the one objecting to it, not because I think the jury's slowly realizes that we're very aware of our roles and they mean something to us so that when I talk about what their role is in, it has more significance.
- Michael Cowen: [00:40:58](#) What's your philosophy for case selection then? I mean, when you feel comfortable going up there and you can credibly argue for the client.
- Rex Parris: [00:41:10](#) They don't let me select the cases here, you know, and so we got a lot of lawyers because I say yes way too often. The, you know, it's the Warren Buffet, uh, Charlie Munger. If it's not all there, don't invest. We look at cases as investments, you know, we don't look at them as long shots, but you know, every now and then I'll take a long shot because I just enjoy the issue. Or I'm looking to change some social thing about our society and I'll take those, but I don't take those for money.
- Michael Cowen: [00:41:50](#) Right?
- Rex Parris: [00:41:51](#) I mean, if I do, I do. But I mean, if I win, fine. I don't want you to think that I'm, you know, we're flying around here in Angel's wings because I'm not. But I'm very clear as to what my purpose is. And then, you know, the one thing you always want to remember it, you know who's going to ask this Kahneman. I never know how to pronounce his name. He's the guy who won the Nobel for economics and he's a psychologist and it was for behavioral economics. And so we're interviewing him and asked him, what was the one advice you could give lawyers? He goes, all this cognitive science stuff is great. It's really fascinating. It's all valid. But at the end of the day, the simplest case wins and it

will always win. And it's because of how we, uh, you know, two ways of thinking, fast and slow. He wrote the book. And the cases are so complex that you have to simplify it. And, and that was a, an awakening for me because, you know, I, I, I'm down to the neuroplasticity of the nerves and the spinal cord, you know. I just love this stuff so much, but the jury is not, you know, they want a simple causative explanation. And you know, the other thing lawyers need to know is causation and not in a legal sense, but in a, in a scientific sense, in a philosophical sense. And there's books on causation. What does causation really mean? You know, and you'll always end up with a, uh, the abstract metaphor and the metaphor lawyers can pretty much rely on is the pool table.

Michael Cowen: [00:43:47](#) Okay?

Rex Parris: [00:43:48](#) That's why you always focus on the defense first because whoever you focus on first, that's your cue ball and that's the causative agent. Uh, and then you're just lining up this ball, hit this ball that this ball, this ball, and don't leave any out, but make it simple. Complexity is definitely the friend of the defense. And our role is to just simplify it. You know, like cross-examine doctors. That becomes so easy on the defense doctors because the role they're playing in the case is so, uh, it's so contrary to the role of a doctor. You know, doctors are there to help you get better, not to hurt you. And then you just go to all through all the things that he, a real doctor would do that he was unable to do. You don't have to be mean to them, you know, and all the things he doesn't know. And, you know, we'll list all the witnesses in the case. So, do you know who Billy Smith is? No. Well, do you know who you want to? You want to really demonstrate what he doesn't know. And, uh, and you know, we always like to do it visually. We always put the picture of every doctor that has found, you know, on both sides. And when you match them up, the defense cannot win because they're only allowed so many doctors. I've often said that as more and more lawyers understand and embrace cognitive science, this system will collapse because it's no longer sustainable. And that it, people used to think that it favored the defense. Well, if you don't understand the cognitive science behind it, it does. But once you do, it is very hard for the defense to prevail. Extremely hard and as it should be. But at the same time, it's not sustainable.

Michael Cowen: [00:46:04](#) It's amazing. It seems like what you're saying is just, uh, help people follow the law, essentially all the rules.

Rex Parris: [00:46:15](#) But I mean, the role of the lawyers is very difficult. I mean, it takes a lot of time to memorize that evidence code. And it's something I do every single day, you know? Uh, and you know, we prepare for, for trials with mind maps, not with outlines. You know, what are mind map, you know, go into the Internet type in mind map and you're going to a hundred different. The one I liked the best right now is called I mind map and it's an Apple product, which also works on Microsoft. Uh, and it's just how you organize it. It's circular as opposed to linear and you know, and it branches out. I'm sure you've seen them.

Michael Cowen: [00:46:59](#) Yeah.

Rex Parris: [00:47:00](#) Uh, but we use that for every witness and for all kinds of things. You know, the story that we're going to tell is mind mapped first, cause you can move things around very quickly and easily. Uh, and you know, I have a lot of fun and trials and so I'll take my iPod map and I'll hand it to the defense lawyer. Do you want to see what I'm going to ask him? And it's, it'll have pictures instead of words are because you can remember pictures better. And uh, and the other thing we do is, you know, whatever case citations that we know will be arguing, we memorize the site. Now that seems really hard. How can anybody do that? What's really easy? You know, if, say it's 84 Cal app, 4th 1, 86. It's a case I use a lot. Yeah. So you put the 8 over here and juror number one and you put the 4 under number six. I mean, and you place it around the courtroom. And so I can read it back to the court, just because I used the visuals to do that. That gives you credibility both with the court and with the jury.

Michael Cowen: [00:48:21](#) Do you use a lot of visuals in trial?

Rex Parris: [00:48:23](#) If I can't put it in a visual, I don't use the fact because I know they're not going to remember it. I know they're not going to believe it, you know? Uh, yeah, a lot of work goes into finding the visual to represent what we're telling them. And you know, the interesting thing in the last few trials, but it has happened is we have some very good support people now and they're, you know different vendors and they will do these recreations of the surgery and you've seen them. And they're expensive. But if you know, you've got a big case there really, really worth it. And then we also have still, you know, posters of it. And with all the courtroom technology now you can show run the movie of the surgery and the different things that happened, you know, the, uh, and we did this trial and the verdict was in 50 some million dollars. And we realized we never put in any medical record. We never showed them a medical record. Never showed the jury

one. You know, the defense I think might've put some in, but it was again, the simplification. Who do they believe? This paid whore over here or what they saw on the screen, you know? You believe what you see whether you want to or not. So you want to be very careful that the visuals they use. I would say a significant part of the investment is just the visuals we use in trial.

Michael Cowen: [00:50:11](#) One thing that I've learned is I've been trying to get better at that and it's still, I'm still early in the learning curve, but when I'm trying to create a visual for every point I'm making, it really points out where you have a gap that you need to fill.

Rex Parris: [00:50:28](#) Right. And I mean, you know, I say that, but obviously there's some things that are just words, but not too many. The jury will attach to the visual and you, and you want to be able to pull those visuals back in closing when you're telling them the story. That's why we always have pictures of every witness. Do not leave that deposition without getting their picture. Pull up your phone and take their picture and let them whine all they want about it. You got it. You know, because when I open and when I close, whenever I talk about what they're going to say, that picture's up on that screen because without it, it's just words. Yeah. They, they can't, can't really relate to it.

Michael Cowen: [00:51:13](#) Yeah. I really like the picture with the quote from the witness.

Rex Parris: [00:51:16](#) Yeah. Yeah. Bang, Bang, Bang. Yeah.

Michael Cowen: [00:51:25](#) So I wanted to ask you about a recent verdict, if that's all right. So you guys had a, uh, a \$41 million verdict or 40 million plus verdict on a

Rex Parris: [00:51:34](#) Well, it was \$41.6 But yeah. Who's counting?

Michael Cowen: [00:51:37](#) A case that doesn't have what I'd say the classic ingredients are, you didn't have a big bad company on the other side. You didn't have a huge wage earner. Can you tell us about that case and some of the things you think, you know, helped you get your client what he deserved in that case?

Rex Parris: [00:51:58](#) Well, normally we will, we waive loss of income. Okay, and unless, you know, we're in the close to two, seven figures, we waive lost past medical. Yeah. Not always, but usually because those things drive the verdict down and that's where the jury will start is with that objective figure, the number. Right. I don't want them starting there. I want them starting in tens of

millions and work down. Like the one that gave us the forty million forty one million on. I asked for 112, I think. Yeah. Uh, and it was a super conservative jury and it, you know, the demographics of that jury is what we're taught we don't want. And that's pretty accurate. I didn't want them. So here we have a, he's in his early twenties. He was about 18 at the time of the crash and he's mentally challenged and he you know, he's in an assisted work environment, his girlfriend who's mentally challenged and she's in the similar environment. And a delightful couple. You know, and articulate but they both had an IQ of about 70, you know, that range. He had scoliosis and so he had a rod in his back. And his neck snapped in the T-bone accident. He was a quadriplegic. And it was sad. But in the closing, I talked to the jury about how he's changed our family cause he's been to the house and, you know, they turn up the barbecue and stuff like that. And because I never paid much attention to people who are mentally challenged. I stay away from it. And here's this delightful young man that we just love. I mean, he's adorable and he's, he's, he added so much to us, you know? Uh, and that's why it has to be genuine. You know, they have to feel that and yeah, he's entitled to every bit of a, of a useful life as you and I are. And they took it. And so, you know, but it wasn't, uh, you know, I didn't go after the defendant. I didn't, I didn't need anyone angry. And that's why I think, you know, maybe this whole idea of The Reptile, we're not Reptiles. Yeah. Now The Reptile has a lot to say, don't get me wrong. I think those guys are good at what they do. But I think it scratches the surface in many respects.

Michael Cowen: [00:55:06](#) And in that the case from what you've told me, you had a fairly delightful defendant too. I mean, she was not a bad person.

Rex Parris: [00:55:11](#) Nice lady, you know, early twenties, you know, I mean, I couldn't get it in front of the jury because they admitted liability, but it was pretty clear she was texting at the time. But the jury didn't know about that and the jury never heard that. I was tempted to you know, she was inattentive and I'm taking my thumbs as if I was texting. Yeah, but I found over the years tricks like that backfire and I really can't be genuine, and credible if I engage in tricks. I avoid them like the plague in my inclination is to use them. So I have people that are cautioning me, no, that's a trick. Don't do it. You know, uh, and I didn't need it. I didn't need it. It was, look, these are the rules. The rules say that accountability means this now and for whatever you want to take away from this equation, that's how unaccountable we're saying she can be. And they knew she wasn't going to pay it. They're not stupid.

Michael Cowen: [00:56:28](#) Right.

Rex Parris: [00:56:28](#) You know, in fact, somebody said in voir dire said, how is she going to afford that? Somebody else laughed and I said, I'm not allowed to tell you. And then if I want to insurance in the case, sometimes they don't, but if I want insurance in the case, like in this, normally I'm afraid that the insurance is that it will internalize it and say, well, I only have \$100,000 or something like that. But in this case they were trying to play, you know, the poor nice defendant. And so, you know, we had to talk about the jury instruction that says you shall not consider insurance. The best way for somebody to get somebody to consider something, it's tell them not to. And in that case, I did do that in the room just in case anybody had any doubts.

Michael Cowen: [00:57:28](#) How do you manage your life to have the time to spend with the clients and witnesses to spend learning getting better. And in your case, to be the mayor of a town, to see your children, to see grandchildren, and still sleep at night?

Rex Parris: [00:57:44](#) Okay, and keep in mind, the most important thing I do is sleep. The most important thing you do is sleep. And this whole idea of working long hours into the night, you're an idiot if that's what you're doing. Because it leads to dementia, it leads to, to poor performance the next day. I mean the host of illnesses that come from lack of sleep, and so I strive very hard to get 7 to 8 hours a night because the most important thing I do in that 24 hours is sleep.

Michael Cowen : [00:58:24](#) Even during trial?

Rex Parris: [00:58:26](#) Well, the best way to be able to sleep during trial is your prepare for the trial beforehand. But at the same time, I've really been blessed with a wonderful family, wonderful partners ,and a wonderful firm. And I don't go into trial alone. I don't go in with one person, you know, you want a \$50 million verdict. We had six lawyers on that case and there were lawyers working all night long, but they weren't the ones in the courtroom. You know, it's a, it's a full commitment of the firm, you know, to winning that case. Uh, but we're very aware of who's doing what. You know. Uh, in one trial, I had the lawyer, you know, I get up at 4:00 in the morning and that's when I study and do all those cognitive science stuff and then try getting ready to go. And so at 5:00 AM he comes to my hotel room, who's going to do the closing and one look at him. I knew he hadn't slept at all and I said, you haven't slept have you? And he said no. I go, you're not doing the closing. And so I had three hours to get ready for the closing and did. Because you, you're

not going to connect unless you've had that sleep. You know, you, you can't be fighting. Uh, sleep deprivation is the same. I wouldn't let him go argue drunk. Right? Yeah. And we all know the studies about that. Nothing else. Nothing is different. Now, one of the biggest advantages I have is I don't drink. Usually the defense lawyer does. In the moment you pick up that drink at night, your cognitive functioning has ceased. You know, you're not transferring information to your hippo-campus into your long term memory when, when that occurs. That's a huge advantage I have. Yeah.

- Speaker 1: [01:00:26](#) Trial Lawyer Nation is proud to partner with Trial Guides, leader in continuing education for civil, plaintiff, and criminal defense trial lawyers with books, DVDs, CLE's, live webinars and more visit triallawyernation.com and use code TLN 19 at checkout to receive our exclusive podcast discount on any trial guides products that's TLN for Trial Lawyer Nation and the number 19. Discount expires August 31st, 2019 and now back to the show.
- Rex Parris: [01:01:00](#) But you know, God gave us all a certain amount of alcohol to drink in our life and I just happened to drink all of mine by the time I was 25 and kept drinking until I was 36. Uh, the, uh, but to answer, how do I have time for all of it? I, I surround myself with very smart people who work really hard, who I love. That's awesome. If I don't love them, I get rid of them.
- Michael Cowen: [01:01:31](#) That's awesome. I've done well. One of our challenges is we're at a point where we either have to further restrict the cases. We're taking our hiring another lawyer, but I love the people I work with so much and the way they all get along with each other and I'm just afraid to add anybody else.
- Rex Parris: [01:01:50](#) Yeah, and you do give that up. Like there, there's people here and I don't know their names. And that, you know, I never thought we'd be that big. But also, you know, lawyers do lawyers stuff and that isn't very much stuff that goes on in this place. Yeah, we recruit claims adjusters from the insurance industry, we recruit all kinds of people. We're now testing for their emotional intelligence, and there's really hard people who want to work here and, and if you get past the first six months, you might be here your whole life. Like some of them have been. But there's very stringent rules. If you start bad mouthing a co-employee, you get one warning. The next time somebody shows up in your office with a box and you're, you have to fill it and leave.
- Michael Cowen: [01:02:49](#) Wow.

Rex Parris: [01:02:50](#) Yeah. We will not tolerate undermining your employee, you know, the people you work with. Because this is where we live. This is where I live. I'm not living in a toxic environment. I grew up a child that way. I'm done with it.

Michael Cowen: [01:03:09](#) So how did you get the courage to create and enforce such a role?

Rex Parris: [01:03:16](#) I've got a really strong wife and it's her rule.

Michael Cowen: [01:03:19](#) Okay that's awesome.

Rex Parris: [01:03:22](#) You know, it had been blessed with just this, I got a wonderful wife. She's incredibly bright. She's not a lawyer and she runs everything that's not lawyer stuff. Yeah, she's freed me up. I don't do payroll, I don't do personnel, I don't do human relations. I don't even know what those things are half the time. I don't even know which bank we use. So that frees me up to really focus on what I love doing, which is learning, trying cases and you know, improving the welfare of the people in the city.

Michael Cowen : [01:04:03](#) You also do a lot of teaching with your lawyer's here. Tell us a little bit about what you do here.

Rex Parris: [01:04:09](#) Teaching them how to do it? Well, you know, if you want to rise up in this is firm, you have to do a lot of independent study of how to persuade people and you have to then come in and teach the other lawyers how to do that. We bring other people in to do seminars. The, uh, anything that could improve our ability to persuade and to embrace the client. You know, we are actively engaged in it. You know, every now and then it's little things like how do you introduce yourself to somebody at a party and shake their hand? How do you do that? You know, we practice that. Everything we do, we practice. As you came in, you saw the courtroom we built, we were in the courtroom there. We practice and practice and practice and you know, nothing is left to chance. Nothing. Now a lot of people think that's too scripted. Okay. I don't care what you think, this works for us. Yeah. You know.

Michael Cowen: [01:05:22](#) Well I've never heard of let's say in a Broadway show they said, well, we can't rehearse too much cause we don't want the show to look scripted.

Rex Parris: [01:05:28](#) Right. It's exactly true.

Michael Cowen: [01:05:33](#) One of my realizations that is with them, I was working with Josh Karton once and I realized that I would, as a child, I had done more rehearsing for a community theater thing 10 and under that only the parents would go to than I had for a trial, which was asking for millions of dollars.

Rex Parris: [01:05:53](#) Yeah, that's right.

Michael Cowen: [01:05:54](#) And how backwards that was and how my mom did community theater and she would go to rehearsal after rehearsal, rehearsal with the show. They're doing just for the joy of doing it. And here I'm supposed to be a professional doing this for a living and I'm going to go and maybe read it over once. That's not right. The client deserves better than that.

Rex Parris: [01:06:10](#) We get really caught up in the things that don't matter. And it's not because we're getting bogged down in it. It's because we're comfortable with it. Now the masterclasses are thing you can take on the Internet. Yeah. Right. So \$100 bucks, you can take all these classes from great performers. One of them was saying that, uh, you go in to rehearse a play, you know, you've got to play going on in the screen. The script, what do you call them? A screen writer who writes it. They write a playwright, right? So you go in and right away they start talking about, well, let's develop the backstory. You know, what's the backstory of these characters? He goes, bullshit there is no backstory they are characters in a play, the reason you want to talk about their backstory is because you're afraid to get on your feet and fail.

Michael Cowen: [01:07:01](#) Yep.

Rex Parris: [01:07:02](#) You will fail. That's the purpose of rehearsal. It's the purpose of practicing anything. If you aren't going to look like an idiot when you do it, you're not pushing hard enough. You know what I always do is I always get way out there and then I dial it back in. But that's what practice is. But it's the ability to bear the failure, you know? And one of the mistakes I made is, you know, this one time we actually got the federal court room to practice it in. I'm not quite clear about how that came down, but the next thing I know.

Michael Cowen: [01:07:40](#) Just ask them. It's amazing.

Rex Parris: [01:07:43](#) And they're doing that. And the client's there. And I got fired, because I was so bad. Well, of course I was bad. You know, we're here practicing. I didn't know I was here auditioning.

There's a difference. And so I've learned never to have the client there.

Michae Cowen : [01:08:06](#) Do you ever take the client or witnesses into an empty courtroom?

Rex Parris: [01:08:10](#) Yeah, yeah. I want them comfortable. I want them sitting where they're going to sit in, if the clerk will let me have them sit in the jury box, and you're comfortable with it. The, uh, and I always do that. I'll sit in the jurors chairs, see what they can see and all that. Yeah, but if you're not practicing, if you're looking for the backstory, you're just afraid and we're supposed to be afraid. There's nothing wrong with being afraid. What's wrong is when you don't recognize it and do it anyway.

Michael Cowen: [01:08:42](#) Yeah. I find that when I, what I'll end up doing is I'll be marking my own exhibits, or messing with a notebook, or you know researching case law or something that other than doing what things I could have someone else do much more productively.

Rex Parris : [01:08:57](#) I have found that if I go in with an opening prepared before I do anything else, you know, before motions in limine. If I have that opening prepared, I'm in charge of the rest of the trial. I will own the room the rest of the trial. If I don't have that prepared, I mean I'm really prepared. I will falter, and undoubtedly I will falter. It just gives you that confidence. You know, you're picking the jury and you're afraid you're not ready for the opening. You don't want to be there. You know if you have the opening prepared and you're picking the jury, you got a pretty good idea of what we should be talking about.

Michael Cowen : [01:09:44](#) You've told me before that we talked a little before we started recording that you were giving a talk on things we think are the right thing to do, but don't make a lot of sense.

Rex Parris: [01:09:53](#) Well, one of them is what I've already talked about is you don't want empathetic jurors you want detached jurors. You don't want them angry or sad in the opening and the closing. You want happy journeys, you know? And what we found is that's why it's so important to talk to them about how much you're going to ask in the front end. Because what we saw on what we save it for closing, it will make them frightened or angry. And both of those emotions are because their awareness that this could happen to me. There's a shock value to it. You know, not value, but a shock effect. So put it out there early. You know, you don't want that back here, but you know, we now have the capability of doing a focus group filming it and knowing what they're feeling, not what they say they feel, but what they

actually feel at the moment they feel it. And the computer can give us a printout in a dashboard of everything that went on. Oh, that's incredible science. You know, it's revamped how we present our cases. You know, I used to think jurors wanted to see the toughest dog and toughest junk yard dog on the block. Right. And that's not what they want. And that's really not who I am. And, uh, then I really learned to embrace my frailty. I have a lot of frailties. Yeah, and I'm not afraid to show them, I mean this is a wonderful job. At the end of the day, I'm supposed to win.

Michael Cowen: [01:11:44](#) Yeah. But we can always find a way to lose it.

Rex Parris: [01:11:47](#) Well, you know, it to the extent that if you don't have the skill set and a command of the facts and the witnesses to present them, it is stacked against us. But it is our burden. You know, the other thing is, thank God this isn't easy. You know, uh, if it was easy, everybody would be rich. Now I wouldn't mind if everybody was rich, but that isn't really what happens. Is it?

Michael Cowen: [01:12:16](#) Yeah. So what are some skill sets you think that we lawyers need to learn?

Rex Parris: [01:12:22](#) Well, you know, there's elementary stuff in cognitive science arena that is unknown to lawyers who are not very well, we're not very conversant with it. And one of those is mirroring. You know, we have to ourselves in our brain and that's how we socialize. You know, people who have limited mirroring cells are autistic or they're on the spectrum, you know. So you want to read about mirroring. What is mirroring?

Michael Cowen: [01:12:50](#) And what is mirroring?

Rex Parris: [01:12:50](#) It's like how we learn affiliation with each other is you'll move, then I'll move. You'll adopt a posture I'll adopt that posture. You know, we mirror each other. In a state of nature, that's how we tell each other we're on this team. We're not on that team. You know, it, it's how we develop affiliation. So once you learn that practice and practice it, so you do it second nature. You know you mirror the judge. Mirror the jurors. And you can also see who's leading the pack because the rest of the jurors will mirror that person, you know? What I want is affiliation with the jury more than anything. So mirroring is certainly one of the skill sets that you have to learn. And voice is so important. And, uh, you know, I have a, I have some disabilities and so one of them is, I'll wear a lavalier mic in the trial because I have to cognitively always be aware of how much energy is coming out of my voice. And because otherwise you won't hear me. Oh, I know. And

that was due to a brain injury I had and, and I just have to be aware of that. But so now I wear a lavalier mic, but look at the range that gives me, you know, I can boom and I can whisper in a huge range. Uh, but voice is incredibly important. The one thing I'm working on my whole life and I still haven't mastered, is to slow down that voice. You have to talk slow.

Michael Cowen: [01:14:43](#)

You know, that's my struggle.

Rex Parris: [01:14:45](#)

So I gave a speech and for the first time my wife gave me an A+ on this speech. And it was because of the speed of it and the rhythm of it and the voice was perfect. Yeah.

Michael Cowen : [01:15:01](#)

I learned to slow down the hard way because I was trying a rear end collision trucking case in the best venue in the state of Texas. I thought as a young lawyer it was going to be my first get on the map hit. And the jury is deliberating and the defense lawyer thinks I've won. I think I've won. The bailiff thinks I've won. And the court reporter says you're gonna lose. I'm like how dare you tell me I'm going to lose. You're going to lose. He goes, you talk too fast. They couldn't understand you. You're going to lose. And they came back with, yeah, I lost.

Rex Parris: [01:15:36](#)

Also when we are lying, we tend to speed up. You know, it's one of those signals of trust. And, you know, the one thing I would really like to master before I'm done is that voice is getting the tempo of the voice down. Uh, yeah. But you know, they're discreet skills. If you're going to learn a dance, you learn it one step at a time. So what are the steps to this dance? You know, and you have to have them all in your quiver. Then it's voice it's when to look at something where to look. If I'm in a, in a confrontation with the judge, stay out of eye contact. I'm always looking at if the witness, you know, I have some imaginary or the imaginary jury or, and I can say whatever I want. I can be as loud and as noxious as I want, if that's what I want to do. But never in eye contact. Never.

Michael Cowen: [01:16:42](#)

Because that's a challenge to him?

Rex Parris: [01:16:43](#)

That's relationship, and now I'm damaging the relationship, you know? And I've also learned to do that in my personal life, you know? I always take it to a third point if I'm angry about something. Like with your kids, this report card is crap. Yeah. This report card is crap. Not you. See the difference? I don't engage in eye contact when I'm doing that. Stuff like that you need to know. When to be in eye contact with the jury and when not to be, you know, is vitally important. Uh, but those

are discreet steps that you have to master. And it, it's a process and it takes a long time.

Michael Cowen: [01:17:27](#) And what are some of things we can do to learn to do those things? To get those skills?

Rex Parris: [01:17:33](#) Read a lot of books, go to a lot of seminars. Uh, like we have this, there's this book Never Split The Difference and it's by an FBI hostage negotiator. And we brought him in and had him teach the lawyers. And one of the things he would teach his, uh, what was your question?

Michael Cowen: [01:17:56](#) How, where do we go to learn these things?

Rex Parris: [01:17:58](#) These things?

Michael Cowen: [01:17:59](#) The skills.

Rex Parris: [01:18:01](#) That was one of them. To repeat the last thing you said, the last word you said without your knowing. I did it and I had to just do it naturally. And you will keep talking. It's just the way we are. Another way to do it is just to raise your eyebrows and hold it up and they'll talk. But you, a lot of our job is getting people to talk to us, right? Jurors, get them to talk to us. How do you do that? Uh, you know, one of the things that people should read is, Start With the Why, and that's by Simon Sinek. We structure all of our arguments. What happened, how it happened and why this is important. Isn't that how we do it? Isn't that how you do your closing? He says, turn it upside down. Always start with the why. Why is this important? How did this happen? What happened? You know, when you start looking at why, how, what, you're much more persuasive.

Michael Cowen: [01:19:05](#) Yeah.

Rex Parris: [01:19:05](#) And we do that now, you know. And it's hard, it's hard at to take 60 years of learning how to do something and flip it, right? The other thing lawyers need to do is learn how to answer a question. You know how you answer a question? You answer it. There's a book In The Line Of Fire and it's about how to answer questions and they've taken the presidential debates and use that as an example. The first thing you do is make certain you understand the question. So you repeat some of it back to them. What are the columns of the question that hold the question up? Then answer it, and if you know the judge is asking you, this actually happened. We have the Porter Ranch case where we represent the 9,000 homeowners because this gas

well blew up. You know, and, and, uh, for four months, these people were breathing this poison. And they lied to them every day about what was in that gas and lied to them every day saying it was horrible. You know, knowing that we've had people die as a result of that, that gas. And, uh, so the first day, you know, you have this, what do you call it when you got mass torts, you know, all the lawyers are there and the judge and the defendant, you're trying to figure out how to manage this case. And the judge says to the defendant, the defense, how can, can you articulate to me a defense to the nuisance claim and blah, blah, blah, blah, blah, blah, blah, blah, blah. Can you articulate what your defense is? Then finally he goes this is the third time. Do you have a defense to the nuisance claim? Blah, blah, blah, blah, blah, blah, blah. And then judge just, you know, it was furious and he goes, I guess you're just not going to answer me are you? That was how he started his relationship with the judge. How much better to say, no I can't Your Honor. Not, right now. But we'll certainly look at that. Next time I hope to have an answer for you.

Michael Cowen:

[01:21:26](#)

That's interesting. When I was, uh, my first job out of law school, I was a law clerk for an appellate judge. So, I got to not only watch, I think 120 oral arguments. But I also, because we had either written or read the other clerks bench memos, I knew what the issues were that the judges cared about and kind of where they stood. And of the 120 oral arguments I saw 119 did not change any judges position on any issue. I consistently saw the judge would ask a question about the issue that was important to the judges and the lawyer would dodge it and go back to the pre-prepared script and talk about what the lawyer thought was important. The only oral argument I saw that made a difference, the man got up and said, uh, I have a prepared presentation, but I know that the court has read the briefs and studied the issues. So before I talk about what I think is important, are there any questions the court would like me to address? And they spent the 20 minutes asking him questions and he listened to and answered every question. He's the only one that persuaded a judge to change his mind.

Rex Parris:

[01:22:36](#)

Yeah. I think that's critical. You know, now the odds are still against you. Yeah. Because once we adopt a position, it's very hard for us to come off it as human beings. The, the other other thing, there's a course from the University of Michigan on how to change people off a position. And the way to do it is to first start out with, it's understandable why they reach this position. And. Not but. But, and when you consider these facts, there's a different result. You see what I mean. Rather than just saying they're full of, you know, and Justice Roberts has talked about

that. He says, by the time the case is in front of the Supreme Court, it's not an easy issue. Right? So at least acknowledge the other side's position. And so, you know, we work very hard in acknowledging their position first and then reversing it.

Michael Cowen:

[01:23:39](#)

Think that's one of our big political problems we have is that there's just a demonetization of half the country by the other half of the country and you know, not giving any credence to the other side's position. And you know, uh, attributing bad motives behind the other side's position. And it makes it impossible to ever bridge a gap unless somebody first acknowledges that, hey, your position, while I may not agree with it, can be supported by logic and that you have a good heart and you're coming from a good place and you know, until you can do that, I think it's really hard to do.

Rex Parris:

[01:24:17](#)

Joe Biden said, when you ran for, he was running for Vice President against Palin. Yeah, the Palin debate. And anyway he tells a story about how when he was early in the Senate, I don't need to go into the story, but the gist of it was don't ever question somebody's motives. You can question their judgment. You can question their decision making. You can question the facts they're relying on, but you don't know their motives. I don't even know my motives half the time, if not all the time. Because if you asked me why I did something, I'll tell you what I think you want to hear without even realizing that's what I'm doing. You know? I think you're right about that. Whenever I start into an argument about the other side's motives, I usually lose. If I just can remember to keep it factual. These are the facts. This is the result. But lawyers, we get so wrapped up into the, and I think you've got to remember, it's our burden. And anything we do that makes us less persuasive is exponentially impactful. It's not their job to persuade them on anything. Yeah, I mean we have the burden. So that's why you want to stay out of those fights with the defense. Cause you'll start mirroring their hostility in their aggression. You know, what I like to do is try to keep the mindset that this is a puzzle we're all working on together. That we'll have a solution. And, and every time I get sucked into the aggression, you know, now it's a fight where somebody who's going to win or lose. That's not, I don't think that benefits me representing the victim. You know, this is a puzzle that we as a courtroom are working on. And if he wants to throw the puzzle up in the air, well we all know what to do with that child. He has to go to timeout. Let the adults finish this. I mean, isn't that really what we're attempting to achieve now? You know, it's all very well and good for me to say that, but it is harder than it is really, really, really hard. You know? It's harder to do that than quit taking drugs and I know them both.

Michael Cowen: [01:26:48](#) Yeah, it's one thing I try to remind lawyers is that there'll be someone really that gets under your skin and you've been dealing with that other lawyer for a year and a half, two and a half years before you get to trial. And you're so ready to be angry at this person and to lash out, but the jurors don't have that shared common experience,

Rex Parris: [01:27:06](#) They don't have that experience at all.

Michael Cowen: [01:27:08](#) And so all of a sudden ...

Rex Parris: [01:27:09](#) You're the asshole.

Michael Cowen: [01:27:09](#) Exactly. That goes and starts snapping at people. And so just, you know, keeping that in mind. And it's not about, you know, one lawyer against the other lawyer, it's, you know, we're telling our story and I don't really care what other side is doing.

Rex Parris: [01:27:22](#) I find that same attitude to be incredibly helpful in the city. You know, as the Mayor. We have this puzzle we're all working on together, you know, whatever the issue might be. You know, and I invite people to help solve the puzzle and to find the pieces and to work on it. So they have commitment to what we're doing, you know, and again, toxic ones we put on the no fly list. In the city we actually have a no fly list. If you're one of those people that you know, bitch about everything and say no to everything and just when to criticize people, you're not allowed to come to the parties. If the city's putting it on you don't get to come. If a private person's putting it on the Mayor is not coming if you're there. It's amazing how many people work to get off the no fly list and behave themselves. That doesn't mean they aren't supposed to disagree with me. They are. I only want to be right, you know, 3 out of 5 because we can be incredibly successful with this 3 out of 5. Uh, but you know, I recognize 2 out of 5 is probably a harebrained idea. I need people to tell me that.

Michael Cowen: [01:28:39](#) Although I like your no neckties idea.

Rex Parris: [01:28:42](#) That's good science so far. I mean the only science in front of us says that wearing a neck tie can, can restrict the blood flow to your brain by 7 to 10%. Right. That's what the science tells us. Now is it robust studies? No. You know, was the sample size pretty small? Yes it was. But there isn't any science saying that doesn't happen. Sure, well just wear a looser collar. And if I could buy a new shirt every time I gained two pounds I would, and if somebody else had bought it for me and had it, they're

waiting for it. But no. The chances are I'm going to be occasionally putting on a shirt that's too tight for me so I don't wear neckties anymore. Yeah and you know, in deference to the court I wear a turtleneck instead, but you know, it doesn't restrict the blood flow.

Michael Cowen: [01:29:33](#)

Oh and you get to do that?

Rex Parris: [01:29:35](#)

So far. Only one judge has told me, don't do it again. You know. Now they got a real problem if I want to push it, you know, there is a thing called the ADA.

Michael Cowen: [01:29:51](#)

I got to see if I can get the courage to try that because I think that the tie is a shield or barrier because most people don't wear ties and the people they are around that wear ties are the other.

Rex Parris: [01:30:05](#)

That's right. The other guy. The suits. Yeah, that's why they call them suits. It's not a term of endearment.

Michael Cowen: [01:30:11](#)

Exactly.

Rex Parris: [01:30:11](#)

The the other thing you know, remember when Trump, well the whole campaign Trump set himself apart from the others. He was totally different than the others and don't think that wasn't responsible for his election. I don't want to hang with the lawyers. I don't want to look like the lawyers. I don't want to be anything like them. You know, I want to be totally separate and apart. And, you know, I won my first election that way. We'd have these debates and there, you know, there's 6 people running. I never stood with them. I always stood apart. Uh, and by not wearing that tie, I separate myself from the pack. And it's more of an informal, relaxed person. Yeah, you know I always have a tie in the briefcase. I mean I'm not stupid.

Micheal Cowen : [01:31:17](#)

Well, Rex, thank you so much. This has been a joy and I really appreciate you taking the time to talk to us.

Rex Parris: [01:31:23](#)

Thank you.

Outro: [01:31:33](#)

Thank you for joining us on Trial Lawyer Nation. I hope you enjoyed our show. If you're listening to this episode on a mobile device, please click on ratings review and leave our show a five star rating and write a review, and if you're listening to this episode from our website, please leave a five star rating on the episode page. We'd love to reach more listeners and doing this well more attorneys find this podcast. You can also visit our

website at www.triallawyernation.com to opt into our mailing list so you can stay updated on a new episodes. I promise we won't spam you. Thanks to your feedback, we've improved our podcast website. There's now a resources tab that you can click on that shows you all the books we've mentioned on our podcast. If you have a Facebook account, please send us a request to join our private group called Trial Lawyer Nation Insider Circle. This exclusive group will allow you to hear about our guests before an episode airs, interact with the show and get a sneak peek at some of the behind the scenes moments. I love to hear from all of you and our table talk episodes are based solely on questions from our fans, so please continue to send us emails at podcast at [podcast at Triallawyernation.com](mailto:podcast@triallawyernation.com) thanks for tuning in and I look forward to having you with us next time on Trial Lawyer Nation.

Exit audio :

[01:32:45](#)

Trial Lawyer Nation is proud to partner with Trial Guides leader in continuing education for civil plaintiff and criminal defense trial lawyers with books, DVDs, CLE's, live webinars and more visit triallawyernation.com and use code TLN 19 at checkout to receive our exclusive podcast discount on any trial guides products that's TLN for Trial Lawyer Nation and the number 19 discount expires August 31st, 2019. We look forward to talking with you again soon as we continue to explore powerful insights from our amazing host and remarkable guests here on Trial Lawyer Nation. Until then, please be sure to subscribe and review this podcast on iTunes or your favorite listening now so we can continue to reach more listeners. Visit us@www.triallawyernation.com to send us a message, listen to previous podcasts or learn more about Michael Cowen and our guests. This podcast has been hosted by Michael Cowen is on intended to, nor does it create the attorney client privilege between our host, guest, or contributors at any listener. For any reason, content from the podcast is not to be interpreted as legal advice. All thoughts and opinions expressed here are in are only those from which they came.