

Intro: This is Michael Cowen, and welcome to Trial Lawyer Nation - You need to show people the worst possible harm that that negligence could have caused, because that's what the case is about - What I'm asking you to do is to focus on you can control, because that's where the power lies - The Dalai Lama has a saying that in the face of anger, justice evaporates - If you can't focus group it, you have to be very, very critical of your process - If the facts are good, you can't create a miracle - We can agree to disagree and be zealous advocates for our clients - Quit worrying about looking perfect. You're not going to .That'll come in time. But you can still be an effective litigator - 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: Today on Trial Lawyer Nation, we have my good friend Karonnie Truzy from North Carolina. Karonnie, how are you doing today?

Karonnie Truzy: I'm doing good, Michael.

Michael Cowen: Well, thank you for joining me here. We're here in beautiful New Orleans at the AAJ Winter Convention. And thanks for taking some time out of your busy schedule. I just heard you gave a great speech this morning. And it's good to see you.

Karonnie Truzy: Good seeing you too.

Michael Cowen: We're going to talk about today, I guess you practice in North Carolina and you guys have some challenges that most of the rest of us don't have. You have contributory negligence is up your bar, you've got a pretty bad sudden emergency law. And I want to talk to you a little bit. I think you have something to give because if you can win a case in North Carolina, you win a case anywhere.

Karonnie Truzy: I believe that.

Michael Cowen: But before I go into the legal stuff, I want to talk a little bit about you. So first of all, tell me a little about yourself.

Karonnie Truzy: I've been practicing now a little over 19 years. Married. I've got my wife, Ebony. I've got three kids and daughter Addison, twin boys. My daughter's 14. My boys are 11 years old. They give me a run for my money all over the place. I work for the law firm of Crumley Roberts. I live in Winston, Salem, but I'm based out of our Greensboro office and I travel all over North Carolina and parts of South Carolina and Virginia trying cases.

Michael Cowen: And what kind of cases you do you handle?

Karonnie Truzy: Right now, I'd say it's probably about 50% regular auto injury-type cases. I handled probably about 25 to 30% trucking cases. And the remainder is a mixture between 1983 cases and some other death type cases such as like nursing home, things of that nature.

Michael Cowen: 1983, like civil rights?

Karonnie Truzy: That's correct.

Michael Cowen: Before I kind of get the legal stuff too, I was lucky enough to have breakfast with you last week and we're going to have dinner and actually you had daddy things to do. I want to talk a little bit, because it's a big factor in my life and it's a big factor for a lot of our listeners, how do you balance being a successful lawyer with a multi-state practice with trying to be a father and a husband?

Karonnie Truzy: I will tell you, one of the things that I found out is that people make time for things that are important to them. And when you got competing things like practicing law, and the family, both of those things are extremely important to me.

Karonnie Truzy: Number one with practicing law, I really enjoy what I do. My wife and I, we joke because I met my wife at undergrad. And so she's known me for a very long time, over 30 years now. And the thing that she and I talked about when I was in college was the fact that I really loved the law, so much to the point that I said, "There's going to be a point in time in which I'm doing work for free, and I can't wait for that." That's one of my goals. Maybe not for some people, but that's one of my goals and I look forward to. But when it comes to my family, I also realize that without my family, I'm not able to do what I do.

Karonnie Truzy: My wife, she's a successful person in her own right and so she spends a lot of time with work also but we make time for family and that's the thing. The things that are important to you, you're going to make time for them. So when it comes to my wife, to my kids, there are times when we're running around during the weekend, we're seeing each other in passing and on trips when she's on trips for work. And then we finally see each other and say, "Hey, we need to have a date night." And date night doesn't necessarily mean we go out at night. It can be we go out for lunch, and we go catch a Matinee movie, things of that nature.

Karonnie Truzy: And with my kids always said that I want to be hands-on with my kids. And so I really try not to miss any events that my kids are a part of, whether it be the dance recital, or whether it be the boys and their bad band performances. I want to be there. I want to be able to capture it. I want them to see my face so that they know "Hey, daddy made time to be there for me."

Michael Cowen: And is there anything you do that's... A lot of times people schedule things for us at work. Anything you do to make sure that those important times, you don't get some other important work things scheduled?

Karonnie Truzy: Well, I'm fortunate enough to work with a set of three paralegals that I've worked with for over 18 years. And I call them my work wives because they keep me on track with my schedule. And the great thing about the firm that I work with is that they really put a premium on a work-life balance. And that's been from day one since I started there.

Michael Cowen: That's unusual, especially for a bigger firm.

Karonnie Truzy: Oh, absolutely. I've had times in which the head of my department will come in and say, "Karonnie, you've been spending a lot of time in office. You need to take some time, you need to get away." One of the things you heard me talking about this morning was I had a complete rupture of my achilles back in August. Well, one of the things they were like, "Karonnie, you need to take some time off, get yourself well." And they set me up with a home office where I could work from home. They came by, checked in on me, made sure everything was going well, but as far as my staff, because they know how important family is, it's not just important to me, it's important to them, one of the things that they do, they know my schedule. They know my schedule as far as kids performances.

Karonnie Truzy: So I put things on my Outlook calendar, they make sure to schedule around that. If I have to travel, they try and make sure that as much as possible the travel takes place in the middle of the week. So that on weekends, I spend home with my family.

Michael Cowen: That's awesome. Yeah, I've actually had a lawyer... I got nasty email for some reason saying well, "I know you don't like to work weekends," but it's like, "Well, actually, I don't." I do sometimes, but I don't like to work weekends and I had just been in the trial where I was out of town. I left on a Sunday. I got back late Friday night and no, I was not going to work on someone else's case that weekend because I have two kids and a wife and there's no point in making all the money in the world if we can't enjoy that.

Karonnie Truzy: Absolutely.

Michael Cowen: So what made you want to do this kind of work?

Karonnie Truzy: Now that's a that's a funny story. So I always knew that I wanted to go to law school. So, in high school, I played basketball. I was fortunate enough, I got a basketball scholarship to go to University of South Carolina, Spartanburg, which is the University of South Carolina upstate now. So I played basketball in college. And from the time that I was in high school, I always knew I wanted to go to law school. So it's kind of funny because, we'd be on trips coming back from

basketball games, and I'm studying for the LSAT and everybody else is cutting off on the bus having a good time and I'm back there with the light on and I'm studying, which is probably the only times I study while I was in college, was during that time period.

Karonnie Truzy: But, I grew up in a small town, Mount Olive, North Carolina. It's in the eastern part of North Carolina. And from a very early age, I got to experience being around some really good people. Some really good people that were not only good people from them saying, "Hey, I'm a great person," but we're good people for the things that they did for others in the community. That really stuck with me, and the fact that everyone around my town, we'd walk around and everybody knew everyone. And so we were always speaking, always saying hello. The families knew who you were. And if you're getting in trouble, they're calling your mom because it was that kind of relationship.

Karonnie Truzy: And so that kind of tailored what I wanted to do with the law because I said, "You know what? I want to be in something that I can really help people." As a byproduct, as making good money, part of that, yeah, but I wanted to be into something where I can actually help people. I had been practicing for probably six years and in practicing that six years, my father became ill. And my mother became unable to take care of him, and so she had to place them in a nursing facility.

Karonnie Truzy: And so I began to learn nursing home law so that I can make sure that they were doing what they needed to do for my father. And as a byproduct of that, I really loved working with those who were injured in nursing homes, and it gave me an even better perspective on helping clients in the personal injury or wrongful death aspect, because I got to see from a firsthand perspective of the toll it takes when you got a family member that is unable to take care of themselves, are dependent on someone else for care, making sure that the right things are being done so they're here to see your family.

Michael Cowen: And so I kind of want to move to some of the legal stuff now unless there's something else you wanted me to ask you?

Karonnie Truzy: No.

Michael Cowen: I want to move to something legal stuff now. So North Carolina is a challenging place to practice law. So tell me about what's this contributory negligence. I remember hearing about that in law school saying, "This is one of the things that they used to have a long time ago and we got rid of in the '70s." But you guys...

Karonnie Truzy: Well, contributory negligence, when I talk to attorneys who come in from out of state, and they've got a case in North Carolina, that is the first thing that I tell them about to make sure that you're aware of it. Because like you said, a lot of people hear about it in law school, and they're like, "Oh, man, that's archaic."

No one has that law anymore. But actually, North Carolina is one of four states that actually still has contributory negligence in effect.

Michael Cowen: And what do you mean by that?

Karonnie Truzy: So contributory negligence essentially says that if you're at any percent at fault for your injuries as a result of any kind of collision, accident, things of that nature, that you can't recover, it is a complete bar for recovery, which is unlike most states, which actually have a balancing of comparative negligence to see what the defendant did versus what the plaintiff did. In North Carolina, regardless of what the defendant did, if your client is any percent at fault, there's no recovery.

Michael Cowen: Wow. So how do you deal with that?

Karonnie Truzy: You take a case on a case by case basis. I will tell you that one of the main areas where that comes into effect that I see quite frequently is in pedestrian cases, because in North Carolina pedestrian cases, if you're not crossing in a crosswalk, if you're outside of the crosswalk, then that can be a complete bar to your clients case regardless of what the defendant did.

Karonnie Truzy: Now, there are some things that are in effect that actually help fight contributory negligence, but still, it's been my experience that once the jury hears that if you find the plaintiff at any percent at fault, they can't recover, that those exceptions to contributory negligence really don't apply. The jury really throws the law out the door.

Michael Cowen: So other than being really, really picky with the cases you take, what are some things you've learned in trial that I guess, get around, disprove your clients own potential 1% at faultness?

Karonnie Truzy: Well, what ends up happening is that you have to do a lot of investigation work on the front end. And that means that it's important that number one, you get the case in early on, so that if there are witnesses, you can go and talk with the witnesses. It's important that you go and talk with law enforcement, because law enforcement, unfortunately, they don't always get it right. They didn't talk with folks that were there at the scene. Sometimes there's video that helps.

Karonnie Truzy: But then when you get that information in, one of the exceptions to contributory negligence is a rule called last clear chance. And so what that essentially says is that if the defendant had the last clear chance to avoid striking your client, if they noticed that your client was in a position of peril, then the defendant must do that. And if not, that is an exception to contributory negligence.

Karonnie Truzy: Well, the law's kind of evolved in that area. And so because it's evolved, the courts have really put a lot of restrictions on that. So when I said earlier that the

exceptions really don't apply, one of the things that's part of that rule is that, in order for the defendant to have the last clear chance, they needed the opportunity to observe your client.

Karonnie Truzy: Of course, defense attorneys know that. So when they come in, the first thing that they've already prepped a client on is that no, I didn't have chance to see your client. I never noticed that they were in a position of peril. I didn't see him until I was right upon them and the accident happened.

Michael Cowen: So then you got to get a expert, I guess, to try to disprove that, that had they been paying attention, they would have seen...

Karonnie Truzy: Absolutely.

Michael Cowen: Any other ways besides that last clear chance you guys can get around the contributory?

Karonnie Truzy: Then there's the issue of gross negligence.

Michael Cowen: Which you guys have really limited North Carolina-

Karonnie Truzy: Yes. Yes. So, gross negligence has really been kind of restricted in North Carolina. And so some of the things where we see that really applies for us gross negligence, were issues with speeding of the defendant. So if this driver was going in an excess of the speed limit, when we're talking excess, we're talking... Of course we're really looking at 10 miles more over the speed limit. There's also of course drunk driving, or the use of drugs while operating a vehicle, and things of that nature that maybe another cause of the collision that will show that the defendant was grossly negligent.

Karonnie Truzy: One of the things that we're really working on right now trying to get some good law established on is the use of cell phones as being a factor for applying gross negligence. Courts have been very reluctant to apply that because they look at the old case law and say, "Well, we're not really here to make new case law." If legislature wants it to be considered as being gross negligence, they'll write it into the statute. But we're really pushing to try and get some legislation done to have that in effect

Michael Cowen: Well, good thing you have all those studies that show that using a phone while driving is the equivalent of having a 0.10 blood alcohol equivalent of drunk driving, it's just getting the judge to do the right thing or get the legislature to do the right thing.

Karonnie Truzy: That's right. And again, I think that because they're so used to how the law was before and old standards of law, a lot of judges are just reluctant, especially at the trial level, just reluctant to take that next step.

Michael Cowen: Yeah. So I guess you got to make a really good record, then if you ever want to take one of these up.

Karonnie Truzy: That's right.

Michael Cowen: You have the right case.

Karonnie Truzy: And that's it. Case selection, you've got to have the right case because if you take it up, and it's the wrong case then you can make some really bad law that's going to affect a lot of plaintiffs.

Michael Cowen: Now, I bet they'll happen to work under that challenging environment. When you get a case, let's say in South Carolina, where another place where you try cases that doesn't have that law, that's got to make you a better lawyer.

Karonnie Truzy: It does. And here's the hinge point of working in other states. If you're going to work in other states, you've got to recognize that the value of those cases is different based on the jurisdiction that you're in. So I can't evaluate a case in North Carolina the way that I would evaluate a case in South Carolina, because of comparative negligence. I think a lot of attorneys make that mistake, especially if they get a case out of state, they're working with another attorney. You have a conflict in where they see value of the cases.

Karonnie Truzy: So it's always good if you're working in another jurisdiction to make sure that you associate counsel within that jurisdiction, so that you're aware about the preferences of the juries, you're aware of the locales, that you're trying the case. And you are aware in general about the value of the case, but you're right. The cases in South Carolina, I would much rather take those cases to trial than in North Carolina.

Michael Cowen: But I think all the work that you are already used to doing, all the process, the fact that you're used to doing where other lawyers where you just get a police report and file suit or sort of claim, you're used to going up there and interviewing the witnesses and talking to the police officers and showing that your client didn't do anything wrong at all, because it's still, no matter what the law is and a comparative damages state, you often get dinged twice. One they put a percentage on you, and then two, they put lower damages, because they just don't feel like this is fair. And so I think it's got to make you more prepared and more thorough than those of us who can get sloppy because we practice in a jurisdiction that's a little easier.

Karonnie Truzy: Well, I think you're right, and as a... So in North Carolina, every defense attorney knows that contrib is going to bar a client from recovery. So regardless if there's an issue of contributory negligence or not, they're pleading it. And so until you have enough facts to have that dismissed on summary judgment, you're building your case. And if you don't build your case, then at any point in time your case can be dismissed. If you don't do it correctly, and you get to trial and

the judge thinks that you haven't done enough to prove that your client wasn't contributory negligent, you run a risk of getting your case dismissed.

Michael Cowen: Wow. You also have a sudden emergency defense that seems more robust than other places. Tell me about that.

Karonnie Truzy: That's right. So the law on sudden emergency for defendants essentially says that if the defendant is placed in a situation where there's an emergency situation that is not created by the defendant, then they can receive the sudden emergency defense. And the sudden emergency defense essentially says that if you're placed in an emergency situation at no fault of your own, that your duty is only to do what a reasonable person would have done. And so you run into that a lot of times in cases that involve weather, even sunlight. As a matter of fact, I've got a case coming up for trial where a defendant was driving behind multiple vehicles that were stopped.

Karonnie Truzy: But because the defendant said that when she came over the hill, she was blinded by the sunlight, she was presented with a sudden emergency. Of course, our argument there is that if you're driving out in daylight, you must be aware that there's a possibility of sun glare. So you do what whatever you need to do. You put your window shade down, you put your sunglasses on, you do... And you drive slower, you take more precautions on the roadway. But that's the kind of thing that happens when sudden emergency is brought up as a defense by the defendants in the case.

Michael Cowen: Actually, you've given a good presentation. Like when they say the weather, sudden emergency because of the fog or because of the wet road. What do you do to overcome that?

Karonnie Truzy: Well, it depends on what kind of case you have. But one of the things, and this is the great thing about being a part of the Trucking Litigation Group and litigating those kind of cases, that I've learned quite a bit. And one of the things I do with trucking cases is you rely on the Federal Motor Carrier Safety Regulations. You rely upon industry standards with regards to what are other companies doing when they come across these kind of issues? And you rely on things that every commercial driver is supposed to learn with regards to the commercial driver's license manual and what they need to study to become a commercial driver.

Karonnie Truzy: But on regular auto cases, because I learned that in the trucking aspect, on the regular auto cases, I still use the drivers manual to show what is reasonable. And I've used it in several jury trials where I go in and I said, "One of the first things we learn as a new driver is things that can keep us safe on the roadway. One of those things is that you need to take extra precaution when you're driving in inclement weather, whether it be rain, sleet or snow." And then I use the drivers manual as a cornerstone to show the thing that most drivers are trained on whenever they're getting their license.

Michael Cowen: We do the same thing. I actually have a spanning set of documents that we produce whether anyone asks for them or not, because I just don't want any argument. I can't use them at trial. And one of them is our drivers manual. It's the regular one that everybody goes, and takes the driver handbook and you study it to get your driver's license. Most jurors... They keep changing the cover is the only problem. Most jurors remember one cover but, everyone remembers having to study that to get test, their driving test. And so it's a really good... I think it's even better than the commercial driver's license manual because everyone's read it, but then just... So people in cases... Not everyone listening here is an expert in trucking. So let's say we have a foggy road or wet road, is there a regulation that addresses that?

Karonnie Truzy: Absolutely.

Michael Cowen: What does it say? I don't know if you know chapter and verse. I never remember chapter and verse.

Karonnie Truzy: Well, unfortunately, I do because in North Carolina it is brought up quite a bit. We have a lot of commercial accidents that happen during the time period of usually between November and February. And those are the time periods in which North Carolina roads become the most treacherous with ice, sleet and things of that nature.

Karonnie Truzy: And when you're talking about a commercial driver who's driving some of the back roads that are not treated properly, it causes problems. It causes a lot of accidents. So one of the first things that I look at is I look at Federal Motor Carrier Safety Regulation 392.14. And in looking at that regulation, it talks about commercial drivers using extreme caution. When I see those words, the first thing that comes to my mind is taking more caution than you normally would when you're driving on a roadway.

Karonnie Truzy: It's a mandate that those drivers take the extreme caution whenever they're driving on the roadways, when you reach anything like fog, mist, rainy conditions, and sleet, things of that nature. And so I use that as a springboard to explain to the jury. One of the things I love to do, I love showing that regulation to the driver and asking the driver, "What do you think that means?" And then using that driver's definition as a foundation to talk with the vice president of the company, safety director, their managers, because they're essentially going to say the same thing. And at the end of the day, what they generally come back and say is, "I need to be extremely careful."

Michael Cowen: But then sometimes I hear the argument, "Well, I was going 55 in a 70. I slowed down. What else do you want for me on this icy road?" So is there anything else from the other publications? Because the problem with the... It's 392.14?

Karonnie Truzy: That's right.

Michael Cowen: All right. I can say that. I'm an index guy. I see all these guys and they know chapter and verse and I know it's there, and I know how to look it up.

Karonnie Truzy: Well, Mike, I'm not one of those. I just know that one. I know that one. Yeah.

Michael Cowen: But I still seem to do all right. Is there something else that gives something more specific as to what they need to do? What extreme caution needs in certain situations?

Karonnie Truzy: Well, the Federal Motor Carrier Safety Regulations place a mandate on commercial carriers that they have drivers that are operating on the roadway that are fit to operate on the roadway. So when you're talking about that, that simply means that they have a duty to make sure that these drivers are trained on whatever conditions they may face when they're out on the roadway. So you have a lot of companies, companies that have been in business for a long time who have set out things that they trained their drivers on, weekly meetings, monthly meetings that they meet with their drivers on, on safety tips, safety meetings going over these different things. They create great publications. And so one of the first places that look, I go back to the commercial driver's license manual-

Michael Cowen: That has real specific how... Slow down by a third, slow down by a half, slow down at a cross.

Karonnie Truzy: Absolutely. And I love showing that in my depositions because when you're talking about what is reasonable for these drivers to do, there's nothing more reasonable than what you have been trained on in order to get your commercial driver's license. And then I look at the company itself. And one of the things that I have found that has really helped on those cases are the company manuals. Companies like Old Dominion, Freightliner, different companies that have these manuals, they have specific sections in there about what drivers are to do when they're traveling in adverse weather conditions. What you do is you use those excerpts from the employee manual, you show that the employee signed off on it, he was supposed to have knowledge of it, and you use that to show a difference in what they were trained to do versus what they actually did.

Karonnie Truzy: Well, at the end of the day, we want to be able to tie it back to the company itself. And so, one of the things I also like to do is go back and talk with the director of safety, whoever it may be about, "How often did you meet with your drivers and train them on this? Was this a yearly meeting? Was this a monthly meeting? Was this something that you'd made sure was in their mind whenever the season came for inclement weather? I mean, you got drivers who are driving all around the country. Do you talk with them about that enough where they are aware of it or do you just let them go on their own guidance?"

Michael Cowen: Yeah. Absolutely and the preventable accident manual has great questions for the company. It's like, "Do you ever have anyone ride along with your drivers to

see how they do it? Do you talk to drivers to find out what you know?" Showing someone a video is not training. In training, you have to decide what your standard is, you've got to teach them a standard and they get to test to make sure they know it, and they got to reinforce to make sure they remember it because I don't know about you, but we both passed the bar exam, many moons ago. Would you want to take it again tomorrow?

Karonnie Truzy: Absolutely not. Absolutely not.

Michael Cowen: You got to study for it.

Karonnie Truzy: Right.

Michael Cowen: You don't remember things from 10, 20 years before. The one case that you and I had to go in North Carolina, they trained that driver 18 years before pretty well, but he had no training. And when I took his deposition, he didn't know what the following the distance, how far it was supposed to look ahead, how long you needed to stop, he didn't know any of that stuff.

Karonnie Truzy: Michael, you bring up a good point because one of the things that I often find is that when I'm questioning the driver, and I ask them, if I use the term Federal Motor Carrier Safety Regulation, "What is your understanding as to what that is?" Half of them have no idea what I'm talking about.

Michael Cowen: You have to say, "The green book."

Karonnie Truzy: You have to say the green book, that's in their truck. And then that gets into a whole nother conversation, "Well, the green book in your truck, how often do you pull it out?" "Well, it's in there, but I don't pull it out very often." Or, "They gave it to me when I first started working here, but I have no idea where it is now."

Michael Cowen: But I know how to drive a truck.

Karonnie Truzy: "But I know how to drive a truck."

Michael Cowen: Well, if you did know how to drive a truck that well, we wouldn't be here buddy. You can't say that. Well, I guess you can.

Karonnie Truzy: Yeah, you can.

Commercial: Each year the law firm of Cowen | Rodriguez | Peacock pays millions of dollars and co-counsel fees to attorneys nationwide on trucking and company vehicle cases. If you have a case involving death or catastrophic injuries and would like to partner with our firm, please contact us. We have experienced finding potential defendants that other firms miss. And we've added millions of dollars to cases by finding these sources of recovery. If you have a catastrophic injury or

death case where the policy limits appear to be insufficient, give us a call. If we can find another defendant, we can partner on the case. And if we can't, then we won't ask for any of the fees. You can reach Delisi Friday by calling 210-941-1301 or send an email to [podcast@triallyernation.com](mailto:podcast@triallyernation.com). She will coordinate a time for Michael Cowen to speak with you in person or by phone to discuss the case in detail. And now back to the show.

Michael Cowen: So what are some of the things you do to try to make the case... Okay, so you figured out a way to get past all your sudden emergency, your contributory. What are some things that you've done to try to make the case about the company and not the driver so that it becomes a bigger case?

Karonnie Truzy: Well, one of the first things is making sure that, first of all, in discovery, I have all the information that I need to go in and question these folks. That means if they've got employee handbooks, if they've got training material. And one of the things... I'm sorry. I just want to go back. One of the things you asked me about earlier is what do I use to show what the driver should have done in these kind of conditions. One of the other key components, there's all kinds of training materials that are out there. JJ Keller being one of those great training materials.

Karonnie Truzy: And oftentimes than not, these companies have the JJ Keller materials that are in their position. They have purchased to train the drivers on. So that's one of the things I asked for. So I've got a collection of JJ Keller materials that I've requested in discovery to show what they've trained the drivers on. And that material is fantastic.

Michael Cowen: Yeah. I tell my lawyers at my firm, "When you're handling a new kind of case, get the JJ Keller video." We usually have them but if not, order it and watch it." I mean even other's like... We have tanker explosion case. Workplace, it's not a parking case. It's like a railroad worker. Our guy was cleaning it and something happened, and it blows up and he gets killed for that. But... So Mallory is getting ready to do depositions to do discovery, first thing she does, she orders the JJ Keller training video on confined spaces and hazardous communications and watches them to learn what the rules are and see what people are supposed to be trained and then we know how to cry for a discovery and where to go, and then what questions to ask and what they'll be asking you.

Karonnie Truzy: That's actually good stuff Michael. And I will tell you that the importance about those training materials is the fact that it is some very difficult information that is reduced to where a layperson can understand it.

Michael Cowen: Right because reading the rights, even for me, it's confusing. But when I watch the video that's made for a truck driver or a railroad worker whoever else, with a GED, that's what aiming at. They simplify them. And that's what we need. We need to understand on that basis to be able to explain that and it's... I find those videos... I don't know any expert where one hour of their time costs less than

the video. The videos are always cheap than one hour of expert time, and they're in plain English unlike a lot of all-

Karonnie Truzy: That's right.

Michael Cowen: Anything else on making them up the companies?

Karonnie Truzy: Well, the other thing is that you want to really organize your depositions and I found that to be very helpful. So making sure that you go in and you take the 30(b)(6) depositions so that you can find out which persons are over what areas so that you make sure that you're deposing the right people. And I really make sure that I craft my notice of 30(b)(6) depositions so that I get the right people, so that if they are testifying on behalf of the company, it's enough to hold the company responsible for what's being testified to.

Karonnie Truzy: I recently went to New York to do a deposition of a person who was stated to be a safety director of the busing company. So I get there and I'm doing this deposition, and the first thing that happens is I begin to ask him in questions and realize he doesn't really understand English because he still speaks Russian.

Karonnie Truzy: And so by using the translator, I asked him I said, "Are you the safety director for this company?" And he comes back said, "No, we have no safety director." And so it's all downhill from there. But you hold their feet to the fire with regards to making sure that they provide you people who are responsive to your notice who can hold the company responsible because they're not going to go back to the judge and say, "Oh, judge, I messed up and I designated X person when I should have designated Y person." No, you get one chance to do it, and you do it right.

Michael Cowen: Yeah. And that's great. And the reason they get away with that so often is because so many lawyers just settle the case without ever taking that deposition.

Karonnie Truzy: That's correct.

Michael Cowen: And so they'll say, "Well, we have a safety person. We have the say at that." And then when you actually depose them, you often find out that not at all... I remember we had one that they said, "Oh, yeah, we have audited logs." Because they had gotten an unsatisfactory, no, no, sorry, conditional rating from the Federal Motor Carrier Safety Administration during the safety audit. So they come in and they look at the company and say, "Hey, you have a problem with your logs." And the conditional running can really hurt your ability to get businesses, and so they said, "Please don't give us conditional. We promise we'll do X, Y and Z, including auditing the logs to get better."

Michael Cowen: And they said, "Okay. Well, we'll not give you the conditional based on your promise that you're going to audit the logs." And so we deposed the woman

that actually audited this driver's logs and he said the first thing that she did is she would prepare the logs against the fuel receipts and only the fuel receipts. And maybe one of the documents. If there are any other... Anything that was all falsification with the law, then the fuel receipt didn't match up for where the driver was at what time, they would note that and they would send a report the driver, "We found these problems with logs."

Michael Cowen: Then when they would audit them for whether the drivers were on too many hours, they would ignore all the falsifications they just found and only look at what the driver wrote down even though they knew it was false, and that's what she was trained to do. So you got a company whose policy it was, was to let the drivers get away with faking their logs. And the value of that case went way up because at first we had cases you couldn't do it North Carolina because the driver was making a U-turn which he shouldn't have been doing. It wasn't illegal but it was a bad idea on a dark rural road and you don't have really good reflectivity and there was a 65-mile an hour speed limit.

Michael Cowen: And my guy came along, didn't see it till he crashed into it. But we had a big fight. The police initially blamed our driver. By then it was depo being backed off of that, but the police report was against our driver. And it was a big fight on liability, but when it became this driver actually had logged off duty five hours for the record to describe way over hours, and we were able to show that to the police officer and also show that this company has a policy of allowing the drivers to cheat because they know that the information is false. And then they purposely ignore it and turn a blind eye to that and say, "Well, no. He's not driving too many hours because that's what he would have found even though we know that's false. The value of the case went way up. They didn't let us try it.

Karonnie Truzy: Well, Michael, you just said that that was probably not a case that we would handle in North Carolina. It actually is.

Michael Cowen: Oh, it is?

Karonnie Truzy: But here's the difference. They're going to plead contrib, contributory negligence, and you have got to do your job from the outset to get the right experts in to prove your case. And what I found is is that because of the Federal Motor Carrier Safety Regulations, it places a extra burden on the carrier. So just like you said, if we can show that the carrier didn't do what they were supposed to do, if the driver wasn't doing what they were supposed to do based on the regulations, you have now gotten over that hurdle, that contributory negligence can bring.

Michael Cowen: And that one we actually was a frack tank, which is used for oil fracking was what he was hauling and they didn't put enough reflective tape on it. It didn't meet the standard and we were able to show the picture. The officer didn't think about it that night when he saw the pictures. "Yeah, that doesn't meet the standard." Well, if he doesn't even have the reflective tape that's required by

law, would it be fair to blame the driver? I guess it really would be fair to blame that driver.

Michael Cowen: If I hadn't have shown them the false log first and that's where he started to... When he saw that this guy had logged being off duty five hours before and he's way out of hours, that seems oh, he saw the truck driver. So when I started showing him the other things, he was a lot more likely to go with me because he realized, "Hey, this guy duped me. This guy lied to me." He's much more likely on our side.

Karonnie Truzy: Well, Michael and that's because you did the work.

Michael Cowen: Yeah.

Karonnie Truzy: And that's what ends up having to happening. In any of these cases, you have got to do the work.

Michael Cowen: Yes. There's no substitute for but it pays off.

Karonnie Truzy: Yeah.

Michael Cowen: Cases settle for so much more and you do so much better trial if you do the work. You do another kind of case that I have not done one of these... I'm not even ashamed to admit it because I made my choices but I've not done on of these probably for almost 20 years. And that's cases against police for civil rights abuse. Those are real tough. Forget contrib. Those are real tough cases. If you're looking at making money, that's not a path to getting rich.

Karonnie Truzy: No.

Michael Cowen: What makes you want to do those cases?

Karonnie Truzy: Well, again, that goes back to my childhood and where I grew up. One of the things that I really enjoyed were teachers who would teach and talk to me about our rights. What rights do we have as citizens. I was a political science major and undergrad, really enjoyed those courses, because that gets into the whole area of why were these laws created? Why do you have these people making laws to protect people? Why do you have the constitution? Why is the constitution this document that we hold so dear here in the United States?

Karonnie Truzy: And so, first opportunity I got to actually work on one of these 1983 cases, civil rights case, it really brought me back to my roots of political science, thinking about the rights of others. Because the rights... A lot of people kind of misinterpreted right. But you not only have right in the United States, if you're doing the right thing. You also have rights. If you've done the wrong thing, because we're not a society that is going to throw the wrongdoers in our society, we're going to throw them in a pit and we're going to leave them there.

Karonnie Truzy: They have a right to due process. They have a right to make sure that they are treated equally under the law. They have a right to make sure that they're treated like humans. And I think that is the foundation of all of these 1983 cases is the basic right that you are treated like a human. And so, you're right. Those are extremely tough cases. And oftentimes, probably even more so than contributory negligence, you are not the guy who's riding in on the white horse. You are the guy who has a case against somebody, against the police department and your client is someone who in the jurors minds, they've already made up their mind, they've done something wrong. So it's your job to convince them that even though this person did something wrong, the constitution has rights that protect them, and their rights were violated.

Michael Cowen: Okay, I guess this could be you did something or maybe you deserve 30 days in jail, but you don't deserve to get killed or to get beaten neither. What are some of the legal challenges you have to overcome in those kind of cases?

Karonnie Truzy: Well, I think outside of the legal challenge, probably the first thing that you got to overcome is juror perception. Because, in their minds, the police are right. And they're always right. And police officers do a really good job. They do some of the hardest work of anybody in our country. And you have people, as with anything, who really hone their craft and do a really good job to make sure they're doing what they need to do. And then you have others who, whether or not they've been swayed by things they've seen, whether or not they are properly trained, or whatever may have you are not doing the right thing.

Karonnie Truzy: And so, that is the first hurdle that you've get through is to show the jury that, even though my guy made a mistake, the mistake didn't entitle him to have the death penalty, which is the use of force, whether it be a gun, whether it be a taser, whether it be beaten, what have you. And then the other thing, the biggest legal hurdle is qualified immunity.

Michael Cowen: What's qualified immunity?

Karonnie Truzy: So qualified immunity essentially is the law that says, "Hey, we respect the officers have a hard job to do, and if it is something that is in the context of something that officers might not have known they were breaking the law at the time, we're going to give them an out." For lack of a better term, it is the get out of jail free card that law enforcement has. And if you look at the case law that's been litigated on these issues, so many cases get dismissed on qualified immunity. Because in the eyes of the court, the officers just didn't know that it was a violation of the constitutional right to that person.

Michael Cowen: And it's almost like you need a published case saying, "Doing X, Y, or Z has violated someone's Constitutional rights," before, though.

Karonnie Truzy: I laugh about it sometimes because it reminds me... I'm a cartoon fanatic.

Michael Cowen: Okay.

Karonnie Truzy: So it reminds me of an old Bugs Bunny and Daffy Duck cartoon in which Daffy Duck wrote this insurance policy for Elmer Fudd that essentially said that this policy applies if it is raining in North Dakota and zebras cross the front of your lawn. It has all these stipulations to it, and otherwise it doesn't apply. Well, that's the same thing that happens with qualified immunity.

Michael Cowen: Absolutely. But those are important cases. I think most police officers, just like most truck drivers are out there are trying to do a job and support the family, most police officers are trying to do their job right. But if you don't have some consequence when someone breaks the rules, then it just... It spreads. It would be hard to do that, their other job. There's no doubt in my mind. You're dealing with all kinds of different situations all the time. You got to control your own adrenaline and stuff but if there's not a consequence, then... We all have some darkness in us. We all have something that... And some of us have more than... There's always this raging animal that can come out if you don't fight it and if there's not a consequence, it's suddenly too easy for it. I think once it comes up once it's easier for it to come out again and again.

Karonnie Truzy: Well, one of the things I'll never forget, when I was in high school, I had a teacher. Language arts teacher, and she would always tell me, "Karonnie, character is what you do when you think there's no one watching." And so I look at these cases sometimes and because these officers feel there's no consequence, because some of these officers feel that there's no one watching, because these officers may feel that even if someone is watching, they know how tough my job is and they're going to give me an out, it is something that continues to happen.

Karonnie Truzy: One of the downfalls of doing these cases is that unfortunately the law enforcement body gets to have the first say, in how the outside world perceives these cases. Because if you notice most of the time when events like this happen, you have a briefing from law enforcement about what happened. And that one briefing is what tailors what everybody believes, regardless of what evidence comes out later. And so you're fighting an uphill battle to show a contradiction in what law enforcement said at this first meeting versus what actually happened in the case.

Michael Cowen: So are there any techniques that work on to kind of... Because it's still hard. Once people made their mind up about how they see something they, then they kind of interpret the rest of the facts to filter what they already made up their mind. Is there anything you can do to try to get people to say, "Wait a minute, I've been lied to."

Karonnie Truzy: Well, one of the things I've done in cases like this is I will make sure that I get the news footage from whatever press conference is held, whatever stories are placed in the newspaper. And when I get the opportunity to depose the person who made these statements, whose head of law enforcement, I go through and

I pick the news conference apart and I ask them, "You said this at the news conference, now that we are two years later, and there's been a proper investigation done. Was this truthful? Was this actually what happened?" And I'll walk them through that entire interview just to show. And I will play that for the jury just to show the information that was put out to the public that skewed their perception, wherein when a proper investigation was performed, it was inaccurate.

Michael Cowen: And hopefully that means when they break the court instruction and go Google the case, which they're going to do and they'll see. It's the reality of the world we live in. I don't care what instructions are there, you're going to have one of those 12 jurors, whatever number you have in your jurisdiction is going to look it up.

Karonnie Truzy: At least one.

Michael Cowen: And if you're doing summarize cases, by and large, those things of media, and the comments and stories that make you want to throw up if you read that.

Karonnie Truzy: Absolutely. I try not to even read the comments to the stories, because, again, people are being fed the information that the person presenting wants to feed them. And so it skews in their mind. And again, you see the biases of people when they're writing comments to these stories. You don't really want to read that. Another thing-

Michael Cowen: But you also know what you need to deal with. If you get juries like those in federal court, usually but if you get jury selection or kind of what you need to be looking out for as much as it is not comfortable to read some of the awful things people write when they're anonymous on the internet.

Karonnie Truzy: Well, and also is important to focus groups. Focus groups, not only for these 1983 cases. The focus groups for these auto and these trucking cases, because you may think that you've got a slam dunk and in your mind, you've got enough to show the jury who was at fault or show why the law enforcement was responsible for what happened. But at the end of the day, those are things that the jury could care less about. It's just an attorney latch.

Michael Cowen: What do they care about?

Karonnie Truzy: I think-

Michael Cowen: When you can convince them that you're right, what are the themes that they do care about that carries today?

Karonnie Truzy: I think that at the end of the day, they want to have the feeling that they're upholding the law. If you charge them correctly, and give them that power, that you are the folks in this courtroom who are able to interpret the law and apply

it. Not the attorneys, not the witnesses, not the judge. It's your job. And once you empower them with I think they have the feeling that they must do this.

Karonnie Truzy: I think also, a lot of times with regards to the damages aspect, you have to be able to show, I'm just going to use a 1983 cases for example, you have to be able to show that regardless of what this person did, this should not have ended the way that it ended. And at the end of the day, if we don't hold people accountable then this is something that can happen again and again and again. Same thing with the trucking cases, and especially with trucking cases when deaths are involved. I think that juries really cling on to this, whether they knew it before they came into the courtroom or not, they really cling on to this aspect that when you lose someone in your family, the entire family changes, the dynamic changes, it is no longer the same.

Karonnie Truzy: And getting them to really understand that, regardless of whatever numbers you were able to put up, they could care less about those numbers, more so than what they care about the dynamic of how this family has changed. So if you're not able to show a relationship between dad and his kids, like we were talking about earlier, dad worked all the time, was never at any of kids events, that's harder to convince a jury of what these kids lost versus if you had the opposite.

Michael Cowen: Yeah, I'd much rather have a smaller wage when they put the wages in than a dad who wasn't involved.

Karonnie Truzy: Absolutely.

Michael Cowen: That reminds me, in... I don't know that I want to say he did wrong, because... But I have the decedent of my last case that I tried, had broken the law. He was... That was not... Did not have the permission the United States government to be in the United States. He was from Mexico, and was actually using another person's name and social security number to work on the job site where he got killed.

Michael Cowen: We usually keep that stuff out for various reasons that came in this case. But it really let me... In my closing argument where I had five minutes rebuttal and I just talked about, "God has created all of us equal on our own constitution. Everyone is created equal. Every human being has value. And I don't care if you're Kobe Bryant, who made hundreds of millions of dollars or your Rigoberto Tovar in my case who got paid minimum wage to go dig in a ditch, which is what he was doing when he got killed. Your Life has equal value because I tell you, if you ask Mrs. Bryant, would you give up all that money to have him back for another year?"

Michael Cowen: And it resonated. And so I think that's something we can do when we talk about all people created equal. We all have rights and God is... We all have value and one of the worst things I think when the police take someone's life for a crime

that would not be a capital crime, we take away the opportunity for redemption.

Karonnie Truzy: Michael, that is so powerful. In a case that I'm handling right now, it was a death that occurred while a person was in jail. And it was because the person was placed in solitary confinement and wasn't given the health care that he needed. And they essentially let this guy sit in solitary confinement in his own urine, in his own feces until he passed away. And this guy, he has some bad stuff in his criminal history. But one of the things that really resonated with me when I was talking with his daughter, he didn't have a good relationship with his daughter.

Karonnie Truzy: But the daughter said during her deposition, "I'm upset. And I'm upset because I will never get the chance to make it right." And the ability to make it right or to fix things, we count on another day to do that. But when you don't have that other day, I think you're right. That's something that really resonates.

Michael Cowen: Yeah. That's why I was thinking, feeling right now what... It's when you have any other death case where the family relationship wasn't perfect, that's part of what they took away was... And I know my own personal life. I mean my father and I get along great now, there's a period in my life when we didn't. Thank God that we both survived long enough to both get past our own stuff. It wasn't all him. I had my own share of blame in those problems in our relationship and thank God that we got past that and now we have a wonderful relationship.

Michael Cowen: And here had he been taken away, that pain would always have been there because when you have an issue with a relationship with a loved one, it affects you everywhere else in your life. Not just in your relationship with them. And wanted things over and I had to get... I had to heal that before I could become the person I needed to be, before I could love my children, before I could love my wife fully, I had to learn to love my father fully and accept his love fully.

Michael Cowen: And so I think that's real stuff that... But again, the only... As lawyers, we have to take the time to really get to know our people. Because it's got to be real. We can't just say, "Well, that's what we think would be. It has to be what your client really went through."

Karonnie Truzy: Yeah. And I think that's another important aspect of it. You've got... We talk about this all the time, but you've got to be willing to put the time in. And that's just not time investigating the case, but it's time knowing who your family is, knowing who you've got that's going to testify.

Michael Cowen: Going to the house, spending time with them in their environment. We've got a pretty good group of AAJ, trying to move forward. They have really good ideas, really good ideals. But one thing that kind of bothers me is you look at the faces in the room and you look at the faces in our society, and there's a little difference.

Michael Cowen: I mean, we're a lot more male and a lot more White than society in general. Even as fairly liberal and open minded as the group is, and I always have the struggle, we need to make it better, but we also need to not be condescending or making people feel like, "We're going to give you a pass. You're not going to be held the same standard or something." It's... You know what I'm talking about, probably better than I do. What are your thoughts on that, how we can improve our world in that way?

Karonnie Truzy: Well, that is an absolute excellent question. And I wish I had a magic pill that we could take and make this thing right. But there's no magic pill. I just finished serving on a three-year stint as the chief diversity officer for North Carolina Advocates For Justice, and which is the largest plaintiffs group in North Carolina and they actually put that position in place just so we could work to diversify because it's the very same issues. I think that when people begin to look at that they... Inclusion is not necessarily giving me a seat at the table. Okay. That's not it. And-

Michael Cowen: And that can lead to other problems.

Karonnie Truzy: Yes, yes. Because I can have a seat at the table all day, and there's 12 of us at the table and I still feel like I'm the only one who has nothing in common with the 12 at the table.

Michael Cowen: And you don't want the 11 people think that the only reason you're sitting at the table is because of the color of your skin. Again, that's another... To me that is another form of racism, to think that "Well, we can't hold him to the same standard or we can't hold her to the same standard because X, Y, Z." Bullshit. If you believe all people are treated equally, you have to treat them equally but at the same time, you also have to remember... Some of my ancestors weren't very nice people, and there's some ongoing effects and we need to make that right. So how do we balance that out?

Karonnie Truzy: But one of the first things is I think it has to be real. I can't come up with some type of program that I put in place, and you not really believe in it. Because otherwise, it's just words on a paper, and you're going to do things just because you have to do them. One of the things that I think has happened since I've joined the AAJ trucking group, for me anyway is it has not just been people who say, "We're doing it just because we have to do it." These are people that I actually have a really good relationship with, I talk to about things other than trucking cases. As a matter of fact, trucking cases maybe the least thing that we talk about-

Michael Cowen: Yeah. We talk about barbecue, we talk about kids.

Karonnie Truzy: Yes, yes. And until I get to know you on that level, you will never understand who I am. I will never understand who you are, so that we can work together to make this thing better because I truly believe that we are better when we have

people from other facets of life that come in, that add to the pot so that we because... Look at the United States, we are not one specific race. We are not one specific sex. We are not one specific religion. We're not anyway like that. Until we get a dichotomy of what everyone has going on, we never really understand. So it makes it harder for me to understand what I need to do to represent client X, if I'm not willing to hear the thoughts and ideas from someone who doesn't look like me.

Karonnie Truzy: The other thing about this group that I think is absolutely fantastic is that I have never picked up the phone, I've never sent out an email that I have not received a thoughtful response from a genuine conversation about my question. And it's not, "Karonnie, you're stupid for asking this." Because I feel stupid sometimes asking it.

Michael Cowen: It's all right.

Karonnie Truzy: It's not that. It's what can we do to make this group better? Because when you're doing well, the group is doing well and we're making good law that benefits everybody. And so I really love that aspect. Quite frankly, I wish that some of the other groups I was involved with had the mindset that I feel here with the AAJ group.

Michael Cowen: Yeah, it's really the... And I'll be honest with you, I've not always felt this way if we roll more than 10 years back about the trucking group, but the current iteration has what I call an abundance mentality, which is there's plenty for everybody and if we share, we all get better, and we all do better. And having the respect of everyone has something to offer, we all listen to each other, we all share what we have. It's really empowering and I think it makes it a better group.

Karonnie Truzy: I agree.

Michael Cowen: And the only thing... I can't solve my own problems. I definitely can't solve the problems of race relations in the country, and if there's one thing I try to do is just invite people. They can choose whether to come or not, but I see someone that may be a good member in my community back home, and I just say, "Hey, you might want to join this." And that's just reaching out. And the other thing I do in hiring is just I hire with a mindset of there is no correlation between legalbilty in heart and race, gender or anything else like that.

Michael Cowen: And so I've had people where I've been introduced to somebody and somebody will, and he does great things with diversity and this and that because I have a fairly diverse firm. We're not perfect but right now, we're equal men and women. We've been more women, before we've had more men than women. We have people of different ethnicities. And I've actually said that sometimes at present interviews, I don't give a crap about diversity. I don't hire for diversity. I think it is... I don't ever want to hire somebody that thought that the only

reason they got the job was because of their gender, their religion, their... no. I hire people because they're good. I think they're the best fit.

Michael Cowen: But if you look at the content of the character, it happens to just work out that they're... In fact, if you're a firm that actually just treats everybody like human beings, you tend to... I think, because of other firms that aren't like that, you may attract more rainbow in your firm just because you just... But we don't have a diversity committee. We don't have any particular goals. We just-

Karonnie Truzy: Do it because it's right.

Michael Cowen: Well, no. We just do it because of the people we interviewed, they were the best person. But if you go in there with the mindset of, "This stuff doesn't matter," you end up finding that the best person might not look like me and that's okay.

Karonnie Truzy: Well, one of the other things that I think that we run into oftentimes, people can become cliquish. And whether people realize it or not, when you're cliquish, you are really leaving some folks out. So if I'm at a CLE, or any kind of event, and there is a clique that is there, and I see them talking, they're having just a great time, but I'm standing over here and I don't really feel a part of that, that's a problem.

Karonnie Truzy: The other thing I think is an issue is that when you have people who don't speak out, about things that they see, because it's one thing with me coming in, speaking out saying, "Hey, you guys need to be more diverse. I'm tired of coming here and everybody looks... Doesn't look like me." I think that what happens is, if I say it, it can be taken a certain way and thrown under the table. But when you have others who don't look like you who say things to that effect, people begin to listen and realize that it is not just something that one group is saying over another group, but this is the truth of the matter.

Michael Cowen: Well, if you want to fix a relationship, that means everybody involved in that relationship needs to work at it.

Karonnie Truzy: Everybody. Everybody.

Michael Cowen: Yep. Well, one good thing is that we can have a conversation about it now whereas 40, 50 years ago, this would be a very, very unfortunately different thing. And so, we're not perfect, but if we just try to raise our kids right, do what we can in our own lives, hopefully it will have some spread.

Karonnie Truzy: I agree.

Michael Cowen: Okay, well, that's a good note to end on. Let's try to make this... Do better for our clients, make the world a little better place. And thank you so much for spending the time talking with me.

Karonnie Truzy: Mike, I appreciate you having me.

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