

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 appointments. There's always an answer. The joy is in finding. 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, and 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. 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 welcome back Joe Fried. Joe was actually the first person I ever recorded a podcast with for Trial Lawyer Nation. And I'm glad to have him back. How are you doing today, Joe?

Joe Fried:

Doing great. And I appreciate you having me back. It means I didn't screw up too bad the first time, maybe.

Michael Cowen:

No, you did great the first time. And I'm sure will do even better the second time. For those that don't know, and you get more details in the show notes. But Joe runs an incredibly successful trucking law firm in Atlanta, Georgia. You're also a partner in a trucking law firm in Florida, correct?

Joe Fried:

Yes, that's right.

Michael Cowen:

And is just probably the best trucking lawyer. And I almost hesitate to say that, given that I also consider myself a trucking lawyer. But I think Joe is the best in the country. And I'm glad that you have come in and agreed to talk to us.

Joe Fried:

Well, I appreciate the high accolades. I'm not sure I deserve them. But I'm looking forward to speaking to you. And I'm a big Michael Cowen fan. So, I'm happy to be here.

Michael Cowen:

Thanks, Joe. I appreciate it. Well, I'm going to jump right in. If people want more of your history, and how you got into this stuff, listen to one of the early episodes, it's back there. But I want to jump right in. You, last year, got an incredible set of settlements on cases.

Michael Cowen:

Multiple eight figures, I don't remember the exact numbers, but they were mind boggling. How did you get so much more money on cases where other people have the same injury, and the same liability facts, and get great settlements? \$8, \$10 million, but not like \$20, \$40, \$50 million?

Joe Fried:

Well, if I could just figure that out, Mike.

Michael Cowen:

You did figure it out. You did it. I

Joe Fried:

I think that a big change for me happened several years ago when I really challenged my own valuation paradigms. Because one thing is for sure. If you're like I was a few years ago, where you look around and you say, "Man, I feel like other people are getting bigger numbers than I am for cases," the question becomes why.

Joe Fried:

And a lot of times, for me, I went through lots of self-justification for a long period of time. And said, "Well, that venue was a better venue, or they must not have had any blemishes on their case, or maybe the insurance situation was different." And all those things might be true. But I was the common denominator in my case.

Joe Fried:

Just like the other lawyers listening to this are the common denominator, in their own case, and when I started to realize was that I was my own limiting belief for a long time on valuing cases. And you'd hear how the world has changed. And these nuclear verdicts, and all these different numbers. You'd see all these numbers.

Joe Fried:

And frankly, I now think that for a long time, I left a lot of money on the table. And if I could take a minute, I'll tell you, when I first started... well, first of all, I think it's important to realize, when you go to law school, one of the many things they don't teach you is how to value a case. You don't get one class in that. So, you come out, and who does indoctrinate you on the value?

Joe Fried:

How do you know what a broken arm case is? How do you know what a wrongful death case is in your venue? And I think it's a combination of things, but one is, you see what happens in your venue, people who are close to you who mentor you, they provide you with numbers, but also, the insurance company tells us, and we somehow and for some reason believe it.

Joe Fried:

And so, for me, when I came out of school, I remember my mentor at the time, told me on a wrongful death case, argue me up or down from a million dollars. And I never challenged that. I just simply internalized it. It became my dialogue with myself, and with anybody else who had listened. And it

sounded cool. So, I'd repeat it, argue me up or down from a million, or it find its way into demand letters, it's find its way into probably closing arguments.

Joe Fried:

Who knows what the hell it found its way into? But at some point along the line, I'd look over and say, "Well, that guy over there got 12 million, and that guy got 8 million, that guy got 20 million." And you sit there go, "Boy, that that person, that lawyer really argued up a lot from a million dollars." And then, what struck me is they're not doing that, they're not arguing up or down from a million dollars.

Joe Fried:

And then, it struck me like a lead balloon, just really knocked me like a sledgehammer. And it was that sick feeling I got my stomach. And other lawyers, I think maybe some of them had this, where you realize that for a long time, you'd bought into a paradigm that was of your own making. And that's what it was for me is to sit there and say, wait a minute, the whole paradigm is wrong.

Joe Fried:

Arguing me up or down is wrong. The whole idea of a million dollars shouldn't be even part of the dialogue. And who decided this? And who accepted it? And the answer to that second question was me, I accepted it, I never challenged it. And so, that's the beginning of what I think has to be talked about is if I asked you, Michael, or anybody you might be listening to this, what's the value of a death case?

Joe Fried:

What's the value of a broken arm case? I don't care if you handle, "big cases" or "small cases." Who said that's the value? And why do they get to say it? And have you even taken the time to challenge it for yourself? And I don't mean that to be critical. I started by showing you mine, and saying I didn't for a long time. And so, step number one needs to be to challenge your own paradigm.

Joe Fried:

And I think part of it also is dealing with your fear. Because when I was growing up, also, what I was told is if I overreach, I'll get my whole arm cut off and my play will be gone. And I think that's BS. I think that feeds the... what's true is if you don't believe your number, and you go in, and try to sell a number. And you know what I mean by that, selling something that you don't believe in.

Joe Fried:

You will get cut, but that's not the same as, "over asking," because the other truth is that the jury has no idea what the value of a case is. They know a lot less than you do. They know a lot less than insurance companies do. They don't know anything about the value. So, it's all at the end of the day, is a battle of credibility, and a battle of what do you believe your case is worth? And how much do you believe that? And how credible are you in asking for it?

Michael Cowen:

So, what did you do to adjust your own thinking?

Joe Fried:

Well, the first thing I did is I busted as much as I could with the sledgehammer, the value that I thought things were, and I started to question in every case. And that's what I would ask your people to do right now. That case you're thinking about, the one that you can't get out of your mind on value, that you're saying, what's it worth, and you're stuck in some area, but you'd really like to be in a different area.

Joe Fried:

Start to ask yourself what's the foundation for any of this? And it really comes back to some things that have nothing to do with the case. I think it has to do with your relationship with money. And if you're like me, it's not easy to ask for money. I don't like asking for it for a fundraiser. And I don't like asking for it in front of a jury. I don't like asking.

Joe Fried:

And if I examine my world, and I look back, and I was brought up with certain money messages, I was brought up that you don't talk about money, that it's rude to talk about money, and that all those kinds of things. And maybe you can relate to what I'm saying. What was it like? How would your parents talk to you about money, or would they? How would they talk to each other about money?

Joe Fried:

And what you do with money, and what the value of money is? I think that those things is worth taking time. So, you asked me what I did. I started to look at these things for the very first time. I stopped listening to the voice that said the case is worth x. And I said, "How do we know what it's worth? And I'm still on the journey, so I'm not done looking at it.

Joe Fried:

Because I try to look at it fresh, and not get stuck. But when you start thinking about it, you start thinking about things that we deal with all the time. Again, whether we're dealing with big huge cases, or "not so huge cases." But you think about something like pain. And if it's real, that our client is going through something that causes them pain every day, the kind of pain that you can't sleep well at night.

Joe Fried:

It disturbs your sleep. It disturbs your normal, what you'd like to do with your life. It makes it so that it changes your relationship with your spouse. It changes how available you are to your kids, or to yourself, or whatever. If that's real, shouldn't it be huge? It's one thing if it's a question about whether it's real or not, I get that. But if it's real, then isn't it huge?

Joe Fried:

The limitations that somebody else unfairly put on our lives. To me, I'm at a place where I'm very, very comfortable now, having thought through these things a lot. And so, if I limit my life, I get to do that. But if you limit my life, because of your negligence, who the hell gave you the right to do that? To me, those have become very real, and very big things.

Joe Fried:

And I think about now, what would I think the value is, if what happened to the person I love most in the world? And if it's worth that for my loved one, then shouldn't it be worth that for the client? Why should it be different? And so, I think it's almost like you look at it and say, let's make it real, and let's make it

personal. Let's make it really personal. The person, who you would fight hardest for in the world, right? And that's, I think, some of the things that are going on for me. And like I said, it's a work in progress.

Michael Cowen:

What do you do then, because now, you're not just saying what death is a million dollars argue up and down? Now, you're saying, if what Mary went through happened to the person I love most in the world, what would it be worth? How do you learn what Mary's gone through well enough to internalize it and do that analysis?

Joe Fried:

Well, that's a great question, isn't it? And it's something that I know you work really hard on also. Because it's really hard to do that from sitting behind your desk. You can have intuition about it, sitting behind your desk, if you allow yourself to feel it. But you really have to get out into that client's life.

Joe Fried:

And really look around, and feel your way around that. And it comes from interacting with the client, it comes from interacting with the client's loved ones, and not so loved ones. It's quite crazy as it seems, sometimes your client's ex-spouse can provide you with tremendous insight.

Michael Cowen:

Absolutely.

Joe Fried:

Their employers, people who are... so the concept of before and after witnesses to really understand, the first person who has to be convinced, is you. So, can you really go through the process? In my paradigm, if you will, for me and thinking about trial and case preparation, is that case preparation is a journey. And at the beginning of the case, I feel certain way about the client.

Joe Fried:

I may like the client, I may not like the client that much. I may think what the client has been through as hell. And may think what the client has been through as not so hellish, and maybe even their whining about it. But whatever my truth is, that's where I am on the journey. And what is discovery? And what is the case preparation?

Joe Fried:

It's my journey to get to a place where I'm ready to look at jurors, and take them along on a journey. And so, it's a mistake to me to start out a trial, thinking that jurors should be where I am now. Jurors shouldn't be any further along the path that I was at the beginning. They should welcome, and we should welcome their skepticism, and everything else that they bring with them.

Joe Fried:

Probably, if you're being honest, the same feelings that you had. When you say, "Gee, I wish this wasn't part of my case. Gee, I wish this was a... why can't I get the clean case?" Whatever those things are, that's what I call the beginning of credibility. Those are all opportunities for you to be credible. And I know you believe this, Michael, because you and I have had many talks about this.

Joe Fried:

And it's born to some degree out of some of the things that we did at Trial Lawyers College, and then beyond that, when we took Trial Lawyers College things and made them our own along the way. Because everybody, I think we borrow from each other, so liberally, but then we make those things ours. So, I guess that's what I'm trying to suggest is, whenever you've got to do to make it real, you've got to do to make it real.

Joe Fried:

But the person who needs convincing is you, and stop thinking, I got to go convince the jury. How about first and foremost, convince you and be honest, I have to remind myself, I got to be honest with myself. How do I really feel? I want to feel great, but do I feel great? And what do I want to know now? And bring that natural curiosity, and skepticism to the table, and don't feel bad about it. You're channeling the jurors. Amazing, get it now. Right?

Michael Cowen:

Yeah. Because you're going to have to take them on that same journey. But I will say, when you do truly feel it, there seems to be a transfer of emotion that happens, even if you don't get the words right. It's not about... I don't know. It communicates nonverbally without thinking about it, if you truly feel it. And if you don't truly feel it, I don't think that ever happens.

Joe Fried:

I agree. I think the words are the least important part of the equation. But I'll tell you what, and it hits on something. Because it's crazy, because at the same time you say that, I recognize that we lawyers are so word centric. We read transcripts that pull out all of that nonverbal stuff, it takes that out a question. You look at it, and you see some of the best lawyers around the United States read a closing argument.

Joe Fried:

And there's not a complete sentence in the whole thing. It sounds like this. Well, and then, you know, yes, and of course. And the court is going, wait, the person is not saying anything. The person is saying everything. And it's that struggle to even find words to express what is there is what's beautiful, and what's the art of the whole thing.

Joe Fried:

But I think that you have to recognize that, and part of it also is, and I should have said this before, once you do this journey that we're talking about, part of that journey is still translating these things into dollars, and cents, and practicing, getting in front of people, and saying the words. Can you say a billion with a B? What does it feel like to say 100 million?

Joe Fried:

And to have somebody look back at you and say, what, 100 million or not, just cower into a corner as soon as... well, I didn't mean 100 million, I meant a million. To feel all of that emotion, and to feel all of what it feels like to ask. It's no shame. And in practicing ask, when someone says, how do you know what the numbers should be? I don't. The number has to find me.

Joe Fried:

And I have to find the number. And I have to go back and forth. And I have to I have to practice saying, and I think it should be this, and I get up, and I start to say it, and I go sometimes I go, "Wow, that's just too much. That's not right." And other times I go, "Wait a minute. It's much more than that. If this is real, then it's much more than that." And you practice it and you practice it.

Joe Fried:

We use focus groups all the time to look for technical things. Well, how about using them to just be a practice board for you to ask for money, see what it feels like, and then hear the feedback? It's tremendous, and it's a necessary and woefully inadequately practice skill set.

Michael Cowen:

My other big block, and I didn't even know I had it was just my own relationship with money. And that somehow, I don't know if I thought that I wasn't deserving of money, or if I thought that money was somehow dirty, our big business was somehow dirty. Because outside of the trial stuff, for years, I resisted running my law firm like a business.

Michael Cowen:

I found ways, no matter how much money I made, do end up with very little of it, myself, through bad business deals, bad case decisions, whatever it was. And it wasn't until I fixed what was going on in my head that I was able to have success, and then enjoy any of the success.

Joe Fried:

Yeah. And so, how did you do that? I should interview you.

Michael Cowen:

How did I do that? Well, one, recognition of it was a big part of it. Some psychodrama work, honestly. I'm not ashamed to say a lot of psychotherapy, but not just the psychotherapy. But when the psychotherapist said you have a problem with codependency, and then reading, and listening to audiobooks, and learning all I could and saying, "Wow, this rings true to me."

Michael Cowen:

And not even realizing that beliefs that just came naturally to me in the instinctive ways I would react to things natural were not healthy. And then, just recognizing them, and just telling myself that's not healthy, and start working on it.

Joe Fried:

So, hearing you say that, first of all, it resonates with me as well. And I've done a lot of work on me also. But part of what I think we're both talking about is to shine a light on the discomfort of the whole thing, and to be honest about it. I love it when I work... I just worked with somebody, just before we started. He's getting ready for a trial.

Joe Fried:

And he starts off by saying, "Well, I'm afraid that the jury is going to think blah-blah-blah." And I know that as soon as they say that, I know there's a part of them that believes that. And I go, "Well, what part of you believes that? Oh, not a bit." I'm like, "You're kidding yourself. You do? Let's be honest about it.

What part of you believes that no amount of money will bring Johnny back? So, what the hell are we doing here?"

Joe Fried:

So, here's the crazy thing, the crazy thing is that we have been led to believe, we plaintiff's lawyers, have been led to believe that if we're honest about things like that that it hurts us. And I'm telling you, I'm proof positive that that's not true. That the credibility that comes from willing to be vulnerable, and honest is dramatic.

Joe Fried:

And when you can come up and say, I think that this whole idea of money for death, money for the life of a child, it sometimes disgusts me. It always offends me. And I think if God forbid, it was my child, how offended I would be. And I think beyond that, no matter how much money you give this mom, she's going to go home at the end of this trial, and fall onto her little girl's bed, and sniff the sheets.

Joe Fried:

And she's going to go to the closet that she hasn't had the wherewithal to clean out yet. And she's going to run her hand down the little dresses. And it's not going to change a damn thing, is it? And so, why are we here? And what if you could give voice to that in a trial? You're meeting people where they really are, folks. If you do that, if you're willing to take what feels like a courageous move to be open.

Joe Fried:

And it is courageous, because it's not what we're taught to do. But when you can do that, and you can say, so here, and then you can start to answer that. And you can say there's not a perfect correlation here. But if I say to you now, on the heels of me saying that, Michael juror, can you appreciate why this mother needs to see a huge number on the piece of paper that says what's the value of her relationship with her little girl?

Joe Fried:

Can you appreciate why she needs to see that number? And it's got to be huge, because it's the only damn thing we got. It could be marbles, tiddlywinks, but it's dollars and cents. So, can you appreciate why it has to be huge? I don't have any trouble appreciating it, difficulty appreciating that. So, we just have to get right with ourselves on what we're really doing.

Joe Fried:

And once you do, this incredibly powerful combination of vulnerability, and honesty, and stuff, it's what people are starving for. And it creates a magic in a courtroom, and way beyond the courtroom. You said what are you doing to get these things settled for the numbers that you're getting them settled for? I think the first thing is I'm getting ready to try.

Joe Fried:

And everything that I do in the case, I'm measuring against the idea of is this going to be a trial, and I'm getting ready it for that? I don't fight for settlements anymore. I don't get upset. I think it's really obviously in congruent. When you go into a mediation, you pound your chest, and say I'm going to kick your butt at trial. And then, you put a \$25,000 mediation presentation on.

Joe Fried:

To me, that doesn't say I'm ready for trial. That means I really hope you'll settle the case right now in mediation. So, when someone doesn't settle, I don't get mad anymore. Why would I be mad if I really was thinking that I could do better at trial? I just say thank you for the opportunity to come here. You've had your chance. I told you what the case could resolve for.

Joe Fried:

I'm going to give you a few extra days when this is over to see if you change your mind. And if not, that's fine. That's what trials are for. I really don't get mad. And so, anyway, I'm rambling, but-

Michael Cowen:

Yeah, that's great stuff.

Joe Fried:

But I think the key thing that I would say is I think we're our limiting belief. And it's hard not to be because we all develop heuristics for the way we operate. We all have businesses over the practice of law, like you were saying before, and you have other lawyers, and people who are helping you get cases ready to be resolved.

Joe Fried:

And you have to give input on what should be asked for, and what's the range that should be asked for in this case, or that case. And so, all of those things, I think, counterbalance against what you and I are talking about today, which is to make it unique and personal, very personal. You got to get out of your office to do it. It's a lot harder to do that on smaller cases, where you don't have the luxury of being able to spend the time on those cases.

Michael Cowen:

No, and I think to the listeners that have too many cases. And sometimes it's not their choice because they work for somebody else, or they need to have enough to keep the lights on. Pick one, pick your best one, and work that one. And that's where we'll get your next big one.

Joe Fried:

So true.

CRP Commercial:

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 delisi@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. And now, back to the show.

Michael Cowen:

Now, one thing, I think when we get real with case values, sometimes we find cases that other people wouldn't value so high, and we value them a lot higher. Sometimes, we find that the value isn't as high as we'd like it to be. Have you ever experienced that?

Joe Fried:

I have experienced it, and I really am proud of you for bringing that up. Because we don't like talking about those. Those aren't the sexy cases that we talk about. But it's also so true. And it brings the next point, which is but yet we feel like we got to go save that case from itself somehow. And boy, those are bad mistakes.

Michael Cowen:

They really are.

Joe Fried:

You end up going and spending a ton of effort on something that if anything, if nothing else, you're the wrong lawyer to pursue. At that point, you're not the lawyer who can get up there and credibly ask for whatever a lot is for that case, whatever full 100% is for that case. So, get the hell out of the way. That is so hard for me. It sounds so easy when it comes out of my mouth.

Joe Fried:

But in real practice, all those business parts of being a lawyer poke in and say, "Well, maybe I should just go settle this thing, get what I can out of it, recover my costs out of it, blah-blah-blah-blah-blah." Next thing you know, you're going to trial. Those are the cases they make you try. So, definitely has had happened to me. And the hard part is to recognize it, honestly. And then, to be honest, even with the client about it, say here's what I see here. And I can't do more than I believe in.

Michael Cowen:

I'd have a hard talk with the lawyer in my office. And he brought in a depth case direct, it was his origination, and no referral and lawyer, which is really, really rare at our firm, and would have been really good given our financial deal for him. But I did not think it was justice to sue the trucking company like this.

Michael Cowen:

I don't think they did anything wrong. And frankly, I don't want to put a widow through two or three years of false hope to get a settlement that's not going to honor the value of the deceased, and not going to make any material change in their life.

Joe Fried:

There's a bigger thing at play there, Michael, and it goes, you said, it goes to this. And that's that we're not judged based on one case. This is a practice of law. And you're foolish if you don't think that your actions are being watched and cataloged at some level. And especially if you start to gain some success in the world, whether its big cases are not bad cases, the other side, people know.

Joe Fried:

And so, I'm very careful, and increasingly, and have been for a long time careful on what I'm willing to put my name on. Because I want to be able to, at the end, in the right case, I want to be able to say I want the world to know that if my name is on something, it's a winner. More likely than not, I'm going to prevail, and I'm not going to be in there BSing. And so, I really try not to be the lawyer.

Joe Fried:

And I say I try because sometimes, I fail. And I do it anyway. But I try to really be honest about the process. And that does change the value of your cases. I just had a meeting, I'm not going to mention the name of the trucking company, but they came to Atlanta on a case. I made a 40 plus million-dollar demand of the case, and they asked to come and talk to me.

Joe Fried:

And the guy on the other side, said, "Joe, I've got a lot of respect for you. I don't see the case the way you do. But I've got enough respect for you. I want to really understand how you see the case, because I'm missing something if you're seeing it this way." And we had an open dialogue with each other. And at least, were able to identify where the issue was.

Joe Fried:

And so, it turns out, he said, "Well, I now see where I need to go. Because either I'm going to prove that I'm right about this piece, or I'm going to prove that I'm wrong about this piece. In which case, you should get more money in the case." Great. To me, that was a successful meeting. So, the point that I'm making is when you... you're judged as much by the case, as you say no on and the things that you own in a case that are dangerous for you.

Joe Fried:

Those are the things that it's counterintuitive, you think you're given the farm away, but you're winning the war. Anyway, I don't know, some people would criticize what I'm trying to suggest. But what I'm trying to suggest is that credibility goes way beyond a single case.

Michael Cowen:

I agree. I don't mind taking on a tough case, if I believe in it.

Joe Fried:

Absolutely.

Michael Cowen:

There's some cases I've taken that at first glance, aren't obvious, let's say a truck parked on the shoulder of the road that shouldn't have been parked there. And like, "Well, how can you sue a truck when someone is rearing to the back of it?" But if I don't believe in it, I just can't do it.

Joe Fried:

We're both saying the same thing. It's not saying we don't take hard cases. The best results I have are in cases that were really, really hard cases. But I had to come to a point where I believed in them. I'm only willing to live in limbo land for a little while, while I look. And I don't attach my credibility to the case

there. People call me, I just had it happen recently with a defense lawyer. He said, "You've taken on this case."

Joe Fried:

I said I have, but I'm not ready to put my credibility on it yet. I'm doing my investigation. And I'll let you know once I'm finished with that, we can have a talk. And he said, "No, I appreciate that." And I looked and today after this, we're having our talk. But anyway, we're saying the same thing. And I think it's mission-critical. So, we've talked about paradigm. Part of that is being honest with ourselves in all of these different ways. And being willing to be vulnerable,

Michael Cowen:

I'd like to switch gears a little bit, and talk a little something about working up cases. Because it's a conversation that you and I actually had, I think, we went and got a deposition in San Antonio. We went and had a bite to eat the night before. And you had an expert deposition coming up. And I was taught by the person who taught me the dry cases, the quote he gave us, "A matador doesn't tell the bull how he's going to kill him."

Michael Cowen:

So, either don't oppose the defense expert, or just get the opinions, get the basis, and get out. Don't do any kind of cross. And when I asked you, are you doing a trial depo, or are you doing a discovery depo? You said, there's no difference to me. I try to kill them every time. I don't know the exact words, but something like that. Can you expound on that?

Joe Fried:

Sure. I'm happy to, and I'll tell you. To me, there have only been a few times when I have taken a deposition where I was certain that the case, reasonably certain the case was going to go to trial. And there are times I get invited now in the cases. Not long ago, I tried a case a couple of weeks after I first introduced the case. I ended up taking a couple of quick depositions in the middle before the trial.

Joe Fried:

And I knew those cases were trial cases. And in those cases, all I did was set up a few things with an expert. But in my reality, in cases that I'm involved in that aren't that last minute being brought in, the vast, vast, vast, vast majority of those cases resolved. And 95% of them, even ones that I brought in to try, I'll take a couple of depositions, and then the case is settled.

Joe Fried:

And so, the question, and a lot of times that's because my own client is going to insist upon whether I want the case to try or not. So, I'm being really honest here, not even sometimes I want to settle cases. Sometimes the client wants to settle cases, but the truth, what I'm getting out is, if I'm going to maximize the result in a case, I'm only going to maximize the result in terms of settlement if I do the best I can to nail the other side, and whatever the deposition is that I'm getting ready to take, and show them that I can do that.

Joe Fried:

Now, I know the criticism to that. I can argue the other side of this all day long. And sometimes I do that I have that... and I'm not going to say that I never just leave something in there that I've tucked in for later, because I do-do that. But for the most part, my feeling is that I want to give, if the case is probably going to get settled, I want to get the best money I can for the case.

Joe Fried:

And I know that one of the big line items on that report that goes back to the insurance company, in terms of value is how did my expert do? If I go kick that expert in the teeth, is it much higher likelihood that the case is going to be resolved well for my client? And so, I know that the answer to this is well, you could have gone and got a bigger number of trial.

Joe Fried:

Yes, I could have, probably could have. And I could have gone through the appeals, and the delays, and the risk of trial. And sometimes that's smart to do. But sometimes the reality is the case is going to probably resolve. The other thing I'll tell you is the flip side. And that is that for the most part, trials are really not trials of ambush anymore.

Joe Fried:

And courts will do things to protect the person who you're about to ambush at a trial. And so, you have to be really careful with things that you "set up" for trial, that it doesn't look like an ambush, and look like it's unfair. I could give you examples of times where that hasn't worked out for me, even though that was my strategy. I'm not saying you can't work, but I'm saying you have to be careful of those situations.

Joe Fried:

If done right, I can kick their butt. And there's not a damn thing they can do about it to change it for trial, because I do some things in that same deposition to insulate from them being able to modify things very much at trial. If that makes sense.

Michael Cowen:

It does. I've changed my paradigm, because most of the cases that I'm working on now, I'm trying to work on the top five cases that the firm, most of cases are going to resolve. I'd love to try them. If I have to pick any of the cases at the firm to try, those are the ones to try. But the numbers usually get to the point that during that first week of trial, weekend before trial, they get too high.

Michael Cowen:

And so, I go in there with a goal of can I get a deposition that I can play in my case and see from the defense witness? And I don't say I meet that goal every time. But when you start getting motions from the other side to de-designate their own experts, and you're designating their experts, it really does change the value compensation.

Joe Fried:

Yeah. I've had several lately where they're de-designating their expert before the end of the deposition.

Michael Cowen:

Yeah, which is awesome.

Joe Fried:

Take a break. We don't really have to continue, Mr. Fried, because we're de-designated the witness. I don't know, we're just getting started. Because this guy has become my witness now. But the reality is, is trials are great. And I know we're supposed to always be saying trial, trial, trial. And people who know me know that I do that. And I do really prepare. It's not lip service.

Joe Fried:

I prepare every case like I'm getting ready to try it. But the reality is, there's cases that I've resolved in settlement that I firmly believe that it was in the best interest of the client to resolve the case in the settlement, because I don't think I would have ultimately by the time the trial was done, and the appeals, and everything else that I would have really done better for the client. There's lots of reasons to resolve the case.

Michael Cowen:

And you have to look at the client's risk tolerance, and situation, and the fact that they don't get a second chance. There's a lot of things you have to look at.

Joe Fried:

No question.

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Michael Cowen:

I want to move to another topic and that's motivation. And I don't need to know the details of your partnership details and referring lower details. But from the year you had last year, you probably made enough money where money is not going to be a driving factor for you, unless there's only so many changes in your life money makes once you get beyond a certain point. What is it that motivates you to keep working so hard?

Joe Fried:

I'm a really bad investor. I make money in law and lose it everywhere else. No, I'm just kidding. I'm only partially just kidding. First of all, by the time you do pay all the things that come out of things, I wish I had the money people think I have, but I don't. And my wife and I are heavy supporters of a couple of different things that are important to us in our world.

Joe Fried:

So, we spent a lot of money there. But then what motivates me is, first of all, I don't know if this is going to make sense. But I finally feel like I'm a good lawyer. I finally feel like it's taken me almost 30 years to

get to where I am now. And finally feel good at it. And I finally feel like I can make a difference as a lawyer. I don't know what that says about me, but there's probably a whole psychology that could be written there.

Joe Fried:

So, what has changed for me is a few things, I really don't focus on money aspects for me anymore. So, I am interested in seeing the continued success of the people who have supported me for a long time, people who are associates, and younger partners in my practice, who I'm looking to continue to raise up in that world.

Joe Fried:

And then, the other piece is that I'm doing a lot, I'm spending about half of my time now between, maybe a little more than half my time, between teaching other trial lawyers, and then being involved in the industry on the safety side of things to try and influence safety. And on the teaching side, I would not feel as relevant or as appropriate as a teacher if I'm ever out of the game. I feel like being in the game is a necessary part of being good at being able to teach it, if that makes sense.

Michael Cowen:

It does.

Joe Fried:

And the final piece is, I'm challenging people, and I would challenge people on this, if you would listen to this, let's look for ways that go beyond monetary in our cases to where how we can affect safety, both, as an attorney within a case on a case-by-case basis. We're up to now, having agreements from companies, there are a couple of 100,000 trucks out there that are by virtue of contractual settlement agreements, going to have automatic emergency braking on them in the future.

Joe Fried:

That may or may not have, but for the case that we were involved in, many trucks, tens of thousands of trucks out there now that have various types of dash cams, and part of either Linux systems, or smart drive systems that are there only because the case was being settled. And we required that as a term of settlement in the case.

Joe Fried:

So, there are ways, and by the way, that's not just for my aggrandizement or for the world safety, my clients love that that they were able to effectuate that change within a company through their policies, and procedures, and practices. So, I think what I'm trying to do is continue to live a life of relevance. And to me, this thing of practicing law gives me a platform to do that, as a teacher, as a safety advocate, and as a lawyer.

Michael Cowen:

I've been able to do that a couple times, not nearly enough. But I will tell you, there's always a little bit of guilt in settling a death case, especially when you're the financial provider. We had one that was that my client was in her 50s. Her mother was in her 70s.

Michael Cowen:

The mother is the one who passed away, and there was some guilt about getting money from the mother's death. But when we got to safety change as part of the settlement, it really, I think made the client feel better about what she did, because it wasn't just about money.

Joe Fried:

Absolutely, absolutely. And how many of our clients take the money that we get them, and do something special with it? A lot of them do, some don't. But a lot of them do. They go build parks. They go build gymnasiums. They go build things in honor of their loved ones. They start foundations. They do all kinds of things. So, I just figured some years ago that I could contribute to that.

Joe Fried:

And in some of these cases, we really do very directly contribute money to that solution at the settlement table, and even our firm's money when needed. But it is something that I would ask everybody to at least consider because I promise you, your clients will love it. And you're doing something that's great. If all of us did that in just one case, in the next 12 months, think of the collective change that we will have had on safety within the highway system in the United States.

Joe Fried:

It'd be huge. So, look for ways, if you have questions about how that works, I'm happy to talk about it. And how we go about doing it logistically. But that would be my challenge to everybody. I guess I'm issuing two challenges today. One is, take a sledgehammer to your limiting beliefs on what a case might be worth. And at least examine your paradigm there.

Joe Fried:

If you get all the way to the end of your examination, and you still feel comfortable where it is, then fine. But my request is that you at least go challenge by why, if you ask yourself, what's the value of X or Y or Z? And then, the important question is why, why, and who's telling you that? Whose voice is in there that you're hearing saying that's the right value, and challenge it?

Joe Fried:

That's the first, and the second would be, we all have a duty, we are so blessed to be in this field that we have this license to make a difference in the world. And I believe that it's our duty to do that, not only for our clients, for our law firms, but also generally, for the good of humanity. And in our area, if you're a PI lawyer, it's about looking for... you're already looking for what systemically is wrong that brought about your damages.

Joe Fried:

At least, you should be looking for that. So, once you've identified that, what are some things that can be done to address the systemic problem? And can you get an agreement as part of settlement to do that? That's it. That's the challenge.

Michael Cowen:

Well, I want to talk about a third challenge.

Joe Fried:

Sure.

Michael Cowen:

And that's one where I had fallen off the last couple years. I was pretty good at it for a while. You've been incredible at it. And that's taking care of yourself. I'm getting back up, and getting back in the groove the last few weeks, but you are inspirational. You've done, I think we're talking for 537 days in a row on the Peloton.

Joe Fried:

Yes, but Michael, for so many years, I was so bad at it that I really affected my health in a negative way for I've been practicing law for approaching 30 years. And for the vast majority of that time, at the beginning of it, I viewed myself as an athlete. As of few years ago, I viewed myself as an overweight, not an athlete anymore, not even trading on old athlete status anymore.

Joe Fried:

And I've put myself into some places where heart wasn't doing well. Blood sugar wasn't doing well, all those kinds of things. And so, for me, one of the motivators was really, a life-or-death motivator. I felt like I had reached a point where if I didn't turn it around, I was on the slippery slope. And I even contemplated that I was over the slippery slope, and there was really nothing I could do.

Joe Fried:

And I read a book called Atomic Habits, which is I thought would be atomic, like huge. It turned out atomic was at the atom level habits, and how little things done consistently, it's the message that I got out of the book is little things done consistently set the trajectory for where you're going to end up after a period of time. It's a lot more important than the all or nothing mentality that I had about things.

Joe Fried:

And that what I was doing was setting these... what my modus operandi was, is I would say okay, it's time, I would hire a trainer, I'd start to the gym, I do all these things. And then, promptly, within about three weeks, I get hurt. And then, I was out for months trying to recuperate from being hurt. So, what this taught me was, I can still be all or nothing, but I could be all or nothing by just choosing some smaller things that I could be consistent with it.

Joe Fried:

And so, I made the decision that I was going to do 30 minutes of aerobic exercise a day. And that was really, the only initial commitment. And then, that led to some other commitments, which are just to eat a little bit better. And I tried to make just every now and then, to at least bring intentionality to my food choices. And that's really all I've done. But I've done it for 537 days now. And I'm down, I think about 40 pounds, and feel totally different. My blood sugar is perfect. My blood work is perfect. So, it's made a dramatic change in my life.

Michael Cowen:

How has that fairly short amount of time per day, but consistent amount of time per day, and the changes done, how has that changed then your law practice, and your presence, and your focus?

Joe Fried:

Well, I think it's made me feel a lot better. So, my energy levels are much better. But crazy way, the pandemic helped me because I wasn't traveling as much. It's harder to do these things when you're on the road. So, I've been able to maintain my street, but it's because of advanced planning, and figuring out where to now, Tina who takes care of all my scheduling has the added piece of making sure there's a bike somewhere for me to ride wherever I go, or else I don't do it.

Joe Fried:

I just took myself off of the program that I was going to teach that I was going to be gone for several days because I couldn't get to a bike. Some people would say that that's crazy. But for me, that's the commitment that I made. So, it's no longer something I'm willing to compromise. But it's made a big difference really, in a lot of different ways. It made me feel physically better.

Joe Fried:

And you're right, it's not a long time every day. So, there are times when I squeak in, my time ends at 11:54 PM, just before the strike of midnight, but I will have put my 30 minutes in. So, I would encourage anybody to give it a try, and just don't make it bigger than it needs to be. That's the key that's been for me is it doesn't have to be huge. But even small steps over 530 days is going to make a giant difference in your life.

Michael Cowen:

So, listeners, we just have three little challenges for you. Change the way you think about cases, and expand your mind to get exponentially more money, change the industry, and make the world safer in your cases, and then take care of yourself while you're doing it. It sounds a little facetious. But those are all incredibly good things.

Joe Fried:

But even when you look it up, all those other two challenges about the money side of your cases, the paradigm needs to be at least looked at, but even small changes over a period of time are going to make a big difference. And certainly, that's true on the exercise side. And it's even true on the safety side.

Joe Fried:

If you say every 10th case, you're going to look at an opportunity to change something from a safety perspective, or just your trucking cases, or just your premises cases that involve a certain entity that you know does things wrong. Just one in five cases, one in 10 cases. It's going to make a dramatic difference over a period of months and years. And we'll all benefit from it.

Michael Cowen:

Absolutely. Great, Joe, that's wonderful. Thank you for all the good work you're doing, and congratulations on all the success, both personal and professional. I look forward to seeing you again in person very soon. And thank you for joining us.

Joe Fried:

As do I. Thanks so much, Mike, for having me. I appreciate it a bunch. Thanks.

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