

Intro:

This is Michael Cowen, and welcome to Trial Lawyer Nation. 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- There's always an answer. The joy is in finding it- One of the reasons that I love being a lawyer is this exact process- The way we live our life has nothing to do with the presentation sequence at trial- As trial lawyers we pick up and move on and keep going- You're losing or gaining one out of every 10 jurors, which can really make a huge difference in the ultimate result of the case- Whatever you think about, you create- Learn all you can, and never stop. Then, have the guts to try case after case after case- Welcome to the award winning podcast, Trial Lawyer Nation, your source to win bigger verdicts, get more cases, and manage your law firm. Now, here's your host, noteworthy author, sought after speaker, and renown trial lawyer, Michael Cowen.

Michael Cowen:

Today on Trial Lawyer Nation, we have a great lawyer from Houston, Texas, Randy Sorrels. Randy, how are you doing today?

Randy Sorrels:

I'm doing terrific. Terrific. How about you?

Michael Cowen:

I'm going wonderful. Glad to be alive, and actually right now I'm glad to be vaccinated, which is a cool thing. I can start looking forward to having life again.

Randy Sorrels:

Yes.

Michael Cowen:

One of the only times in my life being fat has ever served me or given me a benefit. Put me in that 1B group in Texas. You just recently got a great verdict, and I wanted to have you on, not only because you've done very well over your career and we can learn a lot from you, but you've also successfully tried a case during the age of COVID. I want to learn about that because I want to be trying cases now during the age of COVID, and I imagine a lot of our audience does, too. Tell me a little bit about yourself before we get into the case.

Randy Sorrels:

Sure. I came from a military background. My father was in the military. Grew up around the country, settled in Houston. Went to undergraduate at Houston Baptist University where I played soccer, then went to South Texas College of Law, Houston and started at Fulbright & Jaworski defending cases. It was a great three years there. They let me try a bunch of cases, which is rare.

Michael Cowen:

Yeah.

Randy Sorrels:

About 19 cases. Then moved over to the plaintiff side, and now I'm a partner at the Sorrels law firm here in Houston, Texas. The case you're talking about came to me about two years earlier. There was a call from a New Year's Eve event at a local bar in Houston that's pretty well known and pretty popular, and two years later the jury got to hear a few facts.

Michael Cowen:

Great. Before we get on the case, I want to talk a little bit about how you learned how to try cases. You back when you started at Fulbright & Jaworski, which was one of the big huge prominent Texas firms. Now it's Norton Rose Fulbright now?

Randy Sorrels:

Yes.

Michael Cowen:

Back then you could actually try cases as a young lawyer then, there?

Randy Sorrels:

That firm really did emphasize to get into the courthouse, small, medium, and large size cases. I was really fortunate to get under, they called them teams, a team that went to trial representing insurance companies. When you're a young lawyer, they give you small cases that if you lose, it couldn't be too bad. You go over there and do the very best you can.

Michael Cowen:

Did you get any particular type of training, or they just kind of parachute you in and you figure it out?

Randy Sorrels:

At South Texas Law School where I went to school, I was also on the mock trial program. It's a great program. I think they felt at Fulbright, I was ready to go, and so they do a training program there, a litigation training program. It's interesting the way they approach things. They take all these students from across the nation, they put them in this classroom together and you have to do some actual mock trial stuff. I'll call up the Ivy League schools who are really smart and still some of my very good friends, they didn't have the understanding of what to do as maybe a South Texas College of Law student did. I quickly became friends with many people and I think the law firm saw that I wanted to try cases and they gave me that opportunity. Trial and error with a little bit of education is a good way to go.

Michael Cowen:

That's interesting. I started at a big New York firm. I think they're all used to being the smartest person in the room. Mostly Harvard, Yale, Columbia. I think the fear of having to have non-Ivy League educated people decide a case was so great that I think they would do almost anything other than try a case. They won't admit that, but that was the sense because very, very, very few trials happened at that firm. We had, at the time, an 80 lawyer litigation department in New York office and they may have tried two to four cases a year.

Randy Sorrels:

Wow.

Michael Cowen:

Between the time I took my job, my third year law school clerked on the 5th circuit and then started, they had something called Operation Right Size where they got rid of the partners whose ... Back then it was a million dollars a year partner was the magic number they wanted to get over. They're way over that now. They got rid of all the practice areas that couldn't bill at those rates, which included the product liability defense and the other things that would have got you into the courtroom. They were only doing big insurance insolvencies, securities litigation, mergers and acquisition type litigation. That stuff doesn't get tried. It bills a lot higher, but it doesn't get tried. It was, I guess, a good economic move for the firm but not so good for a young lawyer wanted to learn how to become a trial lawyer.

Randy Sorrels:

Absolutely.

Michael Cowen:

You switched to the plaintiff side. What's the difference, do you think, in trying a plaintiff's case, since you've done both, and trying a defense case?

Randy Sorrels:

In the plaintiff side, you really have to be proactive. If you aren't proactive, the defense can take advantage of you in two ways. Number one, they can be reactive and nothing happens to the case, and number two, they can be proactive and everything happens to the case bad in your face. You have to keep pushing the ball up the court for your clients and you are going to get left behind.

Michael Cowen:

Actually in the courtroom trying it to a jury, what is some of the differences you've found between years ago when you were on the defense side and now that you're on the last few decades when you've been on the plaintiff side?

Randy Sorrels:

Obviously in a bad case for the defense side you've got to just do damage control. Most of the time, you can pick a way, taking shots here or there on burden of proof, didn't bring your evidence. You can really amplify the lack of things that a jury might be looking for, especially if you do some mock trials beforehand to point out all the things the plaintiffs can't do. As a plaintiff, you don't have a month to try a case and uncover every stone. You have to pick what you think, hopefully through mock trials, what you think the jury will be focused on, and go after those. If you're reading the jury right, then hopefully you do well. If you're reading it wrong or you get the wrong jury you're not going to do well. Trials almost always happen because one side mis-evaluates the case.

Michael Cowen:

Yep.

Randy Sorrels:

I've been on both sides of that mis-evaluation. Luckily, this last time I was on the good side of the mis-evaluation.

Michael Cowen:

Yep. Tell me a little bit about that case.

Randy Sorrels:

Yeah. There's a, they call it a high end bar in Houston in one of the popular areas where bars and restaurants are. It was a New Year's Eve, December 31st, 2018 going into the 2019. My young heroes, they were two baseball players, Minor League Baseball players, but more importantly in this story I think it's because their fathers were both Major League Baseball players.

Randy Sorrels:

One of them played for three different teams. He was probably the leading pitcher coming out of Texas when he graduated and he went to the University of Texas. His name was Mike Capel. He went on to play after winning a national championship in the pros. One of his crosstown rivals was a pitcher who wasn't as good who went to junior college named Roger Clemens. Roger went to San Jacinto Junior College. The next year went to University Of Texas where they became teammates, Mike and Roger. They won that national championship together.

Randy Sorrels:

Roger developed fairly quickly, they were both drafted the same year, Roger went on to a 24 year career in the Major Leagues. Mike had a 10 year career in the Major Leagues. More importantly, their families became best friends. Mike's wife and he met at Roger's wedding. Roger was the god-father of Conner, one of the plaintiffs, and Mike was the godfather of one of Roger's kids as well.

Randy Sorrels:

Close family, close knit group. Good salt of the earth kids. Both of their parents would say, "You're never to use our names to get by in life. You've got to make your own way." They were at this bar when they were assaulted by we said the bouncers, and probably the owner of the club. They were hurt and it got interesting after that.

Michael Cowen:

Any idea why this event occurred?

Randy Sorrels:

The bar had an occupancy rate of just under 200, and their estimation was that there were 400-500 people in there at the time.

Michael Cowen:

Wow.

Randy Sorrels:

Things were tight. There was one group we weren't involved with that had some type of scuffle. They were escorted out and they had paid \$3000 to get in, that group. The owner had to give the money back and we thought they were just angry and decided to exact some punishment on people who looked like

they were going to cause trouble. The only evidence was, until one very interesting part, and I can tell you about it in a bit.

Michael Cowen:

Yeah.

Randy Sorrels:

That our guys did nothing wrong. It was an interesting trial. When the issues came up, involving what they could have done wrong, the jury just didn't believe those. Believed our clients, believed the story, believed their injuries and literally gave 30 times the last offer.

Michael Cowen:

Oh wow.

Randy Sorrels:

I think the defense lawyer argued for Kacy to be given about \$500 to ice his elbow, I think he said, and a few thousand dollars for some of his suffering and the jury gave him \$960,000. For Conner, who had a fractured skull, again the defense argued to minimize those, and the jury gave him exactly what we asked for, which was \$2.38 million. It was a good verdict.

Michael Cowen:

That is. What are their injuries, again? You said one had a fractured skull? What all were the injuries he had?

Randy Sorrels:

Conner Capel, who's now with the St. Louis Cardinals organization, he was grabbed around the neck and put in a choke hold and was being carried out. Someone struck him in the head with a flashlight, caused a fracture to his skull. He ended up having stitches, and the tank that goes on you when you're in Major League Baseball for being in a bar fight is not a good thing. Baseball organizations, they look at not only your on-the-field conduct, but your off-the-field conduct.

Randy Sorrels:

He went to a training camp 10 days later, an instructional camp, and of course he had to explain this, and it just sounds like here's a kid who's 21 years old in a bar fight. That's not somebody we want for our organization. He just spent his whole life trying to live a good upstanding life. Kacy also was put in a choke hold. He was wrenched around his neck, he was wrenched on his back. He also was hit several times with a flashlight with bruising. They threw him out and landed on his throwing elbow.

Michael Cowen:

Oh no.

Randy Sorrels:

That caused him pain. Both of them went to the doctor immediately, both to the emergency room, and both of them have issues of or had been tainted with hey, these guys were in a bar fight. That's not a good thing.

Michael Cowen:

No. How about their baseball playing ability? Any effect long-term on that?

Randy Sorrels:

Yeah. We're not sure exactly as far as Kacy goes, because he still complains of pain in his right elbow. We're hoping that's not the case. He's still a relatively young man. Conner has the concern because of the location of the fracture with infection developing that could affect his eyesight.

Michael Cowen:

Oh no.

Randy Sorrels:

The jury understood the injuries and the effect it could have on these young men in their professional careers.

Michael Cowen:

Are they both playing now or just one of them?

Randy Sorrels:

No, Kacy's back as a free agent. He hasn't reported yet. Conner just reported last week to the Cardinals and their spring training.

Michael Cowen:

Good. Good. I always like a story with a happy ending where it's not just you got someone justice, but they get to continue having a useful life. You'd hate to see all those dreams destroyed because some dumb asses decided to start a bar fight.

Randy Sorrels:

Yeah. They both were excellent witnesses. Kacy got his finance degree from University of Texas and will end up in the business world after his baseball career. Conner, I learned a lot about baseball. When you're drafted out of high school, one of the things they give you is a college education if you go and play, but you have four years to do it. When his baseball career is over, he has four years ... He'll play for four years and he'll get his college education. He's also a good high school student. He'll get his college degree after his baseball career is over as well.

Michael Cowen:

I didn't know that. I've always thought honestly that's one thing that's always bothered me about baseball is that they're drafting kids out of high school, and no one ... Tom Brady is an aberration, but most professional athletes have a limited lifespan. Most people that go get drafted never really make it all the way to make a ton of money in the majors. It's good to hear that they do take care of them.

Randy Sorrels:

No, it is. It's good. The organizations were understanding, but each of the two young men had to make calls to explain the next day. It's not a call you want to make. Both Roger Clemens and Mike Capel, the two major league players said Conner's injuries were something they'd never seen in professional baseball. That's how bad they were.

Michael Cowen:

How did you then investigate this case to figure out what happened?

Randy Sorrels:

I got hired fairly quickly because one of the stories is that when Conner was thrown out it happened right in front of two police officers. One of the police officers was a sergeant who was there his first night on the job. He saw the extent of injuries and he started an investigation. That investigation proved to be very valuable because Conner went in and identified the only bouncer that met the description that he had.

Randy Sorrels:

What wasn't known is that the owner also met the same description, but the owner had left. That night they went back to Roger's house, Roger sent Conner his godson to the emergency room and then went back with his other son Kacy to make sure that the police did investigate, and they did.

Randy Sorrels:

The police chief of Houston just happened to be on duty that night so that the top cop in Houston was there. He showed up at the scene and told Roger that, "Listen, you're going to need to get a lawyer and just handle this and let's handle this through the court system," which Roger wanted to do anyway. More importantly they had already called their lawyer, Concrete Cowboy had already called a lawyer. We were on the case pretty quick, we went a letter putting them on notice, and the letter we got in return was, "Number one, your young men caused problems, and number two, you probably owe us damages. We're not paying you a dime." There you go.

Michael Cowen:

Makes it easy to get started. That's got to be pretty cool though to get someone like Roger Clemens calling you to want to hire you as a lawyer.

Randy Sorrels:

Yes. I'm fortunate in a lot of regards, and I take that as an honor. As you, you know Mike the same thing, the person who has the equal amount of the negative side of the equation, they need the representation too. We take them all seriously. I think that's why they hired us knowing we were going to do a good job whoever we represent.

Michael Cowen:

Yeah. From there, the police do an initial investigation. What do you do to try to preserve evidence and prove what happened?

Randy Sorrels:

Again, one of the keys to the case is we said, "Save your video tapes. Save the camera material." It turned out bad for them because they told the police, because Conner actually went in and identified the only person he thought met the description. That was the wrong person, as it turns out. The bouncer said it was the wrong person. They had this on tape, and the police officer said, "Let me see the tape." They took him back to the office, they opened the door, they closed the door in his face, and they came out 10 minutes later and they said, "Sorry, the videos don't record. They were live streamed."

Michael Cowen:

Yeah right.

Randy Sorrels:

Cop testified that it was very suspicious and that was a pretty crucial part of the case, to know that this could have been caught on tape. Either our guys were telling the truth or they weren't telling the truth.

Michael Cowen:

I guess no video ever was ever produced?

Randy Sorrels:

The video that was produced, because people have cameras. Produced outside and it helped us, again, win our case showing that number one, Conner was legitimately hurt, and number two, when the scuffle occurred earlier, Conner wasn't involved because he was caught on tape not in the scuffle. It was really a lot of good things fall together. You know that when you try a case and you get a successful verdict.

Michael Cowen:

Was the video you got, was that from the bar, their surveillance, or was it other people's video that took it on their cellphones?

Randy Sorrels:

It was other people. Another guy, within 10 minutes of this, had his skull fractured and was thrown out on the street and someone was videotaping him when Conner was caught in the background actually looking for his girlfriend's cellphone. Just a huge break to show Conner was not involved in that other event.

Michael Cowen:

How did you end up finding that video?

Randy Sorrels:

As you can imagine, when someone with the name of Clemens in Houston gets involved in a bar incident, word gets around pretty quickly. This other person, the first person who was hurt, he also was innocent. When the media caught the attention that Roger Clemens son was involved, someone reached out and says, "We have a tape that can help you."

Michael Cowen:

Oh wow.

Randy Sorrels:

That helped.

Michael Cowen:

Yeah. It is amazing how much stuff is being captured on video nowadays. We get videos of the crash, had an explosion case where I think it's disgusting actually, but one of the coworkers actually had video of, there's still fire in the background, there's still smoke coming off my poor client and he's putting it on social media.

Randy Sorrels:

Yeah.

Michael Cowen:

It was incredibly helpful in the case. It was just really bothering to me that you would tape that such a thing and post it, but I guess we all react differently. I think that is so important nowadays is to try to reach out and get people's video.

Randy Sorrels:

Absolutely. I do think people have become so reactive to videoing, I agree with you, 20 years ago no one would do it, but today it's just natural, second nature, to bring out your camera and turn on your video.

Michael Cowen:

Absolutely. It's helpful, it really is. I know even on that ... I don't know, are you involved at all in that big Fort Worth, 100 something car pile-up?

Randy Sorrels:

I've not seen any cases yet but I've seen video from it.

Michael Cowen:

I'm a member of a truck driver Facebook group. I don't know why they let me in, but they did. Quite a few truck drivers had their own dash cam video that they put up showing other wrecks that were not stuff I saw in the news or anywhere else.

Randy Sorrels:

Wow.

Michael Cowen:

I'm not involved in any of those cases, but if anyone is, you want to go look through driver groups online, because there's all kinds of crazy stuff. It's really eye opening. If you do any trucking work, you should get involved or get on, don't post, don't out yourself, be quiet, but the more truck driver forums and groups you can join, they are videoing while they're driving all the time. It's crazy.

Randy Sorrels:

That's a great tip. I'm glad you said that.

Michael Cowen:

If you can find out who people post as and see what people post it for, it's absolutely insane.

Randy Sorrels:

That's a great tip. I hope those plaintiff and defense lawyers who listen to this take heed of that advice. Great idea.

Michael Cowen:

Except the defense lawyers on my cases, just forget I said that. It goes both ways sometimes on the-

Randy Sorrels:

They're always after us, I think. I think they look at the plaintiff's social media first and then they put an investigator on them second.

Michael Cowen:

I agree.

Commercial 1:

Each year, the law firm of Cowen Rodriguez Peacock pays millions of dollars in co-counsel fees to attorneys nationwide on trucking and commercial vehicle cases. If you have an injury case involving death or catastrophic injuries and would like to partner with our firm, please contact us. You can reach Delisi Friday by calling 210-941-1301 or send an email at delisi@cowenlaw.com. That's D-E-L-I-S-I@cowenlaw.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 see where we can add value in a partnership. Now, back to the show.

Michael Cowen:

You ended up having to try the case. Tell me what was it like? Was it a live trial, a Zoom trial? How were you all doing it there in Houston?

Randy Sorrels:

I think it's going to happen across the nation unless we're going to get so far behind, so in Houston we had access to where we played football there's a big convention area that's spread out and we picked the jury over there, not at the courthouse, live in person, 65 person panel. Everybody had their own individual speaker and own individual headset, because you're so spread out.

Randy Sorrels:

A typical voir dire. We had a judge who was excellent. She's the co-chair of the Harris County which is where Houston is. Harris County Judicial COVID Task Force to get juries on track. We're behind in Houston because of the hurricane a couple of years ago has pushed us behind. That's a whole other story, and they just have to get things going here.

Randy Sorrels:

From there, we came back to the courthouse. We were in a big courtroom and the jurors don't sit in the jury box. They sit out where the audience would sit. There's a limitation of how many people can be in

the courtroom. Your connection with the jurors is much more minimal than what you are using to experiencing with a jury.

Randy Sorrels:

The witness sat in the jury box. The judge sat where she would normally sit and the lawyers of course had to turn around. Lots of technology. There was a lots of Clorox wipes. If you stood up and moved around you had to have a face mask on. If you sat in the same place, you could take your face mask off but you had to have a shield.

Randy Sorrels:

The case was well watched, because it was on Zoom and it was live streamed. More than hundreds of people watched it, probably in the thousands and got lots of feedback. They're refining the system. One of the great takeaways from is it's a great educational tool where I never thought about the cameras on and never played to the cameras. I know some might. People said I had my office watch it and my lawyers watch it to see here's what a real trial looks like. Law schools can watch it as well. There's some real benefits that came out of it. It's definitely not the same old trial you're used to.

Michael Cowen:

What do you think the net effect was on the jurors of face masks, distancing, face shields, the threat of COVID in the air?

Randy Sorrels:

Right. The judge voir dired on that because not all witnesses came live. That's another point. We had witnesses by Zoom. She voir dired on you have to accept some people can come and some people can't. Under the quarantine rules some people couldn't leave their house and they needed to testify. She made it a point to make sure it was very safe. We talked to the jurors afterwards. They all seemed they liked the experience a lot. They were very appreciative. It was a 10-2 verdict. I wasn't able to convince everybody but I got-

Michael Cowen:

You got enough.

Randy Sorrels:

I got enough. That was good. The defense lawyers, they did a great job, I thought. It could have very well been a punitive damage case. I think they kept the punitive down. When you had those punitive damage type facts, it often gets you the actual values that you deserve and that helped there for sure.

Michael Cowen:

How did you make sure the jurors could see? I'm hopefully going to ... I'm set for a trial in Zavala County Texas, Crystal City, at the end of the month. One of the things I'm struggling with, and I was supposed to do a live trial in February in Harris County. We were set, we did all our pre-trial back in November and then after four hours of pre-trial, the defense started, I don't know, I think they got scared because they suddenly had all these scheduling issues with their experts that convinced the judge to give them another couple months after they had already announced ready.

Michael Cowen:

We were getting ready to try it and then fortunately for my client, unfortunately for me, it resolved right before we were going to start. How do you get people to see things? You've got a much bigger spread out jury pool, so a poster that would work just fine in front of a jury box won't work there. How did you get them to see?

Randy Sorrels:

That's a really good point, because the courtroom had for livestream purposes two huge screens on each side of the gallery. They could see exhibits. They had one big screen back by the judge so we could see things as well, but remember you're pretty much stuck in your seat with a face shield and I think I was a little bit too stuck there. If you get up and move around you've got to put a face mask on. I did not know how that would play.

Randy Sorrels:

On the second and a half day of trial, I'd say, we started on a Monday, the evidence, by Tuesday afternoon I just felt too contained and I got up and put my mask on and the jurors sat up in their chairs. I don't know that things changed much. I wrote on white boards and it was fine.

Randy Sorrels:

Evidence though, cannot be handed to the jury. If any evidence is handed to a witness, it has to be wiped down. If we were going to send back evidence we'd have to do properly sanitized juror notebooks with evidence in it. Of course some evidence is introduced pre-trial and some of it is not. We decided not to do that because you can't hand out 12 pieces to put in their notebook if you've proven up a picture of whatever it is. That's a bit different. The evidence that went back to the jury at the end of trial was all on a disk and the foreperson was the only person that could operate the computer to put the evidence on. That's something else different.

Michael Cowen:

Do you think you got any, I'm sure you've tried tons of cases in the Harris County, Houston, Texas. Did you feel like your jury pool was any different because of COVID?

Randy Sorrels:

The answer is no. In fact, I was scared about that because early on it was felt that maybe it was a conservative leaning jury pool. When we went over there and we picked our jury on January 26th, started the evidence on February 1st, very diverse well-represented, well-rounded group of Harris County citizens. Whatever they did this last time, it worked.

Randy Sorrels:

In Harris County, again we're Houston, we have a livestock show for the juniors, the kids, so they stopped jury trials because that's where they have their livestock show where the jury selection is, from mid-February to mid-April, but the county has committed to coming back with a lot more trials, a lot more jury panels, a lot more pools being picked, and hopefully from April to October where we've got it set up, we're going to see a lot more action in Harris County.

Michael Cowen:

I'm so happy because there are counties where the courts just aren't doing anything around the country, not just in Texas, and they're just throwing up their hands until we have a cure and everyone's vaccinated and we're back to normal. There's counties that are being proactive. I see the difference.

Michael Cowen:

We have a limited nationwide but more of a statewide practice. We do some out of state stuff. The counties where we don't have trials I'm being asked for a COVID discount, I'm not getting good settlement offers. Whereas the counties that have trials now we're able to hold ... We're not giving settlement COVID discounts anywhere although I have some clients that frankly don't want to wait for two or three years to get their case resolved. Those cases are moving. I've been trying to get one tried. I've got two set this month. I'm hoping one will go.

Michael Cowen:

I want to try a case. I mean I told my lawyers at the firm, I said, "In years past I started to say I want to try to get involved in the better cases. You all can try the ones that aren't so great," and now I'm saying I don't care if it's a dog of a case, I don't care if we're going to lose. I just want to go try a case again. It's been a year. A Zoom trial, when else am I going to try a case by Zoom? It's a new experience. Whether it's a good case, bad case, I just want to get in there and try a case.

Randy Sorrels:

I think that in this instance, I had more mediators call me and say, "Thank you," than anything because you're right about the COVID discount. They can't get defense lawyers to move because number one they thought you'll never get a trial, which we have in Harris County. Number two, you're not going to get big money. We used it to our advantage. People who have been in COVID for a year, they understand how now a little change affects your life. We used that to our advantage, say, "Look, people do suffer when you have what they call relatively minor injuries. They can change your life." We as plaintiff lawyers need to understand and use that judo law, like they say, used to hurt us, use it to help us. I think that was an interesting point that we made with the jurors.

Michael Cowen:

What were the things that you pointed out to get a seven figure verdict on people that could go back and play professional sports?

Randy Sorrels:

Yeah. That was a challenge, because as I said, Conner was at an instructional camp 10 days later. That same month, Kacy, he went to University of Texas as well, as I mentioned. Roger went to University of Texas, and both father and son played in the University of Texas alumni game. Roger pitched an inning. Kacy played. That was prominently told to us many times by the defense.

Randy Sorrels:

Both Roger and Mike and common sense will tell you that your off-field conduct is going to be a factor on this. It could be as little as their injuries, and so the jurors really could connect with how this ... These were both excellent witnesses. Kacy and Conner were not what the defense first tried to portray them as these are kids from well-off families that thought that they were entitled. They came off as anything but entitled.

Randy Sorrels:

They didn't use their names in the police report or their fathers. You didn't see anything about that as, "Look we got wrongfully assaulted. We can't let this slide under the rug." Maybe because their fathers were who they were, maybe they didn't let it slide under the rug, but they said, "We're going to push this to the forefront because someone else could get hurt." In fact, two other people were assaulted that night. I think that both Conner and Kacy were brave to take this case on and I was of course lucky to help them out.

Michael Cowen:

My gut tells me that they got a better reaction from the jury going on with their lives and pursuing their dreams than they would have had they sat home and said, "This ruined everything. I'm entitled the millions I would have made on my baseball clearer."

Randy Sorrels:

Yeah.

Michael Cowen:

Fighters.

Randy Sorrels:

We argued a purely non-economic damage case. We did not submit medical bills, and we did not submit any loss of earning capacity. It was purely disfigurement, pain and suffering, and impairment.

Michael Cowen:

What are the differences when your client's family is famous? In Houston, jurors are going to know who Roger Clemens is.

Randy Sorrels:

Right. Roger, he was our third witness. He got to tell his story of his life and what people don't know about him. His father died when he was nine years old. He was raised by his mother and his grandmother. They had no money. When Roger played baseball in high school, he would get the bus there to school, but because the bus was gone after school, he'd have to run home and he would jog home three miles every day which helped strengthen him.

Randy Sorrels:

In high school he was not well sought after. He went to junior college. He grew a bunch in that first year of college and he blossomed into a star and of course, he's given back to the community in Houston and every city he's played in in Boston and New York and Toronto as well, with foundational money. We showed him who he was, not something that people have maybe seen in other areas.

Randy Sorrels:

The defense said, "Hey, we want to talk to you about these allegations of steroids. We want to talk to you about some of the things that happened in your life." Roger testified in front of Congress, he could handle those defense lawyers just fine. I think in the end, it was one of the great lines after the defense

lawyer tried to beat up on him a little bit, one of the funny stories was when the defense lawyer came into the courtroom the first time he went up and said, "Hey, I'm a big fan of yours, really nice to meet you."

Randy Sorrels:

Then on cross examination, he tried to beat up on him and I pointed out on redirect, I said, "Now I want to ask you about one last thing. When the defense lawyer came up to you, what did he say to you first?" He said, "He goes, 'I'm a big fan of yours.'" I said, "Well okay, that's great." The defense lawyer, always wanting to get the last word in, he says, "Mr. Clemens, did you take offense to any of these questions?" He goes, "No sir, I did not." He goes, "I want to tell you one thing. I am a big fan of yours, you're a hell of a baseball player. No further questions." That's the way the questioning of Mr. Clemens ended. It just turned out great.

Michael Cowen:

Can't have it both ways.

Randy Sorrels:

Yeah.

Commercial 2:

Are you interested in attending Cowen's Big Rig Boot Camp? This year we'll be hosting the seminar in San Antonio, Texas on May 20, 2021. In person seating is available but will be limited per state guidelines in order to provide a safe event. If you'd like to attend virtually, we'll be offering another professionally produced seminar available via Zoom. For more information, visit www.bigrigbootcamp.com to sign up for our mailing list and find out details as soon as they're available.

Michael Cowen:

Have you represented other high profile or celebrity clients?

Randy Sorrels:

Yeah. My first one early on in my career of all people to get rear ended, Ozzy Osbourne was traveling the freeways of Harris County in a taxicab and a plumbing truck came and rear ended him.

Michael Cowen:

Oh really?

Randy Sorrels:

Gave him a pretty good jolt, and you would think that a rear-ender wouldn't cost too much. Ozzy was on tour, and one of the things that Ozzy did was he would head bang. We took his deposition and his wife's deposition Sharon, at the time, and I didn't know what head banging was. That's when you violently move your head up and down, up and down, up and down. I mean really violently. He couldn't head bang.

Randy Sorrels:

He had to cancel three concerts in a row, and those aren't cheap. It's not like missing three days at work for you and me. They were very expensive. It was an exciting case. They ended up having to pay much more than they ever wanted to pay because they had a commercial policy with a guy with whiplash and the insurance company was facing trial, and like you they said, "Okay, we're not taking a risk on this one."

Michael Cowen:

Growing up, I was a huge Ozzy Osbourne fan. My junior high school and high school days were where he had left Black Sabbath and then fallen down and Sharon found him and kind of sobered him up at least enough to record again. Blizzard of Oz phase was my back when I had a mullet long, long time ago.

Randy Sorrels:

We went out to California to prepare him for deposition. I met with him for a couple hours. We had lunch brought in. Sharon was terrific. She was going to be a great witness. Ozzie I was a little worried about so I said, you know we were aside at one point, I said, "You know, Ozzy, I'm a little concerned. These questions are going to be important that you get them right about the effect it has on you and your career." It did have an effect because when people miss shows, there's a presumption, just like in baseball, they must be on drugs or something wrong's happening, not he has a whiplash injury. He pulled me aside and with all the straight face, he said, "Mr. Sorrels, you don't worry about me. I will take care of this." I thought this guy's just used to being on stage. He gave a great deposition. He gave a great deposition.

Michael Cowen:

He's an incredible performer, but even at this age, he moves. I can see that even a neck sprain would make a big difference.

Randy Sorrels:

It's legitimate. They got slammed pretty hard. All of us would be hurt, it's just the effect on us would probably be come and sit in front of our desk and work at the computer, but he couldn't do his job.

Michael Cowen:

Yeah. It's just always fascinated me the tension when you're representing someone that's famous between the jury being star struck and wanting to do something big but them also thinking they don't need the money. This person has more money than I'm going to make, makes more money doing one concert than I'm going not make in my whole career, why should I give them any? How do you handle that?

Randy Sorrels:

You got to do the best you can. With the Clemens right after that, they pulled out his earnings on social media. Three days later, Kacy, Roger and the whole family went to Hawaii and they said they were on a vacation. It just turns out Roger was on a charity event for a children's network over in Hawaii and he happened to take his family. Kacy had been working with his father's foundation for years before this as their social media director. That kind of backfired but they do throw that in. Oh, it's so bad, hurt, you're off on vacation in Hawaii. One of those things.

Michael Cowen:

What did you do to prepare for this trial? I heard you talk about mock trials before. Did you do any kind of jury research?

Randy Sorrels:

In this instance I did not, because I talked to so many people about it, what's important and what's not. I guess in the sense I did a informal one, but we didn't bring one in. I know people are doing mock trials in COVID, but I have not. I used to do them before every case. I didn't do it in this one and I still recommend it but it turned out fine. What people said would be important I think was important.

Michael Cowen:

It's interesting. The range I've seen in doing this podcast I've got to talk to a lot of the top trial lawyers, and you meet with people that do tons and tons of jury research and tons of focus groups and surveys, and then I did one with Benedict Morelli out of New York, I don't know if you know who he is.

Randy Sorrels:

Yeah.

Michael Cowen:

He didn't do any. He just talks to people and has all these incredible verdicts. I think you just have to do the work somehow. I'm not sure that there's any particular method other than just working really hard and really working on your case that seems to be the magic formula.

Randy Sorrels:

You never know, I said two jurors were against us. One of the jurors, again, Conner was put in a choke hold, taken four bouncers, too him out in front of a police officer. The police officer saw this, someone struck him with a flashlight, he had bruises all over his chest, and one of the jurors said that go against us, "I think he probably tripped or stumbled and people stepped on him and kicked him." I'm like oh my gosh. You got a police officer who testified he watched him get thrown out. Even with your best words, you're not going to convince everybody.

Michael Cowen:

I wonder where that comes from.

Randy Sorrels:

I don't know. People, their vision is here and if you try to get out here, unfortunately, their tunnel vision is just not something they have the capacity to get away from.

Michael Cowen:

Other than trying cases, another thing you've done is you were president of our state bar in Texas.

Randy Sorrels:

Yes. I was the first president from Houston in a long, long time. First plaintiff's lawyer, board certified president in the state bar. Although we've had some plaintiff's lawyers doing it, I say double board

certified, because one of my friends is a board certified lawyer, and it's a year or two or three of your life that does take you away from your practice.

Randy Sorrels:

It was pretty fulfilling. You give back to the profession. You meet a lot of people. You try to keep your skills sharp. You have to be nice to everybody. That's not a bad thing. I do think that I was nice to the defense lawyers and they were nice to me. That made it more pleasant. You can't be an ugly bar president, ugly to people. I think it probably made me a better lawyer as well.

Randy Sorrels:

I don't let things bother me too much about the defense lawyers bringing things up. You think on your feet a lot because you get asked questions as a bar president. Not everybody's a fan of the state bar of whatever state you're in. Lawyers don't mind telling you when they got a complaint or a problem. You've got to think on your feet a little bit. It was a great year and I think it made me a better trial lawyer.

Michael Cowen:

How did you prepare financially to have to spend a year or more mainly being an unpaid bar president rather than-

Randy Sorrels:

Yeah. My wife would say I paid with my time, because I really love representing clients. I love going to trial. I tried two cases during my year as bar president.

Michael Cowen:

You did?

Randy Sorrels:

Yeah. I mean I just love to do that. She would say instead of an eight or 10 hour day, you'd make it a 16 or 17 hour day. That's true, but I thought I had the endurance to do it for a year. It turns out that the bar presidency is from June to June. COVID hit in March, so all the travel and the going around meeting people ended in March. I had a shortened bar year, but I still got to talk to people and you get out and reach people by Zoom. The cases slowed down in March. Things figured out, we got to get things moving. The courts figured out we got to get things moving again.

Michael Cowen:

Yep. You've recently gone out and started your own firm again.

Randy Sorrels:

Yes.

Michael Cowen:

Is this the first time with your own firm?

Randy Sorrels:

My first time. I clerked at the Abraham Watkins law firm when I was in law school. When I came on board, I was hired by them, three years after Fulbright & Jaworski, and the partners were leaving right and left and they allowed me to basically get up and start managing the firm at a very young age.

Randy Sorrels:

I built the firm up to a really great point, all of my former partners are people I hired, and I think they're terrific people and terrific lawyers. An opportunity came up at the end of last year to open a Houston office for another firm outside the city, I think with the bar recognition, state bar recognition that I had gained. Started talking to them and then the Clemens trial put things on hold. Came back, the trial did get a lot of publicity, I have to admit. That was factor in saying, "Hey we can do our own thing. My name's known around the state."

Randy Sorrels:

We made the announcement, the phone hasn't stopped ringing, so I'm very appreciative. I started telling you my dad was in the Army. Nothing is taken for granted on any blessings that have every happened or any phone calls or any clients. Everything is appreciated, and like you I know because I've seen you with your clients, you want to do the very best you can for each and every client.

Michael Cowen:

Yeah. That's one thing, we're friends on social media, and most lawyers really tout when they do something big. You had something, I mean you had this huge trial that we probably all would have heard on the media whether you touted it or not, but you often talk about getting policy limits on a minimal \$30,000 policy case, which frankly you don't even need to do those cases at this point. You have a reputation where you could just do big cases if you wanted. Why is it that you share those results too?

Randy Sorrels:

I think it's important because number one those people need lawyers as well. I do sometimes look back and say, I see some lawyers who say, "I'm just going to focus on cases where it's a million dollars or more because you've got to put your time there." I think that's great if they do that. That's their chosen lot.

Randy Sorrels:

I get satisfaction out of helping a client who was rear ended and is not Ozzy Osbourne and needs a little bit of help. I have a great staff. I do think that turns into better business because people know you're fair with them and you answer their phone calls. I give people my cellphone number. I call them back. They know I may call late at night but they'll take my call and they appreciate that.

Randy Sorrels:

If you're looking for monetary gain, every year it seems like more business has come in. This year's going to be a record year for me, and it's going to be I swear it's helping the little guys and not just the big guys. The little cases and not just the big cases. It's also personal satisfaction. It's like doing state bar work. It's something you can give back and help people with.

Michael Cowen:

I bet some of those clients feel good to see it too. I mean that they're not forgotten. I think sometimes clients feel like if they don't have the mega case their lawyer doesn't really care about them.

Randy Sorrels:

Yeah. Some people ask about, you know what's in most people's mind, "Are you going to pass me off to a junior associate?" I always say, "We're going to be as a team and you can call me any time and I'm going to know what's going on in your case." The team of people I've put together for the new firm, very smart, very hard working and committed to the same level of customer service that I am.

Michael Cowen:

Man, I hope you really do well. One thing that I firmly came to believe, there's plenty out there for all of us. There is no lack of success available to all of us. I hope that you do incredibly well with your firm.

Randy Sorrels:

I'm with you. I hope that if I don't get the case, I hope you get it and do great for your client. I hope you get huge verdicts, because big verdicts are good for everybody.

Michael Cowen:

Yep.

Randy Sorrels:

If we're getting small verdicts, they're bad for everybody. If we get lawyers like yourself who go out and do get the big verdicts, that drives up the value and more importantly insurance companies understanding that listen, things can happen. In the Clemens case, we made a demand for the policy limits of a million dollars. They laughed at us. I don't mean the lawyers. I don't mean to in any way disparage the lawyers, because I have the upmost respect for them. The insurance company who control the money did. They offered us \$125,000. We got \$3.25 million I think when it was all said and done out of it. It's a clean trial. We have joint several liability against two defendants. We have a Stowers case that's in the works now.

Michael Cowen:

For those of you out of state, Stowers is our kind of version of insurance company negligence/bad faith, where you gave the insurance company a chance to settle with policy limits and they don't, then you have a chance of getting them for more.

Randy Sorrels:

Yeah. Hopefully that will work out for us as well. In this instance I had clients who really did not need the money. They deserved the money. Had they not been hurt and had they not been in this, they wouldn't have needed the money. They were also raised by two sets of parents who were also firmly grounded and made sure that their kids knew that where you come from is from the father of someone who grew up without a dad and from a baseball player being Mike who did not have the career that Roger had. He spent 10 years in the pros, probably seven of those were in the minor league. He said he was a journeyman minor leaguer. There's not glory there.

Michael Cowen:

No.

Randy Sorrels:

Made sure his kids, Roger has four boys. Mike has three boys. They made sure all their boys knew you have to work hard to get somewhere in life.

Michael Cowen:

Yeah.

Commercial 3:

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Michael Cowen:

During the break you were telling me about a great story that happened with one of the defense witnesses.

Randy Sorrels:

Yeah. It was really one of the highlights of the trial, and it was at the end. The defense called their star witness a six foot seven, 350 pound bouncer from the bar but who had a great personality. A big personality. He would tell everyone, he told the jurors how helpful he was and how nothing bad would ever happen there and people were nice folks there and the owner was a good guy. I think he was the owner's new best friend, in fact.

Randy Sorrels:

Here's the star witness. When they passed the witness I asked the jury to be excused because I wanted to ask about his criminal history, and that's one of the things that the judge had said we had to do outside the presence of the jury. I asked him, I said, "Listen, have you ever been convicted of a crime in the last 10 years?" He said, "No I haven't." I said, "Well, I don't understand, because I'm seeing this warrant out for your arrest." He said, "That was from Mississippi. That was taken care of. It was on probation." I said, "On probation then you must have been convicted of something." He said, "Yes, I was. It was for a felony fleeing from a police officer." I said, "Okay, when was it?" "Six years ago." That's within the 10 years.

Randy Sorrels:

The judge says, "Yeah, what do you think Mr. defense lawyer?" The defense lawyer's really good. He said, "If he wants to do that, that's great." What he was thinking was I was going to beat up on this guy, this African American from Mississippi who fled the police, maybe in fear of his own life, and I decided not to do that.

Randy Sorrels:

When we came back, I asked several more questions and then I came around to his criminal background check, because we had already convinced the jury that they were hiring convicted felons. I said, "Did they get a criminal background check on you?" He said, "No they didn't." I said, "Okay. Did you mention anything to them?" He says, "Yes, I told him about my conviction of fleeing from the police."

Randy Sorrels:

I said, "Okay, I understand that. That's good." I waited for a lot longer than normal. It was probably 10 seconds, which is a long time, as you know. I said, "Let me ask you this, what's that you're wearing around your ankle? Is that an ankle monitor?" He paused, he said, "Well, yes it is. It's because I have to stay away from my wife a certain distance, and it's to make sure I'm not close to my wife."

Randy Sorrels:

Remember this is an assault case. I left it at that. In closing argument I said, "About this witness, he was a nice guy, but I assure you he is not wearing that ankle monitor so they can find him to give him the husband of the year award." You can't really believe this guy. The jury said that they did not believe him after that. It was a really funny moment that he did not think anybody would see the ankle monitor, and we saw it.

Michael Cowen:

That's great. That's just proof that you need to keep your eyes open and take the gifts you get in the trial. There's always something that you never expected that you get when you're in there.

Randy Sorrels:

Yeah. It was. The defense lawyers said to me, he had great things to say about him before the loss and he had great things to say about me after the loss. I think this about him, but he was one of the true gentlemen of the courtroom and enjoyed trying the case against him.

Michael Cowen:

Congratulations on that great verdict, and I hope you continue to have incredible success with the firm. If someone listening wants to get ahold of you to ask you about something or maybe bring you in on a case or talk to you about a case, what's the best way for people to find you?

Randy Sorrels:

Of course, I'd have to say the email address. They won't remember it. I'll say it anyway.

Michael Cowen:

We'll put it in the show notes too.

Randy Sorrels:

Okay. Sure. Sure. My email address is randy, R-A-N-D-Y, @sorrelslaw.com. Two Rs, one L. Sorrelslaw.com. Call my cellphone, which like I say, I give to everybody. 713-582-8005. When I traveled around the state talking to lawyers, I always gave my cellphone out and people said, "This is a present that we can relate to." I think we as lawyers if we can always remember that our job is to relate to as many people as possible, that's going to bring you success in the courtroom and outside the courtroom as well. I really appreciate you having me on and sharing a story or two about the case.

This transcript was exported on Mar 15, 2021 - view latest version [here](#).

Michael Cowen:

Thank you. I really appreciate you coming on.

Outro:

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Commercial 4:

Each year, the law firm of Cowen Rodriguez Peacock pays millions of dollars in co-counsel fees to attorneys nationwide on trucking and commercial vehicle cases. If you have an injury case involving death or catastrophic injuries and would like to partner with our firm, please contact us. You can reach Delisi Friday by calling 210-941-1301 or send an email to delisi@cowenlaw.com. That's D-E-L-I-S-I @cowenlaw.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 see where we can add value in a partnership.

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