

Intro:

This is Michael Cowen and welcome to Trial Lawyer Nation. You are the leader in the courtroom, and you want the jury to be looking to you for the answers. When you figure out your theory, never deviate. You want the facts to be consistent, complete, incredible. The defense has no problem running out the clock. Delay is the friend of the defense. It's tough to grow a firm by trying to hold on and micromanage. You've got to front load a simple structure for jurors to be able to hold onto. What types of creative things can we do as lawyers, even though we don't have a trial setting? Whatever you've got to do to make it real, you've got to do to make it real, but the person who needs convincing is you. 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 for episode 99, I have my partner, Sonia Rodriguez. How are you doing today, Sonia?

Sonia Rodriguez:

Great. Michael, congratulations on episode 99.

Michael Cowen:

Almost to the big 100. It's kind of cool.

Sonia Rodriguez:

That's awesome.

Michael Cowen:

I can't believe we're already on a new season. We're going to talk today about an important topic, and that is what are some things we can reasonably do to keep our clients happy. So Sonia, why do we want to keep our clients happy?

Sonia Rodriguez:

I always like to keep clients happy because since I was in kindergarten, I liked having all the gold stars next to my name. So completely selfishly, it is fabulous to keep clients happy because it makes me feel good about the job I'm doing for them, and if you practice long enough and you have enough happy clients, you will see that a happy client turns into future referrals and cases and clients in the future.

Michael Cowen:

Absolutely.

Sonia Rodriguez:

But it's also, statistically speaking, if you have a happy client, you're much less likely to get a grievance or a malpractice suit against you.

Michael Cowen:

To me, that's a good side effect, but it's really... To me, one, we're in a service industry. We're supposed to be serving our clients, so we'd like to keep them happy, but, to me, there're other things. One is, at the end of the day, you want our clients to take our advice, whether or not to take a settlement offer, whether to proceed to trial, you have to have a level of trust and confidence for them to take that advice. You don't get that in one phone call. You have to build that up. If they're mad at you or they think you're not doing a good job, then you don't have that. And then that's when they're always talking to the cousin, talking to the brother-in-law that thinks their case is worth so much more hard, or gets scared and doesn't think you're going to do a good job and settles for not enough money because they don't think you're going to be able to handle it at trial. Both those are things we want to avoid.

Michael Cowen:

And so I think that's going to be really important. The other thing is ratings. Google ratings are more important, even on a referral. I went to go meet with a client, a mutual client of ours actually, not mutual client, but it was a case you and I were working on together. I went and drove down to the Rio Grande Valley. I was in the client's living room to do the initial meeting, and the referring lawyer had told the client about us before, but they actually went and they Googled us and they looked at our ratings and they looked at our reviews and read all that stuff before deciding whether to say yes or no to us coming on the case.

Michael Cowen:

And so to the extent you can get clients that are happy enough to say good things about you and avoid getting clients that are unhappy enough to go say bad things about you online, it really makes a difference. Then, finally, you always hope that you have clients either come back if they need a lawyer again or refer other people they know that need a lawyer again and keep them happy is a good way to do that.

Sonia Rodriguez:

Yeah, I agree. There're lots of reasons why we want to keep our clients happy. I think the way you touched on it developing that trust is critical because when you have a client who trusts you, you can go forward with your case strategy as a team.

Michael Cowen:

I think the trust is really important in the personal injury sphere specifically, because let's say you're doing insurance defense litigation. Now, your client may never be happy with you because they just don't want to ever spend any money. But an insurance adjuster has a pretty good idea of what a budget should be in a case. An insurance adjuster has a pretty good idea of what they want to pay in a case or not, and so they have some way to measure whether they think you're doing a good job or not. They have some metrics.

Michael Cowen:

Our clients have no clue what their case is worth typically. They definitely have no clue what a pleading is supposed to be, look like, how artfully we did a deposition or responded to a motion. They have no way to measure or value us against any other lawyer. They can only value what they know and what they can compare to is how was I treated at this lawyer's office as compared to how am I treated in other interactions I have the rest of my life; the doctor's office, the grocery store, whoever else I deal with, CPA maybe or tax preparer.

Sonia Rodriguez:

I think the other brutal reality. Michael, is that like it or not lawyers have a fairly low reputation among the public. Our clients are coming to us with that kind of in the back of their mind. Are we those shady lawyers that they have heard about or read about in the paper? And so it's really critical to building that trust to be upfront with them and honest with them, keeping them happy, be as transparent as possible because I think like it or not always in the back of their minds, they're wondering just how honest and truthful are we being and trustworthy are we.

Michael Cowen:

Yeah. I found when you take the time to listen to clients and to prove over time that you are trustworthy, you're able to work through some tough situations that may have gotten you fired or grievanced or just had an unpleasant experience otherwise, especially when you have, multiple clients and only so much insurance to go around. The fact that everyone trusts you helps you kind of... You can't tell them, at least in Texas, you can't tell them what each one should get, but it kind of helps you work through those issues ethically and also keeping them as happy as can be. I want to take a step and kind of look at the question from the other direction. Before we talk about what we can do to make clients happy, what are the things that you think make clients unhappy with their lawyer?

Sonia Rodriguez:

What I've found is a client is already initially unhappy when they don't know how you're getting paid, how we as a lawyer are getting paid. And if there's any doubt or confusion in their mind about what their lawyer is going to be getting out of their total recovery, I think that's always starting out in the wrong foot. I like to have very frank, honest, transparent conversations, just matter of factly, about the contingency fee arrangement, how it is that the firm will get paid and how lucky they are to be in a country where they can hire a lawyer through a contingency fee that ensures that the more money they get, the more money the lawyer gets. So there's a built in incentive for the lawyer to work as hard as possible on their case.

Sonia Rodriguez:

And always being real clear and upfront that the attorney's case expenses are separate from the fee. I found the more that I repeat that and make it a nonchalant kind of conversation, it builds a lot of trust, and they're less uneasy about what's happening in their case when they know that upfront.

Michael Cowen:

Absolutely. That is so important I think, but to be able to do that, we have to fix our own relationships with money and getting paid and having value because I think a lot of it is... I used to, you helped me with this. I used to cut my fees all the time without the client even asking me to cut my fees. I think looking back now, sometimes the client being like, where did this come from? And it wasn't even needed because when we stopped doing it so much, I'm not saying we never cut our fees, but when we stopped doing it so much, the clients were no less happy. It was all in my head, my own guilt about making money, my lack of truly internalizing belief in my value, in the value of what I provide. I think until we fix our own heads, it's hard to have those conversations.

Sonia Rodriguez:

I think that's true. I think one thing I've always been mindful about and one of the reasons why it's just like a non-starter for me when the talk begins about cutting an attorney's fee is the attorney's fee is not going all into the attorney's pocket. There's a universe where if you walk in knowing that paralegals are being paid, investigators are being paid, health insurance is being paid for for the staff, so it's never been anything that I've ever had a hangup about.

Sonia Rodriguez:

And because of that, I think I've always had conversations with clients about it just kind of frankly. And, of course, there are lawyers all across the practice field that have different contingency fees. And I will tell you it's a hell of a lot easier to have a conversation with a client when the contingency fee is reasonable and customary and something that we're all used to seeing. It's a lot harder to have that conversation when the contingency fee is a little higher than usual.

Michael Cowen:

It is. I used to really struggle with that. Then I realized, I think one time a client said, well, isn't that a high fee? And you said, yes, because it wasn't our contractor, it was someone else's contractor that brought us on the case. And you said, yes, why did you sign it? We weren't part of that deal. I mean, we weren't anywhere there. You didn't ask us. If you'd come to us, frankly, we would've signed it up on a different fee, but you didn't come to us. You went to someone else, they presented you something and you chose to sign it. It took me a long time. I kicked myself in the butt and said, hey, dummy, what's wrong with asking someone to pay what they promised in writing to pay you? Everyone agreed to it. No one's bringing it up is the problem. Why are you doing this to yourself? It just was all, again, for me about just getting my own sense of worth and value right in my head.

Sonia Rodriguez:

And once you had that conversation and you have it periodically with the client, I like to bring up the fee and the separation between the fee and the case expenses when I meet the client the first time when we have a really in depth conversation in advance of their deposition. We do it, again, obviously in a mediation, but the more conversations we can have about the fees and the expenses, what they are, how they're conceived, what the totals are, it makes it a lot easier at the end of the case when you're having to write checks and you don't feel guilty about writing a check because the client has seen it coming all along.

Michael Cowen:

Absolutely. Let's talk about some of the other things that make clients unhappy and then the solutions that we found for them so that we can keep them happy. I think one thing that really makes people unhappy, if you look at the grievances and complaints against lawyers, I think the biggest one is lack of communication. You see the biggest, the lawyer won't return my calls. But then we get really busy. It's hard to return every phone call on a timely basis. What are some of solutions that we've come up with to try to keep the clients well informed so hopefully they don't even have to call us?

Sonia Rodriguez:

Well, I've always had an internal kind of promise to myself that I'll return calls within 24 hours. So that's my own thing, but I have to really applaud you in creating a formal written policy and a practice of contacting the client, affirmatively reaching out to the client every 30 days and documenting that communication, and not only documenting just a generic communication with the client, but making

sure that you have a template of at least three or four questions that you ask every single time that you talk to the client, one of which involves updating the client on the status of their case.

Sonia Rodriguez:

I think that when clients don't know what's going on in their case and they're hearing radio silence about something as personal and intimate as their own bodily injury claim, it does create some anxiety and some anger and agitation on the part of the client. So affirmatively calling the client every 30 days really alleviates a lot of that.

Michael Cowen:

What I've found is we don't get as many calls asking what's going on in the case because they know what's going on in the case. If you've ever looked at any of our files, we're talking to the client more than that, especially when we're actively treating, we try to get somebody, not the lawyer, but someone to call after doctor... major doctor, not every chiropractor visit, but major doctor's appointment. How did it go? What did the doctor tell you? Do you have a followup? That way we can remind them of their followup appointment just to try to help them remember to get the treatment that's been recommended for them.

Michael Cowen:

But we also know ask specific questions at least once a month and it doesn't have to be a lawyer doing it but someone with knowledge. Typically for us, it's the paralegal unless the lawyer chooses to do it. We always get people asking, well, what do you ask them? The required questions are, how are you doing? And that conversation needs to include what physical symptoms are still wrong with you from your injury? When did you last see a doctor? Go over the list of medical providers we know of to make sure that we haven't forgotten about anybody or there's no one new or there's no one that's not there. Ask them if they needed any assistance in setting up future doctor's appointments just to make sure they get the treatment that they need. Tell the client what's going on in the case and remind them of any incoming dates, including if we're going to do a deposition prep session, their deposition and mediation trial or anything else that needs to be done.

Michael Cowen:

And then when we have our monthly file reviews, we also can give assignments to be sure you talk to the client about X, Y, or Z. And just having that done on a regular basis, it really does keep the clients happy. It also helps keep the case moving because we'll get to the point where we're getting close to trying to resolve the case and we just find out there's a medical provider we didn't know about, and we have to stop and get those records.

Michael Cowen:

Doctors ought to just make appointments for clients and clients ought to just go to them, but unfortunately the reality is sometimes there's a miscommunication. The client thinks that for some reason, the lawyer would be setting all that up and so explains to them, no, if you need help, we can help you, but it's better for you to call the doctor yourself and just make sure if you've got a referral to a different type of physician, make sure you follow up with it. We're not directing the medical care, but we're also trying to remind them the importance of following their doctor's orders.

Sonia Rodriguez:

That's the scary part that it doesn't occur to the client naturally that it's odd that no one has called them to follow up for physical therapy for weeks. My mom had a knee surgery, and six weeks went by and I asked her, I was like, have you been going to your physical therapy? And she was like, no, they never called to set it up for me. I was like, mom, you've got to call. If you haven't heard from them, you've got to call and set it up. So the layperson isn't going to appreciate that a gap in treatment has any adverse effect on their case.

Sonia Rodriguez:

So it's incumbent on us as attorneys who do know better to stay in contact with our clients regularly to catch whether there are gaps in treatment and intervene so that there aren't. I really like the template that we used for our client contacts. The only thing that I think could be improved on is, how is the client doing? Sometimes the client just says fine.

Michael Cowen:

That's an internal training issue then. That's why it says, including asking, well, I'm glad you're doing fine, are you still feeling anything from the crash? Do you have any injuries? That's an internal training issue we need to make sure people know to do that.

Sonia Rodriguez:

It's absolutely critical in keeping a happy client because they know that they're going to hear from our team every 30 days or so and sometimes more often than that and that they're going to be apprised of what's going on in the case.

Michael Cowen:

Yeah. Like we said, just the fact that they get those, they just don't call us as much. Whereas it used to be when we didn't have that time would go by, no one talked to the client, and then by the time they're called it's like, I don't know what's going on my case. No one's talked to me. It creates unneeded stress.

Sonia Rodriguez:

I have had a lot of lawyer friends who know that we do this practice of reaching out to our client every 30 days to give them status. And some people will say, well, what if I'm not doing anything on my client's case every 30 days? And what if nothing's happening on their case every 30 days or between 30 day periods? The reality is there's always something going on on a client's case. We're either ordering medical records. It may not be taking a depo in that client's case every month, but we're ordering medical records, we're scheduling for things to take place in the future, we're hiring experts, we're investigating the crash. There's lots of stuff that goes on that may not seem like we're working on the case, but we're always doing something on the case.

Sonia Rodriguez:

And so keeping the client apprised of the fact that we're ordering your medical records or we're having a problem ordering these MRI films from this facility, it helps the client know that they're a priority to you and that's going to make them happy.

Michael Cowen:

Absolutely. The other thing I like it does as a law firm owner is it keeps my teams wanting to do it. Between having to do a monthly file review and having to do a monthly meeting with me and a monthly client call to the client, yes, that takes time away from working on cases, but it also means that you're going to be doing something every month and you're not going to let months go by. Even there are situations where, okay, look, we have cases where in federal court the discovery period is over, all the motions that have been filed, and we are waiting for the court to assign us a trial date. Just telling the client, hey, we're still waiting for the court to sign us a trial date, we'll let you know, just so they're not wondering, is still important.

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 D-E-L-I-S-I @cowenlaw.com. She will coordinate a time from 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.

Sonia Rodriguez:

What else do you think is one of the things that clients get upset about?

Michael Cowen:

I don't know if it's so much they get upset about it, it's just some people have a feeling and, again, it goes to the bad reputation that lawyers have in society, that we don't care about them, we only care about the money and they are just a means to us getting paid. We don't care about them as people. There're things that we can do to try to change that a little a bit. There's always going to be some suspicion and that's okay. That's just reality. Let's not create this fantasy world where all our clients are happy 24/7 and never doubt us in any way, shape or form, because these are just ways to improve things. They're not guarantees of eternal bliss.

Michael Cowen:

But one thing that we do is let's say we have a client get a surgery. We send the client flowers, and then we make darn sure we do not charge the flowers as a case expense. That will undo all the good will you did there. But just the little sending flowers after a surgery or sending a call or a text, not just on the birthday, but on a death case, maybe checking in on the anniversary of death, hey, I know this is probably a hard day for you, we just wanted to let you know we're here for you if you need anything is important.

Michael Cowen:

I found, and I can't do this unfortunately on every case, but I do this on at least the cases that I want to go to trial and all the major cases, and that's going to the client's house and meeting with them in their world. You get to know them better. You see the pictures on the wall, you see how they interact with other people in their home. They're more comfortable because it's their territory. I found just the fact that I'm going to go there, I don't see myself as above them that I have to go meet in some fancy conference room, but I'm perfectly happy and comfortable going to their house and being normal with them I have found makes us closer.

Sonia Rodriguez:

I think you made a good point about not putting ourselves as attorneys in the position of thinking we can make clients happy. The reality is that there's a lot of complexity to a personal injury claim psychologically, physically, chronic pain causes, anxiety and depression. There're going to be situations where you're not ever going to have a "happy client," and we're setting ourselves up to fail if we're wanting a happy client.

Sonia Rodriguez:

But what I do think is important is setting parameters for what we can do and what we can't do. I always tell my clients up front I feel like Robin Williams as the genie in Aladdin. I can't bring somebody back from the dead. I can't make somebody fall in love with you like the jury. I can't make the jury fall in love with you. I can't make somebody come back from the dead, but what can I do? And part of that conversation is letting the clients know I'm not going to be able to bring your health back. I cannot fix your pain. I can learn your story. I can tell your story if you will let me. But setting these parameters about what I will not be able to do has always been kind of clearing the air of expectations, unreasonable expectations.

Michael Cowen:

Yeah. I think and learning to realize when people are in pain, they're in stress, they need to vent sometimes. Sometimes I've had client calls, they start off hostile and you figure out it's because they're venting and you let them vent and then it's okay. But if you start arguing with them or telling them why they're wrong, well, then it's not going to be okay. I think the learning in clients, as in marriage, the learning, when someone just needs to vent and you don't need to do anything, but listen and nod along and show that you're listening is important.

Sonia Rodriguez:

Right. And we've all had situations where the client will yell and throw a tantrum and scream at the paralegal, and then the lawyer calls follows up, and the client's perfectly fine by then. But I think at that point they've already vented.

Michael Cowen:

Yeah. Or some people are a-holes and feel like they can be rude and disrespectful to paralegals, but then they wouldn't do that to a lawyer, which I don't like.

Sonia Rodriguez:

No.

Michael Cowen:

It's not acceptable. And we do have to draw lines and protect our people too. I've had to tell clients, hey, that's not acceptable, nicely, but draw those boundaries. Again, it's just setting expectations. We're here to help you. If you have a problem, we're here to listen, but we're not here to be insulted or yelled at, especially not my people.

Michael Cowen:

So one other issue I think is important is managing expectations, and this is where I've seen a problem. We get brought in on cases and someone wants to sign the case up, so they tell the client what a great case they have, what a big case they have. They don't share any of the bad news, and then they want the mediator to fix it for them and get the client to take reasonable money because they didn't want to ever talk about the hard things to talk about.

Michael Cowen:

I think managing expectations, and sometimes it means, look, you have a really good case, but we're going to have to hold out. They're not going to offer what's fair. We're going to go to mediation. They're not going to offer you what's fair. Know now that there's a 95% chance that we're going to walk out of this mediation without settling because we're just testing you and we're going there to see if you can pass the test of saying, no, I'm holding out for more money. Sometimes if you've got some real problems with your case, they're going to bring these things up, and they have a good point.

Michael Cowen:

If we don't have good answers for these, and we can put some money in your pocket, you need to think about taking it. When you have those conversations early to let people... Because you have to let them digest it, let them sleep on it, come back with their counterarguments, discuss them with you while you still think there's risk and then let them make the best decision. They're more likely to take your advice and not to be mad and blaming you for it because some people want to blame you for the fact that their son was drunk and not wearing his seatbelt going 80 miles an hour in a 55 when he got in the crash.

Sonia Rodriguez:

I agree. I think one of the things that I've learned to do in those circumstances is I remind myself that I don't have a crystal ball. I may have been practicing law for 22 years. I may know this jurisdiction and venue really well, but I don't have a crystal ball. So I never tell a client what their case is worth or what their case isn't worth. But what I do have a conversation with them about very early on is what I imagine the insurance company wants to pay them. And so when they've not gotten treatment for the first 30 days of a crash and they've got a two month gap in care over the last year, and they've abandoned the medical treatment recommended by the doctor, you can look at the medical records and then you can tell the client this is what I think an insurance company will pay you for this claim.

Sonia Rodriguez:

And they will be mad. They will be upset, but I'm telling them what I think an insurance company will offer them. And it kind of diffuses the rift between me and the client, because my job, as I see it is to maximize the value of their claim. But the insurance company is on the other side of our team effort, and the insurance company is valuing their case X way. So I think it helps to kind of make sure that as lawyers, we're not telling them what their case is worth or what their case isn't worth, because really we won't know until a jury decides, but letting them see the insurance company as the bad guys that the insurance companies are under those claims.

Michael Cowen:

Absolutely. And then we can just tell them, look, if you don't like what they're willing to pay you, then we can take a chance, and here's my recommendations and my thoughts on that. I think one thing that's really important and it's easier to do at our age, Sonia, you're still younger than me.

Sonia Rodriguez:

Thank you.

Michael Cowen:

But it's easier for us to do, I think, than it was for us 20 something years ago, and that is you can never... If the client thinks you need the money, they're going to be doubting like are you just trying to sell me out cheap because you need the money now? One thing I tell clients, I'd love to try your case. I love trying cases. It's fun for me. I have a blast. It's why I do this kind of work because it's a lot of fun, but it's not so fun for you.

Michael Cowen:

And here's why it's fun for me because let's say you and I we go and we try the case and it goes wrong, and we lose, what happens to you, that's your case, that's your only case. You lose. Whatever they offered you is gone. You've lost that money. You've lost the opportunity to have that money. Now you've got to figure out how you're going to get through the rest of your life. What's going to happen to me? I'm going to lose a little bit of money, but it's not going to make a bit of difference in my life, my daily life, because I've got enough. What I'm going to do is I'm going to feel really bad, I may tear up a little bit, I probably won't, but I might, I'm going to go home and open a bottle of wine. I'm going to say goodbye to your case and toast it and mourn for one night, and the next day I'm going to go settle another case and I'll be right back in the game. It will not make a major effect in my life.

Michael Cowen:

That's why it's so important that you make these decisions because you have all the risk. I've won more cases than most of the lawyers I know, and I've also lost more cases than most of the lawyers I know because I've tried a ton more cases than most of the lawyers out there. And so I'll survive no matter what. You'll still survive, but the question is, this is your opportunity, so you've got to figure out what you want to do. And when you just turn around like that, it just really, they take your advice a lot more.

Sonia Rodriguez:

Yeah. And I think that that's such a nuanced conversation to have with a client when as an attorney you've got financial risk in the game. You've invested a lot of money in a case. I think it's difficult like you were saying for younger lawyers who have a lot of money in a case, there is a level of desperation that you feel when a client doesn't take your advice.

Michael Cowen:

There is.

Sonia Rodriguez:

You feel like they're making the wrong decision, but ultimately if you remember that it's the client's case and you've agreed to represent them and take the case to trial, if necessary. And when the client feels that level of trust and loyalty to the contract, then they are going to be much happier than if you're pressuring them to do something that they feel in their hearts they don't want to do.

Michael Cowen:

Absolutely. And part of it is just having the life experiences that we develop up, and it's harder as a younger lawyer to have that attitude of I don't care, it's your case, whatever you want to do and really and truly being okay with that even if they're... It's annoying to have someone not take your advice and have to go try a case when you think it's a bad idea, but you just get around and do it. And part of it is really, as you make money in this profession, don't spend it all. Put it away, get good credit, have good lines of credit. You need to get where you can afford to lose any case on your docket without having a major change in your life. That's hard. It may mean partnering with people to help finance you on the way up unless you can develop good lines of credit and stuff like that as you go.

Michael Cowen:

And I think part of it is just having the experience of losing something where you had over \$100,000 in it, which sucks. I'm not saying I'm looking forward to ever doing that again, although statistically it's likely to happen in the game where we play that we win most of them at trial, but we don't win all of them. Yes, that hurts, but when you survive it, it's a very liberating thing because you just realize, okay, the worst happened. This is the case that I spent way too much money on. It hurts to lose it, but I survived. I made it back. I'm okay. I'm still doing well. I think there's just something to going through that that lets you help lose your fear of losing.

Sonia Rodriguez:

I think that the client can sense that, and it's liberating for them to not worry about whether their lawyer is trying to convince them to do something that they don't want to do.

Michael Cowen:

Exactly.

Sonia Rodriguez:

They're much happier when you put it on the table and say, here's the pros, here's the cons, here's the financial risks, here are the financial pros and cons, this is how much it's going to cost me to actually get through a trial in your case versus how much I've invested in your case right now. And then leave it for the client to decide. And that's also been super liberating for me because at that point, it's the client's decision. I don't have to lose sleep over whether or not to take the offer on the table at mediation or whether this is a good offer. It's the client's decision ultimately.

Michael Cowen:

And what I found is even on the mediations that don't settle, which unfortunately on the big cases is quite a few of them, our clients are increasingly, although disappointed because they all would like to get their case settled for the money that they'd like to get, but when we warn them in advance and then we're there for them and they see us not freaking out and being desperate for money, they're happy with us in the representation they got. And that's the most we can ask for. So we talked a little bit about getting about reviews. What do you find the best time to ask a client for review is?

Sonia Rodriguez:

Well the best time to get a happy client to give you a great review is when you hand them that settlement check at the end of the case.

Michael Cowen:

There's that magic window between the time they get the money and the time to spend it on.

Sonia Rodriguez:

Or they've had time to reflect on it.

Michael Cowen:

Yeah. But I totally agree if you have a client that's happy... And you have to ask, don't just assume they're going to give you reviews. You have to ask for reviews, you need to make it easy for them. You need to send them the links, explain to them how to do it. I think you can't just tell them I'll do it in your office because the programs of algorithms are looking for the IP address of where the review is coming from, so if they're all coming from your office, they're going to stop counting them. If you get them to do it on their phones where they're not on your wifi, so it's not your IP address right then and there, if you can, it's so much better.

Michael Cowen:

I think we're going to do a contest with our paralegals and offer prizes for every five star review they get or something to encourage them to do it at that point.

Sonia Rodriguez:

I think that's a good strategy. The reality is we have lots of happy clients. The hard part is just kind of corralling them into taking the time out of their day to do the review and log in and do all of that stuff, so that takes work.

Michael Cowen:

Sonia, there is one other area that is a particular challenge in trying to keep clients at least happy with us if not happy with everything, and that is we sometimes have to be the bearers of bad news. We get a ruling we didn't like, we discover things in the investigation that markedly diminish the case's value. What are some ways you can handle delivering bad news in a way that minimizes the harm to the client lawyer relationship?

Sonia Rodriguez:

I've found that it's always important if you can have those client conversations in person. It's unfortunate during COVID that we can't have as many in person conversations as we used to have, but if you're going to deliver bad news, I think it should be in person. I think you should not have your phone on you or watch on your wrist. You're going to be completely 100% focused on that conversation with no distractions. And then just be as brutally honest about whatever the bad news is that you can be and try not to use big complicated words and just be as simple and upfront about the bad news as possible. I also think it's critically important not to wait.

Michael Cowen:

Absolutely.

Sonia Rodriguez:

As soon as you know that you have bad news, you should deliver it because clients immediately can put together in their minds a timeline of when the bad happened or when you learned of the bad news, and it builds resentment and anger and distrust when there's a delay in that conversation.

Michael Cowen:

The only thing I'd add to that is just if you know that something's coming up that may lead to bad news. Say there's a motion for summary judgment that got filed and you've got a case that it may get granted in or there is something else that may happen where something else might go wrong, I think letting your client know upfront, hey, this motion got filed. This what happens if it gets granted, I'm a little worried about it. This is what we're going to do to try to fight it, but the judge could go either way, and we'll let you know as soon as we find out. Or even sometimes like, hey, I don't think we're going to win this one, but I want to do my best and we'll see what happens and letting them know so it doesn't just come as a surprise to them having to deliver that.

Sonia Rodriguez:

Right. I had a deposition last week, and my client refused to answer a pretty intimate question that the defense lawyer asked her. I thought there was a 50/50 chance that the judge might compel her to answer that question, so we went off the record and I told her, I said, "Look, under the rules you can't not answer the question unless I'm instructing you not to answer. I mean, you've got to answer the question, but if you are going to refuse to answer this question, you need to know there's a 50/50 chance that a judge might make us come all the way back to this deposition, sit here again, get the court reporter again, and you'll have to pay for the deposition probably."

Sonia Rodriguez:

And she told me, "I don't care. I am not answering that question." And so once she knew worst case scenarios and I had her back and said, okay, I'm not going to force you to answer the question. You don't even have to tell me why. You don't even have to tell me the answer to the question. She knows if and when the defense council files a motion to compel that answer and issues a sanction and orders my client to pay for that deposition and the court reporter again, she knows it's coming. It's not going to be pleasant news, but she knows it's coming.

Michael Cowen:

In fairness, I think you have more than 50% chance of winning that. I think the question was out of bounds and abuse of the discovery process and that you were right in instructing her not to answer, but sometimes they need to see that you have their back even if that means... Now, I'm not saying you ignore the... If they asked her, how did the crash happen or how has the crash affected you, have you had a wreck in the past or prior injury and it was relevant and discoverable, let's say she'd had another wreck a year before and hurt the same part of her body, now we can't tell them not to answer that just because they don't want to. The situation you had was something that was personal and something that had nothing to do with the case. And so I think you had every right.

Michael Cowen:

I would've done exactly what you did was instruct her not to answer, but also tell her, I can do this, but it's 50/50 and a judge can go either way. This is what could happen if it goes against us. I totally support what you did, but I think it made you closer to the client too.

Sonia Rodriguez:

I will tell you when and if we get an adverse ruling on that one question and I have to tell her that she's got to give a deposition again, she's not going to be happy. That's going to be bad news, but she's going to take it a hell of a lot easier because she knows it was a possibility.

Michael Cowen:

And it was her choice.

Sonia Rodriguez:

And it was her choice.

Michael Cowen:

Absolutely. I think that's the biggest thing is just the overall clients, like I said, they have no idea whether we're doing a good job as an attorney or not because they have no basis for comparison most of the time. Every once in a while even if you have clients that have multiple attorneys, they don't really know how your quality of your legal work is and even the quality of the result you got. What they do know is how they were treated and how the experience is, so I think we all should work with not just personally, but with the people in our offices to try to make people feel valued and respected.

Michael Cowen:

I learned a lot about this too from my partner in our New Mexico operation, Alex Begum. He's talked to me about a lot of our clients are not people that are given a lot of respect in life. They're not wage high earners. No one's kissing their butt. They're not supervisors. They go to the doctor's office, and they sit there waiting for three hours to see the doctor in a room full of magazines no one wants to read that are three years old. They go everywhere else, and they're like kind of herded and treated like cattle. As soon as they get in, they're warmly greeted, they're offered something to drink. We don't make them wait forever. If they do have to have a little bit of wait, we go out there and explain to them, hey, I'm just finishing this up. I'll be with you right away. Anything you'd like to drink? We have wifi for them to help keep them there.

Michael Cowen:

We give a little gift basket package wrapped with a nice pretty gold bow when we get a new client, and we overnight it to them. It's got a little video book, talking about what's going to happen in their case. It's got a notebook for them to write things down about their case. It's just got lots of different things in there for them. Iphone charger, one of the portable phone chargers, all kinds of stuff.

Michael Cowen:

Other people don't do that to them in life. So just little things that make them feel special. What is your office like? What is the experience? How does it smell when you walk in the door? Are there papers cluttered everywhere where it looks like their papers can be there? Are they going there to a nice, pretty, well decorated office? All those things make a difference. We need to think about that because when you make people feel better and more respected in your office than anywhere or dealing with your office than anywhere else in their lives, then they're going to like you.

Sonia Rodriguez:

I agree. I agree. Those are good things to aim for.

Michael Cowen:

Yep. It doesn't mean you're always perfect. It doesn't mean that no one will ever get upset, but they maximize the chance of having happy clients that will tell other people how good you are.

Sonia Rodriguez:

And not every conversation goes the way we want them to go, but we can continue to try.

Michael Cowen:

Yeah. And it is a lot better than it used to be. Like I said, we're not getting people calling in and complaining all the time. If anything, they're complaining that we call them too often.

Sonia Rodriguez:

That actually does happen.

Michael Cowen:

Well, that's a good complaint to have. I mean, it really is. Okay. Well thank you all for joining us today on episode 99. We're going to do something special for episode 100. We have David Ball. He's got a new book out that David and Artemis have written with Nick and Courtney Rowley. I'm excited to have David back on. I always learn so much from him and learn all the new stuff that's coming out in this new book that's coming out.

Outro:

Thank you for joining us on Trial Lawyer Nation. I hope you enjoyed our show. If you'd like to receive updates, insider information and more from Trial Lawyer Nation, sign up for our mailing list at triallyawnation.com. You could also visit our episodes page on the website for show notes and direct links to any resources in this or any past episode. To help more attorneys find our podcast, please like, share and subscribe to our podcast on any of our social media outlets. If you'd like access to exclusive plaintiff lawyer only content in live monthly discussions with me, send a request to join the Trial Lawyer Nation insider circle, Facebook group. Thanks again for tuning in. I look forward to having you with us next time on Trial Lawyer Nation.

Speaker 9:

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

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