

Voiceover:

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 Nathan. I've got a great lawyer out of the Denver, Colorado area, Peter Michael Anderson. Peter has been knocking it out of the park lately. Just this year, 2023, not quite four months into it he already has 12 million in verdicts, just been kicking butt and taking names. And he's been nice enough to come and share a little bit about how he's learned how to do it and how he's doing it.

Before I get to Peter though, I just want to say thank you to Law Pods. Law Pods is the company that sponsors, produces, edits and does everything to make my life easy for this podcast. They make my life very easy, they handle all these little technical things that I don't know how to do and I really appreciate them. So if you're thinking about running a podcast yourself, I do recommend Law Pods. That being said, Peter, how you doing today?

Peter Anderson:

I'm wonderful. I'm having a great day. How about you Michael?

Michael Cowen:

Oh, I'm doing great. I'm actually in a friend's hotel room, Steve [inaudible 00:01:55] hotel room in Atlantic City, New Jersey. I'm speaking in a seminar in a couple hours, but I'm glad that I'm able to talk to you today.

Peter Anderson:

Me too. Thanks for inviting me here.

Michael Cowen:

So tell me a little bit about yourself.

Peter Anderson:

I guess, I'm from Canada. My parents were born in Europe, my dad was born in Scotland. They moved to Canada when they were teens and then I grew up playing hockey on a pond in Canada. And when I was in my late teens, I moved to the United States, to Michigan to New Jersey. Was an ocean lifeguard in Cape May, New Jersey and lived up and down the East coast and went to law school at night. Worked for an insurance defense firm as well as a defense firm.

And I'm one of those lawyers who right out of night law school, I opened up my own practice and immediately started trying cases. So I was born to be a trial lawyer and it's been quite a journey.

Michael Cowen:

Great. And you've really been hitting it. How many cases have you tried the last couple of years?

Peter Anderson:

Usually I do about six to seven a year. And it's been a busy year this year I've been in court for more than a month for three jury trials. Had a trial in September, November, but usually about six or seven on average.

Michael Cowen:

What do you do to prepare for that many trials? Because you have six or seven going, you're probably prepping for more than six or seven.

Peter Anderson:

Preparing for this podcast, I realized I've done things in my life to prepare me for in essence competition. So I played high level hockey and then I got into dirt bike racing, to the point where I have a 44 foot rig, and I have a coach and I race probably 12 races a year. And I realized how it's so grueling and in order to be the best, there's so much preparation. And so I carry that over to the trial. I'm very religious about my patterns, my time, protecting my choices and protecting my energy.

And once you do it yourself, once you do over 115 trials, you can reuse different portions and you get into a pattern. And the last trial that ended two weeks ago, we were in the groove. We're really coming into our own as this mobile theater company.

Michael Cowen:

When you say you have a pattern and you have a use of your time, tell me a little bit more about that.

Peter Anderson:

Well I mean, I've been a practicing Buddhist for 20 years. Michael [inaudible 00:04:26] been to my home, I've been to his temple. So a lot of it is everything from playing certain music in the morning, meditating, having my outfits planned down to the socks and underwear and also a united trial team. And so, we're a very cohesive unit working well together and everyone has their roles. In voir dire very important, extracting information from the jurors, writing them down for challenge for cause. And then we do a lot of things in voir dire that we use throughout trial. I like to say trial is like a play that's writing itself as it goes, right? It's so different from every jurors and judge.

So it's essentially just having our trial bins with a check sheet, having six trial bins, having computers and it's just the most prepared team with the best trial strategy typically wins. And so it's a thousand little things and once all the holes are plugged up... Because it's a war of attrition isn't it, Michael? You see the other side start to cognitively decline and miss evidence. And so if you can keep your energy in your team running through those five or 10 days, you really have an advantage.

Michael Cowen:

You said you have a team, tell me about your team.

Peter Anderson:

My team is, I've been a sole practitioner for 18 years of my career, but fortunate to work with an associate who worked for the insurance side for 15 years. His name's Carla Bonavita. True story, I don't check filings often, I don't write motions or briefs. The last several years I've been able to practice my voice work, voir dire, speech. I do a lot of focus groups and really they're just voir dire practice to be honest.

And then I have an amazing trial paralegal who's been with me at least 12 trials in the last couple of years and then an executive assistant. So my firm's actually four people. Were very lean, very selective and when we try a case it's all in nights, weekends and this system it is... So that's my team, they're amazing, couldn't do it without them. They're everything, I'm just one cog in a and a machine trying to do my best.

Michael Cowen:

No, it's amazing. The team is so important. I'm getting ready to hopefully try a case, I was just told we're 20 on the docket, which is not promising. But I was hoping to try a case on May 9th. And I am working with a lawyer who's a great lawyer, but I've never gone to trial with her before and she's never gone to trial at our firm. And so, you get so spoiled when you have that team that just works like clockwork. And now I have to say things and explain things and communicate what... Someone's not reading my mind because they haven't been there with me many times.

Peter Anderson:

Totally.

Michael Cowen:

So it's different. You also said you have trial bins. What do you mean by trial bins?

Peter Anderson:

I mean books and printers and props. I use a lot of demonstratives so just do I have my jury book? Do we have everything there? Tables, stands, I've been doing it like you for many decades and so when we're ready to go we're like a mobile theater company, and we put everything together, and we travel to the courtroom and we get busy. We've been churning out jury trials lately.

Michael Cowen:

Yeah, you said props. One of my fascinations or obsessions lately is okay, "What three dimensional objects that I can hold, can I use in court? What kind of props do you use?"

Peter Anderson:

Sure. I would say everything I do is to match the cognitive bandwidth of the jurors. And so for example, I have props that aren't sexy but they're very effective. For example, I have a phone board that has six words on it or six headings that has exam or expertise, evaluation exam, treatment diagnosis, physical impairments from the crash and future treatment.

And so essentially I'm always trying to, when I'm gauging the jury every three to five minutes, switch up the medium, switch up the topic. And so a lot of time that helps me that's saying, "Folks look, we're going to start here." Because some jurors want control and they want to know where are we and where we're going to go.

Michael Cowen:

Yeah.

Peter Anderson:

So let's talk about expertise. I use a lot of use squishy brain and pink and white rope for motor and sensory nerves. And I use a picture of nerves out of the human body and I've developed an analogy to explain why people are still in pain from these structures and why is it getting to the brain.

So a bowling ball, I use the bowling ball a lot, I'll keep it on my table. Squishy brain, a lot of foam boards and Muscle Pro III, that's an app that I use in most trials, which is fantastic for showing the layers of muscles. So those are some of the props we use.

Michael Cowen:

You said Muscle Pro III is an app that shows the layers of muscles in the anatomy?

Peter Anderson:

Yes, I've been using that every trial for at least the last seven trials.

Michael Cowen:

Wow, that's great. You also said you have an analogy that talks about how nerves brings pain to the brain. Can you explain that?

Peter Anderson:

I do. So essentially what I have is I put up, it's a program called Doodle and what it is that hand that you see drawing on some YouTube videos. And so I purchased that and I picture a drawing slowly, a huge tree

and then a building next to it. And I say something along the lines of folks talking about why this human's still in pain. And the analogy I like to use is think about how... it's called innovation, how the nerves innovate our body.

So imagine a big beautiful tree with all of these roots, deep in the ground and they innovate the dirt and spread out everywhere, so lots like our nerves. So these motor and sensory nerves that go into our muscles and to ligaments and to spine joints. So folks imagine, someone takes a huge corporate building and drops it right next to this tree, carelessly and negligently. And what happens is this weight, the trauma damages the roots, it puts too much pressure on it compresses them, squeezing them, and parts of the trees start to die.

And the same thing is true with many because folks, nerves carry pain to the brain, nerves carry pain to the brain, nerves carry signals. And so from those damaged parts, those microtraumas to the discs, to the muscles, to the ligaments, the joints, that is like the tree root being damaged and it sends those signals, the nerve roots from those structures carry pain to the brain. And then we can take it a step further and saying, "How do we treat these injuries?" Well you got to dig down deep, take a chainsaw and you got to chainsaw the roots. It's called the needle heats up and moves quickly and sometimes they grow back.

And so you can do the analogy of taking a blow torch and getting in the thing and burning the root to stop the pain. But nerves carry pain to their brain. So I think that analogy, people can understand, "Oh that's the microtrauma and why people are still in pain and there's temporary relief and maybe longer temporary relief. But these injuries are permanent.

Michael Cowen:

Yeah, that's great. Thank you. That's already worth me doing the podcast with you. I appreciate that. You also need to use a bowling ball. What do you do with the bowling ball?

Peter Anderson:

So essentially whatever I use for opening, I usually typically have it in trial. And a bowling ball, the average weight of a human's head is 11 pounds. So I got a beautiful 11 pound bowling ball and I'll use it whether defense, crossing or our clients. And the whole point is if there's not a lot of property damage to say folks in a matter of one 10th of a second, these ligaments, these structures we're trying to keep this bowling ball up. And that's why they're still in pain because you can take this, wrap it up and for three months I can stick it over my head. So it's just a visceral visual about wow we... That's the weight of our head and those structures are hurt when especially something so big and dangerous like the Goliath [inaudible 00:12:41].

Michael Cowen:

Absolutely. So that's great. I've heard of people using the broomstick and bowling ball and stuff but I've never... I haven't done it so I've always wanted to see someone do it right so I could try to copy them.

Peter Anderson:

Right on. Well it took me about two weeks to think, innovate. It's such a word where it doesn't roll off the tongue and people are like, it came to me in the middle of the night, I have a pen that I really studied the brain and used my subconscious to help me. And that came in the middle of the night, clicked on my light pen and there you go.

Michael Cowen:

I don't know how many trial ideas I've woken up at 4:00 in the morning with are, I've had to run out of the shower, dropping wet, fell off, write it down, go back in and finish showering.

Peter Anderson:

Totally, yeah.

Michael Cowen:

What did you do to develop... I mean, you've got a lot of creativity, you've had a lot of success. What did you do to build your trial skills?

Peter Anderson:

Getting out of night law school and I've always felt like I've had an angel on my back and there's a story with why I became a lawyer watching Matt lack with my mom. But the last job I worked was at Lawyers' Weekly USA and I flew out to Colorado, I didn't know anyone passed the bar, opened up my law firm. And I met a guy named Aaron DeShaw and I flew him out, he had written the book Colossus: What Every Doctor Should Know. And then Colossus: What Every Trial Lawyer Should Know.

And honestly it was insecurity and feeling... not being part of a firm, not having a wise lawyer look over my shoulder and showing me. I literally became a sponge and started to read everything trial guides and from NITA, from AAJ, from Take Back The Courtroom, Trial By Human, Don Bauermeister. I mean I've read almost and listened to every product of Trial Guides.

And then what happened with, when I became friends with Dr. DeShaw who owns Trial Guides, I started to learn the science and so I started holding medical seminars for chiropractors. And I did it for about over a 10 year period I had eight yearly conferences where I'd fly in [inaudible 00:14:37], Punjabi's mentor at Yale Biomechanic or university professors. And I would have an entire day at the Ritz or the Four Seasons and we were getting 150, 160 doctors to attend.

Michael Cowen:

Oh wow.

Peter Anderson:

To teach them about where science meets service, what's going to happen and to use it as education credit. So that really helped me understand these connective tissue trauma cases and they're serious. And so a lot of my verdicts, the folks watching this, the cases are spinal stenosis, disc protrusion, myofascial pain syndrome, they're real serious injuries. And so it's about how to teach a jury simply, viscerally, quickly is key.

Michael Cowen:

I think it also, you must have done something to teach yourself and open your own mind. Because we fall under this trap, "Oh it's a soft tissue case, it's a non-surgical case. No one's done surgery, therefore it's not that big of a deal." Whereas just because you have a condition that surgery can't fix or help doesn't mean you're not really hurt.

Peter Anderson:

It's so true. I think for me, I raced dirt bikes, I compete in jiu-jitsu. I actually hurt myself a couple times racing and doing jiu-jitsu. And if you've ever had facet mediated pain, how awful that is. And so I think the big keys is learning the science, learning the psychology, the brain persuasion. And then truly about five years ago I read a book called The 5:00 AM Club.

I had a dirt bike coach and I got serious about discipline and I started waking up every morning at 5:00 AM to start practicing voir dire, voice work, and it really has helped. That and all the trials really coming into my own, but knowing it is one thing and then purposeful practices is really where you excel, where it's really helped me get to the next level.

Michael Cowen:

Yeah, I think it's more than just the experience. Because I had a judge, he's since passed away, but he said, "Michael, there's a difference between a lawyer that's tried 100 cases, who's tried the same case 100 times.

Peter Anderson:

Well said. Yeah, yeah.

Michael Cowen:

So, what I see with you, what you're trying to do then to be creative, can prove, to not do the same thing every time. Well yeah, you have work you want to keep doing, but it's not like, it doesn't sound like you just have a script that you're following either.

Peter Anderson:

And I've been privy to a lot of the greats and it's also been a curse because there's so much, it's sometimes hard to select what arguments. And I think the biggest thing, I spent a week at Michael [inaudible 00:17:08] temple in October and really just to trust yourself, you prepare and then you got to let it go. Things are going to happen. And being fluid and calm and knowing that you've prepared I think is key.

But you're right, I mean golly, look at you 116 trials, you start to get into, I don't know what to expect. When I hear of a chiropractor, you got to tell me more. There's 41 different types of chiropractors. When I'm going to trial, I mean it's apples and oranges. I have some the rulings, I mean one thing that I did 10 trials and everything's going smoothly. This judge, "You can't show frivolous defenses. Get up in sidebar, take it down." That's crazy.

So I think judges have a tough job and I don't think there's a lot of uniformity in some of their rulings. There's a lot of inconsistencies that, my trial case management or sometimes an hour and a half because I'm just like, "I want to know exactly how you do it, your Honor, how do you run the show in your courtroom?"

Michael Cowen:

I had a judge once not letting me ask leading questions of the officer who blamed my client. So you have to figure out how do you cross-examine somebody without being able to ask leading questions. Now he was wrong, but I didn't want to get a reverse on appeal, I wanted to get a win. And you have to figure out how you can do that and it can be done, but it's not as effective but it can be done.

Peter Anderson:

It's true Michael, I think the gray hair and I think a book of case law with three copies has been helping. You set that tone of saying, "Your Honor, this is the right way to rule." And then judge start to go, "Okay, who do I go to?"

Michael Cowen:

Yeah. Well, this judge just didn't want me to get a verdict, and that's it.

Peter Anderson:

What happened, Michael?

Michael Cowen:

We got a verdict, it wasn't the best verdict they ever had, but it was a lot better than the offer. And I think it was so obviously against me on everything. The jury saw the injustice, the jury saw me being shut down constantly and they fixed it.

Peter Anderson:

Awesome.

Michael Cowen:

Again, I just learned to trust the jury. Then sometimes you get hometown, it happens.

Peter Anderson:

And sometimes you can hometown folks. It's knowing the environment, it's fun.

Michael Cowen:

So tell me a little bit about this, one of your recent cases. I think it was it Carro or Carro versus Swift?

Peter Anderson:

Carro? Yep. It was a two-week jury trial in Denver, late January and February it... What would you like to know?

Michael Cowen:

Let's start with a little, give me a little bit of background about the case.

Peter Anderson:

Sure. It was a hardworking man who spoke English from Mexico. Five kids. He was just waiting in traffic and traffic slowed in a Swift driver who was on methamphetamines and prescription drugs basically ran into traffic. And yes, about a 22 miles an hour. What happened was he hit a motor nerve, a fourth cranial nerve in his eye they made a big deal because he was conversing at the scene, he drove his car to the dealership and then went to the hospital.

But it was a very hard fought battle. The Swift, some very good lawyers, very good litigation council in Arizona. And a lot of this was the human harms, right? Because the medical bills weren't huge and I was able to connect with the head of Swift litigation and to share with her about why this is so important. And so that's what the case was. We had tons of experts, cognitive neuropsychologists, pain doctors, he

had an emotional PTSD element of his damages. He never went to get injections. And so there was a life care plan but didn't go through with a lot of the treatment. But a beautiful human being And worked for an amazing company, JE Hurley. In fact, we kept calling ourselves the JE Hurley trial team and beautiful human beings.

So I, like everybody you learn, you love. And I came into that court, they had at one time I think six lawyers on the other side. It was two law firms and it was just me and my assistant, my paralegal. And I don't have my associate at trial, he's back there writing trial briefs and he's got me if I need him. So yeah, the trial was... I think one of the things that I took away, to help folks on here is I truly trusted myself. I did everything the same. I had my witnesses lined up back and forth. But when it was showtime, I literally just had the peace, the love the ease in my heart. And the execution was in a very calm manner.

So I was focusing on the, how to say it. The what was all planned out. What I do is I used to do this on a big wall. Now I have a huge phone board and I take every witness and I have half a piece of paper and I put them all up. So you have a big phone board with two weeks of witnesses, and sadly the judge bifurcated the case and two weeks before trial. And so the jury never heard about the marijuana, the drugs-

Michael Cowen:

Oh wow.

Peter Anderson:

... the methamphetamine, nothing. It was just the car crash case. And I didn't even call the defendant to the stand. It was just a truck case with no direct claims because we were operating under a case called Ferrier. And I think one of the big points was I was very prepared. But when I would meet those people as I would literally just turn off my mind, I had my trip wires and I would just have these beautiful conversations and sometimes it got carried away.

I remember about three or four days in, there was an objection. An, "Objection." And I looked over and there there's all the Swift lawyers and he said, "Mr. Anderson's just... he's just having a conversation with these folks and it's not fair and he needs to move it up. I mean he needs to get going. He's just having this conversation." And the judge says, "Mr. Anderson, you've got a unique style. I like it. You're having conversations but if you move a little quicker."

And I did that for cross examinations too. Same thing. I call it citizenship. I had that credibility and I had that calmness. And I remember one time I was a defense expert and the defense expert is sharing, or... He was from Canada, like me, I became a citizen. But he was from Canada. And I said, "Good morning." He says, "Good morning." I said, "You wanted to come back to the states as quick as you can, didn't you?" And he's like, "What?" I said, "You wanted to move back to the states right away. It's cold up there, isn't it?" He's like, "Yeah."

And we started having this conversation and all of a sudden I hear this... And we all look up and the judge is looking at me and she says, "Did I do that? Was that me? Was that me? Was that me?" And I was like, "Yes, your Honor." And I looked at the jury and I said, "I'm sorry, I just like to get to know these folks and have conversations, but let's get right to why you're here."

So I think it was just having the confidence of being me and being the seventh juror and to go, "Who are you and what do you want to say?" And it literally just came to me and I had enough belief in myself just to say, "You've got this. Just go." And very Buddhist, just be present and see what happens. And it is beautiful.

Michael Cowen:

Can you tell me a little bit more about the human harm in the case? You said it was a fourth cranial nerve case, but what was the effect on the human being?

Peter Anderson:

This man, essentially for the first six months he had an eye patch and he couldn't drive. And this company got him a truck two days after the crash and parked it outside, and he's got American flag. And so basically, it's connective tissue trauma. So his body was hurt and a lot of mild fascial, a lot of pain. And so he was a construction worker for this company for 12 years. And so, essentially he tried to get back to it, and of course they played on that. He was able to get on at ATV and so forth.

But what happened is, and again I spent so much time... And the way I do it is I do two things, it's called quantitative statistics and I do SNS. As seen in story, quantitative statistics is what the doctors and seen in story are with my harm witnesses. His harms would be, he would have panic attacks and he was on a lot of medications healing from the connective tissue, trauma from the facet mediated pain and so forth. That was his human harms. And yes, he went back to work, they had to get some people to help him on the job. Yes he was able to drive long distances to different states.

But it's those little stories. And so what we do in... If I can help some of the folks about what we do is, what I've learned is this is if we're always trying to make it about the jurors, what can we do to make them remember to put it in their working memory? That's all, and my whole goal is listening. And when I get goosebumps and it hits me in the gut, I go, "Okay, stop. We're going to close our eyes and we're going to work on that."

And so what we do is, one scene was Manny was out on his cousin's backyard and they have a lot of parties and what happened was he was sitting underneath this tin shed. And they heard thunder, and a lightning bolt came and struck close to them and he went down on his knees and he was done for the rest of the night. That panic just took over.

So what matters to me... And I'm getting goosebumps now and so for what I do, it's very simply you take a piece of paper and you draw a line down the middle and on the left side is before right side is after. But what is always consistent is the scene. So what I do with every witness, I say "Okay..." And I get silly. I say, "Okay, let's close our eyes." I said, "What do you see?"

And they have to literally describe where they're standing. Because if they don't tell a scene then the jurors won't be there with them because the jurors are going, "Oh that's my sister's kitchen. Oh, and it's got that island and the window. Oh..." Then they're at that place, and then so always a scene and the story was lightning and I've been bold enough now to say, "I'm important, you're more important. These folks are everything, talk to them."

Because a lot of times they're looking at me and getting these harm witnesses, these people in his life to tell these stories so that as it's happening, bringing them with my questions, the first person present tense many stories. If it happens right, I have the paralegals, I get a stenographer, but I only use a stenographer to move around the courtroom. And what the paralegals are doing is they're writing down what hit them or a disgusting question.

So my close is about 80% done before I even start. And that's what I think a lot of the trial is, is meeting with witnesses and the SNS of before and afters and taking them to different parts. And that way if the trial's done and the paralegal says we meet that night about who these people are. That hit me, then I know it's going in quotes in my closing and I'm going to pick on a juror that could resonate and drop that on them. So that's where a lot of my time is spent is what's the scene, where are we? Then the story real quick that to make it that persuasive power just through the roof.

Michael Cowen:

And how do you find those, you call them harm witnesses and how do you harvest their stories?

Peter Anderson:

So we have a 20 20 20 rule. The client has to write down 20 reasons why they should get economic monies in the economic bucket. 20 reasons they should get monies in the human harms. And then 20 reasons about activities. So we have a special category called physical impairment, which I like to think of the body or brain or minds like inability or incapacity to function or perform due to structural changes. So it all comes back to that micro tissue carrying signals to the brain, carrying pain to the brain.

So with that though they'll usually write down different stories, write down all of the people, I bring them in and the meetings last hours and we just get to know them and we just listen. And so, the clients have it all. You're just spending enough time to use your gut. We have more neurons in our gut than we brain. And when something hits and we all get goosebumps and like "Wow, you need to share that."

So, it's pretty simple. It's a process of extracting, you got to master the records of course, but what happened in their life and then who's going to tell it at what stage? Usually at the end of the day to end pretty powerful.

Voiceover:

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Michael Cowen:

You said you had a ton of experts as well. What type of experts did you have?

Peter Anderson:

We had a cognitive neuropsychologist, we had a pain management doctor, a neurologist, a counselor, a chiropractic neurologist. We had a counselor, a physical therapist, an economist. We had a functional capacity evaluation, physical medicine rehabilitation, chiropractic neurologist. And a life care planner. And they were all excellent, a lot of times spent with them planning.

They had five experts so they took over two and a half days with their experts. But again, I think what's key is half of the crosses, Michael were what the witnesses had said before. A play is writing itself as it's going. And so we're just going, "Well what just happened?" That's what matters. Not the four years before.

Michael Cowen:

No. Are you talking about when you're crossing their people?

Peter Anderson:

Yeah.

Michael Cowen:

Or when they're crossing your... Yeah. I think that is so critical, and especially you going in there with they're being so present. Because we go in there and we have all this anger and resentment over the crap that they pull on this during the years of the litigation and sometimes with some of these paid defense opinion witnesses, we've got decades of resentment towards them because they've been telling these lies for money forever.

But the jury hasn't experienced any of that. And so our possible, what we view as righteous indignation comes across as fear on our part. So this leads other people must be really, really powerful. They must say something that really hurts us. Because we come in there angry and scared and to go in there and just be, "Forget about all that. Let's go talk about what's happening here in the courtroom, what the jury just heard." I think that's so much more powerful.

Peter Anderson:

Isn't it though? It really is. It's a running tally and you can read in a transcript, but it's the hairs, it's the goose pimples. That's when you're like, "Got them. That story's going to stick," because we're all humans. I leave them with my emotion. And so if it's resonating with me, I'm in touch, being present. It has resonated with them.

Michael Cowen:

And so, I don't want to call them experts, what kind paid witnesses the other side have?

Peter Anderson:

They had an economist that they flew out from California, they had a neuropsychologist, they had a pain management doctor. They had... Golly, it's tough because I've had a couple trials since then. They had... Jeez Louise, the usual. I usually depose a lot of experts and so I'll sometimes depose them for four to six hours. This was one of the cases where they deposed everyone on my side. I deposed all of the Swift employees because two weeks before trial I was trying a punitive damage case. We couldn't get it against Swift, because of the Ferrier.

But two weeks before I lost my whole trial and I was like, "Wow we... Really amazing stuff that the jury was going to get fired up about." So with their experts... That's where I spent my time deposing the supervisor, the driver's wife, the fleet terminal, the manager.

Michael Cowen:

Yeah.

Peter Anderson:

The 30(b)(6), right? But here I didn't. Now, some of the experts I had crossed in trials earlier in the year and last year. And I think what was really powerful, and I've done it twice now is again, it's how you say it. They know I have a binder, and so a couple of the experts I had seen before and they're very, very well known. And I literally said, "You know what I'm about to do now, right?" The witness said, "Yeah." I said, "I'm going to pull out and I'm going to show you..."

I don't even think I brought out any depositions. But that is taking the moral high ground, being very wise with your words, always staying on our side of the field. And the questions I came with a lot of, again, every morning I meditate for 30 minutes. I've been doing it for many, many, many years.

It is being that... I was telling my wife, I said, "I'm going to do this podcast, and I'm going to be talking about heart beams from my heart and basically sending energy, a sacred heart meditation through my

back and spreading love on all of them and how's that going to come across?" And she's like, "You do you." So I think coming from... If my goal is, I was born to be a trial lawyer, my goal is to reduce suffering. And if I have that peace, if I am that peace, that love, that ease and I treat that person with respect, the jury knows that they've been paid a lot of money, they're hired by the adversary.

But if they see a warrior who has compassion, and I think that's the hardest thing is having compassion for someone who doesn't have compassion. And I never veered from that even how riled up I got because of all the BS and so many different lawyers and so forth. But it really is being respectful. One time I turned around to write something on the board and I said, "I apologize." I said, "That was disrespectful." I said, "I didn't listen to you. Please will you say it again sir?" And they said it again.

And that's who I am. And it took a lot of time to know myself. And I think that's really where the big verdicts have come recently is knowing why I'm doing this. And it's to master the art of being a great orator. I've seen the greats, I've hung around the greats and the discipline came in to say, "Everyone watching this, you could do it too. What's going to stop you getting up from five in the morning and practicing."

And so that's where it all came from. But just that respect and it caught the defense off guard and they weren't... Because believe some of the experts I had crossed, my old... I'm a positive [inaudible 00:35:34], chapter guy, I did it wrong the first 10, 15 years because I didn't... No one was to show me and my ego was there. And once I let that all go and said, "Let's have some fun and be present," I think that the defense, those people knew and even if they did, they knew we were in the right.

Michael Cowen:

Yeah.

Peter Anderson:

I don't know how that's come to cross, I wanted to be brutally honest and share my truth. And there's just a lot of peace and love coming out to everybody and you always take that high ground and the jurors, they see it. They feel it, rather.

Michael Cowen:

Oh I think that's so important not to accidentally be two-faced in trial. I mean you're sitting there on peace and love. I love everybody. I care about everybody. But then when someone says something I don't like, then I turn and become a mean vindictive person at them.

Peter Anderson:

And I believe... Guilty until I realized, "What are you there for?" I'm so honored and connecting to the constitution and to what we do and about helping people like golly, you can get me crying very quickly to talk about the righteousness and how proud... What you and I get to do to represent other folks. And it's beautiful. Very proud. So I hope... Did that answer about getting to the defense experts?

Michael Cowen:

It did. Now for closing then, because you had an incredible result. Because this sounds like you've got a disputed mild traumatic brain injury. It sounds like, I mean you didn't have immediate hospitalization or something. He had a set of injuries, you said he hadn't had any injections, he hadn't had a surgery. What was the verdict?

Peter Anderson:

The verdict, fortunately we get great interest. So the verdict was 5 million total, 7.5 with interest and then we get cost on top of that. So it was 5 million. It was basically 1 million for physical impairment, 2 million for non-economic and I think 3 million for economic.

Michael Cowen:

How did you argue to get those kind of numbers?

Peter Anderson:

The way I do it is I really, in voir dire I set up the three... I use my hands and say, "Look folks, we've got three tiers of damages and so the economic is past and future." And essentially that's just to put Manny where he would've been if this never happened. And there's a great lawyer and blank on his name who says, "We just need a calculator to do that."

So that's black and white. I used the appraisal argument. With the non-economic, again, we went through, I've got some demonstratives showing all of the elements of his pride as a man, doing what you love with the people you love. That's everything. So why do we work so hard? That the weekends and the week nights to be with the people you love and just doing whatever makes you tick the things that are big to you but small to other people.

So the human harms is, that was a lot of stories, in quotes and reminding... But the big third, the physical impairment, the changes to the body, the structural changes. I really tried to hit home that hard, I hope, because it's not capped. So some of the arguments was the nerves and I have a picture of nerves running out of the body and they tried to say it was too prejudicial. I'm like, "This is what makes us human. You take away our skin and you can recognize someone just by their nerves."

So with closing, I take a little bit from everyone from Don Bauermeister, I mean Aaron DeShaw. Every little sentence I say is from a book or a webinar and it's all in persuasion, [inaudible 00:39:00] and it all comes together. And then really, what's most important is how you deliver it. I use PowerPoint. My pace was very good and the two things, right before I get up to close... three things.

One is, I have a lot of side things. I beatbox, I'm a semi-professional beatboxer or I jump rope. Right before closing I had my team, my AV gentleman, Mrs. Carro, who joined us, my two assistant paralegal, they sat and I gave my closing. And then something happened and then they said, "Do your voice warm up." And then I started beatboxing, Skinny Boys, Fat Boys, Run-DMC, you name it. And it got me into, I don't know what it was, a place where I felt Josh [inaudible 00:39:44], just let it all out. Just be you.

When I went, and right before closing my paralegal, we practice this. Do a lot of practice about what to say to me, what to say to a witness right before priming. I said, "How are you going to prime you? We practice on what are you going to say to the witnesses walking into the courtroom and what are you going to say to me?" And she said, "Why are we here? Why are we here? I'm getting goosebumps and it's for this man."

And I believe civil justice is money, money is civil justice. And I believe in our right to do what we do. And when I was giving the closing argument, the reclose, everything... And some of the crosses were like this. I wrote down and I went with my gut, and right before I was going to get up for reclose, my client wrote me a sticky note and she wrote... It gets me going. She wrote, "I lost my dance partner." And I got up to do the closing, and I had certain points to point out and the judge was like, "You got five minutes." And I'm counting down and I have a timer.

And then I knew it was just the right... Everything was just right about the trial, and of course a little bit of luck and a lot of practice. And the last thing I said, and it was to the foreman, it was to a millennial and

Rex Paris said, "Don't deny justice." And I really looked at that foreman because we usually know who the foreman is. I said, "Don't deny Manny justice." And I looked, I paused and I looked at Maribel and I looked back at me and I said, "Maribel, she lost her dance partner and that should count for something." And I was connecting the whole time to that foreman. And that really was it. And I think being yourself, I asked my AV guy, I said... He sees the Burg Simpsons and the greats do huge trials.

And I said, "What is it?" I said, "Look, I studied persuasion." I said, "That's all I'm... I was born to be a trial lawyer every weekend, every night. This is what I do." I said, "What is it that makes greats great?" Do you know what he said to me? He said, "Peter..." He says, "You got good pace. I would say pace, because cadence over content, you need that slowness." But he said, "What makes the great is that at the right time you have that moral righteousness calling out the other side with respect and compassion and love, by calling them out for their position and being justified, being in the way indignant morality.

And he said, "That's what makes the greats great are those moments where they take it all in being present and take that high road and make it impactful." And I think it all lined up, and it's crazy because I was working on five hours of sleep. And it was one of the worst... As you know, it's hard work. I mean, golly.

Michael Cowen:

How do you find the energy to do all the things you do?

Peter Anderson:

I am a chiropractor trapped in a trial lawyer's body. Putting on those seminars... This morning I ran because I knew I was going to see you, so I got a good jog on. I laser my brain every day. I have a vibration plate, I have an infrared sauna, it's diet. It's really simple. My wife calls me the energizer bunny, I'm born with unlimited energy. And I think racing endurance, dirt bikes and competing in jiu-jitsu helps, but it's diet. It is literally fish oil. I remember Dan Ambrose and DeShaw were at my house, we rode some motorcycles I think the summer before last. And I literally said to Ambrose, I said... He saw me, fish oil and greens first. He says, "What are you doing?" I said, "You need to be at the precipice of diarrhea to be fully lubricated."

So a lot of it is what you put in your pie hole. My diet is one-to-one correlated to my emotion and also planning. And I've been married for 26 years to the same woman. I have three incredible friends. And so, you exercise, I would probably say spirituality and diet. So just knowing, getting the ego out of it, having close friends, being the love, the peace, ease, meditating, being good to yourself.

And then look, I wanted to say it's great you help these people. Lot of huge verdicts I think this year with settlements over 40 million. And I'm proud to be a trial lawyer and the help I've done to people. But let's face it, this is a grueling profession. It is. I don't have kids but my wife says, "How many great trial lawyers are on their second or third husband or wife?"

Michael Cowen:

Yeah.

Peter Anderson:

If I had and I had kids, and I realized the team, the practice, fortunately... And I'll end with this, fortunately I go very deep in a few areas. So I race dirt bikes, I try cases and then I kick it to the Caribbean for... And I'm just about to head there for a month with my 50th birthday. So I think you got to know

yourself, reset and to be good to yourself. And when you come home, if you did your best that folks, that's all you can do. And your best is good enough and believe in yourself.

Michael Cowen:

Well yours has been pretty darn good lately and you've definitely earned a Caribbean holiday. I look forward to the next time we meet though. I think, are you going to AAJ in Philly or?

Peter Anderson:

I'm not going to AAJ in Philly. I'm definitely going to see you in ATLA and ATL.

Michael Cowen:

Okay, good. Yeah. ATLA in October and Atlanta.

Peter Anderson:

Yep.

Michael Cowen:

I encourage everyone to go to that. If you want to meet Peter, I'm sure he'd be glad to come up and talk to you. And I'm always glad every time someone at dinner told me last night that I hadn't met before, they liked the podcast. That makes me so happy to know that anyone listens and get something out of it.

Peter Anderson:

It's impressive. You really have given a lot to the profession, Michael. So on behalf of everyone that hasn't thanked you at dinner, thank you for you and your team, for all that you've done giving and sharing this advice to other lawyers and I guess the community, right? Because anybody can listen to podcasts. So thanks for all your work in doing this.

Michael Cowen:

Well you're welcome. And I do have an action list based on list of things I'm going to go do and talk to my people about at our Friday training. So I really appreciate you coming on. Excuse the cough, I'm just getting over a pretty bad case of bronchitis, which is why we had to reschedule this. And I appreciate you working with me on the scheduling too.

Peter Anderson:

Of course, of course. Hopefully you're feeling better and you're keeping up the running.

Michael Cowen:

Well I can't run yet. I got, hopefully by next week I'll be able to run again. I do want to go back before we... I mean it feels like we're ending, but there's one thing I did not ask you that I do want to ask you. Do you also at some point in your life we're an insurance claims manager?

Peter Anderson:

Yes.

Michael Cowen:

What did you learn from that process or that experience that has benefited you as a plaintiff's lawyer?

Peter Anderson:

Great question. I think, when I first started back in 2001 every five to seven years, in addition to our personality changes and our sales changing, there seems to be certain subject matters in the legal field. And I remember it probably was because I was working at Lawyer's Weekly USA. I was a claims adjuster and a manager and using computer programs at Liberty Mutual in Warsaw and meeting Aaron DeShaw. I realized how the industry tracks us. In fact, I'm the guy who, there was a great book by a gentleman since passed called Berardinelli, called, Good Hands to Boxing Gloves.

Michael Cowen:

Yeah, great book.

Peter Anderson:

I literally... Remember that book?

Michael Cowen:

Yeah.

Peter Anderson:

I bought 3000 books and mailed it to every chiropractor in Colorado. I had a bad list. And so we had like 500 come back, it was a nightmare. But what I think is important is to understand how we are tracked, meaning truly, does everybody know when you send a settlement opportunity letter to an insurance company, do you know what is exactly... What happens?

And I think knowing how they track your tax ID, knowing that if you're a trial lawyer that matters. And so I think, right off the bat, in '01 I started... I was wearing suit every day. Because I lived in Manhattan, I lived in Philly, I lived in Boston. And when I moved to Boulder, Colorado, I essentially said, "Well I just need to try cases." And I started doing false imprisonment, and trespassing and kidnapping and DUIs because I just wanted to be in trial.

And then, when I started to trial a lot of cases and I remember one year, I think it was in '07 or '08, I had eight jury trials. We won them all. And all of a sudden the next year, everything that came in, I settled at limits. So it's the understanding of it's a computer, it's nothing personal. You need to find out the decision maker, you need to find out what program they're using. Sure all of us, you know, get the claims IQ or Colossus, what have you. And then getting into bad faith knowing what happens. But coming out of law school I realized in order to help people I have to be a trial lawyer. I want to ask you one question.

Michael Cowen:

Sure.

Peter Anderson:

The more I do this work and it's really doing it to me. I mean born to be a trial lawyer, I keep realizing how much it takes to get to having these successes and repeatedly getting multimillion dollar verdicts. And I look at Europe and I think, will our society go to a barrister and solicitor? Because the amount of

time it takes to understand the cognitive science, persuasion, the NLP that put a playwright, casting directors. I mean I've nearly had seven career paralegals litigation. But they're like, "I don't even know what you're doing because I'm a trial law firm."

And it's hard to find paralegals who have trial experience. And I just wonder, in you doing all of this, you see what it takes and do you think in due time maybe we should go to, for people to have a board certification or to... What are your thoughts of hard it is? And you probably have seen some lawyers who haven't dedicated and the results of it.

So I know it's a big question, but I'd love to know what you think of that subspecialty of the effort it takes to be a trial lawyer and should there, in the future be a distinction?

Michael Cowen:

Oh, that's an interesting question. So I think it would benefit clients a lot. I think it also... What I've realized running a law firm, which is different than being a trial lawyer, different skillset, different activities. It is a different skillset to try a case than it is to work up a case. And everybody says that they want to be a trial lawyer because that's what we're supposed to say, we're conditioned that you're supposed to say that. But most lawyers I've found don't really have a burning desire to try cases. And you could tell that by... We're having conversations in the office right now, even with a co-counsel, we have a case with an underinsured defendant, but it's a corporation that I believe has the assets to one to pay more than their limits at least.

And two, that needs to know that you can't just have this level of coverage and this big of a business and then you really, really hurt somebody and you're going to get away with it. So I'm like, "Well let's just try the case." And we're in Texas where we can advance living expenses to clients and I'm even like, "Look, let's figure out what the client would net with reasonable reductions in the medical bills. And I'll put my money where my mouth is."

And even then I'm seeing some discomfort about the idea of turning down the limits when there's no bad face because we've never asked for the limits, and because we wouldn't take them and just trying the case. "Well something bad could happen." "Well, yeah it could. But something great can happen too. And it would be a lot of fun and I want to do it."

And obviously it's the client's decision. But the client's decision is really 95% plus of the time, how we speak to the client informs the client's decision. So if you tell the client, "This is an injustice, they should not be able to get away with this, you deserve so much more, what do you have to lose? I think you have a good chance of getting more. And if not, you're probably... The odds of getting less than their limits in this trial is really slim."

I can't say it's a 0% chance, but there's a... "The better course of X for you to go try the case and I want to try it for you." Versus, "Well, you never know what's going to happen. It's really risky, the expenses are going to go way up. You may well end up with even less money in your pocket."

It's how you have that conversation indicates whether that client's going to go trial or not. And I think how we have those conversations is really motivated by whether we really want to go to trial or not. So I think having the class of, I can hand it over to someone else and let them do it may result better. And I think being able to get in the courtroom more often. Because one of the things I get frustrated and I get ready for six or eight trials a year, but if I get one to three I'm happy. I mean, I'd like to try more, but it's hard to get in there just because you get bumped or the case settles.

Peter Anderson:

Yeah, no, good points, Michael. I think of the jury bias, I went to the jury bias back, it was in Atlanta, it was a week long program back in oh '04, '05. And I feel like that's a subspecialty. It's an AAJ committee that I attend and I think the world of Weiner and [inaudible 00:53:09] but that's just one little aspect and knowing about suspicion and how to address all of that. And then, you get into your area of expertise, which mine is trucking, so I went to trucking school. I took the boards last weekend and so-

Michael Cowen:

Good.

Peter Anderson:

So, I keep thinking you've got the trial, which is you can go so deep mean, especially if voir dire and research during those jurors, and I could talk an hour about how I do voir dire differently. And then you've got the law of trucking, but I just keep thinking I'm in my stride and I just wonder like, "Wow, it took me 20 years to get here." And I just wonder if our profession will change and do time of saying, "Hey, every lawyer needs to be board certified at a minimum." Yeah. So thanks for sharing.

Michael Cowen:

Yeah, I don't want to take away opportunities from others. I just always wonder what would serve the clients and what would give the people that really want it the most opportunity to get in there. I don't know. I do see one of the big industry changes is we've gone from, it used to be the big advertising firms to try to settle what they could maybe do some light litigation and referral trials.

And now you're seeing some of the bigger advertising firms actually building trial teams like their barrister units, getting some really, really good lawyers who are getting really, really good results. You think of Keith Mitnik and Rick Block at Morgan and Morgan. I mean, [inaudible 00:54:45] got some great people. [inaudible 00:54:47] has some people that are getting very... I mean these different big advertising firms bad for my business model as a referral-based lawyer, but that's okay. I still celebrated, but I mean... We'll see, the industry is going to be very interesting over the next 10 or 20 years, especially if states are fullest enough to keep allowing experiment with non-lawyer ownership of law firms and hedge funds start coming in and buying them and-

Peter Anderson:

Right on. Yeah. Yeah, totally.

Michael Cowen:

It's going to change a lot, but I think there's always going to be opportunities if we keep our minds open for them.

Peter Anderson:

Yeah, agreed. Agreed.

Michael Cowen:

Well, Peter, thank you so much for coming on the show.

Peter Anderson:

Right back at you. Thanks for inviting me, Michael. I really appreciate it.

Michael Cowen:

And for our listeners, thank you for listening today. I do want to encourage everybody, we still have some spaces left at my Big Rig Boot Camp, on June 16th in San Antonio. If you're interested in possibly attending, it's the bigrigbootcamp.com. I would love to see you and believe it. If not, I hope you join us on our next episode of Trial Lawyer Nation.

Voiceover:

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