

Michael Cowen:

This is Michael Cowen. And welcome to Trial Lawyer Nation.

Speaker 1:

You are the leader in the courtroom. And you want the jury to be. Looking to you for the answers.

Speaker 2:

When you figure out your theory, never deviate.

Speaker 3:

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

Speaker 4:

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

Speaker 5:

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

Speaker 6:

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

Speaker 7:

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

Speaker 8:

Whatever you've got to do to make it real, you've got to do to make it real. But the person who needs convincing is you.

Voiceover:

Welcome to the award winning podcast Trial Lawyer Nation, your source to win bigger verdicts, get more cases, and manage your law firm. And now, here's your host, noteworthy author, sought after speaker, and renowned trial lawyer, Michael Cowen.

Michael Cowen:

Today on Trial Lawyer Nation, I am super excited that we have John Romano joining us today. John is an incredible, legendary trial lawyer with the Romano Law Group out of Florida. You've probably heard of him if you're in the personal injury space. Over 200 jury verdicts in every kind of case, including jury verdicts as high as 53 and 45 million, and lots of seven figure ones underneath it. John, how are you doing today?

John Romano:

I am doing great and I'm just glad to be here. This is going to be fun. I'm looking forward to our chat.

Michael Cowen:

It will be. Now, before we get started, I need to say thank you to LawPods. LawPods is the company that produces my podcast for me, and they're also a sponsor. They make life really easy because you and I just have to talk to each other and they do all the recording, editing, putting it out there on the podcast apps and on the internet for us.

So, Thank you. To law pods. If you want to think about doing your own podcast, I highly recommend LawPods. Just a reminder that we have my Big Rig Boot camp coming up in San Antonio, Texas, on June 16, 2023. You can either attend in person, which is so much better, or we also have a virtual option for those that can't make it. I really hope you can come. This is going to be a great program. The first thing we're going to talk about is our nine step method for maximizing value that Malorie Peacock, my partner, and I came up with in our trucking cases. And actually, you can use it for any case. It's really the subject of my book. Big rig justice. It's coming out with trial guides later this summer, but we're going to give a preview, and we're going to dig deep on how to use it in your case to maximize value and also kind of like the mini method. When you have a case where the case value doesn't justify hiring consultants and doing focus groups, but you still want to maximize that case, maybe you're going to turn to \$50,000 case. You want to try to turn to \$100,000 case or \$100,000 case, try to turn to \$200,000 case. We're going to share what we've developed that lets us do that so you can do that in your firm. We're going to talk about a new approach to opening statement we've come up with and a new structure. After working with different consultants, we've taken things from them, combined it with our own ideas, and I want to share it with you all. Of course, we're going to do all the basic trucking stuff. We're going to be talking about how to use the federal motor regulations, how to find dirt on trucking companies, the best industry standards. We're going to show you what they are. We're going to give you copies of them and show you how to use them. We're also going to talk about beyond tractor trailers. What if you have a company pickup truck? What if you have a Domino's delivery vehicle? How do you find rules and apply them in those cases? And finally, of course, if you have a case where you've got huge damages but the trucking company doesn't have enough insurance, we're going to talk about other avenues for recovery.

So you make sure you don't leave any money on the table so you can sign up now. It's bigrigbootcamp.com, and I hope you join us and hope to see you in San Antonio. That being said, let's kind of jump in to you, John. So you've tried so many cases over your career. You're still trying cases?

John Romano:

Still trying cases. Still going at it? Yes.

Michael Cowen:

Tell me a little bit about your story. How did you come to be a trial lawyer?

John Romano:

I always thought of either medicine or law and also knowing I wanted to be a Marine and no matter what happened, I wanted to go into the Marine Corps. I did that and then made a decision to go on to law school. And while in law school, I immediately gravitated towards the trial lawyering part of it. And we had guests who would come to the law school and lecture. We had Richard Racehorse Haynes, who back in the 60's or 70's was one of the most renowned criminal defense lawyers in America. We had F. Lee Bailey, Melvin Bellai out of San Francisco. And as these giants would come in and I would hear them, I was just salivating to be trying cases, and that's what I wanted to do. And then I was very fortunate. While in law school, as fate would have it, the little typewriter that we had, my wife Nancy and I, and we were starting to type up a little resume for me to send out to some law firms. The typewriter was not working, so I wrote a handwritten letter and sent it to Al Cone, who had been a former president of ATLA Now AAJ. And I told him all the reasons why I wanted to come to work for him. And at the very end of the letter, I made a plea and I said, I'm so convinced that you will feel soon you made the right decision that I will work for free for six months. And then a few days later, Mr. Cohn sent me a telegram and it just said, John, Deal. And Nancy and I were concerned. Maybe they want me to work for free. But they didn't. And so I went with a great trial firm. And shortly after I passed the bar, I was admitted. I will tell you this, Michael. Today is May 10. It was on May 10, 1974, when I was sworn in as a lawyer. So today is my 49th anniversary of practicing law. And the day that I got my license to practice, I was handed a file. That was a Friday. And on Monday, solo, I started trial in my first case. And then, as they say, the rest is history.

Michael Cowen:

That's incredible.

John Romano:

Yeah.

Michael Cowen:

Things have changed a little bit since then as far as the willingness to let younger lawyers try cases. But that's a great story. Before I kind of move on from there into how you built your skills, I just want to touch on something. You said you wanted to be a Marine first. How was your experience as a Marine? How has that, I guess, shaped or affected your career as a trial lawyer?

John Romano:

First thing that I would say is that when I was growing up, there were figures in my life. Several of my uncles had fought in World War II. And the thing that struck me about them, one in particular, Uncle Al, he was a Marine. He was at Iwo Jima. And everything about him exuded kindness, softness. He was gentle, he was soft spoken. And yet he was this hero Marine who had been an Iwo Jima. And I would see my uncles who had come back from World War II. I would hear all about the Marines. And then when I was in grade school, my eldest brother joined the Marine Corps. And then it became all the more important to me the thought of going into the Marine Corps for some period of time. And that's what I decided to do, and it was very important. And what I loved about the Marine Corps is that it was always about teamwork, about pulling your own weight, about charging hard all the time. Go, go. And that has been my life. I'm 73 years old, and I was just telling a friend of mine yesterday, if anything, I am revving it up. That's awesome. So that's the way I feel about it. Yeah.

Michael Cowen:

It's funny. I've talked to friends of mine who aren't lawyers and or even good friend from boyhood on who's an insurance defense lawyer. He's already talking, we're only 52. He's already talking about retirement plans. And, like, I don't want to retire. I like what I do.

John Romano:

Oh, yeah. I am truly I fall into that category of someone who I feel as though I've never worked a day in my life. I enjoyed boot camp. I love the practice of law when I was in sports, I love the practices, and I've just always been that way. I get very energized around people who are also energized and those who are not. We just try to energize them.

Michael Cowen:

So then you get out of law school. You get licensed on a Friday, you pick a jury on a Monday.

John Romano:

Sure do.

Michael Cowen:

What do you do after that as the years go by to develop your skills as a trial lawyer?

John Romano:

Well, I was able to watch a lot of wonderful lawyers in the courtroom and be able to see what it is that these men and women were doing in front of juries. Or I would go with an AI Cone to a deposition and watch how he would develop testimony throughout that deposition. So watching great lawyers had a huge effect on me from day one. And to this day, if I'm at the courthouse at a hearing, when I finish that hearing, I always try to meander over to see who might be in trial and go in and watch a little bit of the trial. Another part of it, though, is listening to what other lawyers have to say. So if I go to a seminar, whether the speaker is 30 years old or 83 years old, I know I'm going to learn something from that lawyer or perhaps that medical doctor or engineering expert who is teaching at that seminar. I am very high on CLE and how we learn and how we develop our skills. And I especially like the seminars where it's not only the lecture presentations, but where they have tutorials or workshops where you actually being forced to get up on your feet. But another part of my practice that I was very fortunate to get into early on was the firm I was with really pushed jury research when it was unheard of. So back in the 70s, when really nobody was doing these things called mock trials or focus group sessions, this firm was doing them, and we met up with people like Stanley Prizer out of Charleston, West Virginia, and Roxanne Conlon out of Des Moines, Iowa. And I learned what they were doing with mock trials, focus groups and started doing them, and I saw the magic in them. It's not just a matter of seeing, well, how do these folks pick up on issues that are problems? It forces your team to come together and practice and rehearse. So you're building camaraderie among the team members. It forces you to prepare extra hard. It gets you in front of people, and all that's going to do is help you get better. And when I give an opening statement in a trial, it's like I've given it 15 times because we've gone over it time and time again. So that made all the difference in the world in the way I developed.

Michael Cowen:

And for lawyers today, one of the complaints I hear, and I want to get your opinion on this, they say, oh, it's impossible to get trial experience nowadays. No one goes to trial or no one lets a young lawyer try cases. What's your response to that?

John Romano:

I respectfully disagree. I have heard since I started practicing one group of lawyers, it's not an identifiable group. I'm just saying one segment of the population of plaintiff lawyers will say, it's so tough nowadays to get to trial. There aren't as many trials. There's a guy over in Tampa,

Florida, named Bob Joyce. He tries 14 or 15 cases a year. Keith Mitnick out of Orlando, 14 or 15 trials a year. What happens is lawyer for the plaintiff find ways to get out of going to trial. They make excuses. There was a song that came out in 1975-ish by Art Simon, and it's called 50 Ways to Leave Your Lover. Yeah. And I have told people that every time I hear that song, I keep thinking, I'm going to go give a speech somewhere to plaintiff lawyers called 50 Ways Plaintiff lawyers do everything possible to get out of trying a case. The problem is, at some point you've got to draw a line in the sand. And I'm not saying an unreasonable line, because you've got to always be doing what is best for the client, but you advise the client and say, look, let's draw this line at a certain number, because if they don't get to that number, that's not a reasonable offer under these circumstances. Let's go to trial. One of my brothers who's a mediator says, the problem is that so many plaintiff lawyers go to a mediation with the mindset, I don't care what happens, I'm not leaving unless the case is settled and then there's no trial. I do believe that you can still try several case a year. And I don't care if they're big cases and you're a seasoned veteran or if you are a rookie lawyer going to work in a plaintiff's firm. There are many lawyers around the country now who are trying more than a dozen plaintiffs personal injury cases a year. And I think that the system is primed for that.

Michael Cowen:

Yeah, I used to try ten or twelve a year. Three or four is about what I want now, personal. But I think if I had a different firm where other people could work everything up for me and I could just go and to try three or four, I got to get ready for ten or 15.

John Romano:

Sure. Because you've got to handle the Daubert motions, you've got to handle the summary judgment motions, and motions in Lemony. And you're taking depositions just in the last few weeks? I don't know how many depositions I've taken, but probably about a dozen or so in the last month because we've had two cases in particular where just had to take a bunch of depositions and we keep doing it.

Michael Cowen:

I think one of the big reasons that we, as planned lawyer, often don't go to trial is fear. I mean, we're afraid that it's not going to go well, that we're not going to do well enough, we're not going to get enough money, or we're going to lose, or we're just going to mess it up at trial. What do you recommend to people for getting their mindset right so they can overcome that fear and just go to trial?

John Romano:

Yeah, it's interesting that you mentioned that because I was just asked a question. I'm in Cincinnati today meeting with experts on a product liability case, but just came from a meeting

in Nashville. And when I was in Nashville, I was giving a lecture and somebody asked a question about fear. And this is what I told the audience there. I said, my wife Nancy and I, we were in a movie one night. It was the the first of the Hunger Games trilogy of movies. And there is a scene where the bad guy, President Donald Sutherland, he has his right hand assistant there, and he says to his assistant, he goes, the only thing more powerful than fear is hope. The assistant says, I don't know what you mean. He goes, What I mean is destroy their hope. And they're done in a kidding way. I was nudging my wife, saying, I now have this idea, and later went out theater and I told her about it. But here's what I was thinking about when that happened. If you can travel back with me, Michael, we go back to like 1957. There's a young man about 34 years old, and his wife, she's 34. And they have a ten year old boy and a seven year old girl. And they're all fully dressed and they walk down to the beach and it's 02:00 in the morning and the weather is bad, it's raining, it's windy and they have a huge inner tube. And mom and dad tie the kids to the inner tube, and then they tie themselves to the inner tube and they walk out into the ocean. You see they're in Cuba and they're escaping in the middle of the night, and the fear is ungodly, but the hope overrides the fear. The hope that they will get to America and have freedom. And as I was thinking about that, I thought, that's where I want to go in my trials from that point on, fear versus hope. And the problem is, as you suggest, when lawyers are getting ready to try cases, our mind starts working on us and we start going, wait a minute. If we get a zero verdict. The client's going to be upset with us. The judge is going to tax costs, the other side's costs against us. We don't know what other motions they're going to file. Then we got to file an appeal. And everybody knows I was in trial. They're all going to ask me about it. And it's just going to be embarrassing and humiliating. Those kind of things are playing on our mind. And what I've tried to tell people is, it's okay that those kind of things are playing on your mind. That's good because it means you care. It means you're concerned. But you must overcome those problems. One of the Congressional Medal of Honor winners in World War II, Audie Murphy, who became a movie actor and did mostly cowboy movies and war movies. But there was one article about him, how during the escapades of one of the battles, right just off of the Rhine River in France, how after he did these extraordinary things, he realized he had wet himself and messed himself. He was so terrified. But he just did it. And that's what we must do as lawyers, we must just do it. And I tell young lawyers, don't cave. Once you take an important position, you stay with that, and you fight with that unless you're given information that legitimately changes it. But what happens is often the defense lawyers, especially the crusty old veteran defense lawyers, they work on the young lawyer's mind, and they start saying, you're in trouble in this case, you're going to look bad. We're going to come after you for attorney fees. We're going to move for sanctions. And they start puts the fear of God in them. So the key is you do it anyway. People of courage are more often very afraid, but they do it anyway. So courage doesn't mean you're fearless or you have no fear. It means you do it in spite of your fear.

Michael Cowen:

And do you stuff to overcome fear?

John Romano:

I sure do. No, you do it all the time. You do it in your relationships with people. You have a hearing, you're going into federal court, and all you've been told is, I'll be careful here. But let's say not so nice things about a particular judge. And now you've got a hearing and you go in and it may not be the most friendly atmosphere. You have to go in there, no matter what, and do a great job for your client. And you do everything within your power to win at that hearing to prevail. Then you pray to God that you're going to say the right thing and not make a mistake and go off on some tangent.

Michael Cowen:

Yeah, I think it's also this sounds weird, but I think it's also valuable to lose a case because the world doesn't end. I mean, it hurts. And I would never intentionally lose a case, but first time I lost a case where I had \$100,000 in costs. And my line of credit was all the way run up. My credit cards were all the way run up. I wasn't sure how I was going to make payroll a month later, but I survived, and the world didn't end, and people didn't start saying, you're a bad lawyer. I'm not going to send you any more cases. You move past it, and you go the next one, and you win the next one. It's just getting NFL teams when they go play if you go play in the Super Bowl and lose, you don't say, well, I'm going to quit playing football. You go the next season, try to win it the next season.

John Romano:

I know. And it's funny. I was talking to a lawyer who's up in the Midwest, and he had just had back to back very significant medical malpractice trial. And the first one, there was a defense verdict. The second one was just a tremendous plaintiff's verdict. And I was telling him after each of those verdicts, call me when the verdict comes in. And we talked. And after the second one, I said, I want you to remember the advice that I gave you the last time. When you get a verdict, win, lose, or draw, you have till midnight to either cry about it or to celebrate. And when the clock strikes midnight, move on to the next case. And if you get a big victory, don't live off that for the next 20 years. I mean, you and I both know lawyers who, if they lose a case, they not just go down. They go way, way down mentally, emotionally, and they're fearful of going back in the courtroom. The opposite can happen with a really nice verdict. They feel, I don't ever have to try another case, and I will speak about this case for the next 30 years. And so in the record business, they call them one hit wonders.

Michael Cowen:

Yeah. So one of the things that's fairly unique about you, especially compared to this generation of lawyers we have so much specialization, is you've tried, I think, every type of case. I mean, what kind of cases have you taken the verdict?

John Romano:

Well, wrongful death case, traumatic brain injury, paralysis cases, trucking, auto tripl and fall, slip and fall, burn injury cases, eminent domain, murder, robbery, everything imaginable in the civil and the criminal arena. And I remember when I was actually when I told you about these great speakers that were coming to law school, one of them was Stanley Praiser out of Charleston, West Virginia. And when he was introduced, it was interesting, they said he had, the year before obtained a verdict in Pennsylvania in a Med mal case. That was the record for Pennsylvania at the time. Now, this was back like in the 1950s when he got that verdict. But then later, when I saw him, it was the early 70s, they said he had just come off back to back trial where in one it was a product liability case in West Virginia, a record verdict. And then he represented the sitting governor of Kentucky in a criminal case and got an acquittal. And he was talking about that and he goes, if you are a really good lawyer, you can try any kind of a case. So don't think that cross examining an expert in a murder case is different than cross examining an expert in a Med Malware products case. A lot of what you are doing is the same. Now the particular strategy or tactics or the language you have to use, the procedural rules, they're going to differ. And that got me to thinking, wouldn't that be cool to be trying many different kinds of cases? Back a few years ago, I came off a Med Mal case, then went right into a case where I represented a guy who was with the Greek mafia out of New York City. And that was a solicitation to commit first degree murder case and then right from there into a product liability trial. And I just find that there are so many similarities.

Voiceover:

Each year, the law firm of Cowen, Rodriguez, Peacock pays millions of dollars in co-counsel fees to attorneys nationwide on trucking and commercial vehicle cases. If you have an injury case involving death or catastrophic injuries and would like to partner with our firm, please contact us by calling 210-941-1301 to discuss the case in detail and see where we can add value in a partnership. And now back to the show.

Michael Cowen:

I can see how the trial skills have a lot of similarities, but as far as getting up on the subject matter expertise, what do you do to be able to practice at a high level when you're doing products one week and then medical negligence and then trucking and then maybe criminal?

John Romano:

Well, if it is an area where I legitimately go, look, I need help on that area of the law, I'll give you an example. In about 1995 or 96, I got a call from someone who wanted me to defend a case in Alabama involving patents and trademarks. And I said, I can't do that. I don't know anything about that area of the law. And they said, no, no, what we want is you as a plaintiff lawyer to take the case because we want to counterclaim for patent infringement. And I said, I don't think

you're listening to me. I don't know how to do that. So after we got to talking about it, I said, I would consider it if you would consider letting me choose as co-counsel a wonderful patent litigation and trial lawyer. And we need to have it not full time, but almost full time, a chemical engineer because of what this case entailed to where he or she will be at our beck and call until the case is over. With a snap of the finger, he said, Done. And I said, well, I'm in. So I did that case. But I knew I need people with special expertise to be like my guardian angels walking me through things. And when we would get into court, if there was a motion having to do with patent law, I would let the patent lawyer handle those types of things. So that's one way of doing it. I do not suggest, recommend, or approve in any way, though, of a lawyer going beyond his or her area of comfort and handling some case you got no business handling just because you think you might make a good fee. That's not fair to the client. The client needs somebody who knows how to do that particular type of a case.

Michael Cowen:

That makes a lot of sense. I know I'm doing my first queetom case, but the first thing I did was find a lawyer law firm that does queetom cases.

John Romano:

Yes, you better believe it. There are only a few of those around who do it well.

Michael Cowen:

So it's one thing to try a case, but you've got to have a good trial story. You've got to have your evidence, your discovery done, your evidence all put together to be able to have a story to tell you and your firm. How do you prepare cases so that you'll be ready to have a winning trial story?

John Romano:

Well, the story of the case starts around the time of the initial client interview. And I know I do hear lawyer say, well, I write my summation the day of the initial client interview. Well, I've never seen a lawyer really do that. It's talked about. But we do have to start putting together the pieces at the time of the initial client interview. And I saw a really interesting and image on the Internet about persuasion, and it showed a person's brain as if it was a puzzle with 100 pieces, and the lawyer was taking one puzzle piece after another and putting it into the person's brain, and the finished product was this beautiful puzzle all put together. That's what we're trying to do from the very beginning when we start to handle the case. And the first thing to me in cases is preservation of evidence. There's nothing more frustrating than to get a case where somebody took it, hoped for an early settlement, didn't get the early settlement, and they bring it to you a year later and you say, did you preserve the vehicle? So that we can get the download. Have it inspected by the accident reconstruction expert, the biomechanical expert, whoever needs to

inspect it and have the downloads available. Get the 911 tapes. Did you have someone comb the area to see what was on, surveillance tapes, et cetera? Okay. It's so frustrating when that happens. I harp on that. And we've created series of checklists on what we need to do in those early stages. The first 24 to 48 hours, the first 30 days, the first 90 days. But while you're doing this, I like to make a call to my trial consultant, and I will say to the juror psychologist or juror sociologist, I want to get you involved in this case. Now, I get them involved right in the beginning, within a day or two after the case comes to us, because they're going to be with me when we're picking a jury sometime later. And then as we move along, you start thinking about, well, your case theme. I just spoke with a trial consultant Sunday. I asked her in front of a whole group of people, typically, when do lawyers come to you and ask you to help them develop the case theme? And she shook her head and said, you don't want to know. I said, yeah, well, we need to know because I'm putting you on the spot in front all these people. She said, Usually it's a few days before trial and I cringe. I know that you're cringing, but you know, that's what people do. You start putting together the theme, the case theory, the case image, and your thoughts about where this is going within that first few hours and days, and then you start making notes. I'm a big believer in depositions are trial. A deposition is an event. So every deposition you take should be taken as if you're in trial and you have to win the case with that one witness. That's got to be the approach to a deposition. Written discovery can be very helpful. It's important. But I always tell people, remember, when you send interrogatories, you're basically asking the defense lawyer to provide you with his or her opinion in the answers. And that's really not everybody, but most people, that's what you get. The opposing lawyer is framing the wording as best as that lawyer can. So I could go on and on, but to me that early preparation and doing it with intensity, that's the key.

Michael Cowen:

How about once you get closer to trial, what do you do to get yourself ready?

John Romano:

Well, if we get a trial order in, I will tell you first administratively, two things we do. So let's say today I get an order in from the judge and it says here we are in May. The trial is going to start on the second Monday in November. So we know how many months before trial? One. I send what I call a quote. Do I owe you anything else? Letter, end quote. That's a letter I send to each defense lawyer saying, I know we get discovery, we get deadlines, we get all these things, but this is me to you. Do I owe you anything else? Is there some interrogatory answer that we haven't provided you with? Is there some document you need? By the way, Joe, I noticed you haven't asked for a defense medical exam yet. Please know if you want one, set it up now, because what I don't want is we're two weeks before the pretrial conference. And you say, Judge, we need a defense medical exam, because then there's going to be a continuum. I want to avoid that. So I send that letter out. The other thing is, I have something, it's called pretrial steps Checklist, which I'm willing to share with anybody who might be listening to this. And we bring in our staff, our team, any of the lawyers who are going to be trying the case, and our

referral or forwarding or Co-council lawyer, we have him or her either in the room with us or on a Zoom call nowadays. And we go through everything. Have we done this, have we done that, have we done this, have we done that? We go through interrogatories depositions requests for admissions. It takes about an hour and a half to do it right. And we make sure that nothing slips through the cracks. And I let them all know. The judge's order says the witness list is due 90 days before the pretrial conference. Not going to happen with us. The witness list needs to be done to weeks from now. Exhibit list, four weeks from now. In other words, I don't want them waiting for those deadlines, because then what happens? You wait until the deadline, and then two weeks later, there's something that should have been included. It's not. And although some defense lawyers will say, no problem, add your witness, others will say no, and then some judges will say, okay, and some will say no. I don't want any of that to happen. So to me, that preparation, watching the deadlines and all of that is key. Another key is I'm very high on deposing pretty much everybody. I'm not saying you have to do it in every case, but if it's a malpractice case, product liability, significant injury, auto case, someone's paralyzed, DRAM Shop case, I want to depose everybody. And you're deposing some because you know you're going to be using those depots to impeach people at trial. But I want to get all of those depots done. We videotape every deposition. I've always said if a deposition is worth taking, it must be taken as a video deposition. And to me, that's very important. I depose defense experts on video, and we get constantly so many gems in movement, in body language in many ways, so it does make a difference.

Michael Cowen:

You also use the video to test your case when you're doing your jury research.

John Romano:

We do. I mean, the mock trials, having the clips and having them all synced. A lot of lawyers, this is something that I guess people have different feelings on this. But I have a very strong feeling when I take a deposition, at the end of the deposition, I always say, like, the other day, I had a Zoom deposition. I said, all right. Do you want instructions now, madam court Reporter she says, in just a minute. I said, okay, I'm ordering the depot. I need a regular font transcript. This is my old fashioned way of saying it, by the way. The younger lawyers, they have even a different lingo because of the technology. And probably video is already obsolete, but I use the word video anyway. But I say I want the transcript with exhibits attached. I want the video, and I want the video synced. I always ask for it to be synced. Among other things, Michael what that does, it sends a message to the defense lawyers who will report back to some claim specialist. This is a serious lawyer. They're not sitting back saying, if I need the transcript, I'll call you later. All you do when you send that is you let them know you're not serious about going to trial. You're saying, we're really kind of hoping it'll settle and all that. I don't want them to ever feel that way. I want them to know I'm getting ready for trial, and if it settles, fine. But trial is where we're heading in the case. And by doing the order, it makes all the difference in the work. By ordering the transcript and telling them you want it synced. And then when it's synced, whether

you're using it in the mock trial or you're using it at trial to play or to impeach a witness, having it synced is so helpful because it has the wording there.

Michael Cowen:

Absolutely, Especially those of us who practice in areas where a lot of people have strong accents or even translating with a translator, having that wording makes a huge difference.

John Romano:

It does. It makes all the difference in the world.

Michael Cowen:

So once you get to trial, what are some things you've learned? I've heard you use the terms persuasion and presuasion. What are some things you've learned that allow you to be so persuasive in trial?

John Romano:

Well, the most important thing I've learned is that nothing helps more than good facts. And I'm sure somebody listening to this will say, brilliant. I see lawyer who often feel like it's the lawyer who made all the difference in the world in the victory. And my take on it has been it's the facts of the case more than anything else that are going to tell us whether there's going to be a good verdict or not. And what the lawyer is doing is acting in some respects as a director and in some respects as a producer and then as an executive producer to bring about what is happening at the trial. But I will also hear people say the lawyer should never be considered one of the primary actors in the play. And I respectfully disagree with that to this extent. When you give an opening statement, you as the plaintiff lawyer are, as a practical matter, the first witness in the case. I mean, you are able to stand there, talk to them and lay it all out so that's not being director or producer, you're on stage speaking the words. So that is a key. Another part of it is it's so important to follow your empirical data. So whatever it is that you learned from your jury research, from your mock trials, focus group, big data. And often I will hear people say, well, you know, I'm really good about I know people and better than other people, and I have good gut feelings. I go, Well, I appreciate that, but I don't think any of us are truly as good a mind readers as we might think we are. And Michael and I had a trucking case a few years ago in federal court where I had a juror. To make a long story short, she owned an insurance agency for three years. But before that was a career insurance adjuster, her husband career insurance adjuster. And this was a federal judge who granted me permission to conduct attorney voidir. So during a break, we're in one of those little witness rooms, and I'm just telling one of the other people on our team, okay, she's gone. And our trial consultant, Dr. Harvey Moore, he goes, Excuse me, who's gone? And I said, the insurance lady. And he goes, Why is she gone? I go, we don't have time for this. Don't even go there. She's all, insurance. This is what he said to me. He goes, you

know, Johnny, it's a good thing at least somebody in that courtroom is paying attention to what's going on. I said go ahead. I'm willing to listen. He says, in spite of that, remember, she is the same age as our widow. Her husband is the same age as our decedent. They have two daughters almost the same ages as our two daughters. And he goes, she has already put her arms around this family and embraced them with all of the empathy empathetic feelings in the world, we should keep her. We kept her. After three weeks, you hear this knock as the door flings open. Who's holding the paperwork? The insurance lady. She was elected four person, and they came out and just spanked this trucking company. And you learn from things like that. So I try to tell lawyers, do the jury research, pay attention when you're going into opening statement. I mean, wow, you've got months to think about it. And so to me, it's such an extraordinary opportunity. And in opening, I do in some respects nowadays use PowerPoint. But that first, probably five minutes of opening is just me and the jury, no PowerPoint. I don't want anybody looking anywhere else. I want to talk to them and set the stage. Then we go to the PowerPoint and the persuasion. There's a great book called persuasion, and it's all about things that we can do to set the table for the meal to come through the art of persuasion, where you are conditioning people to make a decision a certain way. And it's an extraordinary book. I would recommend that everybody gets the book presuent.

Michael Cowen:

Could you give an example?

John Romano:

Well, yeah, let's take a non-lawyer example. I have a friend who let's say is the opposite of me politically, and I know we're going to dinner with he and his wife one night, and I want to chat with them about who to vote for. But I know if I say you should really vote for this person, they're going to say, no, wrong party. I'm not going to do that. So I will try to think through what are important things in their lives that matter to them. And as an example, I might say there's a guy here in Florida. It's really amazing. I saw him recently talking about a trip that he just took with his daughter in this father-daughter organization that they're in where they go on camping trips. And it was so wonderful, and he wrote a poem about it. And I only remember the first part of the poem, so I'll tell him that, and then I'll tell him some other story, and then somehow I'll bring it back to the amazing thing is those are the people that are so wonderful, and we need people like that in office, people who care about those kind of issues. By the way, he's running for office and wouldn't it be great if we could get him elected and then theoretically, if it worked, they would go, what's his name? We're going to write it down. We're going to vote for him. They don't even ask, what party is he with? As you know, it's not that easy these days if it comes to voting in politics. But that would be an example. You don't just go right in like a bull in the china shop and you say, this is what we're going to do. You wouldn't do that. You are easing the information to someone to set the stage, and then they want to accept the message. Tried to put a term on this a few years ago called brain merge. And all I meant by brain merge is if I'm trying to persuade you, Michael, of something, I've got an idea that is in my brain and I want to get it into

your brain. So I've got to communicate it in a way where you comprehend it, understand it, appreciate it, and then finally you're willing to accept it, and then you're willing to move on it and make a decision. So that's a part of how I get this idea from my mind and get it into your mind and vice versa. That, to me, is a big part of what we're doing in Persuasion, trying to figure out how to do that.

Michael Cowen:

Now, I know you've worked on this for many years and gotten pretty darn good at it, but you can't try every single case, you've tried over 200, but there have been a lot more than 200 cases tried over your career around this country? What are your thoughts on, I guess, what you've done and what you think the rest of us should be doing on mentoring the next generation of trial lawyer?

John Romano:

I just know this in my life, I don't know that there's been anything more important than that concept of mentoring. I can tell you this. I do believe everything is about relationships and attitude. So at a young age, it was my parents and my older brothers and sisters, and then it was certain teachers. As I moved into high school, it was more selective of certain teachers and one or two coaches that had a tremendous influence on me. And then that moved on. And then I met Nancy, and as my wife, she became a mentor in so many ways. To me, the lawyers that I told you about that I went to work with Al Cone, mentoring what they do, a great mentor, is not only teaching you, but they give you a sense of personal fulfillment to where you feel so much better about yourself and what you are doing and what you are capable of doing. They guide you, and a great mentor protects you. There's a wonderful scene in the movie Gladiator where General Maximus, his right hand man, just before the battle scene in the beginning of the movie, tells someone these big fire throwing machines. He tells him to change the angle, and General Maximus right away looks over and goes, no, leave it right where it is. That's the right range, the right angle. He says it in a better way. That's why he got the Academy Award. But that, to me, was a part of mentoring them in that situation. It's okay. Good. When you are in the courtroom and you're trying a case with a mentoring lawyer, that lawyer can say, whoa, whoa, come here, come here. We don't want to be doing that, or we do want to be doing this or adjust this or change that. And that whole concept is so important. And then there are mentors that maybe we don't have as much direct contact with. But if I'm a young lawyer and I go to a seminar and I hear someone like a Randy McGinn out of Albuquerque or Christian Morris out of Las Vegas, Dino Colombo out of West Virginia, they're, like, a little bit more distant from me because I don't see them every day. But they're mentoring me because they're telling us what they do, how to do it, what not to do. And we learn from their behavior and just watching them. So mentoring is a huge part of our lives. And I've always thought one of the beautiful twists in life is that then there comes a time when your children start in certain ways, mentoring you. And it's a beautiful thing when you see it in motion and you practice.

Michael Cowen:

With some of your children.

John Romano:

We do, yeah. Two of our sons, Eric and Todd practice with us. Yeah. And it's a lot of fun. We try cases together, do Depots together and that's good speeches and have fun and it's great.

Michael Cowen:

That's got to feel really good.

John Romano:

Yeah.

Michael Cowen:

I've been fortunate enough to meet Eric and get to know him and it's been a joy. What advice would you give to a younger lawyer who either is a solo or maybe at a firm where he or she feels like they're not getting a lot of mentorship if they want to find it?

John Romano:

Well, I don't care if you're solo, you still need it. Okay? And the beauty is nowadays you can get it by joining certain organizations and being active and a real engaged participant. But let's just say you're a young lawyer and you're solo and you want to do any kind of litigation. Let's say you want to do premises liability or negligent security cases. You would want to be a member of your state Trial Lawyers Association. You would want to be a member of AAJ, which is so vital to what we do, these organizations. And in AAJ there will be a section or a litigation group focusing on Negligent Security cases. You join that group. As soon as you become a member of that group, they tell you, okay, we're going to have three or four seminars this year. We're going to have a bunch of webinars. But even better than that, we have a listserv. And if you've got anything that pops up as an issue in your case, you throw it on the listserv and you're going to have the equivalent of a law firm of 500 lawyers around the country who will have ideas to share with you. One of the great organizations take Product Liability. I'm a member of AIEG Attorneys Information Exchange group. The listserv. It's insane how great it is. And the sharing of information which in the end helps the clients. If the client is helped and you get a better result, then it helps the firm which helps your staff, which helps your family. So solos can be involved and really in a very magical way belong to big law firms in terms of information by being in these organizations.

Michael Cowen:

And one thing that just makes me love being a plans lawyer so much is how much even the people at the very pinnacle, very much at the top will take the time without any expectation of getting paid for it to mentor, to discuss. I mean you might go to like an AAJ, Trucking Litigation Group or Ata conference and see some of us up there on stage speaking. We're also on the phone with each other, helping each other out on our case and of course helping out lots of other lawyers. And really to me there's a great joy in doing it but I also love the fact that people still do it for me.

John Romano:

Oh yeah, no, it's wonderful. I would venture to say this that if you took in calendar year 2023, arguably the ten, whatever they are, the ten greatest plaintiff verdicts in America for this year. And in January of 2024, you are a 30 year old lawyer in practice somewhere in the Midwest and you needed help on an issue in a case. You could call the lead counsel in any one of those ten cases and say, could you have Mr. Or Miss So and So either get on the phone with me now or call me back. I'm a young lawyer from such and such a state and I need help on something. I promise that person that that lawyer will call them back. I mean, look, the lawyer right now at the pinnacle of seemingly everything as a plaintiff's lawyer is Mark Lanier. I talked to a lawyer from Columbus, Ohio, who's about 35 years old. He had a problem on a case, and he told me, he goes, you were right. I called Mark Lanier. He picked up the phone and we spoke for about 45 minutes. I said, I'm telling you because great lawyers I don't care, plaintiff, criminal defense, whatever, especially share. Great lawyers share. And that's important.

Michael Cowen:

And Mark really does live that too. It's incredible. He doesn't do this anymore. I mean, he collected a multi billion dollar and he's still working just as hard and he's still sharing.

John Romano:

He is. He's going night and day.

Michael Cowen:

Yeah. Well, I know that we're going to get a lot of people are going to want to get your pretrial steps checklist. How do they reach out to you to get that?

John Romano:

The easiest thing is just to email my office. It helps if they email two people. One would be me and that's John@romanolawgroup.com and my wife, who also works with us at the firm,

Nancy@romanolawgroup.com. And that way one of us will see it and we will respond or have someone respond and we have checklists for everything. We'll send you any of the checklists you want.

Michael Cowen:

I'm going to be sending you an email as soon as I get off. We have our own, but I always want to make them better. And you guys do a heck of a job, so I'm looking forward to doing that. And if you want to learn more about John and his firm, you can go to Romanolawgroup.com. You can check out some of the books he's written. He's also got a product on trial guides. Is it? Anatomy of a personal injury case?

John Romano:

It is. It's called Anatomy of a Personal Injury Lawsuit. Fourth edition. And it's two volumes. We have like 35 chapters, and I want to say a total of 40 or more co-authors for the various chapters. And it's a wonderful book. Absolutely.

Michael Cowen:

Well, John, thank you so much for coming on today. I've really enjoyed learning from you and hoping to be able to run into you in person. You're going to AAJ, in Philly this year?

John Romano:

We will be at AAJ in Philly, and this has been fun. I'm just honored to have been a part of this and it was fun. And anytime I can spend time with you, it's always going to be good.

Michael Cowen:

Absolutely. Well, I have my wife and kids with me, so I would definitely come and say hi. But I'm awesome. I'm going to be mixing the convention and being a husband and father.

John Romano:

No, it'll be good.

Michael Cowen:

I'm hoping to have a son following your son's footsteps and join me here in seven years. He's going off to college in August, so thank you so much for coming on.

John Romano:

Okay, michael.

Michael Cowen:

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Voiceover:

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