

Michael Cowen:

This is Michael Cowen and welcome to Trial Lawyer Nation.

Speaker 2:

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

Speaker 3:

When you figure out your theory, never deviate. You want the facts to be consistent, complete, and credible.

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. Now, here's your host, noteworthy author, sought-after speaker, and renowned trial lawyer, Michael Cowen.

Michael Cowen:

Welcome to today's Trial Lawyer Nation. I am thrilled to be joined by a good friend and an even better trial lawyer, Lara Brock. Lara, how are you doing?

Lara Brock:

Wow, thanks for having me, Michael.

Michael Cowen:

Well, thank you for coming on. Lara is a fantastic trial lawyer with Espinoza and Brock here in San Antonio, mainly represents injured workers or workers who were discriminated against or retaliated against for getting hurt, and is just having incredible success. Also a leader in many of our organizations.

Before I dive in though to talk to Lara, I wanted to say thank you and give a shout-out to our sponsor, Law Pods. Law Pods is awesome, they do all the work for us. All you and I have to do is talk. They went here and made sure that we sound good. They do all the editing, all the production, they make all our little sizzle reels for social media, super easy to work with and great people. So if you're thinking about doing a podcast, which is a lot of fun, everyone ought to do one. I highly recommend Law Pods.

So Lara, how are you doing today?

Lara Brock:

I'm great. Looking forward to spring in San Antonio. It's Fiesta time.

Michael Cowen:

Oh, that's right. I've lived here for eight and a half years. I have not Fiesta-d yet. I'm doing something wrong.

Lara Brock:

You got to start. For those of you who don't have the pleasure of living in San Antonio, we throw a giant party for two weeks every May, lots of festivals and parades. So come join us for Fiesta in San Antonio.

Michael Cowen:

I'm going to have to wait until next... I'm halfway through a weight loss journey and I just don't think I can be around the chicken on a stick and all the other stuff and resist right now, but I have been wanting to do it. I know it's something that's a lot of fun. I grew up with something similar in my smaller town of Brownsville, Texas. We had Charro days. It was an international celebration. Brownsville and Matamoros would do it together. Fiesta is much bigger and grander, so I definitely need to start joining on that.

But more to the point, tell us a little bit about yourself and your practice.

Lara Brock:

Sure, I've been out of school for about 10 years now and I've worked with my current law partner here in San Antonio since before I even started going to law school. So I feel like I've been in this field for a long time, for the entirety of my career, but we practice primarily in the area of work-related injuries. So we have a couple of workers' comp attorneys and then several of us who actually litigate work-related injury cases, which in Texas include companies like Amazon and HEB, who choose not to carry workers' comp in the state of Texas. So we do a lot of construction and oil field third-party work injury cases, some trucking cases when they come through, but not a big part of our practice.

Then my passion projects are employment discrimination cases, so I get to do some race, pregnancy, sexual assault, sexual harassment cases, and those are just the feel good cases that make us feel proud of the work we do.

Michael Cowen:

First of all, what interested you in becoming a plaintiff's trial lawyer as opposed to all the other kinds of law you could have done?

Lara Brock:

I decided when I was very young that I wanted to compete every day and I figured if I could find a job that let me be me versus you on a day-to-day basis and everything that we do, that's what I wanted to do. So I decided I wanted to be a trial lawyer, before I really knew what that meant and got lucky and found Javier, who is my now law partner. We've been together for 13 years now. He was the President of our local trial lawyers and super involved, and so he just pulled me up and along with them. So I was thrilled to find a career where I could feel like I was really helping people, making a difference in real people's lives, giving people a voice who are otherwise scared to speak up for themselves, all while getting to have a lot of fun.

Michael Cowen:

It is fun, isn't it?

Lara Brock:

It is.

Michael Cowen:

Tell me a little bit more about this. You went to compete every day. Where does that come from?

Lara Brock:

Always, I was super into sports. I played collegiate volleyball, was a four-sport varsity athlete in high school, just grew up playing and loving, everything is a competition to me and my husband and I made a rule that we would not do anything competitive against each other because whether it's making dinner or working on a brief, I have to be right and I have to win. So getting to find a job where every single hearing, every single deposition, I'd get to have that little dopamine boost of, you won today. That's what I love about what we do.

Michael Cowen:

Have you read Randi McGinn's book? I'm trying to remember... The Fighting Corporate Giants?

Lara Brock:

The Giants. Yeah, loved it.

Michael Cowen:

It's just interesting because she had something in there and I'll just never forget it, that one of her theories about why not as many women stayed in trial work is because they didn't play sports. That they would go and they would lose and they would not want to lose again and so they would stop doing it. Of course, that's not all women and she's saying it, not me, I'm not trying to be sexist, but I do think the experience of you go there, you fight as hard as you can, you don't win, and you get up the next day and you go fight again, is so important. I think that sports background really does women a lot of good, and men too.

Lara Brock:

Absolutely, it's something we look for in hiring. I always ask the question, tell me about something that you competed in growing up. I don't care if it's chess club, it can be anything, but I feel like in order to be a good trial lawyer, you have to have that innate sense of let's go, I'm ready to go. That's one of our core

values at the firm, we have a built for battle, as our number one core value for that reason. You just have to have that, I'll drop anything and let's go down to the courthouse at any moment. If you don't have that, then this just probably isn't the right spot for you.

Michael Cowen:

I love hearing one, core values and two, this isn't the right spot for you. Instead of trying to make your firm fit someone that's not the right fit for you, you're trying to find the people that are the right fit and that's, we're doing that too and it's sometimes painful because you have to have some real candid conversations with people. But one of the things I heard from [inaudible 00:06:15] Chris last week was, you can stay in joy or leave in peace, but there's nothing in between.

Lara Brock:

It can be hard and the firm that you are now isn't the firm that you were then and the person you are now isn't necessarily the person you were then. Being okay to continue to grow and change together and recognize when it's no longer the right fit for you or for the firm, that can be really difficult but necessary for everyone to really find the career that they love. None of us went to law school and put in this much effort to go to work miserable every day, and our clients don't deserve that either. So sometimes those are the hard decisions, finding the right spot for you.

Michael Cowen:

Yeah, and really, my mentality has really had to change from we're a family, to, we're like a sports team, because you don't fire family. Family you put up with, you always support no matter what. Whereas on a team it's like, look, you got to perform. You love each other, you support each other, you celebrate each other, but you got to perform if you want to be part of the team. You're always looking to see who else is out there. I'm not trying to sound like I'm some cutthroat person because I absolutely hate letting people go or firing anybody, but at the same time, that mentality. Another thing on the team is, what happens if the team loses the Super Bowl? They don't quit. You go to trial, you win, that's awesome, if you don't win, you get up the next morning, you get ready to go try to win the next one.

Lara Brock:

Absolutely, that's the analogy I always use. Everyone has a role to play on the team and everyone has to perform for the team because we have to have that player. So we've gotten away from the family usage too, starting small. When I started working with Javier, it was just him and I. I was his legal assistant for the six months before I started law school and now we have 35 employees. So, we really had to grow from that family mindset where you're at everyone's birthday parties and you're there for each other and family meals and all of those things, to really growing it into something different. It really did take a shift of mentality from family to team.

Michael Cowen:

It really is, and it's hard, but it really does pay off when you do it.

So, you decide you want to compete, you decide to go work with Javier and be a plaintiff lawyer. What did you then do to develop the skills you needed to actually win when you competed?

Lara Brock:

The hardest part when you come out of law school is everyone tells you you need experience and you need to get out there and you really need to understand what it's like to see your case up on appeal and what it's like to go to trial when you're taking depositions, but how often do you really get that experience? So I just started reading as much as I could. I'd go down to the courthouse and I'd watch as much as I could and I have all these books behind me, I'd listen to your podcast on road trips, and I really just started getting involved in different organizations.

I think I was on our San Antonio trial lawyers board before I was even licensed to practice law.

Michael Cowen:

Oh, wow.

Lara Brock:

Because Javier would put me up and I just chose early on in my career, never to say no. So I started joining organizations, I became really active with the Texas Trial Lawyers. I've served on that executive committee for four years now. I'm the President of the women's bar, I'm the President elect of our San Antonio Trial Lawyers now. So I just started getting really active and getting out there and getting to see as much as I could to soak up everything from everyone around me. I think taking all of those little tidbits from everyone I learned from, really then made it so that I was ready to go when my time finally came because sometimes it takes a while to build up to where you're really ready to take your own cases through and seeing them through.

Michael Cowen:

How long was it before you actually started trying cases?

Lara Brock:

I tried my first case when I was a 3L in law school.

Michael Cowen:

Oh wow, okay, you beat me. That's awesome.

Lara Brock:

I tried. Well, that was part of the commitment that I made. I made a commitment when I was a first year law school student to Javier that I'd stay on and we just made that pact because I loved it so much. So when you find something you're passionate about, having the courage to stay put and not jump around and not search for greener pastures, that was a big decision that I made. It meant that my 3L year, I had my own docket of cases and so I had started going. So I arbitrated and tried my first case as a third year law school student.

So really having that experience of, I worked on so many summary judgment responses, when we're dealing with these third-party work injury cases, if it's construction or oil field, I have a summary judgment filed on every single case. So learning very quickly how to read through depositions, how to get what I needed, and get everything set up for trial was super important. So I really started as quickly as I could because that was really important to me.

Michael Cowen:

For anyone shocked who's not from Texas, in Texas you can get what's called a 3rd year bar card, and as long as you're supervised by a lawyer, you can legally try a case as a 3L. Wanted just to throw that out there just for some people saying, well, how the hell did she try a case when she was still in law school? But that is so awesome that you did, and not just a case, but like a personal injury case, right? Not some volunteer project through the law school or anything?

Lara Brock:

No, it was a non-subscriber, one of our work injury cases where companies choose to opt out of the workers' comp system here. It leaves our Texas workers unprotected, they don't get the same benefits, they're not entitled to any benefits, they're not protected by any labor laws that prohibits retaliation. So it really creates a vulnerable set of workers here in Texas that it's bigger than you think. Walmart chooses not to have workers' comp in Texas, so we do a lot of these cases.

Michael Cowen:

So you've had really good success on these cases too. I know you've got up on appeal right now, a \$4.5 million verdict on a case that you had a zero offer on?

Lara Brock:

Gosh, they pulled the offer. It was a roofing fall case, so my client was working for a sub of a sub on a roof and walks right off the edge. It was a flat roof, no fall protection. So it was a zero offer case where they pulled the offer the week before trial, not that it had been a real offer before then, but pulled the offer because my client had been detained and was an undocumented worker here, so he wasn't going to be able to appear at trial, so they pulled the offer. So we just had to go tee it up.

Michael Cowen:

So how did you deal with... You've got a client actually, one, it's always a challenge when your client's undocumented, I mean, you can fight about whether that's going to be admissible or not but a lot of times, even when a judge excludes evidence of it, jury's figured it out. But then you have it where he is in detention and can't show up to trial. How did you handle that?

Lara Brock:

The defense attorneys were really focused on that point. He doesn't have a loss of wage earning capacity, he shouldn't be here. His medical bills, no one cares about the medical bills. He's really on this on his own. He needs to pick up his toys and go home at this point. We had a lot of people telling us that we just needed to get what we could for it and move on because without our client there, all we had was the defense attorney's exam of him during his deposition two years before, because this was a COVID delayed trial. We looked at each other and said, this is one that I'm not going to let you win. I don't care that my client's undocumented, he shouldn't have fallen off that roof. You chose not to have these protections and we're going to go tell a story.

So we had to really make it work with his wife trying to get her to testify. Then we really just leaned in and we used that as a push-pull point during voir dire to really get people who probably weren't our good jurors anyway, as strikes for cause and got him out of there, and were able to then really focus on the merits of the case. So whenever the defense attorney tried to make it about, oh, well your client's not here, why isn't he here? It's because he is not documented. The jury was just able to roll their eyes and know that that really didn't matter. So I think that that really ended up working in our favor.

Michael Cowen:

Yeah, you really have to learn to trust the jury to do that though, to instead of trying to excuse it or give all the reasons why he did it, or try to limiting it out and try to somehow keep it, we just won't talk about why my client's not here, but we won't talk about the fact that he's not documented or in detention, which some judges would rule that way, there mixed case law on that. You just trusted the jury and yeah, you did get rid of a lot of jurors that had a prejudice against them.

But oh my gosh, what an important type of case because employers who hire undocumented workers, one, they shouldn't get a bonus when they hurt them because they also chose to do something illegal. But also, those are often the workers, the employers that provide the worst working condition, the least amount of the OSHA required protection because they know that people who are undocumented aren't going to speak up.

Lara Brock:

That's the argument that I see and get the most and is one of the most frustrating. That's where I think our job as lawyers become so important because those people on these work sites working construction without any personal protective gear, without fall protection, those aren't the people who can afford to stand up and say, no, I'm not going to work today unless you give me the right fall protection or unless you put these guardrails up, I'm not going to show up to work. They don't have the ability or the power, the voice, to say that to these home builders or these corporations, but we do. That's the really cool, unique piece about being a plaintiff's lawyer that no one else gets to have that I treasure every single day.

Michael Cowen:

Yeah, Mallory and I tried a case a few years ago, it was a work injury, trench collapse, wrongful death case, and some of the challenges we had were similar. Our client's name on his work documents were different than the name on the death certificate and the name on the marriage license because he was working under another name. Then all the... We got brought in the case really late, all the co-workers who may have been good witnesses for us also were all under other names and were no longer working there, we couldn't find any of them. We still managed to get a verdict, but it was a challenge. The jury figured out pretty quick what was going on. I think your strategy of just embracing it rather than trying to hide it was the right one.

Lara Brock:

I think it worked out for us well. Luckily we're here in San Antonio and we have such a great community and we were really happy to be supported in that way by the jury's finding.

Michael Cowen:

Absolutely, hopefully the court of appeals will be just to let you keep the verdict too, which is always an issue in Texas. I know y'all did great briefings, so hopefully you'll be able to get that.

So trying cases, so you talked about, I want to talk a little bit how you've learned to find your voice and be a trial lawyer. I mean, you've got your name on the door, you've done something right, and you've got big verdicts, not just on that one case, but other cases and even big arbitration awards, which I think are even harder to get than jury verdicts. I know you said you've read books, you've joined things, you've watched trials, but I think it's a real issue is that, how do you find your own voice? Is that important or is it okay just to copy what other people do?

Lara Brock:

I learned really early on watching lawyers fail, who would just get up and try to use someone else's argument, and it just wasn't true to who they were. I really quickly identified, and my law partner was super supportive of, I can teach you and show you how I try cases and what works for me, but I just started asking him, why? What is the point? What are you trying to get across? Why are you trying to make that point? Why are you doing things that way?

When I started asking people why, which became a really annoying set of circumstances for others around me, but I really wanted to know the purpose of what you were trying to do so that then I could do it for myself in my own way. Being okay to say, you may ask that three different ways and I'm going to ask it seven different ways, but we're all getting to the same point. So when I really stopped just saying, well, show me how you would do it, but asking people why you're doing it that way or what the purpose is, that's where I really started learning how to take what other people were doing and adapt it to something that was authentic to me.

Michael Cowen:

I learned the same lesson. I think you and Mallory are around the same level experience, you both have your name on the door, similar trial experience. Trying cases with Mallory, when we first started trying cases together, she would be doing something differently the way I would do it and I would be wanting to write her a note. At first, I did write her a note, but then eventually, I was like, let me just sit on my hands and give her a chance and shut up for a while. Then I'd see she would get there, and her doing it her way was better than her trying to do it my way.

Lara Brock:

Exactly.

Michael Cowen:

Then I just learned to trust her and let her find her way and her way is awesome, but it is so hard. I mean, I had to learn to like, I don't have to give the David Ball opening. I should learn how to give a David Ball opening. I don't have to use the Jerry Spence analogy because some of the things that work for Jerry Spence just don't work for me. I don't want to diss Jerry Spence, he's awesome, and I thank God every day that I got to study under him, but I can't imitate him. It doesn't work. I think you have to try other things, but then you have to find how it fits for you and what works for you. I think the only way to do that is you just got to get in there and take risks and try cases.

Lara Brock:

I agree, and really, reading those books with an eye for, why are they doing that or what is the point? What can I take from each of these fantastic lawyers that rings true for me? It could be different things in different cases. Knowing where you're at, what your case is, what your clients are, who your judge is, who the witness is, all of those things play a role when I'm doing anything in trial. So just remembering that as long as you're true to you, you can take on any situation, but the second you try to imitate someone else, you're stuck.

Michael Cowen:

Yeah. I want to go a little bit more into being true to you, but I'm going to go from the trial context back to the law firm management context. So, what's the process like from going to being a legal assistant to a

young lawyer, to now a partner with your name on the door? I imagine you've got something to do with running the business too.

Lara Brock:

That's been a really hard transition for me because I've grown up with a lot of these people, I started working here when I just turned 22. So being around people and having to earn respect from someone who reported to them, to then a lawyer working alongside, to then a non-equity partner, and then senior partner name on the door all of a sudden working alongside the same people. We've been lucky enough to have a lot of people stay around.

My paralegal has been with me for 10 years through this process. My other law partner, Stephen Sachs, has been with me for 13 years too. So doing all of this alongside them has been really difficult, but I think as long as you're earning respect along the way, I don't feel like I've ever been someone who said, you better call me this, or you better call me that, or you better show me this respect because I've earned it. Instead, I just want to let my work do the talking. So I feel like if I'm still the first one here and the last one to leave, if I'm still willing to get down and dirty on any aspect of the case and my team knows that, then I feel like I am in a place where I don't have to tell anyone that I'm in charge. That's what's been true for me, is I don't ever look at it that way. I just try to be true to myself and let my work speak for itself

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. Now, back to the show.

Michael Cowen:

Anything you've had to do personally just to get your mindset shifted from being the co-worker to being the leader?

Lara Brock:

I feel like that's taken a lot of reading in leadership. So I'm a huge Brené Brown fan, dare to lead, courageous, all of those things, clear is kind. I really started delving deep into that and really trying to embrace some of those things because certainly, I'm really active with the Lead Academy here in San Antonio. We put on a fantastic organization that works with young women every single year and try to retain women in the practice of law. Women come into the practice of law and law school, but then so quickly get moved out and we talk about those broken rungs on the ladders for women as they're climbing up. How many women graduate from law school but then never make it to partnership and where's the break along the way? So being super active and getting to help young women has really helped me gain that confidence for myself and take on those tools that are really necessary when working around a bunch of men all the time.

Michael Cowen:

Yeah. Tell me a little bit, I know you're really involved in a lot of organizations. Currently, what leadership roles do you hold?

Lara Brock:

Right now I'm the Vice President of Communications for the Texas Trial Lawyers Association. I ran our CLE department for the last three years and gave that up to start working with communications and trying to be a little bit more effective in that area and continue to grow within that organization. I'm the President Elect of the San Antonio Trial Lawyers Association and the President of the Bexar County Women's Bar Foundation.

Michael Cowen:

I did some CLE stuff a long time ago with the Texas Trial Lawyers and I've been on committees of things before. How do you find the time? Because I have just abjectly failed at this. I think I'm going to be President of the Academy of Truck Accident Attorneys in two years and I'll have to figure it out. So, maybe you can help me. How do you find the time to be an effective leader in these unpaid positions in these important organizations, and still build a great practice and maybe have a little bit of a life afterwards?

Lara Brock:

I feel like it's all about, there is no such thing as work-life balance or career balance. So for me, it's taken a real buy-in from everyone around me, from my family at home, to my friends, to my law partners, to my paralegal. They all know and recognize that this is how I'm going to continue growing, so they all have made that commitment to support that. So as long as you have the real buy-in around you, that my husband knows I'm probably not going to be able to pick up our three-year-old from preschool today, you need to go do that, or I've got to go on an overnight trip to go run a CLE somewhere, or I have to go do this organization and put this on for this person or this team, and I'm going to be out today because I'm doing that. As long as you have buy-in from everyone around you and everyone's committed to the same goals, that's where you're going to be okay.

Where you start to struggle is where you don't have that support from your partnership and where the attorneys and staff around you or your partner at home isn't equally supportive and recognizes the role that that's going to play in you moving forward in your career. So that's where, to me, it's important to have that communication.

Michael Cowen:

Yeah, I think you really need a partner that's invested in you because you're planning on being with someone for 10, 20 years, then okay, we're going to have a short-term sacrifice this year, but we're going to build their brand, which is going to help them, which in turn helps the partnership. This, two strong people is better than one strong person and a junior person, but it's hard to find that.

Lara Brock:

I feel like you've done it really successfully with Mallory, where I know I've asked you to speak at events and you've ensured that we have Mallory there too, and that you've done the same thing in putting her up for things. I was lucky enough to find a partner who felt the same, who said, your success does not threaten me, it enhances me, and I want you to go out there and I want you to do that, and was willing to make those sacrifices, who I know has given up speaking spots or given up board seats to put my name up instead. That's really what it takes, is a commitment to saying, I care about your career growth and I want your career growth. Despite risks to me, despite you getting poached by someone, as long as you have that buy-in from everyone, you're going to be successful. That's where you've really found a partner, you haven't just found someone to work with, you've really found a partner who cares.

Michael Cowen:

Yeah, and I really look at it now, I mean, just even if I wanted to be selfish, like, okay, if I take this speaking spot, and I still like to speak some, but if I take this particular spot, what do I get out of it? Whereas, what would Mallory get out of it, or what would Sonya get out of it, or whoever else at the firm? That could also do an equally great job and draw a crowd and just take the ego out of it and say, what's best for all of us? Sometimes that actually is better for me because if I'm the only draw at the firm, then my firm has very little value long-term. I mean, we have Tom Rhodes who's a great lawyer, he was here in San Antonio, but when he passed his firm wasn't there a year later. When I passed away, I want my firm to still be there. The only way I can do that is if the other partners at the firm have their own brand, their own following, could keep bringing in business. We just want to make sure that doesn't happen, not this year. Not that we don't either Javier or me to pass anytime soon.

Lara Brock:

Of course not, but I think that that goes back to the same thing. As long as you're true to yourself and that you really genuinely care about the partners that you have working with you and you know that you can be yourself and that you can build your career and that you can be focused on doing that, because it ultimately benefits your firm and your clients. At the end of the day, as long as you all have that same goal, you're going to be in a position to find success.

Michael Cowen:

Now, your firm in Texas, shortly before I graduated law school, they took the money out of representing injured workers and workers' compensation cases. I mean, the fees are so limited and it's so hard to get paid and if you do get paid, it's very, very little. There are very few firms that do workers' compensation in Texas, but y'all do. How come?

Lara Brock:

Because that's our purpose, that's our base. We also found that a lot of times people just think that it's a workers' comp case and it's not, and we started learning that we could help people in more than one way. So if we fought to get one client, well, wouldn't it be great if we could represent that client three different ways with three different divisions at the firm? So sometimes we'll represent a client in a workers' comp case while also helping them in a workers' comp retaliation case and handling a third-party injury case, because their injury happened due to the fault of someone else.

It's really helped because we've been able to manage the workers' comp piece because a lot of times, how many times have you had one of these third-party injury cases and the workers' comp attorney has done something and given something up that has had a negative impact on your litigation case? Well, we were able to get rid of that because we're representing them in different ways. So I'm able to push buttons in workers' comp that I wouldn't otherwise be able to if I didn't share a building with the workers' comp attorney who was helping this person. So it really helped us develop that practice and really flesh out that focus on work-related injuries, which is what we're all passionate about anyway.

Michael Cowen:

I'm so happy to have someone competent in town, we can refer people that need to make a workers' comp claim to. I mean, it is not a line of business in Texas where you're going to ask for referral fees or anything, but just the fact that someone can help, because people get so screwed over because they designed the system where the insurance company has a lawyer and the worker can't afford to have one. I am so glad that y'all are doing that.

Lara Brock:

The system's broken, absolutely, but my law partner here is our only board-certified, plaintiffs workers' comp attorney in the city.

Michael Cowen:

Oh, wow.

Lara Brock:

There's just so few that do it really well, and so I'm really blessed that we were able to get her to join us and that she has those same core values and cares as much about our clients on that side of the building as we do in ours. Even though you're right, the business model makes it really difficult and there's lots of complaints, but that's just the nature of the workers' comp system here in Texas, and I'm sure across the country,

Michael Cowen:

Other parts of the country, you can at least make a fee that's comparable to let's say doing minimum policy limits, auto litigation, as opposed to waiting tables.

Lara Brock:

It's pretty tough. It means it's pretty high volume practice, which can be difficult for us to balance, but we really found it's the only way for us to make sure that we're doing our part in the community. Sometimes that means that this part of our business just has to run because it's the right thing to do and because that's what the community needs.

Michael Cowen:

I love that. You also said you do something called workers' comp retaliation. Not all of our people are Texas lawyers that are listening here. What is that?

Lara Brock:

So in most states too, part of your labor code is going to prohibit companies from retaliating against employees who try to pursue workers' comp benefits. The thought there is that just like a car insurance would, if you're filing workers' comp claims, your rates are going to go up. So a lot of times companies will try to discriminate or retaliate against employees in order to avoid having to have higher premiums. So we have an entire division and I have a law partner, Steven Sachs, who just works on those cases primarily. So he'll run a docket of 100 of those at a time and just pursue those. So it happens more often than you think. We've gotten some pretty interesting recordings over the years and it's pretty sad to see people who actually work for the state representing to companies how they can avoid these claims or how they can get rid of people who do it. The whole system is just pretty wonky here, but if you check out your labor code, I bet in most other states you'll find a similar provision that protects injured workers.

Michael Cowen:

I don't know if it's unique to Texas, but it's at least very rare there are any other states to do it. But we allow companies to opt out of the workers' compensation system and be what's called non-subscribers. There's a slight penalty, they lose a couple of affirmative defenses, but not all of their affirmative

defenses. A lot of those cases, the company, especially the big sophisticated companies, they not only opt out of workers' comp, but they opt out of the court system by forcing their employees to sign arbitration agreements, which seem to be enforced fairly regularly. How do you get justice in arbitration?

Lara Brock:

Gosh, I don't know that there is any such thing as justice in arbitration. I feel like that's an impossible statement. When you have someone who's paid by companies that essentially run entire arbitration associations. We have one here in Texas, that one of the big box retailers essentially provides 80% of the business of this one arbitration association. So all of the judges in that arbitration association who get paid to hear disputes, essentially have an entire career deciding cases for one big box retailer. So you can imagine what the motivation would be for them to do something that favors my client, who this is the one and only time they're ever going to hear from them, rather than this big box retailer who's going to make their careers.

So, what the studies have shown is that just as big box retailers or companies that are frequently in arbitration find success, so do plaintiffs lawyers. So we'll have the same arbitrators show up, and we have such a large practice of these arbitration cases that we also have some power with arbitrators because they know that we can keep them from getting business too, if they want to screw our clients over.

Michael Cowen:

Oh, wow.

Lara Brock:

So we've had a lot of success. I remember we lost one before I even started law school, and that case became the foundation for the law review article that I wrote during law school with Javier, and that's the only one that we've lost over the years. So knock on wood, we've had a lot of success, but it's getting out there, being aggressive, making sure that your name stays up, listening to your fellow trial lawyers around you. When they tell you not to pick an arbitrator, we tend to listen, so we keep stats on them just the same way defense insurance companies do, and that's given us a lot of success over the years.

Michael Cowen:

Well, I've had two that we lost where the arbitrator just took the defendant's brief and word and just changed it from defendant's brief to decision. It was very disheartening. I won one a long time ago, and luckily it was for our judge's nephew, so I was so glad I didn't lose that one. Lost two, and then we settled another one, but it is pretty disheartening where you feel like you've totally dominated this case, that you've got OSHA violations that are causal, and then they still find a way to kill you, and it's really, really disheartening.

Lara Brock:

So it's hard to tell your clients that then even if they get it wrong, there's nothing we can do about it. But I can tell you it sure is nice to have some finality quickly, when you're sitting on a verdict for a couple years, whereas if it had been in arbitration, this would've been done and paid within 30 days. So there are some things that we can look at and say at least we can get something done quickly for our clients in arbitration, but for the most part, we just have to tell them that the case is different and the nature of the case is different, and it's a bench trial on steroids.

Michael Cowen:

So, how is trying an arbitration case different than the trial of a jury case?

Lara Brock:

Trying an arbitration case is unlike trying a case to a jury because the judge is the judge and the jury and the appellate court, all at the same time. So you have to keep in mind that there is nothing that the judge is going to know that they're not going to take into account. You have to keep in mind that the judge isn't going to pay attention to evidentiary rules. I had a case once where they did not designate experts, brought an expert live who had never been designated.

Michael Cowen:

Wow.

Lara Brock:

The arbitrator let them testify that my client's injuries could not have been caused by this because they were degenerative. Even though I had never seen their opinions, had not been familiar with this expert at all.

Michael Cowen:

Wow.

Lara Brock:

But it was a big box retailer and congratulations, we're just going to bring it in and the arbitrator will say, "I'm just going to hear all the evidence." So you're not going to exclude experts, you're not going to have evidentiary issues get decided. You're going to have speaking objections through the whole thing. You're going to work from 7:00 AM through 8:00 at night. I can tell you, we had an arbitration that went three days where we worked 7:00 AM to 8:00 PM every single day and put on 35 witnesses over a two and a half day period because everyone wanted to get home. So it's definitely a different experience, but we just try to be as aggressive as possible and put on our case the same way that we would if we were in trial, and have found that to be a successful method to pursuing these.

Michael Cowen:

I'm so glad you all find success. I think that probably is the thing, because people like me that do one or two every 10 years, they don't care about us. Whereas yeah, I can see you have a strike list too. So you're doing like half the business and you start striking the people that screw you all over that have to start splitting the baby at least.

Lara Brock:

Yep, exactly. That's what the studies have shown, and that's what we found anecdotally. But again, that's where participating with your trial lawyers associations asking, who have you seen on the strike list? Who are you familiar with? Who should I strike? We all have to collectively as a community, make sure that we're protecting each other too.

Michael Cowen:

I've been blessed enough to have some workplace injury cases where I had one where a really, really prominent lawyer told the referral counsel, no, this is comp barred. We ended up settling for \$5 million, and a lot of other cases where people just... I was having a conversation with someone. So yeah, this is such a tragedy, this person, this happened to them, but it's just all comp, and we found an angle. So for what we call the third-party cases, which is you're suing someone other than the employer for a workplace injury, what are the things you look for?

Lara Brock:

We look for multi-employer work sites. So a lot of times your construction fields, your warehouses, your manufacturing facilities, your oil fields, there's going to be someone else who's there who potentially had control. That's what it's always about. What is the control over the injury producing activity here in Texas? I think that that's probably true in most states, in terms of what you're looking for, but most of the time we have referring attorneys that just send us any workplace injury and let us mine for what's there. A lot of times it turns out that it's a non-subscriber or that you can find some control of some other company, and ultimately, or even if it's a discrimination case, sometimes it completely is comp barred, but there's so many co-employees and broad servants and temp staffing companies that will staff places that usually there's something that we can do. There's very few times where I find that something is completely comp barred and there's nothing else that we can do about it.

Michael Cowen:

I find a lot of times that clients don't even know who works for who or anything and they get confused about it. You have a big enough injury, it's at least worth making some calls, getting an investigator, signing it up and seeing what you can figure out. You can always let it go later, just a comp case, send it to a comp lawyer, but anytime you have serious injury, I think it's always worth the deep dive to see what there is, or even a product case, you never know until you look.

Lara Brock:

Absolutely, especially when you're here in Texas or Oklahoma has a similar non-subscriber statute where you can opt out if you have a certain number of employees. So a few other states have some opt out provisions, so it's always good to really take a look and make sure that there's nothing else you can do for them. A lot of times the contracts have subrogation waivers, so a lot of times we're able to get workers' comp to waive subrogation, and that really means that this is just extra money in your client's pocket because I can promise you workers' comp doesn't give them much. So anything that you can do to find some additional recovery for your client's worth the time investment.

Michael Cowen:

Yeah, I felt so good that we settled one for 14 million once and they were so mad because there was a comp waiver, there was several waiver in the policy and they were so mad that they still have to make his weekly check because he was burned badly enough to have lifetime benefits. So, not only did he not have to pay it back, but they got to pay his medical treatment, they have to pay his weekly wages, even though he did really well on that settlement. That felt so good.

Lara Brock:

No better feeling than telling an insurance company that, thank you for this and go away and keep paying my client, by the way.

Michael Cowen:

Exactly. All right everyone, it's been great talking to you, Lara. I'm glad that I'm able to practice in the same town as you and I look forward to continuing to work with you and learn from you in the future.

If people want to find your path, continue learning, I'd want to selfishly pitch the Big Rig Boot Camp that we're having here in San Antonio on July 12th. I don't know if you're going to be able to make it, Lara, but if so, people can meet you in person there. It's going to be a great thing. We're doing a deep dive into things that we've never been able to do before. For example, trucking, one of the big things is called telematics where they put on these GPS systems that track and they track speed, braking. We bought a system when we're testing it and we're going to show when a truck driver speeds, what is the alert the trucking company can get? How can they set it up to make sure they don't go over a certain speed on a curve? Even though that might not be the speed limit, but let's say a water truck can't safely go around the curve at that speed. It's going to be some really cool deep dive stuff that frankly, you don't have time to get into or not everyone has the willingness to share it at some of the other CLEs. So really, if you all want to come to that, it's bigrigbootcamp.com, it's cheap, it's fun, come on board.

Then Lara, if anyone wants to find you in the world, either they want to follow up with you on something or maybe they have a case they want to talk to you about, how can people find you?

Lara Brock:

Let me say first, I can personally attest to, you have such fantastic presentations that you give here and across the country. You're one of those lawyers that I know I can pick up the phone and ask you for an expert or a form and you all stumble over yourselves to help all of us in the legal community. So, thank you for taking the time and effort to build this Big Rig Boot Camp and give such important information to everyone. You really do such a great job for not only your clients, but for everyone else's in making sure that we're all setting our cases up the right way to the benefit of the client. So thank you for all the work that you do.

My name is Lara L-A-R-A, @Espinozabrock.com. So happy to take any emails or do anything I can to help anyone who has any questions about workplace injuries or arbitration. I'm always happy to help pass it along.

Michael Cowen:

Lara's emails in the show notes. She and her firm do such a great job on those cases. I do really recommend them. So, thank you so much for joining us, Lara, and thank everyone for listening and join us next time on Trial Lawyer Nation.

Lara Brock:

Thanks.

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 at triallawyernation.com. You can also visit our episodes page on the website for show notes and direct links to any resources in this or any past episode.

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Voiceover:

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