

Michael Cowen:

This is Michael Cowen and welcome to Trial Lawyer Nation.

Audio:

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

When you figure out your theory never deviate,

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

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

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

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

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

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

Voiceover:

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

Michael Cowen:

Welcome to Trial Lawyer Nation. This is Michael Cowen. I'm here with my partner Sonia Rodriguez. How you doing today, Sonia?

Sonia Rodriguez:

I'm great Michael. How are you?

Michael Cowen:

I am wonderful. Before we get into today's topic, I just wanna thank our sponsored law pods. Law Pods produces and edits this podcast for us. They make life so easy, we just have to show up and talk. They do all the rest. Uh, if you are thinking about doing your own podcast, which is a lot of fun, I highly recommend Law Pods. That being said, Sonia, today we are gonna talk about expert witnesses

Sonia Rodriguez:

And specifically retained expert witnesses. I think that we tend to forget there are a lot of different types of expert witnesses. We've got treating doctors, I'm deposing a treating doctor tomorrow, and how we treat treating doctors is very different than how we handle retained testifying experts. And that's also different as we know from how we handle consulting only experts. So today we are talking about retained experts

Michael Cowen:

And we're talking about the ones that we are, the people that are charging us money to supposedly assist us on our cases. So what are some of the biggest frustrations that you've experienced working with expert witnesses?

Sonia Rodriguez:

Well, one thing that I think we all know fundamentally as lawyers is something that our paid experts don't appreciate. And that is, believe it or not, it breaks their heart. But jurors are not going to trust everything they say because I think in the back of their minds, the juror appreciates the reality that they're being paid by a lawyer. So the frustrating thing that I find is that when we are hiring an expert to work with us and help educate the jury about something, we really, really need those experts to have authorities and publications and actual documents and papers that they rely on. It's not enough for an expert to say, because I said so or because I've been doing this for 30 years. And so when we come across those experts who are put off by the fact that we actually want to see the data, want to see the studies, and want to see the papers that are gonna support their opinions, I think it's super frustrating for them and it makes them, frankly, it makes it to where we don't wanna work with them.

Michael Cowen:

Yeah, that is so important because you are right. Uh, anyone being paid money to testify has negative credibility right at the starting gate with a jury. And, and as they should, I mean, because we all know, we see the defense hire people all the time that that will make up anything from money. And how does the jury know that the plaintiff expert isn't the same way? And I think one big way is, you know, does someone outside the litigation context say the same thing? Is there a study? Is there a paper? Is there a book, you know, something that supports or anchors the expert's opinion to reality, to reliable science if it's a scientific expert to which generally accepted in the industry, and some experts really fight that, I wonder why they fight that Sonia.

Sonia Rodriguez:

Well, I think it's because it's easier not to have to go dig up a source for all of their opinions. And a lot of times they just haven't been challenged on it by the lawyers hiring them. And so my favorite types of experts that I love working with are people that get excited about showing you their data. Uh, they get excited about showing you the studies that they rely on and love explaining it their natural teachers. So when you have somebody that's maybe been doing this enough that they've kind of abandoned that joy of what they're doing in teaching, then I think that, you know, it just kind of comes down to laziness and inconvenience and annoyance as far as they're concerned, I think.

Michael Cowen:

And I think sometimes they don't want to be tied down. Some, not all, most of them are really good people, but there are some, I think, that want to be able to say whatever they want in each case. And they, they're worried that they ever rely, ever admit that any paper or book is authoritative, then they're stuck with what's written in that paper or book and then they can't come up with a different theory on a different case.

Sonia Rodriguez:

Right. I think that's true. And it also requires, if you're gonna rely on a paper, you've gotta read that whole thing and make sure that there isn't one obscure sentence at the very end that's gonna hurt you or hurt them. And so it's just a lot more hard work I think on their part when they have to summon the actual foundations for their opinions.

Michael Cowen:

It totally is, but it is the, and so many times we find experts on the other side that haven't read the papers they cite and so they'll cite a paper for an authority and then we buy the paper and the paper, actually maybe there's a sentence in there that helps 'em, but the conclusion actually helps us. And we really have made a lot of money on that. And I think, I think that is part of it. They don't want to do the work, they don't want to get hemmed in. So how do you approach it? You know, you have an expert, you haven't worked with this expert much before. You're saying, Hey, I need you to anchor your opinions to reliable sources and you get some resistance. How do you handle that?

Sonia Rodriguez:

First, I try to work with them and explain to them I am trying to help them. Part of my job, this is a speech I give to all of my experts, is that the relationship between the expert and the lawyer is a lot like a horse and a rider. I don't want you to lead me in a dangerous situation and I don't want to lead you in a dangerous situ situation. So we've gotta work together and I'm trying to protect you. I promise you, you know, the minute I, I like to lead off very early in my conversations with my experts about this concept of a Daubert motion striking the reliability of their expert of their opinions. And so they know that it's something that I am prepared to address, but that I'm gonna need their help doing, uh, their part by using anchors and substantiating their opinions with real life authorities, paper authorities that I can point to.

But I like having that conversation early on about Daubert motions because I want them thinking very defensively about their opinions and I want them to start walking in knowing that I want to see a citation for, for their opinions. I think that kind of eases the conversation when we come in saying, I've got your back. I promise I will do my very best to protect you. But that means you're going to have to do your part too. It's a team effort. And usually if an expert is not interested in providing any anchors or providing any authorities papers for their opinions, we'll just move on and find somebody else.

Michael Cowen:

Well that means you have to start this process really early. You can't just wait till three weeks, 30 days before your expert reports are due and then hope for the best you're have. How far in advance are you starting to talk to your expert?

Sonia Rodriguez:

I like to start identifying experts the minute the case walks in the door. I don't pull the trigger on an expert until I know that the case is gonna justify the expense. So sometimes when you have a client who's still treating and a client who hasn't had surgery yet, you kind of have that expert in the back of your mind. But the minute the case walks in the door, I think a good lawyer's already thinking about what kind of investment am I gonna have to make into this case? What level of expertise are you gonna need in front of the jury? And so I don't pull the trigger on hiring the expert until I know that the damage

model is gonna justify the expense. But I start thinking about it the minute the case walks in the door. When you start seeing, you know, for example, if you see a case walk in the door with low property damage but a significant spine injury, you're gonna immediately start thinking, okay, I'm gonna need some kind of a, an expert to explain that to the jury. And you may not pull the trigger yet, but you have to think about that

Michael Cowen:

Early. One frustration I have with experts is that like lawyers, they're deadline driven. And so even though you hire them early, even though you give 'em all this stuff early, they don't start looking at everything until right before their deadline to do a report. And then they miss stuff. They miss stuff that you in your depositions because they're reading everything quickly and they're just kind of hitting some high points and they're missing some really big things. Have you found anything to help address that?

Sonia Rodriguez:

So there are a couple of different things that I do and it's a team effort, not just me, but my litigation team has to all be on board. And so one thing that we do is we create a real true deadline internally for designating experts in our office. That's our office deadline that we know we must designate experts by X date. And then we create a fake expert disclosure deadline, which is the one we disclose to the experts. It's our fake deadline. It's the one the experts believe is the real one. But we kind of keep that in a different color, in a different shade in our file as like the date that we've told the experts every date is due and we document it in our file. So if they call me and say, Hey, when's my expert report due? I will give them the date that is the fake one. And if they call the paralegal and ask the same question, she will give them the fake one too. I mean we have that fake deadline in our file so we know that's the date we've given them. There's no wiggle room around it and it's a deadline that gives us enough time to anticipate any tardiness on their part, but more importantly, to also review their reports and visit with the expert if we have to about questions we might have.

Michael Cowen:

Yeah, and I don't even consider that a fake deadline. My thought if I'm gonna pay someone thousands, sometimes tens of thousands of dollars, then I get to pick not the court, but I get to pick when they're gonna get me their draft report. Uh, it's a lot easier if you're in a jurisdiction like any federal court or Texas where draft reports are not discoverable and then you know, you can get the report and then say, Hey, what about, and you, it's not that we're telling them what to say, but it's like, well what about this issue? Well what about that issue? Have you thought about this? You know, hey did you didn't address this thing that was said in a deposition? And then they can go back and read it and said, and you tell 'em, look, I'll get you another week, but you need to go address these things.

Sonia Rodriguez:

Nobody cares. Yeah, no expert cares more about that report than, than you do. I mean, so you, you, if you know that there was this fabulous testimony that you got from a witness and it's not in that report, only you're gonna recognize that you've got to. One other thing that we do in, in addition to creating this, I call it the fake expert deadline, is we also calendar conference calls with the experts a month before and two months before because I wanna make sure that they have everything that I have. And sometimes it's just a real housekeeping type conversation to make sure, hey, do you have this uh, video that was produced in this case? Do you have this exact deposition transcript? Do you have the video of the

deposition too? Because there were some great exhibits that we shared screen and the witness was able to walk us through, that's not gonna come through in a written transcript. So sometimes having those multiple conversations well in advance of that report are critical to making sure that we get our reports on time and that nothing is missed.

Michael Cowen:

Absolutely. But you, you know, you just have to count on they're gonna miss something. They're human. And again, most of the good experts end up with way too many cases and sometimes they, sometimes frankly they have someone else read stuff and summarize it for 'em that might not catch the big issues. Sometimes they're just up trying to meet a deadline. So they go through it really quickly and they miss big issues. So it is really important that, you know, we talk to them and again, we're not telling them what to say. We're just asking 'em, have you considered this? Have you considered that? To make sure they don't make mistakes and leave things out. And in jurisdictions where a draft report is discoverable, it's super important to have those conversations before they put anything in writing. Cause if not, then you're gonna, then it's gonna make it look like the lawyer wrote the report, which is absolutely untrue. We are not writing our expert reports, we're not telling them what to say. What we're doing is we're just making sure they don't make a mistake and leave something out by asking them, have you considered this? Have you considered that Totally different thing.

Sonia Rodriguez:

I also like talking to my experts early on about what we might be using to tell our story in front of the jury to make sure that they are incorporating those diagrams and exhibits into their report or at least mentioning them. Because most of the time I think experts want to just throw up their opinions onto a piece of paper, get it out the door, and they'll worry about their trial testimony when the time comes. But the reality is under the rules, we've got to produce the documents and things that they considered and any materials that they may be using at trial. I like to produce 'em ahead of time if we can. And so I think early conversations about what will their trial testimony look like, diagrams, pictures, images, certain regulations that we can take excerpts from and throw 'em in their report, if not necessarily included in the report, then create 'em as an addendum as exhibits to the report so that it's all included when we disclose them.

Michael Cowen:

Absolutely. How about when you have, like sometimes you have one expert that has to rely on another expert's opinion. Let's say you have a human factors expert and a crash reconstructionist. So the human factors needs to know what the speeds are, what the times and distances are so that they can then figure out perception, reaction, et cetera. How do you make sure that the human factors person gets what they need in time to formulate their opinion?

Sonia Rodriguez:

It's a lot of communication internally first among our team to make sure we all know when the internal deadlines are gonna be and which deadlines we've given to the others. But basically we need to make sure we get report X first so that we can send it to the expert and then we get report why, so that we can send it to the next expert. And then the last expert who has to have it has to get it all. I mean, another perfect example is when you have an economist who's gonna be reviewing a life care plan, you need to make sure your economist is not gonna be on vacation the time that the expert, the life care planner is

done with his report. I mean, you've kind of just gotta coordinate it all, but communication is the key. And I think including your litigation team in the internal deadlines and also communicating very, very regularly with your experts.

I've gotten into this, our new policy on my litigation team is every single communication with the, any expert that we have, either even if it's just supplementing documents that we've received through um, discovery, the subject line always has the name of the case and the due date of the report, the internal due date. Because so many times I've had experts call and say, we didn't know that the report was due on x and such date. So from now on, every single time we communicate with an expert, we always tell them when the report is due. We also have now taken due every, it's almost like a footer in our communications with our experts reminding them that we need not just their report, but we need their cv, we need the materials used in formulating their opinions and the information considered and the data, I mean it's like a little blurb if anybody wants the blurb that we send to our experts, email us.

But I mean I almost have it as a footer every time we communicate with expert because I don't like it when experts call and say, well I didn't know you needed me to assemble all of the exhibits I'm gonna use. And part of the challenge I think, Michael, is that we have expert who, experts who practice all across the United States. And so just because an expert, you know, might be in one state where they're not accustomed to assembling all of their exhibits and data together with their report doesn't excuse us from having to produce that stuff. And so what we are finding sometimes if we are not constantly harassing our experts for all of the data that they used in formulating their opinions, when we just get a simple report and time comes to get that doctor deposed, we're finding all of this additional stuff that the doc that the experts suddenly want to rely on. And it creates, obviously you've been in that situation, it creates challenges where the doctors or the experts are now squirming cuz they're relying on stuff that they didn't previously disclose before their depositions.

Michael Cowen:

Yeah. And a lot of that has to do with, well one, it's being overworked with them, but the others, they do practice in different jurisdictions and let's say they're in New Jersey and maybe in New Jersey you don't have to give up all that stuff. And then the, and some lawyer told 'em, well you don't have to give that stuff. And so they think they don't have to because that's what the first lawyer told them. Well that was in a different state. And, and then sometimes the lawyer tells 'em something, the lawyer's wrong, like the lawyer is trying to hide a document or something like that and, and they, they just learn the wrong rule and then we have to really educate them. I want to go back to the, when you have multiple experts that have to rely on each other, I think it's also important to get them to talk to each other early on so that they can understand what the other one's gonna need.

Like sometimes the reconstruction expert or like in the product liability, the <inaudible> expert, the biomechanical kinematics expert, they need to tell the reconstructionist exactly what kind of data they need and what level of detail they need to formulate their opinion so that the reconstructionist knows what work to do. And I think that's really important that they do that cuz sometimes they'll get the draft report and like, well I still don't have what I need and then you're running outta time. So I think getting those phone calls, conference calls early on so that everyone knows what their assignments are is very helpful.

Sonia Rodriguez:

I think that's critical too, Michael, when we're talking about experts who have areas of expertise that are, you know, not really familiar to the lawyer. I mean if you're asking me for really specific data or CAD drawings or specific terms of art, the likelihood of me being able to translate that and then sending that request to the expert secondhand something is gonna get lost in that translation. If I'm the only one doing that conversation, if I've got two engineers that are gonna be collaborating on a case, I'd rather just have the engineers talk to each other and engineer speak about what it is they need and who's doing what as opposed to me relaying information and risking getting that wrong

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 2 1 0 9 4 1 13 0 1 to discuss the case in detail and see where we can add value in a partnership. And now back to the show,

Michael Cowen:

Or even worse, having a legal assistant trying to figure out what that information is and trying to relay it and hoping they get it right.

Sonia Rodriguez:

Oh my goodness. No, yeah,

Michael Cowen:

You get the, you know the report out now you gotta get 'em to testify. What are some things you do to get the experts to testify in a coherent, persuasive manner?

Sonia Rodriguez:

Well I think one of the things that you've got to do is figure out where in your puzzle piece the story from that particular expert comes in. You have to know like what element of damages you're trying to establish. And we don't always know where in the trial we want that expert to come in, but I think you have to have an idea if that expert's gonna come in really early, then you want them to be a real teacher globally, like a global type teacher of a bird's eye view of the case. If you know that it's gonna be kind of later in the trial and you want that expert talking about something more granular, then you need to have an outline that's, you know, specific, but you kind of need to know exactly what the game plan is gonna be for your trial and your story before you start, you know, asking questions on in a depo. And I think part of it too is talking to the expert about what you want to use them for. Cuz experts have been known to wanna talk about the whole universe. And the reality is if that doesn't fit in with the story you want to tell and the way you wanna tell it, you've gotta have a conversation with them early on about that.

Michael Cowen:

Yeah, and I think this is where we need to get stricter. You know, like I said, we should never tell them what their opinions are, but I, I do tell them like, you're the expert in, in medicine or craft reconstruction. I'm the expert at telling trial stories and putting and trying cases and I need you, I am paying you money

and I need you to listen to me. And so your role in this case is to teach these things and you need to teach them visually and you need to use plain English and we need to talk about trucking experts for example. They'll get into all these violations that are technical violations of rules, things the trucking company did wrong but did not cause the crash. Let's say you have a vehicle 18 wheeler rear in somebody and they're like, well they didn't have good conspicuity tape on the back and their mirrors weren't adjusted and their headlight, their, I'm sorry their taillights weren't working. And I'm like, yes, but that none of that has anything to do with why the tractor trailer rear-ended the other vehicle. So don't talk

Sonia Rodriguez:

About it. Right. Or the driver didn't speak any English and so I

Michael Cowen:

Oh I hate that one. Yeah. The the, what does that have to do with rear-ending somebody? And all you're gonna do is, you know, offend certain jurors and so, you know, we have to tell them like, look, you're the expert at this, but I'm gonna choose what questions to ask you. I'm gonna choose the topics we're gonna talk about. And the other side asks you a question, you tell the truth but you know, they're not gonna ask you about the other unrelated violations and we're gonna focus this case and we're not gonna talk about things that don't matter. And we're they always, they also wanna nitpick, like the engineers will be nitpicking, well they use that formula ride or they were off by two decimal points here. Like things that like to, engineers are a big deal but don't really matter for how the crash happened or what the harm is and nobody cares other than an engineer. And so you just have to tell them, yeah, we're not talking about that. Right. And you can't just go and ask your expert what your case is. You have to get the technical assistance from the expert and then tell the expert, this is what the case is, this is what I'm, you're gonna talk about and if you're not happy with that, you don't get my money, uh, at the end of the day, yeah, I'm paying you not the other way around. And

Sonia Rodriguez:

I think that sometimes that can be a little bit of a challenge because engineers and doctors, they've paid a lot of money for their degrees and their expertise and that's their comfort zone talking about Delta vs. And radiculopathy and you know, dermatomes. So that's their comfort zone. But the reality is that jurors are not gonna really follow that line of logic. I mean I think the simpler we make it, we're talking about pain and we're talking about a hard crash that could bend steel. I mean the, the more concrete and simple we can make a case and straightforward, I think the jury is gonna follow along. But I think the brutal honesty is that, you know, like you said, the plaintiff's experts are gonna be viewed the same as the defense experts as paid by a lawyer. And so whatever we can do to simplify the opinions and make 'em more credible and uh, give anchors and authorities for those, I mean the better off we are.

Michael Cowen:

Absolutely. And the fact is, when you do have experts that do that, when they do anchor their opinions and put them in simple English and work with you to create visuals so that the jury can actually understand them, then you do have a better chance that they're viewed as teachers, as guides and not as advocates in paid chills. And that's so much more persuasive.



Sonia Rodriguez:

I think it's more fun too. I mean you are using, you're working with an expert to teach something and it's a lot more fun to be involved in the teaching than to just kind of put an expert on and just hold your breath and cross your fingers.

Michael Cowen:

How about when they get real touchy and overly sensitive and over reactive during cross-examination? Cuz this is something we've seen lately, <laugh>.

Sonia Rodriguez:

Yeah, so one thing that I think is important to do is going back to my, you know, reference that being a horse and a rider, if you got a real temperamental horse, sometimes you just gotta get off and kind of smooth things over and take a break and remind your expert how bad they look and sound and of the overarching goal. And if you have someone who really cares about their testimony and how they look and and your case, they will take that type of guidance. But I mean it's, I don't know how people do that for a living, basically just testify and enjoy getting grilled by an by a lawyer. I, I wouldn't be able to do it. But I imagine it happens often that it can, that kind of can get under your skin and lo and experts get annoyed and mad and lose their tempers. And we had a case recently, didn't we Michael, where one of our experts used the, was it the F-bomb? In somebody's case

Michael Cowen:

It wasn't a very nice word. Yeah,

Sonia Rodriguez:

Yeah. Anyway, but I think it's totally appropriate at that point you take a break and you say, we

Michael Cowen:

Just, if you're in a a depo, but you can't do that when you're in trial.

Sonia Rodriguez:

Oh no, no,

Michael Cowen:

No. They usually don't give us f-bombs at trial. But sometimes, well what I hate the most is, you know, you're putting someone on direct and they're the most charming person. They're directly answering your questions, they're engaging the jury and then as soon as other side starts questioning 'em, you have this Dr. Jekyll, Mr. Hyde a-hole that all of a sudden the switches, you know, starts inhabiting this person's body and they're defensive and they're jerks and they're arguing about every little nitpicky thing. And I just think it's so important to work with 'em and, and, and it's just cuz they don't trust the jury. They're too defensive and it is just like, look, trust the jurors, they're there to do the right thing. Listen to the question answer. Trust me that if they throw something outta context, I will give you a chance to explain it. It's hard. And then frankly sometimes you just have to learn like this person doesn't have it or doesn't have it anymore. Sometimes they were really good at one point and then just something happened to them and then they just get super angry and defensive and then you just have to stop using them.

Sonia Rodriguez:

I think it's one, one of the things I really love about our listservs and the plaintiff's bar always has, has such strong healthy listservs, but people are always so generous about sharing information about their experts and their experiences with experts. And thank goodness because if there are experts who do great in depositions and great on direct but are gonna melt down when they are in front of the jury, we need to know about it. And I'm not saying that we don't use those folks, but like you said, I mean there are people that we've gotta work with and address and plan ahead for.

Michael Cowen:

I'm gonna respectfully disagree with you on Listserv Sonia, early in my career I got a lot of information from list service. But now I look and I think you have to really consider the source on a listserv. Like does this person try cases? Right? Does this person understand some lawyers love, oh they fought so hard, they didn't give the defense an inch, but they look like an a-hole and totally lost all their credibility. Does that person have judgment? Because I regularly see experts recommended over and over again on Listservs that you and I would never use again. Right? Like they've melted down, they've made huge mistakes, they're pain the butt, but other people seeing their praises because if you're not a subject matter expert, they sound like they know what they're talking about and you don't realize all the holes they're leaving in all the, all the gaps, all the problems with the personality.

Sonia Rodriguez:

Well I do agree with you, there are a lot of things put on the listserv that are 10, 15, 20 years old. Like people will say, oh this is a great expert. And then you go due diligence and research and you find out that that person isn't been testifying, uh, for a long time for a reason. Yeah. So I always like following up when if people say that's a great expert, when is the last time you saw that person testify in trial? When's the last time you put them on? And if it was a long time ago. I agree. I mean you, you can't rely on just random endorsements

Michael Cowen:

And like some lawyers, they're happy cuz the person writes a report and often it's someone their office writing a report for 'em that gets their case settled and they're not necessarily lawyers that try cases. And again, you just have to, like I said there, I've gotten some great advice from Listservs, but you do have to consider the source. And then, and I'll be real frank, I, I knew a lawyer, I'm not gonna name this lawyer back when I did product liability work and whenever someone wanted to to recommend an expert, he would never recommend the expert. We used <laugh>. He would recommend someone else that would do a good job was the most expensive, biggest primadonna expert because he wanted that other lawyer to have to spend so much money on the case that they would never wanna do another one. They wanna refer the next one out.

And then sometimes people hoard their own experts for themselves and then, you know, share the ones that are mediocre. So I'm not saying you know, plaintiff as far as by and large pretty good, but there are some instances of things like that. So I just, like I said, listservs are good. I'm not saying that they're not worth, I mean I'm a member of Listservs, I read stuff on Listservs, I get stuff outta listservs but you know, take it with a grain of salt and really consider the source and you know, consider calling somebody like when was the last time you used them? Did you put them on at trial?

Sonia Rodriguez:

Definitely do your due diligence on who you're, who you're talking to. So I got a call from uh, a lawyer recently about an expert that I've used and I was singing the expert's praises until I learned what they wanted that expert to testify about. I was like, oh wait a minute. I didn't know he even had opinions or expertise in those arenas. So I mean you've gotta call folks and talk to lawyers and ask how you used them and how they testified and when's the last time and all of that due diligence is critical.

Michael Cowen:

Absolutely. Well any other big advice on, on experts? Sonia,

Sonia Rodriguez:

You kind of touched upon it earlier. I don't think that lawyers should be relying on staff to have communications with experts about anything substantive or critical. And that's just a lot of room for error and confusion and and miscommunication. So it does take a lot more work for the lawyer, but I think if you want a good relationship with your expert and a good outcome, it's gonna be critical that you get, you know, that's more of a hands-on uh, work that we have to do. And I think communication with the expert is critical and making sure that you're regularly sending your expert all of the great stuff that you are finding in your discovery. Because sometimes what happens is we'll hire an expert early on, we'll send them our file as it exists at that point. And when you don't remember to send your expert all these other great things that you've uncovered, it's easy to get mad at them for not reviewing the file carefully. But then sometimes it's our fault for not sending that last depo. We took two weeks right before the expert report was due or the last narrative from the doctor visit two weeks ago.

Michael Cowen:

Yeah, I think the last thing I'd add is that it is important to build a personal relationship with experts that you're gonna use, especially if you're gonna use them more than once. And I would, you know, I've heard someone say, well you don't wanna use the same expert over and over again because they'll ask the question, well how many times have they worked with you? You know, I'd rather have that question asked with someone who has good coherent testimony that's understandable, that has good anchors and can back up everything they say than to keep working with a bunch of randos and having mediocre expert testimony that just cause I don't want to give that Crosspoint. But when you actually go and you meet somebody, you, when you're in person, you go over things, you understand it better, they understand where you're coming from better and they're more likely to take your call.

They're more likely to move their schedule around to go testify when you need them to testify. They take your constructive feedback better when they've met you in person and you've broken bread together. I mean, you know, you and I flew all the way to Las Vegas to spend a couple days with an expert putting her report together on a, on a big, big case cuz he hadn't done a lot of this kind of work before and one of these super qualified subject matter person, but not necessarily an experienced testifier. And it was totally worth it if we hadn't gone there in person and got to know her, we wouldn't have developed that level of trust that we needed to get, get her, you know, to get her to do the work she needed to do.

Sonia Rodriguez:

And I think part of it was helping her organize her thoughts cause she hadn't testified a lot and helping her organize her thoughts and she was educating us on what parts of our case would help her. I remember that. And it didn't hurt that that was Las Vegas, but it was also, you know, <laugh> it was also really important for the case.

Michael Cowen:

Our spouses were pretty happy about that trip too. That's a,

Sonia Rodriguez:

Yeah, they had fun. That was fun

Michael Cowen:

And they didn't have to go work the next day, but, uh, that was a good thing. Yeah, it does help if you get experts in beautiful or fun places, but even when they're in, I don't wanna put anyone down. I know we have experts in all 50 states, but I'm gonna take a chance anyway, even if it's in rural Iowa or you know, the, uh, Montana in the winter or something that it's still worth the trip to go meet with 'em, get to know them, especially if it's a bigger case or if you're gonna use them, you know, repeatedly on multiple cases because those relationships will bear fruit and they're gonna work harder for you and you're gonna be able to have, you know, the sometimes difficult conversations you need to have about getting them to do their job. Right. All right, well thank you all for joining us today on Trial Lawyer Nation.

Just a couple reminders. One, my book, uh, big Great Justice, A Comprehensive Guide to Maximizing Value in Truck Accident Cases is coming out very soon. It is already available for pre-order trial guides.com and I highly encourage, uh, everyone, if you don't mind, order a copy. It makes me feel real happy. I spent more than five years working on it, so when I see people telling 'em they've ordered it, you know, it makes me feel good. We also have the Academy of Truck Accident Attorney's Symposium coming up on the 27th, the 29th of September. Uh, I believe it's gonna be in Atlanta, Georgia this year. We're gonna be there. We hope that, uh, y'all that do trucking work will come join us, come say hi at our uh, podcast booth and come say hi to Sonia, Mallory and me and everyone else. Uh, we'll be walking around talking to people and it'll be a good time and uh, you guys can, we can all learn from each other there. Well, Sonia, thank you for joining me and thank everyone for listening and we'll talk to you next time on Trial Our Nation.

Sonia Rodriguez:

Thanks Michael.

Michael Cowen:

Thank you for joining us on Trial Lawyer Nation. I hope you enjoyed our show. If you'd like to receive updates, insider information, and more from Trial Lawyer Nation, sign up for our mailing list@triallawyernation.com.

You could also visit our episodes page on the website for show notes and direct links to any resources in this or any past episode. To help more attorneys find our podcast, please like, share and subscribe to our podcast on any of our social media outlets. If you'd like access to exclusive plaintiff lawyer only content and live monthly discussions with me, send a request to join the Trial Lawyer Nation Insider Circle

Facebook group. Thanks again for tuning in. I look forward to having you with us next time on Trial Lawyer Nation

Voiceover:

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 2 1 0 9 4 1 13 0 1 to discuss the case in detail and see where we can add value in a partnership. This podcast has been hosted by Michael Cowen and is not intended to, nor does it create the attorney client privilege between our host, guest and any listener for any reason. Content from the podcast is not to be interpreted as legal advice. All thoughts and opinions expressed herein are only those from which they came.