

Michael Cowen:

This is Michael Cowen and welcome to Trial Lawyer Nation.

Speaker 2:

You are the leader in the courtroom and you want the jury to be looking to you for the answers.

Speaker 3:

When you figure out your theory, never deviate.

Speaker 4:

You want the facts to be consistent, complete, incredible.

Speaker 5:

The defense has no problem running out the clock, delay is the friend of the defense.

Speaker 6:

It's tough to grow a firm by trying to hold on and micromanage.

Speaker 7:

You've got to front load a simple structure for jurors to be able to hold onto.

Speaker 8:

What types of creative things can we do as lawyers even though we don't have a trial setting?

Speaker 9:

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.

Voiceover:

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, I'm joined by my partner, Mallory Peacock. Mallory, how you doing today?

Mallory Peacock:

I'm doing good. It's a rainy, yucky day here in San Antonio, but I'm trying to keep my energy high still.

Michael Cowen:

Great. And yeah, we'll be out of the rainy, yucky San Antonio weather in a little bit and weather Pittsburgh, Pennsylvania has for us as we travel on to do some depositions tomorrow. Today's episode actually is inspired by a Facebook message I received from one of our listeners, Tom Ryan in Ohio, who's

been sending me messages, just wanting some advice on moving from being a small practice to growing and what kind of resources you can get, the ups and downs of growing. And we corresponded a bit, but I thought, man, that's a really great topic. There may be other people who'd be interested in that. So that's what we're going to talk about today. So Tom, thank you so much for reaching out to me and inspiring this episode.

But before we get started, I want to do a thank you and a shout out to Law Pods. Law Pods sponsors the podcasts. They also produce it. They make my life so easy. All I have to do is log on here, talk for 45 minutes to an hour, and then they do everything else. They do all the production, all the editing, all the promotion. I really appreciate it. So if you have a podcast, you want to do a podcast, and you should, I highly recommend Law Pods. That being said, Mallory, how are you doing today?

Mallory Peacock:

Doing good. Doing good. I'm excited about this topic. It's something that we've had 10 years to think about.

Michael Cowen:

Absolutely. And so we have grown, what were we three lawyers when you started with me? Was it three or four?

Mallory Peacock:

There were only three of us, I think.

Michael Cowen:

That's what I thought. I thought it was just three of us when we started. And I started with, at one time it was just me for a number of years. I have too many weaknesses to be a true solo, but we've grown to 11. And for better or worse, it appears that we're going to have to grow some more in the next year or two just by all the great things that are happening, the good opportunities that I just don't have the strength to pass up. But I guess the first thing I wanted to ask you is, do you think everyone should try to have a bigger firm?

Mallory Peacock:

Well, it depends on what your goals for yourself are. There's some true solos that have really great work-life balances and can do what they want and they've reached an amount of income that they're satisfied with. And if you're satisfied with your balance and with your income, I don't know why you should grow. But if you feel ambitious, and you're feeling like you want to make more money and you like the comradery of having a big firm, and you like the social clout that comes with having a big firm, then maybe it is something that you want to do. But there's good and bad about being a big firm and about running a big firm.

Michael Cowen:

I think it's more than just money, because I think you can make a lot of money as a solo. Because, one, your overhead's going to be a lot smaller potentially, unless you hire a bunch of paralegals, which is a very different solo firm model. But you can keep overhead low and you can keep a lot more of the money. So if you look at Jude Basil, for example, who was on this podcast a number of years ago, he does four cases, does not have a lot of employees, but he's such a badass lawyer that his four cases are really

good cases. And as a result, I've never looked at his balance sheet, but I think Jude does pretty well. And I know other people, there's other lawyers we work with on some cases that they're just very selective on what they do, are very efficient in how they run their firms and they don't want a big law firm.

They don't want to deal with all the management headaches. They want to be able to just focus on practicing law and somehow get enough work coming in through reputation or just through being well known in their community. I see it more like in smaller towns where that works, where just everybody knows them and they go to them. And so I would think that if it works for you, I don't think you have to grow just because everyone else is growing, just because some consultant tells you have to grow.

Mallory Peacock:

I agree. Like I said, if you're happy with where you are, don't mess with it.

Michael Cowen:

Also, if you want to spend all your time being a lawyer, although as a solo you still have to do all this other junk yourself, but there's even more, you don't have to manage as many people and do all the things, the headaches and time commitments that come with that. Not everybody wants to or has the skillset, frankly, to do that. And there's a painful period between when you start growing and when you have enough money and volume to hire other people to do it well for you. And that's something else to look at too, because if you just want to just have your small office or you just want to focus on practicing law, then you might want to stay a solo or even work for or partner up with or of counsel with someone else that can handle all that junk that you don't want to do or that may not be your genius.

I think the first thing I want to talk about growing is, I don't want people to feel like, well, that's what you have to do. There's a path that everyone has to follow and we all have to follow the same path, because I think that's the path to misery. I think we all need to find the journey that's right for us. Well let me ask you differently, you've been with us as we've grown from three to 11, what do you think the advantages of growing are?

Mallory Peacock:

So one of my favorite things about the way that the firm is now is that we have just a really great team of lawyers that are fun to work with. You get the camaraderie of working with a big group of really smart, capable people with great ideas and it's like it feeds my creativity. It just makes me want to be better. It makes me try to be better and I just love working with a group of people and I love seeing lawyers grow at the firm and it just gives me personal pleasure to see that. And so I think that's my favorite part of having the bigger firm, is that we have just a really great group of people that we get to spend a bunch of time with and do something really fun, which is practice law together.

Michael Cowen:

Honestly, that's my biggest motivation is the joy I get from working with the other people. Now part of that is, we've learned the hard way that we have to cultivate that group and not tolerate behaviors that are inconsistent with that because it's also really easy in law firms to get a very toxic group, who are miserable to be around. What are some things that you've seen that have helped do that? We have a really friendly, fun group of people that are all kind of working to help each other. Some lawyers get paid on a commission, for example, but they'll still help each other on their cases. They're not just saying, well, what's in it for me? What's some things you think that that have worked to build that?

Mallory Peacock:

People have come and gone throughout the years. There's people that have gone that I think could have remained a really good fit at the firm. They just didn't feel like it was for them. And there's people that have gone that weren't a good fit at the firm, but they kind of self-selected. They decided that the environment that we had was not right for them. And a lot of people that have left the firm are our podcast listeners and they could have stayed and they could have wanted this environment but they decided that they didn't. And I think being really true to who we are and making sure that we didn't budge on what our firm values are and showing these attorneys what it is to be part of this firm helps them decide if it's really the right fit for them. And being open to people saying, you know what, this is not the right fit for me and we can still be friends and we can still be social and there's no ugliness that has to be there when people leave.

Michael Cowen:

I think five, six years ago we had more, I'm going to be honest, some more toxicity within the firm. And I think two things that led to, I've done a lot of self-reflection on this. I think two things that led to that. One is me wanting to, I love closing the sale, so I'm talking to somebody about joining the firm. Little red flags are coming up and I'm ignoring them. When they're expressing concerns, I'm trying to sell the firm, "Oh, we can get past that, don't worry about it." I'm not wanting to speak up when I see things that are inconsistent with the culture that I want to build and then let things spiral out of control. And I think I've really learned to just be very, very upfront from the first conversation, this is who we are, this is how we do things.

And then if you see behaviors or attitudes that are inconsistent with that, it's just having the courage to, with love kindly, but call it out. "Hey, you raised your voice at somebody, that's not how we talk to people here. I know we all had a bad day. I'm not trying to get after you, but you need to find another way to communicate because that's not who we are." Or other types of things, just bring it up early, bring it out in the open. And what I found is most of the fear that I have of bringing up what I think are hard things, once you talk about them, they're not that hard. It's all a fantasy in my mind of how horrible it's going to be to have to talk about these things. And most of the time people are like, "Oh I didn't ... Yeah, I was having a bad day. I didn't mean to do that. I won't do it again."

But just having those honest conversations and just not trying to sell the firm. If it's clear in the interview we're not the right firm for somebody, don't try to sell ourselves to them. Let them self-select that, no, we're not the right firm. Don't try to bring someone in so hard. I remember one person I can think of, great person, great human being and the particular role I hired the person for when I first offered the job, he says, "Well, that's not really me. That's not really what I want to do." And then I was desperate to hire someone for that position so I money whipped him. I said, "Well, what about if I pay you X amount of money?" And he fell into temptation. He took it and then he wasn't happy. It was not the right fit for him.

What I should have done is listened, because I think if I had given that person a different role, that person would've thrived. Because I didn't listen to him and hired them for a role that he told me upfront was not something he was wanting to do or comfortable doing, and just made it too lucrative for him to not try it, I think I did him and myself of disservice.

Mallory Peacock:

Yeah, I agree. I think it's so important for us to listen to people when they tell us who they are from both perspectives. So if they're a toxic person, they're going to tell you they're a toxic person pretty much right away. It's not going to be a big secret. And you have to be able to recognize that and take action because you can let that toxicity grow and it can bleed into other aspects of the firm and it can kind of

poison the well. But it's the same with really positive people too, if they tell you that this isn't working for them, it's not right for them, you also have to listen to that because that kind of demotivation and that kind of struggle and that kind of just unhappiness, even though it's not toxic, can still bleed into other aspects of the firm. So you have to be able to control it as soon as you see it.

Michael Cowen:

Yeah, because we've actually had some really great hardworking, smart people that just didn't want to just have to do everything the Michael Cowen way, frankly, and they're great and they're successful somewhere else and we still love them and we celebrate their success. Not like we asked them to leave or anything, it's just weren't going to be happy. And some people just aren't going to be happy working for someone else or working without their name on the door or whatever else it is, and that's okay.

Frankly, I went to work for a guy named Rob [inaudible 00:12:16] from 2006 to 2008. He treated me great, he does great work, he paid me incredibly well. I made three or four times more than I'd ever made before in my life working for him and I left him. I still love the guy, I still talk to him. I still actually send my referring lawyers to him when it's a case that's not the right case for me but would be a great case for him because he's done auto products and other kinds of product work.

The guy is brilliant, but I just wanted to be my own person. I didn't want to work for someone else. And that's what I realized, there was nothing he could have done to save that. It was all me and none of him, if that makes any sense. And I have to realize it's the same way as other people. Some people, they want to try their own thing, they want to do it their way and that's fine and I honor that. But you also have to just not try so hard to make it work that you end up both doing something that makes you miserable.

Mallory Peacock:

So as you grow, what are some of the things that you feel like you initially have to maintain control over, which causes extra stress, causes you not to practice law as much and then hopefully you grow to a point where you can hand some of that over to someone else?

Michael Cowen:

So we all think that we do things better than most other people. To try a case, you have to believe that you do things really well. I was at a meeting with a crisp group of very high level lawyers and some people that are really good marketing business people say, "It's easy, I just hire someone that's better than me and let them do it." And this sounds bad, but I don't think I can afford to hire someone better than me to try cases. I think I'm pretty good at what I do and I know someone would have to pay me to leave my practice and work for them and it's more money than any person would rationally pay me. And I think the same way, I don't think I can just go hire me or someone better than me to come in and litigate cases and just be hands off. And when I've tried it, it hasn't worked.

So what you have to do is, is you have to then come up with, well, two things. One, you have to come up with what are our standards and then you have to show somebody, which takes time. And then you have to sit there and watch them do it and take the time to give them feedback in a way that will be received properly. Not just snark on people, but okay, well, you did this great, but here's some areas where you can improve. And that's hard because that takes a lot of time, because that means you have to think about how you do things, write it down, create a system, have something someone can go. Because you can tell someone something, but they're not going to remember it a year later. So you have to write it down and you have to keep it in a place where they can find it again, not just having it in a memo somewhere.

And then you have to let them do it, and it's so hard to let go because how did we learn to do things? We learned to do things by not doing them perfectly and say, "Okay, well, I'll do that better next time. Well, oh gosh, how did I messed that up? Yeah, I went to seminar, now I learned I got to do this a different way." We learned, it was a process. You don't get from zero to a hundred at once and you have to allow someone else to go through that process and let go a little bit. And Mallory, it's hard because you know in your heart of hearts, well, I can do a better job at that than they're ready to do yet. And you don't want to do anything that's going to harm the client, but at the same time you have to let that other person get the experience and you have to get out of the way sometimes and let them make some non-fatal mistakes that are recoverable.

Mallory Peacock:

When we started growing, Michael, something that you told me which has really stuck with me, I had trouble letting go of things too. Just like you had trouble letting go. I did too, because there are cases and we want things to be perfect and we think that we're the only ones that can do them perfect. And frankly, if you did something and I did something, they wouldn't be a hundred percent the same. We just have different styles, we have different ways of doing things. And it doesn't mean what you've done and what I've done is not good. But what you had told me is, if someone can do something 80% as well as you can, that extra 20% is probably not going to make or break the case. You just need to let them do it, because otherwise you're never going to have time to do this stuff where only you can do it or you're the best at it. And I tell myself that a lot, which is, if I let go of this smaller thing and someone can do it 80% as well as I can, we're still doing a great service for the client and I'm focusing on the bigger thing that's going to make a bigger difference in the case.

Michael Cowen:

Exactly. And we have lawyers at our firm that still struggle. We have the younger associates coming up. And one thing I'm really pushing on is let them defend the client depositions. And they're like, yeah, but what if something comes up? What if this happens? What if that happens? I know how to do these things. It's like, yeah, but what else could you be doing during those four or five hours of asking stupid questions to our client, they have 20 or 30 minutes of what matters and then they spend hours on ridiculous stuff. What other things could you be doing during that time? How much more value could you be adding and how is this other person ever going to learn if they don't go through? How did you learn? And so it's tough. How long was it? I used to try to do all the expert and all the medical depositions at the firm. And frankly, when you were one year out of law school, that was the right decision.

Mallory Peacock:

Correct.

Michael Cowen:

And then it was just you or me that could do them. And then slowly, other people have worked up and earned that. Now, we have lots of lawyers at the firm that can do that. But I will tell you that part of it is irrational fear and part of it is a real fear that they're not going to do it as perfectly as you would and that's why I think the whole three step process, which is hard to do with scheduling, but just have them sit there and have you watch you do it and then talk about it afterwards. And then the hard one is, sit there and watch them do it and pass some notes and debrief them afterwards. And that's real time consuming because that's still both of you in there and then you have to bite your tongue and let people struggle through and see if they get there or not.

If you sit there and interrupt them every time they start struggling, then they don't learn to break the chains and fly on their own, but you can still take a break and then go talk about it then. And then the third step is just getting out of the way and letting them do it. But I will tell you that's the only way to have growth. And frankly, it's the only way to have freedom. And that's the only way that I can comfortably go on vacation for two weeks and not bring my cell phone. If we were constrained on the number of cases that only, let's say, only you, Sonya, and I did expert and doctor depositions, that would really limit the number of cases we could handle at one time.

Mallory Peacock:

Right.

Michael Cowen:

And so when you get a number of lawyers handling cases, you're firm income starts to stabilize because someone else is having, maybe not as great of a month or quarter, but someone else is having a great one and it works out and all of a sudden we're not out of money all the time. It's really a great feeling that, for years it was like you hit a big case and then you get back in the hole, then you hit a big case and you get back in the hole and now it's like, wow, we have steady money coming and we hit a big case and we get to do cool things with the money. Either invest in the firm or buy a new car or plane or whatever else it's going to be. So there's some real advantages but there is a price to pay as you're growing. And then what I've learned is you can't just tell people what you want them to do and just trust that they'll do it. Because even though they're good people, people are human and if you don't check up on it, things will slip.

If you tell someone I want you to talk to every client at least once a month, but you don't check to see if they do it every month, well then either they don't think that you're very serious about it or they'll forget about it or they'll get busy and they'll say, "Well, I got busy doing other things." But if they know you're checking every month ... And then you have to say, "Well, what's worth checking every month and what's not?" Because if you totally micromanage somebody then they're just going to do the minimum that you tell them to do and they're not going to have time to do anything else and then they're not going to be able to think and do the creative things on the cases. And I will tell you that we're just still working on it after 10 years. It's always going to be a little bit of trial and error, but just always refining the systems to get to where you need to be.

Mallory Peacock:

That goes along with refining the systems is you have to listen to your team too. I think if we've swung back and forth on the pendulum, so we started with not a lot of written procedures and we can use the contacting the client every 30 days as a really good example. So we started with, the rule is contact the client every 30 days. And so people would call and say, "Hi, I'm contacting you, how are you?" "Good." "Okay, great." And that was the end of it, just calling them. So then we thought, well okay, people aren't getting it. Let's have a really detailed procedure about all of the little things that we need to do. And then people were doing this really detailed thing and irritating the client because the client contact would take an hour and a half to do to answer all of the questions. And so it was too detailed, but we were listening to our people who were saying, "Hey, this is untenable. We can't do it this way." And we said, "Okay, so then we need to dial it back a little bit."

So we've swung from very little instruction to a whole lot that was way too much, back down to something that was a little more manageable. And I think that that's just part of the way that you grow. You have to keep changing and keep modifying, not only based on what you see, but based on what

people say. And then you have to listen to people's, I don't want to call them complaints, but sort of complaints or criticisms and take them with what they are. Is someone irritated because they just don't want to do it or are they irritated because there is really a challenge to accomplishing whatever this task is.

Michael Cowen:

At one time, I said I really wanted the lawyer to call the client every month, but then I realized, well lawyers get really busy where we're traveling a lot, you really need someone who's in the office. So then we said, well, it had to be the paralegal that had to call the client every month. But some clients do need that lawyer to do it or sometimes the lawyer speaks Spanish and paralegal doesn't, if it's a Spanish speaking client, whatever it is. And so now, it's just like, "Lawyer and paralegal, you're in charge of making sure this gets done every month, one of y'all do it. It just needs to get done." And that seems to work better with our team. Other teams that might not work as well because you may have everyone saying, "Well, it's their job. It's their job."

Our lawyers are responsible for their team, so the lawyer's ultimately responsible for making sure it gets done. But whether the lawyer does it, the paralegal does it, their medical coordinator does it, whatever person on their team does it, I just want to make sure it's done and it's done by someone. I tried actually just hiring someone called the client advocate just to do client contacts. But then I found we had someone that didn't know enough about the cases and about the law and so then the clients would get confused and not have the questions answered and then call us wanting to talk to someone that knew what they were talking about, so that didn't work.

I think that's another thing with growth is that not everything's going to work. You're going to try things. You don't want to quit too soon on them, because sometimes it's just, is it not working because it's a bad idea or not working because you haven't refined it well enough. But you have to have the humility to accept that not all of your ideas are going to work in the real world and when they don't work, you've got to move on and try something else. And it's not like we just abandoned the idea of contacting our clients but we said okay, well, this way's too intrusive on the lawyer. Hiring a person just to do that, well, that person doesn't know enough about the cases to answer legitimate questions that they have. It needs to be someone that's on their team. They need a little more flexibility. No, but we do need to require some topics to talk about. No, not that many, but we do have to have some. What's the most important stuff that we need to make sure gets communicated, and as a result, we have a lot more happy clients.

We very rarely get clients just calling wanting to know what's going on their cases because we're telling them. They are almost annoyed that we're calling them too much. If they're slightly, but not overly annoyed that you're contact them too much, that's probably where you want to be because if they're not a little annoyed that you're calling them too much and there's some of them thinking, well I don't know what's going on my case case. And then they get worked up, they get anxious and then they call you and then you're out of town when they call. You don't get back and by the time you get back to them two days later, they're in a tizzy and you've got to calm them down and stuff.

It's so much better when you keep them up to date. Or "Hey, you're still hurting, you haven't been to the doctor in the last three weeks, why don't you get back?" And some people will said, "Well, we thought you'd tell us to do that." "Oh, if you need help making an appointment, that's fine, but it's your body, you ought be doing that. But let's go work together and make sure that gets done."

What are the things that you've seen in growth that you think have been the most useful that we've done to help us grow from the three to the 11 lawyer, the eight or 10 employee to the 35 employee firm?

Mallory Peacock:

I think there's a couple of things that have been the most useful in terms of lawyer growth. There's different things that you do to grow a firm with paralegals or support staff, but for lawyer growth, I think one of the critical things that we started doing is weekly trainings for lawyers. Every Friday afternoons at the firm we set aside basically the whole afternoon for different kinds of meetings for lawyers. One of them is an hour long training about a topic. The topic sometimes is just office management stuff. It's how to use our case management system or it's what are some of the best strategies to manage your paralegal or something like that. And then sometimes it's legal stuff, it's about Michael gave this presentation at ATA or something like that, let's give it to the firm for people who weren't able to go. So it's different topics and we choose the topics.

More recently, we've been more diligent about it, choosing the topics every month as opposed to planning them out for months at a time because we found, at first, when we planned it out for the whole year, we'd start getting to topics that really weren't the most urgent thing at the firm for us to discuss. Whereas if we planned it every month, then we're really talking about the things that are top of mind. So if it's an issue with how to communicate with accounting to quickly disperse a settlement. Some of these nitty gritty issues are things that we address in attorney trainings, but you have to address them as they come up and you have to address them for the whole group of people because typically we found if one person is struggling with this issue and we know about it, there's more than one person struggling with this issue. And if we're not giving everybody the information, then we're going to have a problem that builds up over time. I think that's absolutely critical.

We also have a meeting and we've talked about it on the podcast before, but we call it a 4DX meeting, but it's based on the four disciplines of execution, I think it's what it's called. But we set a big goal for the lawyers, or for the firm, and we think of ways that we can meet that goal on an individual team level. And every month the docket lawyers, people that are in charge of a docket, we have different levels of lawyers here, but docket lawyers have to report every week on how meeting that goal is going. And so it's changed throughout the years depending on what our big goal is. So right now our big goal is to develop our associate attorneys as critical parts of our team.

And in the past it's been a financial goal or it's been a goal about meeting the Michael's non-negotiables, which are things like noticing depositions within a certain amount of time or getting a lawsuit on file. So it just depends on what needs to be the focus for that quarter. And that's how we manage what the goals for the docket attorneys are and we all report publicly on how well we're doing with those goals. And so it's a public accountability.

Michael Cowen:

And lawyers are competitive and so if you can keep it friendly, a friendly competition. And some things work, so when we're talking about associate development, congratulating people on selling cases, that worked pretty well. When we put up how much in fees everybody had generated, that didn't work out so well because it ended up developing jealousy. And frankly, not every docket is equal and so not everyone ... If you have a docket with five death cases and someone else has a docket with five surgical recommendation cases as their best cases, they could be doing a great job but their number isn't going to be as high because they haven't worked their way up to having those bigger cases yet. And so we found that that actually created some negativity. Some of that I think was some of the people and culture we had at the time, but I think some of it was, maybe that wasn't a good idea. Maybe we could do it now, I don't know, but it was so scary that we probably won't.

Mallory Peacock:

Yeah, yeah that was tough. But it did work temporarily and I think the mistake that we made with that is it worked for what we needed it to work for and then we should have stopped it when it worked. I think we took it on out too long and then that's when it started to build resentment and jealousy and it didn't feel like a team goal anymore. It felt like individual competition more so. I think that's one of the things that we kind of messed up a little bit.

Michael Cowen:

And to be clear, we had a partnership breakup at the firm and we were running out of money and we needed to get cash flow up quickly. And I think we had people that didn't realize that they weren't performing because they didn't have a compared to what as to how they were doing compared to other people and it did motivate people. And at first, it was really good. But I think you're absolutely right, had we stopped it would've been fine, but we kept it going. But that's one of those things, you kind of learn as you go

Voiceover:

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Michael Cowen:

I think we often realize we don't know everything, and so one thing that I've done is looked outside the firm for help. And the problem is there's lots of consultants, and there's a lot of great consultants out there and there's a lot of snake oil salespeople out there, and there's a lot of people that maybe they know how to help a criminal defense firm or a business law firm run. But if you hire them, and you're a PI firm, they'll take your money. I think one, I hope I'm not sharing too much, but one of the things that Tom Ryan wrote to me, he was looking for people to possibly advise him. You said he talked to somebody and they didn't even understand what case expenses were or why it was important to keep track of them.

Mallory Peacock:

Oh, God.

Michael Cowen:

That's obviously not someone that's going to be able to help you figure out how to run a PI firm because they're thinking about the hourly firm model or a flat firm fee model. It's going to be totally different. I get things all the time on my Facebook feed, you get ads. They can target their ads to lawyer, but it's only ... I get ads all the time, like, grow your firm to up to a million dollars in revenues or earn a hundred thousand dollars a year. It's like, "Why would I hire you to make less money?" But I get it, it's meant for someone else. And probably, if I'd gotten that advice, let's say 1999, 2000 when my firm revenues were under a million dollars, they may have been able to help me then, but they would not be the right people for us now. So what has been your experience with working with consultants?

Mallory Peacock:

My experience with consultants has been, I would say, medium. I wouldn't say it's all bad. I wouldn't say it's all great. And I think what you have to remember about consultants is, they need direction just as much as you need direction, unfortunately. If you come in with a consultant and you just say, "Fix my law firm." They don't know what to do and they don't know what your goals are and they don't know what you want. So I think you have to spend a lot of time yourself developing what is it that you want your firm to look like before you go out and look for a consultant, and what are your big pressure points, what are your big issues? And hire a consultant specifically for that.

I know that we had some really great success with a consulting firm we had hired because we needed help developing clear procedures for our firm. That was, we needed better integration with our procedures and our software and they did a really good job helping us with that. They helped us develop the software into dashboards. They did all kinds of stuff for us, but that's what we hired them to do. And when we tried to go outside of that, it didn't make sense anymore. They couldn't help us with other stuff that we wanted to do. So they were great for that purpose, but not great when we wanted to do something else.

So thinking about why you want the consultant or if your consultant is for marketing. We have a consulting company right now for marketing because that's one of our big development areas right now, but that consulting company isn't going to tell us how to create procedures for our firm. So you have to think about why you're hiring the consultant, what your goals are with them and be done with it when you're done with it. Don't try to make the relationship, or drag out the relationship into something else because you're going to be disappointed and you're going to feel like, I wasted a lot of money on that when in reality if you cut it off when you reached that goal, you would've been totally satisfied.

Michael Cowen:

Yeah, I really recommend doing due diligence on the consultant. And one thing is, I think you have to decide before you start working with the consultant, what kind of firm do you want? Because a lot of them, they don't know everything. No one knows everything. And so they'll come in and a lot of them have a preset step-by-step program they want to put you on and that might not be what you need. And that preset program, a lot of them want to turn you into a volume firm because that's kind of what they know how to do. And so how do you handle more cases per paralegal? How do you increase the amount of cases a lawyer can handle? How do you bring in more cases? And I remember I had, when I first worked with Vista Consulting, who did do us a lot of good, I don't mind naming names on the show.

Tim Mackey and I sat down and he was like, "You can do this, you can increase the load per lawyer. You can do this." And I'm like, "Tim, I want fewer cases per lawyer." And he looked at me like I was insane for a minute and he goes, "Michael, I've never seen that work." I said, "I'm telling you it's going to work." And luckily, Tim is someone that would say, "Okay, it's your firm, it's your vision. Let's work on how to do that." And now, he'll tell you, it has absolutely worked for us the way we do it because with a referral-based practice, we have the ability to get picky in what we take. That would not work for a volume firm or a firm that is doing a lot of car wreck cases that, if you have a 25 or \$30,000 policy limit in your state, it's very difficult to get many of your cases worth more than that.

Mallory Peacock:

So definitely, and there's no right or wrong model for a firm. It's what you want and how you envision your firm. So it doesn't have to be the Michael Cowen vision, it can be a big volume practice and those are very successful. So there's nothing wrong with that, you just have to know going in what is it that you want.

Michael Cowen:

So one thing I would really recommend, if you're going to work with a consultant, and we still work with consultants. I don't go in there thinking someone's going to go there and save everyone and have all the answers. Think really hard about what you want and then get references from them and find people that have worked with them that have the type of practice you want and make sure that that consultant can help get you there. Make sure you have a consultant that will listen to you and will help you in the areas where you need it rather than just, we've got a preset program and whether this is your biggest area or not, you're going to start with intake and we're going to get your intake department fixed. Well, I'm sure we can all improve our intake departments but that might not be your biggest pain point. If you've got an accounting problems, if you've got marketing issues, the cases aren't coming in, improving the way that your person talks to them on the phone ...

Someone that's doing some web work for us, and frustrates me because they insisted on putting all this time and effort into putting a contact form on our website and then for it to go right into this thing called lead docket that we have. I'm like, "That's not our business model. That's not our business model." We are not trying to get consumers to hire us off the web. If someone wants to hire us, great, we'll take the case, but our business model is attracting other attorneys to co-counsel and team up with us, so you're wasting my time. And lo and behold, every single inquiry we get off that is someone trying to sell us services saying we could make your website better or we could work with you to do ... doctors in India to review your medical records. We don't have any clients coming on off that. I told them it was a waste of time. They didn't listen to me and I guess I should have just said I didn't have enough energy say you're fired if you don't stop working on that.

I just think someone may be thrilled with a consultant. Let's say someone had a volume firm and you worked with a consultant that helped you create the volume firm, or someone wanted to get their digital marketing better. Direct to consumer, and you worked with somebody that helped you do that. They may be great for that, but then if that's not what you wanted to do at your firm, then that absolutely would not be the right person for you. So just do your due diligence, but also make sure it's people that have gotten to where you want to go. And other thing is then be super clear and upfront when you're talking to the consultant about what your expectations are, whether they're meeting your expectations or not. You do it kindly, but you got to be really upfront about it and let them know so that they can try.

And then I think the final thing is that no matter how good they are, there is a life cycle of how much good you can get with any of these consultants and it's in the consultant's best interest to keep getting paid forever, but sooner or later you're going to get all the value that you're going to have or what additional value isn't going to be worth what you're going to have to keep paying them. And you're going to have to be ready to have that conversation of, I've really loved working with you, but I've kind of got what I can get out of this relationship and we can maybe work on special projects together. I can recommend you to my friends, but I don't need to keep paying you money.

Now maybe I'm wrong, maybe there's somebody out there that we'd keep working with forever, but so far everyone's six months to two or three years. But it's always been kind of like, okay, we're kind of spinning our wheels now. We've kind of done what we can do. We still love you, we appreciate you, but it's time to move on. And some of the best ones will say, like Tim Mackey from Vista says, "We don't want to be with you forever, we want to get you to the point where you don't need us." Now, it's funny because we use them to develop our procedures and now I'm using them to help me with my accounting and develop a CFO role at the firm. And so that's the other thing, is that I think we got everything we needed from them at the time a few years ago and now we've got new needs and some of them, he's the right person for those needs.

So something else I want to talk about is we talked a lot about developing and training lawyers. How about the majority of the firm are not lawyers, how learning to work through and develop the non-lawyers.

Mallory Peacock:

This is another area where we've kind of swung back and forth over the years about what we think is the ideal candidate for a non-lawyer. So a paralegal, a medical coordinator, a receptionist, a accounting person. And so we've gone from people with very little experience where we've trained them to do it our way and they work up sort of the ladder at the firm and we've gone back to trying to hire people with a lot of experience. We've tried to hire people that have already been trained, we just want them to come in and go. And I think that depends on the role you're hiring for, but we have found, I think it works best when we hire people with very little experience, train them to do things our way and they can work their way up in the firm. What do you think, Michael?

Michael Cowen:

I think it depends on where you are. So I became a solo involuntarily. My boss quit on me and became a public defender with three weeks notice and I had to figure things out and I was a three-year lawyer and if it wasn't for the paralegals that do more than me, I would not have made it. And so at that point, let's say you're a young lawyer who's a little less experienced, get the best paralegal you can afford and listen to her or him and get guidance. As you grow, it's going to be the opposite because you're going to have a way that you want things done. You have a way that works for you and your firm. When you hire someone else with experience, they have experience in doing things the way someone else wanted them done. And you're going to get resistance to change with really experienced people.

The other thing, frankly, is that when I started back in the nineties and even the early 2000s, law firms really unfairly benefited from the lack of cultural opportunities, the lack of not just opportunities for women but the pressure to women to not go and necessarily get a college education but you need to have kids, you need to be home at first and then go work later and you don't need to worry about your moving forward and you're not going to be a doctor, you're not going to be a lawyer. Very unfair, very horrible. And as a result of that, there were many brilliant, hardworking women that went to work as assistants and secretaries and they did incredible work and for wages far less than what a lawyer would make.

Now, thank God, those women are doctors, lawyers, CEOs, research scientists. As a society we're fulfilling our potential, but it's harder to find those people that could have been a lawyer but because of societal pressures or different lack of opportunity back then did not become lawyers and became paralegals. And so I think you have to look for those diamonds in the rough and they're not going to be already working as paralegals. And sometimes they're really, really good. They're going to be with you for a certain period of time and because of their brilliance, they're going to move on. And you have to learn to accept and celebrate that when it happens. So I think you have to look a lot harder and train your own and work your own up now because that pool of brilliant paralegals is now our pool of associates and law partners and judges and doctors and engineers and everything else.

I'd much rather have you as my law partner than my paralegal, Mallory, so I'm happy about that. But at the same time, it does make it harder.

Mallory Peacock:

Thank you.

Michael Cowen:

And if you're going to grow quickly at all, there are so few great paralegals out there that are looking for jobs because not only do they have to be great, but then something has to have happened where they're looking for jobs. Because a lot of them are experienced, but you notice that their job hopping every two or three years. Or they were really good and they burned out and they got fired or someone like, "Look, I'm not going to fire you and embarrass you, but if you can find another job, I'd appreciate it." And you're getting other people's problems and leftovers. And so you got to be really careful. We have a couple experienced paralegals we've hired here that turned out great, but it's been the exception, not the rule.

So if you're going to grow quickly, just the pool of available paralegals versus what you're going to need, the pool's not going to satisfy your needs. And you're going to have to find some way to train up people, which again is patience. Getting someone in, you're probably have to enlist the other paralegals and then get them to trust you that you're not just training up their replacements, you're going to let them go and hire someone cheaper. But show someone how to do it, watch them do it, and double check their work and eventually let them go free on their own. And again, it's a lot of work. You've got to enlist and delegate other people, because frankly, I don't know how to do everything our paralegals do.

Mallory Peacock:

I don't either.

Michael Cowen:

Which is good, because if we spend all the time learning their job, we wouldn't be learning our jobs as well. If you and I had to go start a new firm from scratch tomorrow, we'd have to bring on some of the paralegals, because we wouldn't even know how to teach them to do their jobs.

Mallory Peacock:

It would take us longer to learn how to do the job than just to bring someone over. But the reality is, is that we've empowered the paralegals here to learn how to do things without our involvement. So you want people that have that motivation and have that want to develop their own place at your firm and give them space to do that. So if people feel like they're hired and then they can only ever be at one level, you're never going to be able to keep them. You need to create in your firm opportunities for growth for non-lawyers. And if those opportunities don't exist, you will lose those people.

Michael Cowen:

Absolutely.

Mallory Peacock:

Because that's the people you want, you want the people motivated to grow.

Michael Cowen:

Absolutely. And you have to invest in them. And you have to invest in their development, invest in their growth if want to have your law firm grow and get the freedom that growth gives you. And I want to talk about that. We've talked a lot about the going from one or two lawyers to becoming more of a bigger small firm. And even when we were like five lawyers, even eight lawyers, I could pretty much keep a handle on most of the cases. I could pretty much, I knew everybody pretty well, pretty much knew how to do every job at the firm. But something happens around 10, 11 lawyers, 30, 35 employees where it's

too much for one person to keep up with everything and know everything. And you have to really start empowering and developing other people that can actually run other parts of your business for you.

And that's a transition that we're going through. You can't just let go. They say let go to grow. But you can't just let go and let someone do it whatever way they want to do it, because then they're not going to do it the way you need it done, so you have to do the work with them so that you can let go, if that makes sense. And it's really annoying me because I have to spend a lot of time ... I'm paying the price right now to have a better year next year, developing new systems and new positions within the firm so that I can free myself up where I'm not having to do as much time supervising people and spend more time practicing law because as much as I love having the bigger firm and I'm willing to do some of the management stuff because it allows me to do the kind of cases I want and bring in the kind of cases I want and have the freedom to take time off that I want. I don't love all the management stuff.

And it takes time because when you and I started together, I couldn't afford to hire the people that we're able to hire now. We just couldn't pay those kind of salaries. But as you grow, it's a continuous process and I'm betting there's going to be other painful steps along the way as we continue to grow, but it's always worth it. You pay a price and then there really is a payoff at the end where, not only does the money get better, but if you do it right, your life actually gets better.

Mallory Peacock:

Yeah.

Michael Cowen:

All right. Well, so Tom, thank you so much for inspiring me for that message. Everyone else, if you have anything you'd like to talk about, if you have questions, feel free to reach out.

Best way is by email, michael@cowenlaw.com, but you can also, people reach me through Facebook, through LinkedIn. I just don't check those as often. If you send me an email, I have a great assistant, Reagan, that will say, "This person sent you an email, you need to respond." Whereas you send me something on Facebook or LinkedIn, it may be awhile before I look at it. I'm just not as obsessive about looking at that stuff. But we want this podcast to be useful to you, and if we have something to give back, if it's something like a short answer, do you know a good expert on this or you have a form on this, we'll just answer you. But if it's something that's a good topic, we'd be happy to talk about it. So thank you, Tom, for reaching out. And everyone else, I hope you have a great holiday and an incredibly happy and prosperous 2023.

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