

Intro:

This is Michael Cowan, 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, which is going to affect a lot of points. 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 and 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. Welcome to the award-winning Podcast, Trial Lawyer Nation, your source to win maker 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, in Trial Lawyer Nation, we have Attorney Michael M Guerra from Miguel in Texas. Michael is a fantastic lawyer, has had multiple seven and eight figure, both verdicts and settlements, including a \$33 million verdict, the \$22 million settlement. And he recently had a just monster settlement and what was actually legally a fairly tough case. And so, he agreed to come on and talk about, what he does and how he does it, and hope that the rest of us can get some of those big numbers, too. How're you doing today, Mike?

Michael M. Guerra:

I'm doing great, Michael. Thanks for having me on.

Michael Cowen:

Well, thanks for coming on. So, tell me a little bit about yourself. How did you get into doing finance work?

Michael M. Guerra:

Right out of law school. I got married the Saturday before law school started. So, I was married all throughout law school. My wife was pregnant with our first born when I was taking the bar. So, it was a little bit of pressure. And I had a job with an all state defense firm in McAllen waiting for me. Moved back to McAllen before I passed the bar and quickly terminated from that job. It just didn't work out. It wasn't one where my heart was and it's a firm in McAllen that goes through a lot of people as a training ground for a lot of lawyers, I won't mention the name. And then I had to start making money because I had a mortgage and a baby and started taking court appointments. And I actually had over 100 jury trials and a court appointed defense lawyer. And tried cases all over South Texas. A lot of checkpoint cases in Brooks County, we used to try dope cases there, sometimes two or three a month. So, I had over a 100 verdicts.

Michael Cowen:

And so, for checkpoints, for those of us around the country, there's a checkpoint about 100 miles from the border where they catch a lot of people trying to smuggle drugs or aliens.

Michael M. Guerra:

Right. And so, in those days, if you were on a Greyhound bus or a truck driver, and you had less than 50 pounds of marijuana, the feds wouldn't take it. And they'd refer it to Brooks County, which is a rural county in northern valley. And that judge would set them off for trial. And if you had some defendant that didn't give a confession, number one, you could usually win those cases because it's hard to provoke whose dope it was on a bus, or it wasn't their vehicle, and they didn't have...

Michael Cowen:

Yeah.

Michael M. Guerra:

So, I've tried a ton of criminal cases, over 100 verdicts. And then one day I got an appointed guardian ad litem in this huge case, involved a decapitation death of two kilometers in Plainview, Texas in the Panhandle, where the record verdict on a death case was \$70,000.

Michael M. Guerra:

But this Walmart truck had come out of a McDonald's parking lot and it was just side under ride. And these two plumbers got decapitated on their way to work. And there was three great lawyers involved in the case. So, Frank Herrera had San Antonio, Mr. Edwards Sr., And Mr. Perry had a corpus. All great lawyers that were representing the families of these two guys who had been killed. And in those days, this was probably 1995, you could establish venue by where the plaintiffs lived. So, these guys quickly moved the survivors from Pampa, Texas, and the Panhandle to Falfurrias, Texas. And they filed the lawsuit against Walmart. I'm pretty sure it was Walmart or some other big box store Brooks County. And they settled it for a huge number. And I was appointed guardian ad litem for some of these minor children.

Michael M. Guerra:

And I'll never forget as long as I live, I was on a conference call with these two great lawyers, and young lawyer who actually younger than me named Mikal Watts, who was working for David Perry at the time. There was a debate on how they were going to draft the stylers demand. And Mr. Edwards, Mr. Herrera were arguing and somebody brought up this case about how to write the Stower's demand. And this young guy who I'd never heard of says, "Well, I actually ghost wrote that opinion. Let me tell you how I think we should do it, gentlemen." And they took his lead. And so, that's how I met Mikal Watts. And then soon thereafter, I had a Firestone case with a lawyer on a McAllen and Rick Garcia, another fine lawyer. And then, so we worked with Watts on that case, and then I opened boss's office form in McAllen and did that for 10 years and then went on my own. So I learned a lot from a lot of great lawyer.

Michael Cowen:

Absolutely. And of course, I'm sure working with Michael for 10 years, it was a good way to cut your teeth.

Michael M. Guerra:

And it really, I opened my horizons. You know, I was amazed at what he did and what he taught me. I could do.

Michael Cowen:

Yeah that is a great thing that you just brought up because it's one thing to say, well, this was a great lawyer. They can do great things and so-and-so is a great lawyer and they can do things, but how did you learn that you could do great things.

Michael M. Guerra:

I have a lot of faith. I'm a really spiritual guy and I try to keep her close relationship with our creator. And so I just have the confidence that I could do it. And I've seen it. Other people who didn't weren't much sharper than I was. It's really Watts used to say, it's not rocket science you just have to have a risk tolerance and you got to put it in hours. And so I would put in 20 hour days afraid of failure, more than anything else. And it started happening.

Michael Cowen:

Yeah. Well, not too afraid of failure because you're too afraid of failure. You either don't do contingent work. Are you settling everything without getting full value?

Michael M. Guerra:

I am afraid of failure more. That's always been my motivator more than the brass ring.

Michael Cowen:

Really?

Michael M. Guerra:

Yeah.

Michael Cowen:

So what did you do besides just working for Michael? What did you do to build your skills?

Michael M. Guerra:

Well, we tried a lot of cases and with his outfit, he said he did the phone and say if you want to get paid, bring it to resolution or trial. And one of the things that he would do to manage at that time, we probably, it was a growing law firm, 20, 30 lawyers, each had phones. And you would look and see which files had the most money in the ledger. And the case letter who had spent the most money on the phone taking depositions, because instead of the opposite of him saying, Hey, you're spending too much. He's like keep spinning because if you're spending money, you're getting that case ready for trial. And he taught me, we're going to have these cases settled three pandemic, obviously in a year, a year from the date that lawsuit is filed, we're going to have them resolved. And if he doesn't have them ready for trial, there was problems. And so that was always been my mounts or when I left. And once we want to close files out in a year from the lawsuit.

Michael Cowen:

Yeah, that's always... we were there and then we've kind of slipped off and the pandemic's not helping me. I really want to get back there though. It can get kind of hard in some trucking cases where your clients, you got to file right away to keep the documents, but your clients are just creating. And you

don't know whether it's going to be a surgery case or not for sometimes 10, 12 months. But other than that, I mean, there's really no reason a case can't be ready for crown a year.

Michael M. Guerra:

Right. So that was it pushing trunks and then just going in there and having to, and watching good defense lawyers do what they did. And I learned a lot from the defense bar.

Michael Cowen:

So some point after you left Michael, you got a \$33 million verdict?

Michael M. Guerra:

Well, actually before then, we started trying a case and Duval county, which was a friend of mine. It's a very tragic situation where a friend of mine's father was at a hunting lease and Duval county in an RV trailer. And I had just opened my firm and I left losses from zero files. And my buddy called me, and he's an Aggie. Like I am with a and M he was in the Corps with me. He was actually a war hero. He's a chopper, medevac pilot and his dad was the highest ranking enlisted man in the army. He served in every conflict from Korea to desert storm, one command Sergeant major in the army. And he was in an RV trailer. And when he got up in the morning, the RV exploded at a propane leak. And the first thing that a command Sergeant major would do in the morning, but what is a lot of cigarettes.

Michael M. Guerra:

And so when he lit that cigarette, the trailer blew up and my buddy asked me to look into it and he was a command Sergeant major was airlifted to Brooke army medical center was what it was called at the time. He lived for about 20 days and tragically passed away. And then I start looking into the case called the fire guys. And from doing fire cases that there's no such thing as a cheap evaluation or a fire case, but here is a friend of mine great Americans, both the dad, the entire family, wonderful people. So I call in Mike Schultz at Illinois at the time to come look at the trailer. I call Tim Dunn out of Georgia to come look at the gas system and they come to this investigation. And then I'm just starting my law firm, my mama home.

Michael M. Guerra:

And I'm spending on these experts and the Sheriff's department from Duval calls me, and it's a deputy. And he says, Hey Guerrero, I gotta tell you when we got into the trailer after Sergeant measure had been airlifted, we found that burn the on position. One of the gas burners was in the on position. And so I was like, obviously Sergeant major left the stove on by accident. And so all my thoughts about why this is a defect or a design defect or there was a leak in a propane system or something that caused this explosion. I just couldn't believe what I was being told, but he goes yeah that's what we found. And you actually videotaped at the first arriving officer videotape the gas. There was no flame, but it was admitting gas. And so I didn't know what to tell my buddy and I was starting to get on Google by two in the morning.

Michael M. Guerra:

I can't sleep. I get on Google and type in this trailer manufacturer, I type in the oven manufacturer. And it turns out that in Australia, the same company sells the same exact trailer except their stoves in Australia have what's called a flame failure device. So that in case the flan goes out, it shuts off the gas.

Oh, wow. So the exact same trailer with exact same stove in Australia had the safety device that the American travelers, because they weren't required by law. Didn't have saved these manufacturers 99 cents per burner, not to have a Thermo couple protected burner on. And so of course that case consumed me for the next 10 months we got to set for trial. And one thing I wanted to visit with you about it in that case and this latest case settlement that we were able to achieve in another fire case I understand what my limitations are and I've never considered myself a great brief rider log guy.

Michael M. Guerra:

And there's a view, for example, our great log guy and a great trial molder. Watts is the same way. He's a law guy and the trial lawyer. There a lawyer, Roger Braham, remember Roger Braham?

Michael Cowen:

Yeah.

Michael M. Guerra:

He was, he was a great law guy and a great trauma. I'm not that... I can't stand having the brief and figuring out the law because part of me thinks it's all fiction anyway. And it just disgusts me because I'll know... well, you have a Supreme court that's situated in this regard. So they, they get a result. Then they figure out a way to justify it or whatever it just... it sits hard with me, so I can't get into it. So in that case, that the flame failure trailer case, I hired John Tsang. Who's a great law guy. And I said, John, I want to... I'm cutting in on this file. I think it's a big file. I want you to do all my paper. I want you to overpay for these guys.

Michael M. Guerra:

And here we had the biggest defense firms in America, defendant, at least 10 lawyers that were going against these big firms. And Sanger did an amazing job with his briefing responses to dispositive motions and expert challenges. And we ended up settling that case after a week of trial for an amazing result for my clients and including trailer manufacturer, grains include these safer alternatives and feature molds.

Michael Cowen:

Well that's... Incredible.

Michael M. Guerra:

So we had a really great result, but I wouldn't have been able to do it. Had I not hired a lawn guy to, to take that off of my plate number one, and then give us the confidence that we can keep a verdict, at least in that the fourth quarter of appeals in San Antonio.

Michael Cowen:

What i've found is even if I can be about the briefing and the trial stuff, it's more like I have the intellectual capacity to do it. It's more energy than I sometimes have at the age of 51 especially on a big case, cause this is the law that they pay for you so much can get all consuming. You really need to focus on the story and on how to tell the story and getting someone else to do that is really invaluable. And Sanger is one of the smartest people I know so that was a good choice.

Michael M. Guerra:

So he did a great job for us in this fall and this latest case that we were able to settle out of the port of Brownsville, which has all the fire death and injury case. We had Roger Reed.

Michael Cowen:

Yeah.

Michael M. Guerra:

And Roger Reed was our long lawyer. You know, he was Harvard undergrad and brilliant lawyer. And he's been to the fifth circuit a million times then... He's just a brilliant law lawyer and right away in this latest case, the defendants filed a limitation of liability act, which gets...

Michael Cowen:

Why don't you tell us a little bit about the case first, that way we can kind of put it into perspective. So, I mean, there's a lot of us we got a lot of lawyers here that would do car wrecks, maybe a little med mal, but this is... when you add an ocean going vessel, even if it's at four, you had a whole list of complexities and other legal doctrines from maritime law. So can you just give us a little factual background of case and then kind of go through what these issues are and how you overcame them?

Michael M. Guerra:

Yeah, they're the world's largest to ensure barge corporation. And I'm going to try to keep names out of it because there's confidentiality involved, but just world's largest barge company at Santa Barbara, port of Brownsville to have... be dismantled ship breaking. And there's a ship breaker in the port of Brownsville. And really Brownsville is the only place in America. That's doing deep water barges for dismantling, and they're doing aircraft carrier. So they get guys, a blue collar gods working guys out of Brownsville, come with cutting torches and they cut up the stuff and they recycled steel. And it basically the only place in America, that's still doing it most ship dismantling is done off shore. And so this a barge company sends a barge to feed this now. And in the process of the dismantling, there's a fire. These guys are using an electric saws off cutting heating calls on the bottom of the barge.

Michael M. Guerra:

And there's a flash fire. And unfortunately one of the gentlemen was burned over 80% airlifted to San Antonio, military burn fancy now. And he lived for nine days I believe, and then passed away. And then my client who was helping him in there had significant burns to his legs and required skin grafting and all that stuff. But he survived. And so the other lawyers involved in the case or Conrad bond a man in the well, Eddie Trevino... Roger Reed, who I brought in on the team as the law guy and Ray Thomas, he's a fantastic trial lawyer out of McAllen. And that really that's one of the things I wanted to share with you today. And those listening, seeing we talked about an early in my early career, how I had to prove to myself that I could handle an eight figure fall on my own because I had to prove it to myself.

Michael Cowen:

Yeah.

Michael M. Guerra:

And, but now I don't have it. I don't have to prove it to myself anymore. And if it helps my client to bring in somebody like Roger Reed to do the briefing or to bring in some highly advanced engineer to help me

on the technical issues. I don't mind doing that now. And it makes the process so much more fun, so much more enjoyable because you have four... three or four guys that you can brainstorm every minute or issue with. If you traveled to depositions, you get to go have a good dinner. So it was a lot of fun. And I, and we had a great team on this most recent case. But right away the ship owner who is now the ship dismantler follow the limitation of liability act got us removed the federal court that would... could have been devastating to the fall. You know, the difference.

Michael Cowen:

That could limit any recovery to the value of that scrap ship instead of...

Michael M. Guerra:

Yes, exactly against the ship owner you can only get the value ship. And the value of that ship was a million dollars. And here we had guys who were catastrophically injured and surviving family members. And it was obviously a very valuable song, so that would have really knocked us out of the park. But Roger was able to find some great law that says, if it's no longer a vessel, it's a dead vessel, then they're not entitled to protection. And this explosion or flash fire had occurred after parts of the bowel had been removed by torch. So the trial court, a great federal judge and Brownsville Judge Olvera didn't hesitate to deny the limitation of liability. They took it up to the fifth circuit and the fifth circuit basically just agreed with everything. Our brief said, Roger's brief said we were back in state court and we're fortunate that we landed him in Judge Sanchez court.

Michael Cowen:

I went to high school with Judge Olvera, Conrad Bodden used to practice with me, and Judge Sanchez used to work for Conrad and me.

Michael M. Guerra:

Yeah. I know you know these players. Judge Sanchez I a... I had never been in front of all...

Michael Cowen:

He's a great judge.

Michael M. Guerra:

Great judge, but what really what he is, he was fearless in that he let us pick a jury in this case. And without that jury selection, it would never have been resolved. And I think that the defendants were counting on it getting bumped into 2023 in the forever land. And so this judge actually worked and we had a big, we had a hundred person panel and he did it. And then central jury room and Kevin county was this it was in June of this year though, the ascent, I think that the Supreme court had ruled that June 7th... dates escape me a little bit now, but they said June 7th is the last day of the emergency order. And so we were allowed to do it in person as long as we did social distancing and masks. And it was a wonderful experience to pick a jury for pretty confident. We were the first civil jury selection in south Texas.

Michael Cowen:

You were, I know that for a fact, they're either the only one that has happened in Cameron county by that, I mean, judge Manion has, may have done one since then, but not very many of them.

Michael M. Guerra:

And the district clerk did a great job simply allowing us to get these people. And we actually agreed with the defendants on a 12 page jury questionnaire that we mailed to the panel before we got it back, we knew so much about everybody on that panel and who we thought would be against us. We're able to, I was able to target my board direct to those people to get responses that I thought would land to get ammunition for strikes costs. And we ended up getting... Well, if you don't mind, I'll tell you about that jury selection.

Michael Cowen:

Yeah, Please identify not just how it went, but how you can tell you that it safely, now that we're back in, I thought we're done with this pandemic, but now that the Delta's back, I want to know, I'm hoping to pick a jury in North Carolina in three weeks so...

Michael M. Guerra:

Well, one of the most important things we did on this, on that file on it, on the barge explosion was hired Melissa Gomez out of Philadelphia. Have you worked with her yet?

Michael Cowen:

Not yet.

Michael M. Guerra:

She's a PhD, very consultant from Penn. She's brilliant. She's been on so many high profile cases and growth, plaintiff defense and criminal, helping lawyers get juries that they want. But in this case, we did a two day 36 person mock trial which was invaluable. I mean, we just learned so much about our file and it was a trial. We had to put on witnesses, we had to do open statements. And so we were so well-prepared for the actual trial when it came, because we had done the mock trial.

Michael Cowen:

Yeah. What did that cost you though, if you don't mind me asking,

Michael M. Guerra:

Well I don't. We ended up spending... when it was all said and done when you included hotel rooms. So she brought us staff of six or seven people. We all, each of the firms had our staff there and food, a couple cold beverages is probably about 80,000 bucks.

Michael Cowen:

Well, that's actually not that bad. I mean, I've seen consultant starts as much as 34, just a focus group so I can see...

Michael M. Guerra:

It was. And for me personally, what it did for me is the feedback we got from these three jury panels. It allowed me, it gave me the confidence to ask for huge numbers for non-economic damages in voir dire, which is the scariest thing for me personally, as a trial lawyer is the voir dire... Me personally, I guess some to some extent, most of us have insecurities when we're out there in front of a group of a hundred

people. And one of the best things I ever learned as a trial lawyer was watching you give a CLE on, on jury selection and opening statement where you said you have people in the audience when you're practicing, say things, negative things about you while you're trying to. So you can fight off the encroaching thoughts that come into your brain when you're supposed to be communicate...

Michael Cowen:

It's painful, but it, but it works.

Michael M. Guerra:

Well. I didn't go to that. But what it did is it taught me that you're not the only one that has these fears, right? So, and we had done the voir dire, both in the mock trials and in front of our own focus groups. But having these numbers come from people who we thought were going to be exactly what our jury was going to live by. They came back and said, we can award a hundred million dollars for pain. We can award a hundred million dollars for disfigurement. We can award these numbers, gave me the confidence to do it, but I was still a little bit queasy because we had agreed as a team. And in voir dire, I told the panel, well, before that we said, what are we going to ask? What is our number to ask for? And we want to do it.

Michael M. Guerra:

We got to expose it. We're done. So we said 350. 350 million bucks was what we were going to ask for. And all the lawyers, our team seasoned guys 25 year lawyers or more. Including, I think I've met my left amount, any Travenia that's county judge. And so I told the jury panel said, look, we've got a team of mostly bald guys. Who've been doing this for a lot of years, over a hundred years and together combined. And we think that the combined value of this case, both families is I think I asked 250 to \$350 million.

Michael M. Guerra:

So that was the ask that I came up with at the end. And it took a lot of, for me personally, to that kind of money, knowing that I'm going to get people throwing hand grenades at me, and sure enough 25% of the found raise their hands with under no circumstance, could we ever consider awarding that type of money? And we went through the magic words. I got them all to commit and under no circumstance could they do so, no matter what the evidence shows, no matter what the judge instructs you and most of those jurors or prospective jurors are strong, but we are coming down to decide who is going to do more dire. And so a process where we were all kind of like lined up and one of the paralegals said, who's going to do more dire and everybody, but me step backwards looking around there was just me. But what I did that morning is I get butterflies. And so I have to be the first one at the courthouse. And I don't care what time it is. I have to be there when they unlock the door. I just cannot stand the thought of being, getting there late. So I got out of the hotel room about 4:30 in the morning.

Michael M. Guerra:

I was saying my prayers. And my prayer when I try cases is that to get Lords justice be done, not mine. And because even I always feel that's a great prayer because I don't necessarily know what's the right always and sometimes clouded with my competitive zeal, but I want justice to prevail. And so I'm meditating, I'm praying. And then eventually I start heading to the courthouse about 5:15. And I had a CD of Nick Brownlee in my car, which I had never played before, but I had it in my car and I put it in, in the parking lot. It was a DVD and it's playing on the screen of my vehicle. And that guy gave such a

compelling speech. I highly recommend it to all the listeners, if you're on the plaintiff side. And if you're on its best side, watch his presentation to the California trial lawyers about for Darren's jury selection.

Michael M. Guerra:

And it was like, he was talking to me and he said, go in there and just talk about money and put your fears away. And he's talks about how you go in there and you look at the jury panel and right away you start judging books by their cover and you have all these thoughts, oh, that's a Republican. You'll be horrible. Or this is a tort reform or that'd be horrible. And so I... unbelievable. This is the true story. I put that DVD just happened to be in my, in my vehicle. What happened was I keep the holy rosary on my CD player. And I had been saying that rosary just meditating and not when I pushed the Jack and I put it, I was putting it back in the CD cover and there was roundly CD in there. I had never listened to it.

Michael M. Guerra:

So I played it and he starts talking about we're darn it. Just, I want to jump out of my car. I could not wait to have that panel. So I could talk to him about money, which is a thing I hate talking about the mumps, especially huge money. And it was, it was great. It was a great deal. And we ended up we picked that jury, I think on Friday and by... And we're going to start evidence on Monday, but Saturday night at midnight we were able to resolve the case.

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Michael Cowen:

So what something else you did that helped the pressure on the defense in that big explosion case at port?

Michael M. Guerra:

Well most jurisdictions from coast to coast have laws that create a duty for insurance carriers to use good faith and settling cases. And in Texas, obviously we call it the stowers doctrine, which says that if a insurance company refuses to settle the case, that's a reasonably should have been settled within policy limits that the insured can sue that carrier and they can be on the hook for the entire amount of verdict, even above their policy limits, but it's an ever changing very dynamic area of law, in my opinion. And so, one of the most important things we did in our case, and there was several different policy layers. I've never seen insurance coverage like we had in this case. And we hired coverage lawyers and two guys and gals that specialized in reading insurance contracts to help us draft our stowers demand or demand letters to the carrier.

Michael M. Guerra:

Because if you don't phrase it right, as you know, then there's really no pressure because you've not made a demand that creates a duty on them to settle the case. And so we hired a coverage lawyers to assist us in that process. And that really came paid off at the end. And I actually had lawyers on the other side, tell me, Hey, look, your demand letters were expertly done. How'd you do it? And of course that's what did it. I have calling someone over the permerks charging ray \$150. I just signed it because there's all kinds of things that say wasting policies. If they're spending money on the defense of the case or on legal fees and you demand entire X amount of coverage, but they don't really have that amount anymore in their policy, but then that's not a valid demand.

Michael Cowen:

Right.

Michael M. Guerra:

And so and nowadays I think most people in Texas anyway are utilizing the stair-step method where you have to make a demand on the primary carrier or on the self-insured retention and then the primary care, and then the next layer. And it has to be a stair-step timed sequence so that when you're making your ultimate demand, that carrier has the complete authority to settle the case because every carrier before then has standard their limits. And so that's crucial. And so doing that in this case really paid off.

Michael Cowen:

Yeah. And it's really hard to get any first grade until the date. You can get the tender. Now, unfortunately in Texas, we can't get them to pay us as we go, they to have to tender it onto whatever they have to the next people and say, it's your baby now.

Michael M. Guerra:

Right.

Michael Cowen:

There's some states we have to settle with each layer as you go. And then that's a lot of fun because...

Michael M. Guerra:

[crosstalk 00:34:25] I've never had that.

Michael Cowen:

We've been able to do it. I know it exists. And I know Louisiana, you can do it. I think there's a couple of others and that's i'd like to do it, but unfortunately haven't been there yet. I've got a Louisiana case. I'm hoping that maybe we'll get an opportunity. One of the things you told me about when we're getting ready for this is great experts were also important that case. Tell me about that.

Michael M. Guerra:

We had great experts who, who are great people. They're just good guys. They're good guys, good ladies who want to do the right thing, who aren't just trying to get a six figure fee from the lawyer. They really work hard and we had great fire causing origin experts. We have great engineers. We had this great experts that were that we put up in front of our mock trial juries to get your feedback on. And so that was crucial in our case to have the right experts.

Michael Cowen:

Absolutely the wrong expert can mess up a case quickly, especially if they have an ego... not all experts would do the mock trial. For example, something like, I don't need to do my crock justified lots of times. And those are the most dangerous ones. I think they know more about the law or about persuasion than you do. I'm getting ready for an arbitration trial. I'm doing my partner Mallory Wednesday and what our expert Greg guy put them on before. You know, he's one of those, like I said, he's just a fantastic expert. He testified as well, but he's like, what do you want my office to do the PowerPoint? I'm like, no, because I said, look, you're really awesome at bond mechanics. You're not really awesome at communications and communications and PowerPoint. So if you want me after the trial to go over how, how are you going to prove your PowerPoints? That's fine, but I don't want to pay you to do a PowerPoint and I'm a throw away, but he was cool with it. I mean, we've worked together and he was all right with it. You know, some experts would get all, no, you need to use my PowerPoint. And this is how you need to fund the case. And I'm like, got like 20 things on one slide and eight of them are like calculus formulas. No, not doing any of that. But you gotta find the right experts.

Michael M. Guerra:

I did listen to your podcast on beyond bullet points which I thought was fascinating. And I had to actually read them buckets. It's great.

Michael Cowen:

Cliff was wonderful. I have gotten some bites out of being on this podcast. I've gotten to speak to you, to Cliff, to Raleigh, to so many people and learn so much. It's a little overwhelming. I'm trying to put it all to use it's like... [crosstalk 00:36:42]

Michael M. Guerra:

It's awesome and I'm honored to be here. I've seen the list of names and I've heard so many of them. You got superstars. I'm not in their league, but it sure is an honor to be on this podcast.

Michael Cowen:

Well, you've had recoveries that are in their league. And so you've done a great job, Mike and I... I've known you for a long time and it's great to have you on here. What didn't they get is that insurance companies never offer what I call real money or caught money until you're actually down there. And you either, you're about to pick the jury. You've just picked the jury or you're halfway through the trial, kicking our butt.

Michael M. Guerra:

Well, I had a defense lawyer who very well, who's a good friend of ours. Who's the most seasoned of defense lawyers in the state bar tell... 99.9% of his lawyers are not going to want to do the work. And these carriers know that. And then they're going to say, and if you multiply it times thousands of claims nationwide, they say tens and hundreds of millions of dollars by holding back top dollar until there's a jury in the box until they are a hundred percent sure that actually going to trial and that you've got the guts to do it. And that I said, it's no secret. I'm not telling you any secret recipe says, you've got to go in there. You've got to picture juries. You've got to take birds. Otherwise you're never going to get paid. What they, what they already have set aside to pay the claim.

Michael M. Guerra:

They have that money set aside. Another thing that he taught me and, and he told me to read, read the Oracle of Omaha. What's that guy that invested?

Michael Cowen:

Warren Buffet, yeah.

Michael M. Guerra:

He said, read Warren Buffet's article called float F L O A T the concept of float. And I think buffet bought Geico.

Michael Cowen:

He did.

Michael M. Guerra:

And he talks about how they money, how they make money and they hold the money as long as possible. And that's how they make money. So if this defense lawyer or not the defense lawyers, they don't... it's not, they're calling more under weird circumstances. I don't think defense lawyers have much to say and how much you get paid it's committee, especially on these big, bigger files, but they're going to hold this money as long as possible. They're making interest on that money every day. So the longer they hold it, the less they actually paid. So the article by Warren buffet on slope opened my eyes.

Michael Cowen:

Absolutely. So you all were able to get that resolved. I guess then you said like midnight, that's funny. I did one, it was above 11. 15th, 11:30 on a Saturday night. Earlier this year.

Michael M. Guerra:

And that's when it got resolved. And one of our fears in the case was, and we only had 14, we had 12 jurors and two authors and the judge had told all the parties that two of the jurors were waffling about showing up on Monday. I don't know if it was COVID fears or work or whatever. And we're thinking, man, if we don't get this panel on Monday, who knows when we're going to go again. And so that was from our perspective while we had to do it, but it was a great recovery for our clients. So it was one of the most fun. And it was a very just case Rises case some really bad facts that caused this explosion should never have happened.

Michael Cowen:

How do you run your life in such a way that you're able to put in the time that a case like this. You said you did multiple focus groups, you did a two day mock prior while worked with experts practice. I mean, how do you put in the time?

Michael M. Guerra:

Well, now at this point in my career I'm blessed to say that I'm able to focus on just a handful of files. Now that really motivate me and that I... and that kind of fall in, in what I do, a lot of what I call fugitive gasses, whether plosive gases are toxic gases to escape and kill people or hurt people real bad. And so

I'm lucky to be able to focus on those top of cases. I only have a handful of cases and I'm an empty nester now. My youngest is in college and so my wife and I get to travel together now doing depositions she's with me a lot. And now we can work remotely and not married to the office. So we don't have to be in the office. It frees up a lot of time.

Michael Cowen:

How did you learn then? You only work on a handful of cases. I'm sure you get offers for all kinds of other cases that you don't take. How did you learn to say no?

Michael M. Guerra:

Well, be honest with you. I don't get a lot of calls. I'm not really... I don't have a big media presence. I'm not marketing a lot, so I don't get a lot of calls. I get a lot of medical malpractice calls, which I don't handle any more except for baby cases, but it just falls in that way. I really don't have an answer. I mean, I don't say well, I'd like to work with a lot of young lawyers too. And so for car wrecks and things that I'm not doing anymore, but I think our grid cases that need to be filed worked with a lot of young lawyers and I tell them, Hey guys, you gotta tell this caller, call this young lawyer. He'll do a good job for you. He's motivated or she's motivated. And I like to mentor lawyers and I give them free advice. I don't take them see on that side or anything. And that easily you develop relationships. And really all my business comes to me just from relationships that I have in the community or with lawyers it's this trust really.

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Michael Cowen:

So there's one thing one of our listeners is fortunate enough to get a possible monster case. We don't want to lose eight figure, less cases. What's the one piece of advice you could give?

Michael M. Guerra:

So much. I mean, if it's their first really big file, especially if you're a general practitioner. Like I was when I started out, when I was trying criminal cases and we had a big, actually it was a vacuum truck, exploded and killed a guy. The key energy actually backing for exploded. The rear has come off and killed a man, a dad who I'd like him to Troy. And he was a superstar of your family. And I called other lawyers that had experienced, but most importantly, that I trusted because I've seen the nightmares where a young lawyer will call a more seasoned lawyer. Who's had experience in may had the verdicts, had the recoveries and then they get know, right. And that happened. You've seen it. And some of my close friends had experienced when it comes time to get checks in the mail.

Michael M. Guerra:

They're like, Hey, that wasn't our deal. And then there's some. And so it's really call someone. You can trust, you get a handshake on and you can like yourself... somebody, you this trust to do a, how to work it hard to put the client first, no matter what, and the live up to their part of the deal. And that's gonna

include you in the process because I learned how to do it by working with our lawyers. So if you get a great file and you're new to that area of law, work with someone is going to bring you to take you to every deposition, give you responsibility and bring you into the fold.

Michael Cowen:

And actually those of us we actually enjoy doing that. It's fun to work with another lawyer.

Michael M. Guerra:

it's the best. And, and really, I tell all these young lawyers, and I tell even see the lawyers that I'm working with. It's the process that's enjoyable. That the verdict or the checks or whatever they come and go. But what you remember about a file is, Hey, remember when we took that deposition Naval pass. And remember when we found that witness and I really enjoyed doing the third party off the grid discovery, which is really where the you can blow a case wide open is on in the investigative process.

Michael Cowen:

What do you mean by third party off the grid discovery?

Michael M. Guerra:

I had a case and it was a trucking case where truck came into my guys lane head on catastrophic burn injuries. And I knew that the driver had a substance abuse problem. He was from a small town in south Texas up in a brush country. And I knew the guy had a substance abuse problem, but it hadn't surfaced in all the traditional discovery. And so I went to a bar in a town between heaven, bill and the radio, and it's the only bar. And at five o'clock, all the workers went in there and having a cold beer, wondering how much, figuring out this case is hot. And this guy came up to me, obviously, a rough neck and he says, Hey, are you PIP? I get his brother. And I have a brother. Who's a ranch room cowboy. And we looked the same, except he's got better hair. I said yeah, he goes, that's good guy. What are you doing here? You asked me. And I said, Hey, I'm just coming back. She's actually coming back from deposition. I've got this case that this guy's a driver. You know who this guy is. I said, nah, I hear he's addicted to synthetic marijuana. And that was when you could buy this marijuana, you could buy it in stores. And they called it popery.

Michael Cowen:

[crosstalk 00:47:07]

Michael M. Guerra:

Yeah. And that synthetic we didn't show up on drug tests. So I knew that he was impaired when he crossed the center line, but I couldn't prove it because none of the medical records, none of his toxicology showed. And this roughneck who was friends with my brother says yeah, I know that guy he's a dooper. Matter of fact, I have pictures of him on his cell phone. He had pictures of this driver in his company uniform with a bag of the synthetic weed and a pipe in his hand, passed out in a company truck. So he's like this holding the weed. And so... that was just incredible. I said, do you mind texting me though?

Michael M. Guerra:

And of course that's all that mediated that chase with a famous mediator, Bob Dorton out of San Antonio. I remember Bob and at that mediation, he's telling the adjuster from New York and they were trying to call our bluff on a number and the H figure site. And Bob asked the adjuster in front of the room full of everybody, Mike, that defense lawyers adjusted. He goes, Hey, you got friends in the insurance business and the adjuster like that. Well, you know why because, well, I just hope you got a lot of firms insurance meniscus after this burden shall be fired. True story. He told the adjuster from New York or mediated until about 11:30 at night just up to seven.

Michael Cowen:

That's awesome.

Michael M. Guerra:

Hate to tell war stories, but also it's part of the fun.

Michael Cowen:

Well, that's part of the fun. And I think the fact is those are war stories that we can learn from because the... they talk about us having all the risks, but behind every nuclear verdict was an adjuster who made a bad decision and really, truly, they do have the risk of getting fired. When you put the adjuster at risk and their livelihood, they're going to look at, they would rather pay you money than get fired. And but you have to be, they have to see that you're not going to blink first.

Michael M. Guerra:

Exactly.

Michael Cowen:

And that you've done the work. I mean, you can't go in there and not be prepared for trial that doesn't know much either.

Michael M. Guerra:

And now I've recently been hired by a defense friend of mine to consult on a file where they're their firm is being sued for legal malpractice. And it's in a venue close to where I live. And he asked me to consult and try the case that they have to go to trial on the defense side, I guess an insurance carrier, assuming that's the law firm. And so I've learned some really crucial information in that process about the communications between defense lawyers and insurance carriers. And this guy is saying, Hey, we're going to, we were telling them, this is a dangerous case and a dangerous verdict needs to be settled. And this carrier wasn't hitting their advice. And so there is risk on the other side.

Michael Cowen:

Yep. We just gotta keep that in mind. I just last question, call your shot a cover nights who wins the football game?

Michael M. Guerra:

Yeah. He's when we went 10 points, we win the national championship. You heard it here on trial.

Michael Cowen:

All right. I pray that, that's right. I'll be there yelling. I'll tell you that much. Well, Michael, thank you so much for coming on. Oh, one last thing. If someone wants to get ahold of you, especially if they have a case with any kind of gases, like carbon monoxide, poisoning and explosion, flash fire, what's the best way to get ahold

Michael M. Guerra:

Website has my cell phone MichaelLambgarrett.com, and it's got my cell phone on it. And that would be the one last thing I would tell young lawyers, young, especially in our business that are out there, have your cell phone on your car and give it to everybody. Every relative, every family member, every friend have your cell, they should have your cell number programmed in your phone because when they had that big event in their life, or their friend has a big event in their life, they're going to make one call. And if you don't answer it, or you're not in their phone, they're going to the next number in the phone. And I've had that happen both ways where I didn't answer the phone, my wife and I used to have problems at dinner because I have my phone on and she'd say, don't answer it during.

Michael M. Guerra:

And I said, babe, we make... I'm paying for college because I asked my cell phone and there's sounds, and I didn't answer it. And they went to the next lawyer and I've had people call me and said, Hey, I called so-and-so. He didn't answer you interested in this file on me. I'm there. Everybody has my cell phone and it's on my website. So anybody ever wants to call me and I'd love to share our jury questionnaire that we used in this last case that share that with it was wonderful. Any of the experts we used, including Melissa Gomez, out of Philadelphia for mock trials, I'll share anything. I enjoy sharing.

Michael Cowen:

Me too, I'm in this part of what makes it so fun to be a punished lawyer.

Michael M. Guerra:

Thank you, Michael.

Michael Cowen:

Well, Michael, thank you for coming on. Congratulations for all your success in life. I look forward to hearing about your next big hit.

Michael M. Guerra:

I appreciate it, Mike. Thanks for having me on buddy.

Outro:

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