

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.

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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 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:

Welcome to today's Trial Lawyer Nation. Today, I am joined by attorney Lee Hunt out of Santa Fe, New Mexico. Lee's a good friend and he also just got a \$66.6 million verdict on a case there in Santa Fe. He's agreed to come on and tell us about the case and how he got it.

But before we start up, I just want always say thank you to LawPods. LawPods is kind enough to produce this podcast for us. They make it so easy for me. All I have to do is sit here and ask questions and talk. They do all the production, all the editing, making all the clips you might see on social media. So if you want to do a podcast, reach out to LawPods. They do a great job. Lee, how are you doing today?

Lee Hunt:

I'm doing well, Michael. Appreciate you having me on the podcast.

Michael Cowen:

Well, thank you so much for coming on. So that was an incredible verdict you got.

Lee Hunt:

Thank you. Yeah, it was such a rewarding experience because James Razo was the plaintiff and sometimes things just work out and this was one of those cases where it did.

Michael Cowen:

So tell us a little bit about the case.

Lee Hunt:

So James is from California. He has spent the last 15 years as a camera crane operator. So basically, they have these ATVs where they put a crane on top of it and then they drive those to remote locations to do filming for movies. And so he was filming *Only the Brave*, which was a movie about firefighters out of Arizona. They got caught in a wildfire. The movie was being filmed in Los Alamos, New Mexico. And so he had come out to do that. And basically when he showed up on set, they didn't have everything ready for him, kind of rushed him up the mountain and really put him in a terrible position. And as he was driving the crane, it flipped over and landed on top of him.

Michael Cowen:

They. Who was they?

Lee Hunt:

The movie production company. Black Label Media was the name of the production company, and they also formed a subsidiary company, No Exit film. So they were the two defendants that from our perspective, were in charge of making sure the work site was safe, making sure that he was taken care of and that he wasn't put in dangerous positions, which they really failed to do.

Michael Cowen:

And what happened to him?

Lee Hunt:

Well, when the crane fell on top of him, it really crushed most of his body. It crushed his pelvis, broke all kinds of bones, internal injuries, and some really significant spinal cord damage. He was not paralyzed, but the injury was such that walking became difficult, sensation became difficult. Really, just functioning on a daily basis has been a struggle for James ever since this happened.

Michael Cowen:

So was he an employee of any of these companies?

Lee Hunt:

So that was a big fight in the case, and I'm sure a lot of folks kind of, "All right, wait a second. Workers comp and how do we deal with that and all those kinds of issues." The movie companies really have a unique way of operating. So he was not a direct employee of either Black Label Media, the production company or No Exit, the subsidiary that they created. He was employed by a third party, Cast and Crew, was the name of the company. And the other thing that he was unique because he wasn't on the set the whole time. So he was a crane operator. And so he brought the crane with him from California. He was going to operate the crane for four or five days, and then when they were done with the crane, he was going to take the crane back to California.

So our position from beginning to end, and ultimately, this was a jury question, was that he was independent of the movie production company, which meant they did not get the protections of the work comp act. So we really tried to use his independent status with the crane company as a way of showing how he was not part of the movie outfit. And that was something we fought at the motion to dismiss stage, at the summary judgment stage. And ultimately, what the judge decided, under New Mexico law, was that control of him was a question for the jury. So one of the things they had to answer in addition to negligence, causation and damages was, was James Razo an employee of the defendant, yes or no?

Michael Cowen:

It's always interesting how for tax purposes, they want someone to be an independent contractor and pay them through a different company. And probably for paying workers' compensation premiums, he was not counted as one of their employees. But yet when he gets hurt, they suddenly want to put him under their umbrella and get out of liability.

Lee Hunt:

No, that's exactly what it is. They have so many different companies that they set up for all these liability purposes. But for all intents, he was not their employee in every way that they handled it, including, and I think this was a huge issue for the jury, at the end of this. So James gets burned horribly. He's in the ICU for a whole bunch of days. They fly his wife out to stay with him, they put her up in a hotel. And within two or three months after this, they sent a bill to the crane company asking for reimbursement for paying for his wife's hotel room while he's in the hospital. And they were basically saying, "He's your guy. You sent him out here, you put him in this position, you need to pay for this." And then they asked the jury to say that he was their employee. Once that letter came out, you could almost just feel the jury's ire towards the defendants like, "You've got to be kidding me." You tried to save \$5,000 and now you want us to find he's your employee. No chance.

Michael Cowen:

And so if he wasn't their employee, what was their responsibility they owed him?

Lee Hunt:

Think of it more as just job site. Take movies out of it. It's a job site. And when somebody that's independent who they're bringing in for a specific purpose and they say, "Our work site is over here." In this case the work site was at the top of the mountain. And so what they have an obligation to do is provide a safe way for the person they're bringing on the job site to get from base camp, the parking lot, to the actual work site. And that's what they failed to do. And so really we tried to broaden it, not make this necessarily about movie set safety, but make it about workplace safety, make it about something

everybody's going to understand, which is as a job site operator, you've got to get people to the job site in a safe way.

And so the route that he had to take on, if you think about it's a 3,000 pound crane mounted on an ATV base. So naturally, it's intended to go off-road but not up and down mountain. And so they didn't really tell him beforehand, you're going to have to drive this thing almost two miles up a ski mountain because the filming location was really at the top of a ski mountain and the route that they provided had not been scouted. James asked for the opportunity to preview the route. They told him, "No, we don't have time to do that." And when he got most of the way up to the top of the mountain, there were two different ways to go. And one of the guys got on the radio and was saying, one of the local guys got on the radio and was telling everybody, "Hey, make sure he goes to the right. It's safer, it's not as dangerous, it's not as steep. Send him that way." The head guy on the set said, "Get off my radio, go the way I told you, go straight, get up here now."

Michael Cowen:

Wow.

Lee Hunt:

And that came in un-refuted. I mean nobody denied that. They just kind of said, "Well, James was the professional, he should have known better, he should have said no." And it was such a classic. So our position was they had an obligation to provide a safe route and they knew how to do it. They didn't send the actors and actresses, they sent them up the safe way. Somebody knew that they were supposed to go that way. But when you're talking about the guy at the bottom of the totem pole who's driving a crane who just shows up on Monday morning, nobody was there to guide him up the safe way. And so that was really a huge part of it. And the other part of it that really came through during the case was the rough that was on that morning.

And I think that was certainly from kind of stereotypical movie sets. Everything's always "Go, go, go, fast, fast, fast. We got to go, we get the shot." Everything's about getting the shot. So if the light's good, and it happened to be that this morning, the first day of shooting, good, so they wanted to use the camera for the first shot of the day. But that was not the plan before that morning. So all of a sudden, James shows up and everything has changed and now it's, "You've got to get up here and you got to get up to the top of the set and you got to do it right now." And that was also something that I think from a jury standpoint, everybody understands that. Everybody's had a boss that puts incredible pressure on them to get something done.

And the entire defense of the case from start to finish was James was the professional. He was the only one on set allowed to operate the crane, and he should have known what the crane was and was not capable of. So when he got to the base of the mountain and saw that he was supposed to go up the route that was steep, he should have said no.

And I think what countered that from the jury's perspective was really a couple things. One was that the time pressure that was on him and everybody, all the experts. Even a lot of the defendant's witnesses all said time pressure makes people do things they wouldn't otherwise do. It takes away your ability to really take your time, look at options, make the best decision because you're trying to do the best job you can and everybody's telling you do it now. So once that came through during the case, I think the jury was very much less inclined to blame James for going up the steep way when basically they're saying he wasn't given a choice. He was given the choice of either shut the movie set down on day one as the brand new guy or do what you're told and try to get the job done, which is essentially what he tried to do and did with terrible, terrible consequences.

Michael Cowen:

I've noticed you said a couple points. One is that you wanted to make it more about general workplace safety rather than about movie set safety. And then you talked about jurors would understand everyone's been rushed. Why was that important to make it more general instead of making it in movie set specific?

Lee Hunt:

Yeah. I think it was important because you want the jurors to relate to it a little bit more. We didn't have any jurors that had worked on a movie set. I mean there's lots of movie stuff that goes on in New Mexico. So I think most everybody probably knew somebody that had been on a movie set or had talked to someone. But I think in general, when we broaden out the case, broaden the case in such a way that now the jury can relate to it, it's not a foreign idea of, "Well geez, I've never worked on a movie set, so I don't know how it goes on a movie set." No, but you've been rushed by a boss. We had a whole lot, our jury was eight men and four women, which was interesting because the defense used four of their five strikes on women.

So they had very clearly in their focus groups or whatever they had done that it had been made obvious to them that men were going to judge James more harshly than women were. And to be honest, our focus groups had said the same thing. So they managed to get a jury that they really liked. And we had a lot of guys that were blue collar workers, a lot of guys that, some guys that had worked with heavy machinery, a couple of guys that were mechanics. And so a lot of people that they thought would come down on the side of, "You know what? If you asked me to do something dangerous, I would've said no."

And I think what they didn't understand was that that same group had been in a position where they had been rushed and they had been put under pressure and they had been forced either into situations that were dangerous or had been forced to do things that were dangerous. And so once it became bigger than just trying to please the movie director, but it became about those kinds of safety issues, then I think it was easier for those jurors to say he was put in a bad position and he never should have been at that point on the hill at that time making that choice. That should have been taken care of him way before he got there.

Michael Cowen:

Absolutely. And I was going to say, when you told me about the blue collar workers, people that'd work with heavy machinery, that concept of defensive attribution. I wouldn't have done. That wouldn't have happened to me because you can't live life realizing how random things are and how easily it is to get hurt and have your life ruined. And so I guess that's the way you overcame that tendency towards defensive attribution.

Lee Hunt:

That's what we tried to do. We did three focus groups on the case and we basically lost all three of them. We did one, it was a weird circumstance where we picked the jury and then we had two weeks before we started trial. And after we picked the jury, the night we picked it, I didn't sleep a wink that night because I wasn't crazy about the jury we got. And so we did a focus group and tried to match the demographics as much as we could. I mean it's sort of inexact and I think the jury was assigning huge percentages of fault to James and relatively small percentages to the movie company. And so that the defensive attribution was exactly the reason that they were doing that.

And I think what we tried to change was broadening it out a little bit, I think was important. And I think it was also important for a while, we were scared of James was a specialist. And so the focus groups, the

more we talked about him being a specialist, talked about him being the expert, the more they were inclined to blame him. And so I really wanted to figure out how we wrap our arms around that because we couldn't get away from it. And I think we would've been foolish to try to make him something less of an expert.

And so what we really did that we didn't do in any of the focus groups was we talked about as a specialist, what did he expect when he showed up on set, not what was he supposed to do as a specialist, but he had worked on hundreds of movies. And so what he knew was that if he was going to be first up, he was given the opportunity to scout it the day before. If it was dangerous terrain, he was sent pictures of it, he was allowed the opportunity to preview the route himself.

What he knew was that the people on set were supposed to mark the route for him. So it was really his specialty. We really turned that on them as much as we could to show as a specialist, here's what was expected of the other people on set. And nothing that they did beforehand gave him any indication that those things wouldn't already be done. So that was I think something that was really important in terms of turning the perspective on James as a specialist and turning that focus on the defendants and what they failed to do for him and now all of a sudden it's chaos, and he's doing the very best he can at that moment.

Michael Cowen:

That's brilliant. So tell me about the trial.

Lee Hunt:

The other thing that we really tried to do from beginning to end, and it's one of those things that all of us know, on a comparative fault case, I mean it was a comparative fault case, was to own that and really own it. I sort of joke about there's kind of owning it, like saying something like, "Well, we don't think he did anything wrong, but if you do, it's okay. You can give him some percentage." That's not owning anything. So one of the things that we did from voir dire, opening, all the way through the trial was tell the jury this is a comparative fault case. James Razo, at the moment that he was sitting at the bottom of the hill could have said no. So at the end of this case, we're going to ask you to assign somewhere between 20 and 25% to Mr. Razo. And the reason we're going to ask you to do that is because he never should have been there at that moment, at that hill at that time.

And so early on we wanted to take that defense away and we knew that the damages, if we got there, the percentage we would be giving up would be insignificant in the scheme of the case. The danger was far more losing the employment issue and losing comparative fault in a huge way. And so it allowed us to try the case in such an honest way with the jury because we weren't running away from anything ever. By doing that, now all the focus is on the defendants and their conduct. So the trial came in, it came in really well. It was a weird trial because in New Mexico we're still under COVID protocol, so we've still got masks on in the courtroom.

Michael Cowen:

Oh wow.

Lee Hunt:

So beginning to end, every witness, every time you're talking, every juror, you're in masks, the jury is still spread out. Some of them are in the gallery, some of them are in the jury box. And because of that, I think we probably, maybe a third of the witnesses were via Zoom and then two thirds of them were live. And that's also just kind of a function because it's a movie set. Once the movie shoot was over,

everybody was gone. Nobody was really from New Mexico. But the good part was the case, it came in really, really clean. I think the defendant, witnesses came across as very, I think the perception of the movie industry out here is that they come to New Mexico, they come to do the filming, they look down on everybody that's here and take the money, take the tax incentives, take all that kind of stuff, and then they're shipped back to California and they don't really care about anybody that's out here.

And some of that came through in the testimony. I mean the local guy was the one that nobody was listening to who was telling them to go the safe way. I think that bothered people. One of the corporate witnesses, she was on Zoom, and was really confrontational, I mean from the word go. And was also like insurance, workers comp, some of those kind of things were not supposed to be part of the trial. And she somehow dropped that in her testimony like four times. And it really offended the judge, first of all. And I think it was extremely ineffective. She played into all of the negative stereotypes. And so from that standpoint, and our client, James, he did wonderful in terms of his testimony and so did his wife. I mean I really felt like they were able to bring to life how has been.

The jury was able to see that in such a genuine way that we didn't have to present hours and hours of testimony about the effects on its on his and his wife's life. They were able to just see that through their testimony. And I thought that was something we really tried to do was just present it in an authentic way through the fact witness testimony more so than expert testimony. We had a life care planner, we had his primary care doctor testified and then his psychologist testified. And it was really heartfelt. I mean you could tell how much his primary care doctor respected him, how hard he's been trying since day one to get back to as much of his life as he can. And his psychologist was just lights out. She was so, so good.

Michael Cowen:

That's awesome. What did you ask for and how'd you come up with the number you asked for?

Lee Hunt:

So the economic damages between the life care plan, life care plan was 5 million. Lost wages was like three and a half million, he's never going to be able to work again. So this is all present value stuff. Past medicals were like a million and a half. So you put all the economic damages together, it was like 11 million. And so what I did was I asked the jury for three to four times, and what I meant to say and what I said were two different things. So what I said was three to four times medicals.

Michael Cowen:

Wow.

Lee Hunt:

What I meant to say was three to four times economic damages. And the reason I mentioned that is because when we interviewed some of the jurors afterwards, and so three to four times would've been like 33 million in terms of compensatory damages for James. They wound up giving 24, 600,000 for James. And the way that they got there was they took the path, medicals and the life care plan, multiplied that by three and then added in the lost wages. So that's how they got there. So who knows what would've happened if I had said economics instead of medicals.

But anyway, that's how they got there on that. On Susan's consortium claim, I don't bring consortium claims in lots of cases because I think it just detracts from the damages of the injured, the plaintiff. And in most cases I don't bring medicals either. But here they were so significant that it made sense to do that. But on Susan's claim, I really wanted to honor her claim. I didn't want to short sell it ever because in

her testimony and in James' testimony, she has been such a rock for him and for that family. It's been almost six years since this happened.

His life has been consumed with medical appointments, but there's also cognitive and serious emotional damages to him because of this. And she has been right there for him every single moment of every single day. And their family, they have two kids. And so the way that we presented the consortium claim was really not earth-shattering or anything, but I had James talk about how much this has affected her. And I had him talk about his own self, very, very little to be honest. And then the reverse of that. I had Susan really carry it in terms of talking about how it's affected him. And so to me, what I talked to the jury about when I was talking in damages per Susan was I left it to them. I didn't give them a number for her, but I told them how significant it was and I said, "It's in the millions, but I want you leave it to your discretion." And they came up with 6 million for the consortium claim.

And so that's how we wound up presenting that claim. I was so pleased that they honored her claim too, the jury did. And just for that case, it was the right way to do it. So what we wound up talking about there was the state of New Mexico pays movie companies to come film here. So they call them tax incentives. But when you peel it away, it's not a tax incentive. They write them a check. So the State of New Mexico wrote a check to the movie companies for \$9 million for filming this movie in New Mexico. And so what I talked about was that they needed to pay that money back plus interest. And so I think what I said was for Black Label Media, the 9 million, it's been five years since and they need to pay that back with interest and it needs to be at least 15 million on the punitive damages.

And then I said, "For No Exit, we leave it to your discretion. But it needs to be very significant so that they know when they come to New Mexico," I think what I said was, "They don't only bring cameras but they also bring safety. And that this verdict has to make sure that they know that and that other movie companies that are going to come to New Mexico also know or that other companies that film in New Mexico also know that." And so what the jury wound up doing was for Black Label Media, which was really the parent company but also heavily involved in all aspects of the film, they weren't just a defacto parent company, it wasn't a parent subsidiary case, it was a direct liability case against them, they gave them three times the amount that they had been paid, so 27 million and then they gave 9 million against the No Exit company on punitives. So they very much took that number that we had talked about, they just thought it needed to be more significant than what I had told them.

Michael Cowen:

Well, I'm glad you weren't persuasive enough.

Lee Hunt:

Exactly right. Glad we opened that door for them a little bit.

Voiceover:

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Michael Cowen:

And tell me about at least twice there, you just gave them the discretion without giving them a number. And I've heard different thoughts on that. What was your rationale behind saying, "I trust you," rather than giving them a specific number?

Lee Hunt:

Heard different thoughts on it and I've had different thoughts. In almost every single trial... It's funny, we're all sort of a creation of our own past experiences. And in one other trial I think I didn't give them a number in closing and it wasn't a very good result. We still won the case and it was still something. And I was walking back to my car and I happened to be walking next to one of the jurors and I was sort of talking to him as we were going by and he was saying, "We really needed some guidance on that. We really felt like we didn't know what we were supposed to do. And I think if we had, maybe it would've been bigger." So after that one, of course for the next however many trials, I made sure to always, always give them a number and a reason for the number.

And I still think that's true. So the reason I was comfortable doing that here was I very clearly gave a number and a rationale for the number for the main damage in the case, which was the compensatory damages for Jane. And that number was significant. That number that I asked for was 32 million. I didn't want to short sell the consortium claim and I had done that in some of the other focus groups. Some jurors kind of thought the consortium claim was at least half of what the damage to him had been. And so I felt like telling them how significant it was, presenting it the way that we had and talking about it and telling them it's in the million, at least gave them the freedom and the trust. I think the key on getting a big verdict or really any verdict is you've got to trust the jury. You've got to give them what they need. Arm them with what they need to get a result that you think is what is justified, but trust them at the end of it.

And so what I was trying to do was show them that we had trusted them from the beginning of the case and we trusted them to come up with a number that was justified in this case. So it was kind of a mixed method where I gave numbers on some stuff but didn't on others. And I think what that showed them was they had the freedom to choose what they wanted. Me telling them, for instance, that Black Label Media me saying, "I think the punitives ought to be 15," it was just a suggestion, it wasn't a ceiling. And they knew that because I had given other things that were wide open and didn't tell them what to do. So when they thought it needed to be a whole lot more than that, they felt like they had been given the power to do that. So that was the thinking on this case, was mixing it that way.

Michael Cowen:

And how did they do on the percentages?

Lee Hunt:

So the percentages were interesting. So what they did, and I told them in closing, I said, "We told you an opening that we thought it would be between 20 and 25% for James Razo." I said, "Quite frankly, based on everything I've heard the last five days, I think that was probably too much, but I'm not going to back off of it. But I think it should be no more than 20. You may decide it's less." They ultimately assigned 19% to him. And I think what I said was 20% to James, 20% to No Exit and 60% to Black Label Media. It ultimately came out as 62% for Black Label Media, 18 for No Exit, and then 19 for James. And I think what they did was they just averaged. I think they did a vote. And so they said, after they already gotten past the other questions, "Everybody write down what you think the numbers ought to be on each of the three entities and then we'll come up with the average." And so I think that's how they got there.

Michael Cowen:

I 100% agree with your strategy of fully owning comparative fault. My partner Laura Porter, who very well and I are getting ready for a trial in a few months where we have a comparative fault issue and that's our plan. But you have to get a relationship with your client where they'll let you do it and they won't look uncomfortable or mad at you in the courtroom when you're doing it. What did you do to get that level of comfort from your client where you could go in there and own comparative fault and not have him mad or making a face or fighting you on when he was testifying on it?

Lee Hunt:

You're so right about that. Because one of the parts of this trial for James was really, he had been blamed for the last six years for this. And so in his own mind, he had this massive amount of guilt for ruining his family's life, and a job, I mean I cannot tell you how much he loved what he did. And he was at the top of his game. He was working all of the big movies in Hollywood. He was the go-to guy. And so it's the relationship, isn't it? It's the relationship that you form with your client, which one, so hugely allowed me to feel what he and his family had been through. And I think the only way I know how to do that is go spend time with them at their house. I went out to his house in California multiple times.

About a month before trial, I went out and spent two or three days. I didn't stay in their house, but I spent two or three days just hanging out with them, with no agenda, not talking about the case endlessly. But hanging out with them and their daughter and their dog. And it's the priceless stuff you get when you invest that kind of time. I will never forget. And absolutely, I mean it gives me chills talking about it right now. But on the second day that I was there, and I think I may have been leaving the next day fairly early or something like that, but finally I had gained the trust of Susan, his wife, and the trust of his daughter, Dari. And we went for a walk with their dog that night, just the three of us. And the walk was probably 45 minutes. And all of a sudden, both of them just started opening up to me in ways that they never had before.

And Susan said Dari opened up to me in ways that she had never even opened up to Susan about, really just talking about, she was 15 when this happened to her dad.

Michael Cowen:

Oh, wow.

Lee Hunt:

And talking about how traumatic it was for her getting ready to start her freshman year of high school and all of a sudden, her dad is gone, the dad that she had had her whole life. And there were just certain moments and certain things that she told me that what we're always looking for is those examples, those stories. And so she was talking, one of the things that she said was she's like, "I don't remember the last time my dad gave me a hug." And she said, "I don't think he's got that capability anymore, but he knows I love Starbucks, so now he gives me Starbucks cards and I think that's his way of telling me he loves me." And it was just like when you step back from that, you felt the pain from it and also the recognition of just how all encompassing this was to everybody in that family.

And so when you get that kind of information, that kind of trust, you're part of the family. And if you tell them, this is how we're going to present the case, they're going to be with you 100% of the way and fully, fully invested because they know without any shadow of a doubt, the only things you've got in your mind is their interest.

And sometimes that's scary. Thursday night of trial, they finally start coming to us and making offers that they had never made before. And they said something like, "Well, we've got all our eggs in the Lee Hunt basket." You're just kind of like, "All right, well let's go." But that's okay. I mean it's okay. And I think that that was really what allowed us to all be together in that courtroom and for the jury to really be able to see, we have such a unique position because our job is to present our clients, our clients the change in their life to the jury. And unless we have lived it a little bit, it's really hard to do that on a deep level. And that's the only way that I know how to do it.

Michael Cowen:

And you can't do it in the office. There's no shortcut. You have to go put the time in, you got to go to their house. When you're in their world instead of them in your world, that's the only way.

Lee Hunt:

And it's the only way.

Michael Cowen:

It's a pain. You can't just sit in the office and have someone come in your conference room, you got to go to California, you got to be away from your wife and your kids and what else do you do? If you want to do this, you got to do it. The amount of trust that someone puts in you to have a case of this magnitude to try, I'm hats off to you. You did an awesome job. Not just with the verdict, but I just love hearing that you did all the right human things to get the verdict.

Lee Hunt:

And I think that's what it takes and it's the only way I know to do it. It's the human part of it. And I've said with the risk, the risk is our hearts are thrown in the middle of the courtroom for everybody to see. And sometime it's going to get trampled, but it's worth the risk.

Michael Cowen:

It is. One other trial question and then I want to go a little bit more into how you developed your skills to try a case like this, you said some of the witnesses were live, some were Zoom. Did you notice any real difference in how the jury perceived them or how they came off?

Lee Hunt:

Fact witnesses, no. I think the fact witnesses, I thought for them the Zoom was perfectly fine. And even one of them was video. The first witness we called was a video deposition. So I didn't think for them. I think for the experts, it's not great to have them Zoom. Our expert, our life care planner, got stuck in a snowstorm in Canada, so she was supposed to be live, but all of a sudden she had to be Zoom. And it's flat. And a life care planner's testimony potentially is kind of flat anyway unless you bring some life to it as in why you're needing all these things. But with her being Zoom, she did a good job. But it still didn't have a lot of life. So I cut it much, much shorter than what I had planned to do. I'd really planned to use her to talk about the damage more than just the expenses.

But once it was Zoom, I decided that was not the right approach for her. I think that's where, to me, the differences are. I don't like having experts via Zoom if I can help it. Here's what's funny too. I love doing cross of Zoom witnesses. So they had their corporate representative, she was via Zoom, and what the witness misses is what's going on in the courtroom. And so all of a sudden, they're testifying in a

vacuum, but you're sitting there with the jurors. And so some of your tough cross comes across better in that context. So I think you can be a little bit more animated when the witnesses via Zoom and the jury's focusing on you even more than they would be normally on cross examine.

Michael Cowen:

That's great. You did a lot of obviously high level things in this trial. How did you, over the years, develop the skills, trial chops to do this?

Lee Hunt:

When I started out, I really felt like, I mean I've been at it a little over 20 years. And I really felt like early on, getting trials, especially for young lawyers was a hard thing to do. And so I always wanted to figure out a way to be in a position where I got to try cases because I felt like at some point there weren't going to be tons and tons of people that had a whole lot of trial experience. So early on, I tried cases in every court you could imagine, municipal court, magistrate court, bankruptcy court, all that kind of stuff. And also just put myself in positions to have to do those kinds of things.

So I tried to manufacture ways of getting in the courtroom, presenting cases, talking to juries, and then also started doing malpractice cases because at least in New Mexico, and I don't think it's any different anywhere else, malpractice cases are still probably the highest percentage of cases that go to trial because a lot of the doctors have consent clauses where they can refuse settlement.

So I started taking some malpractice cases or quite a few because that they were going to result in trials. And the beauty of that also was those trials, if you're cross-examining neurosurgeons and hospitalists and all these kind of ultra specialists on their turf, it makes all the other cross-examinations really feel much easier. So that was part of it. And then I spend think resources like what you're providing through podcasts, I listen to tons of podcasts, read all the books, do all that kind of stuff too. And so I think it's a combination of all of that. You almost make being a trial lawyer part of your lifestyle by everything that you do. And it doesn't mean you have to be in the courtroom once a month or anything like that. But I've also, the other part of it, I try very, very hard never to go, at the very least, more than a year without significant trials, have something on the line for them.

It's scary. It is absolutely terrifying trying a case where you know your client's future life is at stake. It's terrifying. But as long as you're in the mode of it and haven't been that far removed from it, it's a fear you know how to deal with. And I think that is much as anything in terms of the trial chops and figuring out what to do and is figuring out how we internally deal with our own fears. Don't let that be the reason we don't try cases and figure out a way to make sure we are the voice for our clients. Meaning, we're not worried about are we looking bad? Am I going to look foolish? What's the other side going to think of me? But you're just there because you know your audience is the jury and representing your client so that at the end of it all, you know that whatever happens, I've represented that client to the best of my abilities and they know I stepped in and stood right beside them from beginning to end. And that will matter to them for the rest of their life.

Michael Cowen:

Did you try the case solo or did you put a team together?

Lee Hunt:

I tried it solo, meaning I took all the witnesses, opening and closing voir dire argument, all that kind of stuff. There's three other lawyers that work here. Cynthia Zedalis was the one that was in the courtroom

with me making sure that everything was rolling as it should be. But that was kind of how we wound up doing it.

Michael Cowen:

And what was the logic behind that?

Lee Hunt:

You mean the logic behind me taking all the witnesses?

Michael Cowen:

Yeah. I'm not criticizing it, it worked. I've done it both ways and so I'm just kind of curious.

Lee Hunt:

Yeah, so have I. And part of the reason I did it here was because it was not an expert intensive case. So on a malpractice case, I wouldn't do it that way because every witness requires massive preparation. Every witness is either a doctor or an expert or something like that. So there's never a break. Here, a lot of the witnesses were fact witnesses. A number of them were Zoom and we at least had several that were video. So I felt like the way the trial was, there were going to be natural breaks during the days anyway. So it would allow me to still feel like I was prepared each day for all the witnesses. And it was just for whatever reason, it was a case that I felt so connected to. I knew where I wanted to go with every single witness. And I felt like it would work out here because of the way it was set up.

Michael Cowen:

Yeah, I've always found personally, it's easier to try case if I do the whole thing. But then I'm like, how do I get the next generation ready if I don't? And once you've tried a case with someone else a number of times, like when I'm trying a case with Mallory Peacock, we're just wearing a rhythm together. We know how to try cases together. It's really easy for me. Other people, it's more, and I love them, but I have to go through them, the same process I went through with Mallory, we have to try cases together. But it's more difficult because we have to make sure we're on the same page and we have the same theme. What I had to learn with Mallory is she's going to do it differently than me, but it doesn't mean it's not effective. And so having to get over myself and just because I would do it differently doesn't mean that's the only way to do it. And getting the faith in someone else that their way will work, which-

Lee Hunt:

100%. And when Stephen Durkovich is a lawyer here in Santa Fe who's really the leading malpractice lawyer in the state for a long, long time. And he and I tried a bunch of cases together and I was kind of second chair to him. And it was just what you're talking about, the rhythm of it. It was great in terms of, because one of the things he would do was we would figure out which witnesses we were going to take on the way to the courthouse in the morning. And so you had to be ready for everything and it made you get really good on your feet. And I think because of that, it just worked well together. So yeah, I know what you're saying about some cases it's easier to do on your own. And this one, it was a five-day trial, the last day was just closing, so it wasn't a real long trial. The voir dire and opening were broken up, so where you're trying to do voir dire opening and a witness on the first day, it's just too much. But this one worked out okay.

Michael Cowen:

So another thing I really admire about you is you're not only able to practice law at a high level, but you're able to take quite a bit of time to train and do things you love. So one of the things you've done a lot is running. Tell me a little bit about your running and other endurance sports you've done.

Lee Hunt:

I grew up an athlete. I played soccer in college. In law school, what I kind of knew was I really took a break from doing all that stuff during law school just because it's so consuming. But my thinking was when I start as a lawyer, I'm going to need an outlet just for the stress, just to reset myself. And so I started doing triathlons really first year as a lawyer and have always done triathlons and running. So I've done, if you talk about events, I've done the Hawaii Ironman a couple of times and more recently have kind of gotten into trail running. And the trails in Santa Fe are just endless and beyond beautiful.

And I've always done it, the only time that it's there is 5:00 AM because I sort of have said 5:00 AM is about the only time you can really count on during the day. If it doesn't happen first thing, it's not going to happen in terms of that exercise. And it's always been something that allows me to reset myself to after I listen to podcasts sometimes when I'm running, listen to different stuff. Sometimes it's just music, sometimes it's nothing. And you kind of sort through cases too, whatever's on your mind.

And so it's always been a really important part of the day for me. And I love competing. I think as trial lawyers, I mean what we do when we go to court, we are ultimately competing. It is almost always a zero sum, there's a winner and there's a loser kind of thing. And that's okay. I mean, that's part of it and you either love that part of it or not. So always still trying to compete one, as a lawyer, but then also as races in ultra running or triathlon or whatever has kind of fed those juices as well. And it's been something I've always really, really enjoyed.

Michael Cowen:

But look, I'll do a three-mile run to burn off stress. You've done the Leadville 100. And for those who don't know, I mean that's in the mountains in Colorado, all over 10,000 feet. How high do you get up on that one?

Lee Hunt:

You get a little over 13,000 feet.

Michael Cowen:

And it's a 100-mile race in the mountains, 100 miles of running, not over multiple days. I mean they have the starting gun and you run 100 miles and you finish. First of all, how do you do that? I how do you keep running for 100 miles?

Lee Hunt:

You don't think about it. You don't think about what I'm going to feel like at mile 90, you just start running and you make it to the next aid station. The first aid station is 13 miles, the second one's 26 miles. So yeah, you just take it little bits at the time and you just keep going. It's such a weird... I mean it's been fun.

The other cool part about Leadville, so I've done that twice. And both times what you get to do is have crew. And so the second half of the race you get to have people that run with you. And the first time I did it, I think my daughter at that time was 11 and she thought it was the greatest thing ever because she ran from midnight to 2:00 AM with me.

Michael Cowen:

Oh, wow.

Lee Hunt:

And then my wife ran 10 or 12 miles with me and my other daughter ran some of it. And we couldn't convince my son to run any. I think he might have run the last 100 yards. So it's kind of a cool way. They're a part of it in a way that they're just not a part of in anything else.

Michael Cowen:

How much time? When you're training up for a 100-mile run, I imagine you have to do some pretty long runs to build up that kind of endurance mean. How much time per week are you spending running, building up to the 100 miles?

Lee Hunt:

Probably, I'd say like 12 hours a week, 12 to 14 hours, something like that. Because most days, during the week, it's an hour or to an hour and a half is about what I wind up doing. And then one day on the weekend might be three or four hours. I never go for a 50-mile training run or anything like that. You just kind of hope that you got enough when you show up.

Michael Cowen:

Wow. Well, that's impressive. So what's next for you, either professionally, personally?

Lee Hunt:

Mean? So the case that we're talking about, we're in the post-trial motions phase and appeals and everything like that. So what's next? It's a great question, but I think it's exactly what there has been. I absolutely love what we get to do. It is such a privilege that people call us up and they come sit down with us in our conference room or in their living room when something really awful has happened. And they're looking for somebody that's willing to take that on and provide them some light, provide them some remedy, some way to correct what had happened. And I love doing that and I think that I want to keep doing it as long as I can and keep doing it the same way, which is getting in the courtroom when we have to. I think that this case is such a great example of it.

There are always going to be cases that every one of us have that everybody on the outside underestimate. They don't see it the same way that we do. They don't live it the same way that we do and they're going to miss it. And I think the best thing that we can do when people miss cases is be willing not to listen to that, to believe in it the way that we can and be willing to present it to a jury and let them tell us what it's worth. And I just want to keep doing that and keep doing it as much as I can and keep trying. And obviously, I'll keep running as long as I can too, because otherwise it's too stressful.

Michael Cowen:

Yep, absolutely. Well keep doing what you're doing. I'm so proud to be your friend and so proud of all your success. If someone out there wants to find you, either they have a question or maybe they have a case, what is the best way to find you?

Lee Hunt:

Sure. And I appreciate your friendship as well, Michael. And as I said, I appreciate what you do in providing this outlet for folks to tell their story. And I've been so inspired by many, many other people that I've heard on similar podcasts and I think we all really are better off together and I think that's the only way that we can do it, is by getting to hear other folks. As far as contacting me, email's obviously easy enough. It's lee@huntlaw.com. That's also the website, is just huntlaw.com. And I think our phone number's on there too. But I'm always happy to talk about this stuff and help anybody else, any way we can.

Michael Cowen:

Well, Lee, thank you so much for coming on. Everyone, I hope you all join us next episode on Trial Lawyer Nation. Also, if you do trucking or company vehicle cases or thinking about it, I really would invite, encourage everyone to come to my big rig bootcamp in San Antonio on June 16th. You can register at bigrigbootcamp.com and I hope to meet you there.

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 TrialLawyerNation.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 and 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.

Voiceover:

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