

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 again by my partner Malorie Peacock. This is our first episode of 2023. So we're going to talk about our plans and goals for 2023 and why you should be doing the same thing as far as setting your plans and goals. How're you doing today, Malorie?

Malorie Peacock:

I'm doing good. I'm preparing for a trial next week so I'm excited to talk about goals, especially thinking about what kind of trials we might have this year.

Michael Cowen:

Absolutely. And before we jump into the podcast, as always, we're going to thank our sponsor LawPods. LawPods does a great job. They put this podcast together for us. All we have to do is sit here and talk. They do all the recording, editing, producing, cutting it up, putting out little things on social media for us. Do a great job. Pleasure to work with. Just shout out to LawPods.

So Malorie, how was your new year?

Malorie Peacock:

It was good. I took a little bit of time off, spent some time with my family and ready to get going. And this new year, it's a different year than it was at the start of last year. Last year I was just about to have a baby, so now we're... Just a different year, so I'm ready.

Michael Cowen:

Absolutely. Yeah, mine was... I was supposed to go on a big trip to Alaska, which would've been really cold, but hopefully see the Northern Lights and then the great airline cancellations kept that from happening, but actually it ended up being a good thing. I really was able to take a little time off at home, start focusing on my health to get back into my exercise routine, do a bunch of edits on my book that hopefully is going to come out soon with trial guides. So it was a good period and now I'm excited to start the new year and try to top last year, although last year was pretty darn good year too.

Malorie Peacock:

Yeah, it was a good year last year. Despite people being out on maternity leave, and not just me but others, I still manage to bring it all together in the end.

Michael Cowen:

Yep. Do you set goals for the year or are you just kind of... You're like the only person I know that actually makes plans and follows them.

Malorie Peacock:

I've done New Year's resolutions before. Typically, they're shortsighted. So it's whatever it is. Whatever's bothering me at that time is what typical New Year's resolutions are. So I almost never follow through with them just because they're so shortsighted. So I'm hoping that maybe you can give me some inspiration, Michael, for something more long-term that I can carry out for the rest of the year. Like I said at the beginning, my focus right now is this trial, so that's in my mind. But that's not necessarily a goal for the whole year. I do and I don't. I mean, I make them. And then do I really follow through? I don't know.

Michael Cowen:

I don't always make them, but I always do have goals. And I think we'll have our goals better set. We have our law firm management team quarterly, offsite meeting in January. And I think that's mid January. I guess it'll be two or three days after when this podcast comes out on the 15th. I think we'll get a better feel for what they are then. But I know I have in my mind what my personal goals are because I think it is important to know where you're going because I think it's really easy especially when you start having some success to just kind of tread water. Yeah, you're comfortable, you're doing well, but you're not necessarily achieving your full potential. Or you're doing well in one area, but there's other areas of your life that you could be happier and have a more complete package or have a longer life.

Malorie Peacock:

So what kind of goals do you have for yourself personally?

Michael Cowen:

Well, actually I have five, which maybe is too many.

Malorie Peacock:

Oh my gosh. Wow.

Michael Cowen:

Yeah. They're not all law related, but most of them are. So my first one is just to continue and kind of finish this health and fitness journey that I started at the very, very end of 2021 and really carry it through 2022. I did a good job for about 10 and a half months of 2022 of really eating better and exercising. I kind of fell off towards the mid-November or December. I did not do such a good job, I gained back five or six pounds. I kind of fell off the regular exercise thing. But then after Christmas I've gotten back on the wagon. I just really want to finish that. I've made a deal with Laura Porter, one of the other lawyers at our firm that we're going to train. In January of 2024 she's going to do the half marathon at Disney World and I'm going to do the marathon.

Malorie Peacock:

Oh, wow.

Michael Cowen:

So my goal is to eat right and exercise between now and my birthday in June to try to lose another 30 to 40 pounds and then start marathon training.

Malorie Peacock:

Wow. That's a big goal. A marathon is... That's tough. But I know you've done the Disney marathon before or you did the half marathon.

Michael Cowen:

No, I've done the full twice. Well, I've done 26.2 miles there twice. The first time I had to walk a lot. I wasn't in good enough shape. I didn't train enough. I mean, I got the medal, I got the shirt. I guess it counts, but it didn't count in my head as a success because I didn't. It's kind of like you go to a trial, you beat the offer, but you still got a crappy verdict. That was like a crappy offer. It didn't feel good.

The second time I did it about six years ago, I actually ran the whole thing and ran it slowly but I didn't have to stop and walk or anything. That one felt really good. And so that's what I want to do. But I want to get all the weight off first. I ran it fairly. I was actually a little heavier than I am now when I ran it, which is probably not the best thing for the knees, but I'd finished it. But to me, it's more of just not my goal anymore. It's just kind of a milestone on a journey to having a healthier and longer life because what's the point of having all the success and making a bunch of money if you're worn out all the time and you die young?

Malorie Peacock:

Simply put, I guess. That's a really big goal. I'm impressed. And I'm impressed with your journey so far on the weight loss and health. I mean you have so much discipline when it comes to that. I've really noticed how committed you are this last year to it and it's very affluent.

Michael Cowen:

It's funny how different people see things differently because people around me they'll say, "I noticed your discipline" because you're with me at lunch so many times when I'm making a healthy choice. And what I think about was, well, I just went to Nashville to go to a seminar and I had two unhealthy dinners out there. I missed my run in one of the last seven days. So it's so weird. I still focus on the 10% of the time when I mess up instead of the 90% of the time. On one hand I don't want to let get complacent and say the 90% is good enough because sometimes you need more like 94, 95% to lose weight. It gets harder as you go. But at the same time it's never going to be 100% and you always have to... It's so easy like, "Well I messed up, it's all over. I'm going to just go back and eat like a pig and not exercise anymore and get all my weight back," which I've done before. After that marathon I gained all the weight back I'd lost.

It's a continued journey, but I do feel so much better when I do it too. And I'm not telling people what to do with their own lives, but at least for me it's not even about the looks as much, although part of it is vanity and looks. But it really is about health and energy and feeling good and being able to enjoy the fruits of my labor.

Malorie Peacock:

Yeah. Well, you are, I say, one of the few people only because I do not enjoy running at all. It's horrible to me. But you enjoy it. I mean, you enjoy getting out there at nature and after you do it you feel really great. So I think doing something you love and enjoy it makes you feel good is man, why not?

Michael Cowen:

Yeah. For me, running outside is spiritual and joyous. Running on a treadmill is, ugh, but I still do it when I have to.

Malorie Peacock:

Yeah.

Michael Cowen:

Do you have any kind of personal goals for next year? Oh, I guess I could go to my other four and then we can talk about your stuff too.

Malorie Peacock:

Well, I feel like you're going to be disappointed because I don't have a ton of goals for next year. I just have ideas of how the year will turn out so.

Michael Cowen:

Well, ideas are good too. I mean I think that's just different words for the same thing. I definitely want to try two to four cases next year. I don't want to try 10, but I don't want to try zero on one either. I think that two to four for me is a sweet spot where I can still do other things in my life and not just be preparing. Because to try more than four cases means you're getting ready to try 12 or 14, because for

every case that goes to trial, there's two to four others that you got ramped up for and either got bumped or settled the last minute. So I am hoping to get in the courtroom a little more. I think I did two or three last year. I'm trying to remember.

Malorie Peacock:

I know of three that you did.

Michael Cowen:

Okay, so I did three last year.

Malorie Peacock:

Yeah.

Michael Cowen:

Only one went to verdict and the other two settled during trial.

Malorie Peacock:

Right.

Michael Cowen:

But my hope is to, whether they go to verdict or not, I want to at least get in there and pick some juries and start fighting and hopefully get some verdicts. But again, if the other side gives up and pays what's right, well then that's... The only thing we do is get money for a client, I'm not going to complain about that. But I like it. But I also don't want to do too many. So kind of a related goal is I want to continue developing the other lawyers at the firm to try cases without me, like you're going to go try a case without me in Philadelphia next week. And for me to have the firm I want and the independence I want, I have to have really great people around me that can do it without me. And so that's another goal.

I guess my final goals are just I've got this New Mexico firm that I invested in and I want to get that built out a little better so that I got people to do things that I don't have to do as many of those things myself. And then to really work on our marketing. We do our big bootcamp every year. I want to make this one really big. I want to get at least 300 people live plus whoever wants to attend virtual. I want to make it just an incredible experience for the people that go there. So I want the audio visual, the prizes, just swag bag. Oh, even the invitations when people get our marketing materials. You'll see, we have some surprises come in the mail. If you want to be on our lists, just send us an email, we will add you to our list. Just go to just michael@cowenlaw.com and I will put you on our invitation list. And even if you don't want to go, you're going to get some really neat things in the mail. It's worth joining.

But I just want to make it educational but fun and a great experience. And then just really find a way to keep in touch with those people, which again means developing other people to help me where I don't have to do it all myself and think of everything myself.

Malorie Peacock:

Well, I am very excited about what you have planned for Big Rig Bootcamp this year. If people have been in the past, this year is going to be even bigger so I'm so excited. It's going to be fun.

Michael Cowen:

So what are your ideas for the year?

Malorie Peacock:

I think last year even though it wasn't a goal that I made at the beginning of the year, it was a goal for myself when I came back from maternity leave which was to figure out how to balance being a mom and being a trial lawyer that travels all across the country. It was a challenge last year but I feel like I did a pretty good job balancing it the best that I could. This next year I think my bigger focus is going to be on making sure that I'm keeping better control of my calendars, that I don't have back to back weeks when I'm out of town and away from my kid. And so I think it's about work-life balance to me is such a gross word because there's not really ever a true balance. But I think trying to make time for my family and just making a conscious effort to make sure that I'm not overbooking myself, especially out of town so that I can make sure and spend time with my kiddo because he likes me and wants to spend time with me, and I like him.

Michael Cowen:

Absolutely. Yeah, I agree that work-life balance is the wrong word, but you've always done a good job at carving out time for yourself and not just letting the work consume you. I think it's part of what's let you succeed so well, is that you work really hard. I mean, before you got married you would go take your girl trips. I mean, you'd work real hard for a few months and then you'd go take a long weekend. And then you work real hard and then go take a long week. I mean, I'm projecting, but from what I saw, I think that was part of what kept you mentally balanced so you could keep working hard.

I think the family is the same way, though family's not as refreshing sometimes. It can be a little more draining, but we love them and we need to spend time with them. I think part of it is, it is calendar control and saying no and realizing that if someone will say, "Well, this is the only date we can do something" and you just say, "Well, I'm not available" and they will find another date. I mean, it will happen.

But I think another thing is I think for you to get your freedom, it's the same thing that I've had to do to get mine. It's developing your people. I mean, you've got two associates where if they're good enough and we're confident enough in them where if there's something that's going on out of town, it needs to be done, but it's not so critical that you are the only ones that can do it, you can send them to do it. I think that's the only way that you ever get any freedom. That's why I'm not a solo. I've been a solo before. I know a lot of our listeners are solos. There's trade-offs. But I think a lot of people wouldn't like my overhead.

Malorie Peacock:

Mm-hmm. Probably not.

Michael Cowen:

But at the same time, for freedom, to be able to have the life you want, you need to be able to have other people do things for you and not have to do everything yourself.

Malorie Peacock:

We've definitely talked about that on the podcast before, but part of that is letting go and accepting that nobody's going to do it the exact same way that you will do it, but will they get the job done? To a degree, that's good. Maybe it's not great, maybe it's not perfect, maybe it's not the way that you would

do it, but is it good? Luckily, I have two amazing attorneys on my team that they'll do it great. I mean, I don't have to worry about that as much, but when you're building that team, sometimes you just have to accept good and not great until you can get to great. And that's part of getting there.

Michael Cowen:

I think that's so hard, the letting go, because how did we get good? I'm not going to call myself great, but I'm pretty good.

Malorie Peacock:

You're not probably great, but that's...

Michael Cowen:

Well thank you. I'm not going to call myself... I got to keep my head, my ego somewhat in control. But I got to where I am because I struggled, I screwed up, I learned lessons from messing up. On one hand we don't want our people to mess up on our cases. But on the other, if you don't let people make some small recoverable mistakes... Like you didn't take the perfect deposition but there's other witnesses in the case we can get there, this is how we're going to learn. You're not harming the client, you're not harming the case. The referring lawyer's not going to be mad when they sent us the case because you sent the "B team" in there to do the work, that's how they're going to learn. And so if you don't let go to grow, I think is what they say, and you give guidance then you have to let someone go their struggle and then you have to give a coaching afterwards.

It is a time commitment on the front end, but that's the only way you get the freedom on the back end. Because if you just go and then micromanage them so much that you're sitting next to them and whispering in their ear, passing them notes or you never let them do in their own, then they never develop their own skills. And they get scared to try things because they're so scared of making a mistake that they play scared and they don't grow and get creative and become great lawyers. So it's a big lesson I've had to learn.

Malorie Peacock:

But a healthy fear is still important, right? I mean you have to have some concern. A little bit of fear means that you care.

Michael Cowen:

Yeah, well I think that's right. I think there the, "I care, I don't want to screw up," I think we all have that. But the being so crippled by fear that you're just a nervous wreck and you end up unable to make a decision and having to call back here in every break and ask for advice, that becomes too much. Or you can't deviate from your outline because you're scared, then you don't follow the opening that comes in. Or you don't even hear the opening that comes in from somebody, the word that wasn't said, the way they said something, the look on their face because you're so scared that you're just following your outline and want to make sure you ask the questions you're supposed to ask. I mean, I just think that it's important, like I said, to guide and then coach. Guide and then coach. But then you have to let people fly some too.

And that's just the only way we're going to get our freedom. And the same for trying cases. I mean it drives me nuts. I can't be in the courtroom when someone was trying a case, if I'm not going to be leading on the case because I would do it differently. I'm going to be smoother. I mean they're going to

struggle through something... Evidentiary predicates. I've tried so many cases, I know my evidentiary predicates at the back of my hand. Now we will do practice with people before we send them into trial. We'll do practice with them and make sure that, "Okay these are your exhibits. What are your predicates? Write them down, let's go." That's why we're building a practice courtroom in the office. But even then we do it in a conference room or my office and, "Let's go practice." Because we're not just sending people when they're blind.

But at the same time, the first couple times you do it and if they object, and then you do kind of fumble sometimes and struggle. You have to go look for your little outline because you forgot what the predicate sentences were, or questions were. But if you don't go through that, you don't ever learn. You don't ever get smooth. And then the jury doesn't decide your case by whether you have a little slip or stumble here or there. I mean, the juries really are focused on what's right and wrong in the big picture.

I have noticed and I've let go more of this last year. Now we still have high standards, we still supervise, we still coach, people bring cases to the... I do meetings with lawyers, we have meetings the whole where we go over cases. People aren't allowed to settle a case without bringing it to the whole firm and we'd all talk about it. But our values have actually gone up from when I was trying to handle it all myself, and I think that because other people have been freed up to unleash their creativity. And then as they've got success, they've been more energized. I mean, you and I have seen some lawyers at our firm that were good but they've really turned a corner as they've reached out on their own, succeeded, and now they're like doubly working hard and doubly creative and inspired and collaborating with each other. It's like growing something that doesn't rely on me, which is really beautiful to see.

Malorie Peacock:

I will say that the energy coming into the new year at the lawyers at this firm is just amazing. I'm so excited to see what everybody does this year because everybody's so energized and so excited and it's contagious. I'm excited to see what the year brings and what it brings for everybody individually. I'm so proud of all of the lawyers here and what they've accomplished and where we're all going. I mean, myself included. I'm proud of myself and I can't wait to see where I'm going too.

Voiceover:

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 by calling 210-941-1301 to discuss the case in detail and see where we can add value in a partnership. And now back to the show.

Michael Cowen:

Well, what are some of the things that have gone on? I don't know how I did it, I think it was accidental, but I somehow did a good job, or maybe you developed in spite of me. But what are some of the things you think have helped your development over the last 10 years that we've been together?

Malorie Peacock:

Well, I mean I think what you said before is once you get out on your own and you try something and it works and then you're successful and then it keeps working, I think that gives you the confidence that you need to move forward. The struggle is part of it. I don't necessarily think people should just throw everybody in to the wolves. And you didn't do that, but some of that struggle is helpful.

I think also knowing that you and the firm have always had my back. So if I make a decision and it's something that you wouldn't have done or you wouldn't have necessarily agreed with, you always have my back with that decision. And we'll talk about it later like, "Hey, I wouldn't have necessarily done that," but in the moment you always have my back and you don't second guess me in front of clients or opposing counsel. And knowing that, gave me more confidence to keep pushing forward, I think, putting in the work. You can't do it just with confidence alone. You already have to be of the type of person that's willing to put in the work and is ambitious in order to succeed. And if you don't have that, it's going to happen for you.

Michael Cowen:

Yeah, one big lesson I've learned watching you develop is that I'm thinking five, six years ago I'd watch you do something and you would do it and I'd be thinking, "Man, I would do this differently. Why won't she do it this way?" And so I'd watch and I'd sit there and I'd be getting ready to write a note or struggling, but then I would see you would finish doing what you were doing and it would work beautifully. You'd be cross-examining a witness for example and I'm like, "I would totally ask a different question and I would use a different tone." But then you did it your way and then it worked. And then I realized that you have to be you. What works for me may or may not work... You just trying to imitate me is not going to work for you. And one, you're going to have good ideas that I didn't think of. And two, you're going to have your own style and your own credibility and you have to be yourself and comfortable in yourself in that courtroom.

And so I guess for the listeners, if you are supervising other people, we have to give them the freedom to find themselves and find what works for them. Because you get 10 different lawyers cross-examining the same witness, they're going to get 10 different approaches. Even the 10 best lawyers in the country, they're going to do it different because they're going to do what works for them and their style and their personality.

And then if you're someone, I guess an up and coming lawyer, either solo or you're somebody that's being supervised, you don't just have to go copy or imitate. Back in the Trial Lawyers College and back when Gerry Spence was really active in it, you'd see so many people trying to imitate Gerry Spence. They're trying to do his voice and they start dressing like cowboys even though they're not from the West, everything. They're trying to be Gerry Spence. And that doesn't work. I mean, there's only one Gerry Spence, there's only one Malorie Peacock. And Gerry would say that too. You never told anyone to be successful by imitating him, he said, "Become successful by finding who you are." I think that's really important, is to find what works for you.

Now there are tried and true techniques that we should all practice. There's nothing wrong with watching Courtroom View Network and seeing how the greats do it and seeing whether that works for you, reading transcripts, reading books. But what I have to do is I have to go there, I have to read it and then I have to try it and see, "Does this work for me?" Because some of my worst results are when I've been trying to do someone else's method when it doesn't work for me. Like I've made arguments cause someone else made that argument. I didn't feel it, it didn't come out right, it didn't resonate because it wasn't me. But the only way you get to [inaudible 00:23:50] though is to try out everything you can and then see what fits and what doesn't.

And so I think for those people who supervise other lawyers, you got to give them a little bit of freedom. Not too much because you don't want to just let people do whatever they want. I mean you can't just let people be sloppy and mess up cases. But to find their own way and find their own style. And for those of us, including me that are still learning, just free yourself up to try lots of different things and then see what works and what doesn't. I think that's another important one, before you go into trial to do a little

bit of practice. I mean, practice your opening in front of other people. Focus groups are great if you can afford them. Not all cases. I mean, I brought in four or five friends and said, "Look, I'll buy a 12 pack and a burger and fries for everybody if you'll sit here and listen to me for 20 minutes and tell me what you think." Whatever it takes, I think it's so important.

I think the other thing is we add so much unnecessary stress on ourselves because we catastrophize things, which is, "Oh my gosh, if I don't do a perfect job, we're going to lose this case and the whole world's going to end." And really and truly, jurors really do decide cases on big principles and themes. It's not usually on any little brilliant wording or phrasing or because we slipped and said, "Oh, I said the wrong name once or something," it really doesn't make that huge of a difference.

The other thing is, nothing horrible is going to happen to you if you don't get a good result on the case. Nothing bad is going to happen to you if you lose a case. I mean, it's weird to say. The money you spent is already been spent.

Malorie Peacock:

Yeah, that's right.

Michael Cowen:

And they print millions and millions of dollars every single day. There's no shortage of money out there in the world. If you lose a case and even if you... I mean I've had case at times when I've lost a case earlier in my career when I was still up and coming and my lines of credit were run up, my credit cards thrown up to the limit because we'd charge business stuff on the credit cards and make the minimum payments until we hit a big case to pay them down. But somehow the money was always there to make the next payroll. I always found another case to settle. If worst come to worst, somehow somebody would come in wanting a divorce, which I hated doing, but they had that extra 2,500 bucks I needed to make payroll for the retainer and we'd do it. Whatever it happens. The universe takes care of you, it's amazing.

And I would just say that even the people that have beaten me in trial, they end up paying me more the next time because it was not a fun ride for them. They know that they just got lucky that day or just the facts were on their side that day. And so I really encourage people just to stop catastrophizing things. I mean, just go in there, try to take that depo, try to that case. Nothing bad is going to happen. And that's how you get good, is by getting in there and getting in the arena. And yeah, you're going to get your nose bloodied sometime, but you're going to come out stronger and better. I'm preachy today. I'm in my New Year's mood.

Malorie Peacock:

It's a new year. It's time for us all to be inspired and get working and get going. I mean, it's an exciting year for all of us and all of the listeners too. I'm excited for all of you guys. We'd love to hear your success stories throughout the year.

Michael Cowen:

Absolutely.

Malorie Peacock:

So please reach out to us and tell us what your goals are and tell us if you met them. I want to hear about it personally. I love hearing that success stories.

Michael Cowen:

And when you do get that big win, we'll have you on the podcast. I mean Ben Newman, our last guest, I mean who had an incredible verdict on what most people would say would be a small case that turned into a big case because of the way they tried it. I mean, he was a podcast listener, but he sent an email saying thank you. He didn't ask to be a guest, but I'm like, "That's inspiring. I want to learn how to do that. Come on. Yeah, I want to learn from you." And we'd like to learn from you too. So if you've learned things from here and you've used them in your trials and got a great success, we want to hear about it and the other listeners want to hear about it. So just send me an email, michael@cowenlaw.com. If it's the right fit, we'll have you on.

So this is kind of a short podcast, but I think it's got to be the right length. I think it doesn't make sense just to kind of drone on just to fill up time. This is really an incredible time to be a trial lawyer. I mean, we have more... It's almost overwhelming. More educational opportunities than ever. There are more people sharing more things. There's all the different trial school, Trial Lawyers University, the Courtroom View Network where you can just go watch things, all these different programs.

And then I don't know what's happened to our people, but something happened to jurors during COVID because verdicts are getting better too and case values are going up. So this is a good time to be a plaintiff's lawyer. So I just hope everybody gets energized, gets creative, unleashes themselves and just has a wonderful 2023.

Malorie Peacock:

And I'd like to add, if you are interested in coming to Big Rig Bootcamp, let us know. We'll get you on the list.

Michael Cowen:

You can also register online at bigrigbootcamp.com. But you definitely want to go on the list because we're sending out some really cool things. I mean, it's free stuff, you're going to want it. So send us an email, michael@cowenlaw.com, say, "Hey, be sure to put me on the list to invite me to Big Rig Bootcamp." Even when you don't go, you'll still get the cool stuff.

Well, thank you everyone for joining us here on Trial Lawyer Nation. We look forward to our next episode. I hope you all have a great and prosperous and healthy new year.

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Voiceover:

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