

Michael Cowen:

This is Michael Cowen and welcome to Trial Lawyer Nation.

Voiceover:

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, and credible.

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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.

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

Michael Cowen:

Welcome to today's Trial Lawyer Nation. I am joined today by Przemek Lubecki, a great trial lawyer out of New Orleans, Louisiana. How are you doing today?

Przemek Lubecki:

I'm great, Mike. Thanks for having me.

Michael Cowen:

Thanks for coming on. Before we jump in, I want to thank our sponsor Law Pods. Law Pods makes my life so easy. They're here recording our podcast for us, so all we have to do is talk to each other. They have all this beautiful lighting. If you all want to come watch us on YouTube, you can see that we're really not that pretty, but they have great lighting. They make it easy. They do all the editing, they make all the clips so we can put them on social media. So if you ever want to start your own podcast, which is a lot of fun, I highly recommend Law Pods.

Przemek Lubecki:

Fantastic.

Michael Cowen:

Tell me a little bit about yourself.

Przemek Lubecki:

Well, so my name is Przemek Lubecki. I'm a trial lawyer practicing in New Orleans, sort of by way of Chicago, where I spent the beginning part of my career. I was born in Poland, came here as political refugees in 1989, from Poland, and then became a trial lawyer some way, somehow. The most American thing that I think anybody could do. So it's been a crazy journey and I mean it's the best job in the world.

Michael Cowen:

So you started off in Chicago, I think I read that you got some kind of recognition for trying more cases than anyone else in the state of Illinois one year.

Przemek Lubecki:

Second most.

Michael Cowen:

Second most, I'm sorry.

Przemek Lubecki:

My buddy Tony Elman was the plaintiff's lawyer, tries a ton of cases, but I worked at a firm in Chicago, Parrillo, Weiss & O'Halloran that tried the most cases as a firm in the entire state every single year of their existence. They just really got after it. And so I was lucky enough to get that experience and I got sworn in on a Thursday, tried my first trial on a Friday.

Michael Cowen:

Wow.

Przemek Lubecki:

Yeah, first jury trial the day after I got sworn in, which we're like a dying breed, Mike, but it was an amazing experience in Chicago. I was extremely lucky to sort of just stumble into a firm that did that. My goal originally was to work at the DA's office to get that trial experience, but they actually had a hiring freeze and by a weird set of circumstances, I ended up working for a firm that was the dream that I never even knew I could have had. Really?

Michael Cowen:

Yeah, that's actually nice to hear someone that does insurance defense work and calls it a dream. I mean, not everyone has that great of an experience, but it is good to know that it's not always miserable on the other side.

Przemek Lubecki:

So you know what? I think the thing that differentiated it from most other defense lawyers' experiences is that the people I worked for were truly great trial lawyers and they were really great mentors to me, which is why when I look back at that experience, am I proud of every single trial I did and having what my goal was to have a high kill ratio? Obviously not, because my heart isn't there right now. But looking back at it, I worked with great people and so that's what I focus on as far as why I view it so positive.

Michael Cowen:

So what did they do? You've been a lawyer for one day now, you're jumping in your first trial, what role did you have in that trial?

Przemek Lubecki:

So all first chair jury trials. So I was thrown into trial but not thrown in in a sense without any mentorship. So I started there in the summer as I was getting ready for the bar exam. And we had not only we would shadow lawyers who are on trial all the time, they would have sessions for us that we had started as a group of seven or eight people in a class and they would teach us how to pick a jury. They would teach us how to cross examine, they would teach us how to open, they would teach us sort to bare bone structure of a burden of proof closing argument. And so it's not like we were thrown in without any support. And so even though the firm was very aggressive about pursuing trials, they really did a great job building us up, which gave us great confidence going in even though we were 25 years old, going against guys that were in their fifties and sixties trying cases.

Michael Cowen:

That is so nice to hear and so rare nowadays.

Przemek Lubecki:

It is. It's my hobbyhorse where I think the lack of mentorship in the law is a huge problem because people aren't born trial lawyers. They become trial lawyers, and how can they become trial lawyers if they're not given the guidance, the tutelage, the confidence to do what we do, which is why I think part of the success of your podcast is that you are providing unbelievable value. I mean, I listen to every episode that you've ever done.

Michael Cowen:

Oh, thank you.

Przemek Lubecki:

You do tremendous work, not just giving people sort of the nuts and bolts of what trucking entails, but I think people listening to you take away tremendous confidence from just hearing it done, and hearing your story, and hearing how you've been able to build your firm from scratch, and how you've built yourself up into one of the most recognizable trial lawyers in the country.

Michael Cowen:

So at some point you make a switch from being a Chicago defense lawyer to a New Orleans plaintiff's lawyer. That's a bit of a cultural shift.

Przemek Lubecki:

It is. It is. As I said to a judge when I first moved to Louisiana, I was helping somebody else originally pick a jury, and he told me, he goes, "What is a Pollack from Chicago know about a Cajun jury or whatever?" And ultimately, I think if you have that human connection with people, people are people.

Michael Cowen:

I agree.

Przemek Lubecki:

And I really feel now that I could go almost anywhere and try a case because of that sort of having to learn or having learned how to connect with people, having had enough reps to get comfortable on my

feet in front of people. But you're right though that it was not an easy transition from defense to learning how to try a plaintiff's case. I struggled with that for a long time.

Michael Cowen:

So before I get there, what inspired you to move from Chicago to New Orleans and from being a plaintiff's lawyer to a defense lawyer, to a plaintiff's lawyer?

Przemek Lubecki:

So every questionable decision in my life, Mike, a woman had something to do with it. But now, in hindsight, with the benefit of hindsight, I mean, it was the best decision I had ever made. I am happily married, have a wonderful family with a different woman, but that was sort of the precipitating event for me but it's the most wonderful thing that's happened to me in my career.

Michael Cowen:

It's funny, I went from big law in New York City back home to Brownsville, Texas to be a plaintiff's lawyer, a small firm, mainly because of a woman who was born in New Orleans. S'till my wife, now my wife, and we'll be married 25 years. So I guess it's worked out for me.

Przemek Lubecki:

How about that? Yeah.

Michael Cowen:

Hopefully it's worked out for her. But yeah, so you go there, but what makes you want to switch sides? So you...` Okay, I can see you've fall in love with a woman. She's in New Orleans, you're in Chicago. That makes sense. But there are plenty of insurance defense firms in New Orleans.

Przemek Lubecki:

There are. There are. It was just one of those things that before I left Chicago, I had a friend of mine who was a plaintiff's lawyer. We would go up against a firm all the time and he would always sort of, in a friendly way, rib me about the types of cases I was trying. I was trying a lot of unoperated disk cases and it did not... Once you sort of have the knack for it, you figure out how to do it, it doesn't take any great preparation, or thought, or imagination, or creativity to try those cases. And so my friend Ben would call me the tallest midget in the courthouse.

And so I always aspired to learn how to be a better lawyer and I knew that there was just so much more nuance and creativity and just how much harder it was to be a plaintiff's lawyer until I started doing it and I realized, "Man, it is a lot harder than I even had anticipated."

Michael Cowen:

So what did you do? You made the decision you're going to make the shift, and did you start right away with Morris Bart?

Przemek Lubecki:

I did.

Michael Cowen:

And so you're at a firm that gets a lot of cases, so you're going to have some opportunities to try cases. What did you then do to get the skills you needed to make that shift from being an accomplished but probably on script defense lawyer to being a good plaintiff's lawyer?

Przemek Lubecki:

So the first case I tried in Louisiana, I essentially tried to reverse engineer on my own. Some of the concepts that I had learned as a defense lawyer, I mean, I knew how to pick a jury, right, in theory. But let's say my voir dire was mostly indoctrination.

Michael Cowen:

Right.

Przemek Lubecki:

It did not work on the plaintiff's side to try to ingratiate and to try to indoctrinate because people see us coming and we don't have much credibility in a courtroom at that point. So while I got a verdict and it was a decent verdict, I was not satisfied with it. And so the first sort of paradigm shift for me was the reptile.

Michael Cowen:

Okay.

Przemek Lubecki:

And I went to a whole bunch of Don Keenan seminars including a trucking seminar down in Destin, Florida, and that is where my eyes were first open to sort of the breadth of how to present a plaintiff's case in general, not just trucking. It was just sort of in the context of trucking, but that and that voir dire sort of opened my eyes, and since then, I've been coming to TLU and trying to learn from Sari and from other people as far as different voir dire techniques to try to expand my repertoire and then still just trying cases and trying to rip it out.

Michael Cowen:

So for our listeners that may not know, TLU is Trial Lawyers University. That's actually where we are in Huntington Beach, California today. And then Sari is Sari de la Motte, who's been on the podcast I think three times and she's helped me a lot. Have you worked with her personally?

Przemek Lubecki:

I have not worked with her personally, but I have heard every single episode of a podcast as she leaves so much free milk out there that it's almost crazy, and I've obviously read our book.

Michael Cowen:

Well, I will tell you the magic of Sari, the presentation stuff is really good, but the mindset stuff is what is even better. I'm actually in trial right now. We picked a jury on Wednesday. On Thursday I did opening, put on the defendant truck driver and my trucking expert and my crash reconstructionist. We took Friday off. Right now it's Saturday. I'm going to go back and trial on Monday, but I can do this because my mindset's like, "I'm ready, I don't need to go."

Przemek Lubecki:

I was going to say, don't let Mike's nice demeanor fool you. He has ice in his veins, apparently, because I could not do what he's doing right now if I was on trial.

Michael Cowen:

Oh yeah, no, because I'm ready. Also, I'm partners with Mallory Peacock, and so it's really easy to be in trial because she does a lot of the work. But I just have to go talk to witnesses and talk to jurors. It's easy. It's doing all the motions and making all the arrangements and stuff that's stressful. But that mindset work makes a huge difference. But you've talked about applying some mindset or sports psychology concept to trial work. Can you tell me a little bit about that?

Przemek Lubecki:

Yeah, so that's one of the things I taught at TLU this year and a couple other times, is the things that I've learned from the world of sport. I used to box, do some Golden Gloves boxing when I was in Chicago, and I'm a competitive pistol shooter and rifle shooter. And so in that world, there's a gentleman, Lenny Bassham, who is essentially the grandfather of sports psychology that now most champion level golfers and tennis players go to him for their mental management. And so he teaches what performance looks like and the three spheres that performance lives in and how we, as lawyers, what I take out of that, we focus so much on the conscious mind on the strategy aspect of trial, right?

Michael Cowen:

Right.

Przemek Lubecki:

We're stuck essentially even up in let's say the days and weeks before trial in paralysis by analysis. Trying to hyperanalyze our case as opposed to focusing on the performative skills aspect, having built up that sphere. But where, let's say, Sari and I agree a hundred percent is that sphere of confidence, which is actually what gives us access to our level of training. Because pressure is an amplifier and it's an amplifier of whatever emotional state we're in. So if we're in a highly anxious state, pressure is going to crush us.

Michael Cowen:

Yep.

Przemek Lubecki:

We're sort of in a state of arousal, we're excited, we have gratitude for what we're going to get from the jury. It pushes us into our subconscious mind, which is where all of our skill resides. And at that point, just like you're here, you're not worried about analyzing or still thinking about the strategy in your case. You're going to go back to trial and you're going to flow. Like you just said, I'm just going to talk to witnesses because that's your confidence that you're bringing into it. And so I think helping lawyers understand that gives them a sort of a paradigm or a structure around which to build out their practice, to think about how to improve each of those fears, but to focus on what actually matters at trial.

Michael Cowen:

And so what are the things you're doing to help lawyers focus on those fears to try to get beyond just the analysis of the facts and into the being. I guess in the zone is what I call it.

Przemek Lubecki:

So two things. We have to work on our skillset all the time because just like in the world of sport, there's no free speed on game day. And what happens when we over try, usually something falls off the rails. We have to sort of be at a hundred percent and not try to be at 110. I can't over try and do better. I just have to do essentially what it is that I'm doing. And the only way to do that is to build that skill throughout everyday practice. And so when I come to TLU, I teach with Dan, Dan's been kind enough to let me teach some of the skills boot camps where we focus on the physicality of the connection on voir dire, on openings, and on cross exam. And so the lawyers that come to those sessions get essentially hundreds, if not thousands, of reps because we meet with them on Zoom beforehand of a vehicle for learning the connection.

The scripts don't really matter. What matters is learning them, focusing and putting your mind on the physical aspect of trial, the performative aspect, and then doing it so often that you get comfortable being uncomfortable in that moment of looking the juror in the eye, and connecting with them, and understanding them, and hearing their story, and the juror knows that you're a real person, not just a lawyer who's trying to convince them of something.

Michael Cowen:

That connection is so important. I was doing my opening statement the day before yesterday, and I'd rehearsed it multiple times. And the first thing that happened is the way that I had rehearsed it, the judge would not let me put my flip chart where I wanted it, and then she made me put it somewhere else and then halfway through my opening, so that doesn't work anymore, I just stopped using it because I didn't want to move it and interrupt my... I have a three-minute break in the middle of my opening. But the other thing I realized. So part of an important concept for the jury for this particular case is they need to know three things about how air brakes work. They don't have to know everything, three basic things. And when I'd gotten almost all through my air brake section, I could tell by the look on their face, they didn't get it yet.

So I had to make an audible and go back on my opening and say, "I don't think I've been clear enough. Let me go into this again." I just stayed on script. I covered, I said the right words, but it doesn't matter whether it read, well, it doesn't matter whether I think I did a good job. What matters is did they get it or not? Now, whether that's them or me, it doesn't make a difference because the trial's about them. It's not about me. So I had to just call an audible and reexplain. I said, "This is so important. Let me just go through it one more time because I don't know that I'm seeing an understanding between us, so let's just go." And then I saw nods, and then I moved to the next part, and then I have to leave another part out of my opening because I was splitting time with Mallory, but I knew that this was a critical part of the case, and I could tell because I could feel the connection. I could feel like, okay, I don't have them anymore, I need to bring them back.

Przemek Lubecki:

You know, what's wild about that is that I think 99% of lawyers, one would miss it because their mental bandwidth is tied up in the words, right? They're trying to make sure that they stay on script and they're not focusing. They don't have their finger on the pulse of what the jury is feeling. And I think the training that we're doing here, your mindset training with Sari allows... It frees up that bandwidth to actually focus on what is actually important. Again, that performative aspect. And by performative aspect, you're

right, it's about the jury. But I learned something from you because you know what? There's probably been moments in trials where I have had the same realization, but I don't know that I had the courage at that moment in time to stop and to sort of say it another way so...

Michael Cowen:

Yeah, I think it's so important. One thing that I realized, earlier in my career, it would frustrate me because I'd try a case, I would lose, and then I had the jurors come up and ask for my business card. "Oh, you were such a great lawyer and this and that." I'd much rather them say like, "Hey, you need to be a better lawyer," after they give a big verdict because it's about them. It's about what they got. It's not about how good I looked. And so when I realized it's not about me, so I can look a little awkward because I need to make it about them and make sure they're getting what they need. They're more important than I am. And then for them to trust me when they realize that their learning is more important than me looking good then...

Przemek Lubecki:

And I think I've tried to figure out how to define a win for the jury so that they know what a win looks like for the plaintiff. Because a lot of times I've had those situations too where the jury is thinking that they're giving you a major victory, but really because of how the numbers shake out or whatever else happens, it's actually not a verdict that you and I, let's say, would be satisfied with.

Michael Cowen:

Wouldn't go on the website yet.

Przemek Lubecki:

Yeah, exactly. Exactly. So yes, we're talking the same language.

Michael Cowen:

So if somebody wants to learn from you and go to some of those workshops, do you have anything coming up?

Przemek Lubecki:

So I'm going to be definitely in Vegas. The Vegas TLU conference is coming up in October.

Michael Cowen:

Yep. I'll be there too, I think, if I'm not in trial.

Przemek Lubecki:

I'm certain you are, and I'm sure there's going to be a lot of great trucking content that you're going to bring with you.

Michael Cowen:

Well, we'll find out. I got to talk to Dan about that, but my body will be there and I'll try to stay awake on the stage this time.

Przemek Lubecki:

Yeah, there's going to be so many people, I think. Everybody I've talked to from the guys that were where you and I met at ATAA in Atlanta, the trucking conference, to everybody that's heard you speak at TLU, everybody is so high on the content that you're delivering.

Michael Cowen:

Well, thank you.

Przemek Lubecki:

You. And also on the book. So I picked up your book in Atlanta, and I mean you go over the nuts and bolts of building out a trucking case in that book. And I think that in itself is I think a must-read for anybody who's interested in doing this type of work.

Michael Cowen:

Thank you. But as far as the coaching, are they doing that small group coaching actually performative stuff there at TLU in Vegas?

Przemek Lubecki:

Yes.

Michael Cowen:

Do you do it any other places?

Przemek Lubecki:

So it's all up to Dan. He books it. He generally is running those boot camps in Vegas.

Michael Cowen:

Okay.

Przemek Lubecki:

So all those boot camp dates are available on the TLU website. So if anybody's interested, go to triallawyersuniversity.com. You can go online, figure out what dates work for you. If none of those dates work, you can call Dan and try to schedule training maybe at your firm, if you have enough people who are willing to join, or you can have your trial lawyers association and your state call him. I'm sure he's willing to travel. But just like what we did at the Paséa, here in Huntington Beach, I got here on Saturday three or four days before the conference actually started, and we did a three full three-day boot camp of essentially 10 hours a day of doing voir dire, opening presentation skills and cross exam, and then I did two full days of teaching during the conference on essentially just a chunk of the presentation skills opening chunk for those guys that wanted to do that separately.

Michael Cowen:

That is so awesome and so glad... You're taking a lot of time out of your real job. It actually pays you money to do that too.

Przemek Lubecki:

Yeah, but you know what? Honestly, teaching as I'm sure you know too, because you teach so much all over the country, teaching makes us better lawyers. Oh, absolutely.

Michael Cowen:

Yeah. So are you able to help develop any of the lawyers at your firm too?

Przemek Lubecki:

You know what? So in my firm, me and two other lawyers, Lauren and Abby are the primary, seems like the trial attorneys at our office. That's something that I would love to implement. I have sort of a little Friday session, Friday evening, where I meet with lawyers in New Orleans and teach some of Dan's boot camp skills. And so we have a rough group of approximately 15 people. There's a core of four or five that typically show up any one time and we work our way sort of in smaller chunks of the material. But after a year and a half of doing it, I mean, I've got guys that have made tremendous progress and they're going to be killers when they get into the courtroom just by putting in a little bit of work every week.

Michael Cowen:

Yeah, that's so important. I mean, we do training every Friday. We just got our courtroom about a month ago in the office, which is so nice. But yeah, frankly, I love trying cases, but I don't want to try 10 or 12 cases a year like I used to. I want to try no less than two, no more than four. That's my sweet spot. But my law firm needs to try more than four cases a year so I need to get my other lawyers all where they can all go try a case.

Przemek Lubecki:

Right. And they all eventually need to have the same ice-cold blood in your veins to be able to go and do it the way that you do it.

Michael Cowen:

Well, unfortunately, to get that ice-cold blood, you need to do two things more than once. You have to win, you have to know you can do it, and you have to lose and lift because a lot of the fear, it's like when you're in an airplane the first few times there's really bad turbulence, it's scary as hell. But then you realize after some point, "I'm not going to die. I've done this before. I'm okay." And that time with trials now is like I work really hard to be ready for trial and I do everything I can to win the trial, but I don't worry about it because I have no control over whether... I'm not in the jury room. I don't control whether I win or lose. I can have a greater chance of losing because I screw it up. I can have a greater chance of winning because I'm doing it right, but I don't control it, so I let it go.

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.

Przemek Lubecki:

So I love this conversation, Mike, because what you're saying fits exactly into that three sphere of performance model. Because we have to stay... At trial, we have to be process focused. We cannot think about the outcome, because again, the outcome is going to up our anxiety and is going to push us more into our conscious mind.

Michael Cowen:

Right.

Przemek Lubecki:

And so the only time I think that we can think about outcome is months or many weeks before the trial as motivation to do the work that it's going to take to win.

Michael Cowen:

But you just do the work and you do it enough times and sooner or later you'll win.

Przemek Lubecki:

So I have not heard your airplane analogy before, but I'm going to steal it because I think it's such an apt analogy in a sense that you just have to sometimes just buckle down and get through it, but it's ultimately about the stories that we tell ourselves about the performance that we had. So we can lose, but we just can't dwell on that negative. We have to apply the correction, figure out how to fix it, and be sort of positive coaches of ourselves.

Michael Cowen:

Yeah, no, you want to learn from it, but I give myself 24 hours to mourn.

Przemek Lubecki:

Yeah, I've heard you say that before, I think.

Michael Cowen:

And then you just have to go onto the next one because let's say you're an NFL team and you lose one Sunday, it sucks, but you got to be back at practice Monday morning because you got another game coming up. Or you lose the Super Bowl, you think you're not going to try to win the next year. It's like, "Oh, I got to the Super Bowl, but I lost, so I'm just going to quit playing football." No, you go next year and you try even harder and sooner or later it's going to be your year.

Przemek Lubecki:

Yeah, Hating losing is probably a mark of a great trial attorney.

Michael Cowen:

Yeah.

Przemek Lubecki:

And I have been gutted by losses before where you really love the client and you really want the best for them. So I don't know that I'm quite at 24 hours yet, but I'm working towards that.

Michael Cowen:

I give myself permission at 24 hours. I'm not saying that I don't have a little bitterness, sometimes it flows through, but I'm really working on the... This is when you have permission and after that you just have to let it go. Hey, that case is gone. There's nothing I can do. God gives me so much energy every day. I can spend that energy on things that I can do something positive with, or I can spend that energy dwelling on things that already happened.

Przemek Lubecki:

I love it. I love it.

Michael Cowen:

It's kind of like, this sounds really mean, but those of us who did not have a perfect childhood, it's like I can give those things the power to define my rest of my life, or I can say, "Okay, that sucked and I'm going to go on." I think it's the same thing with trial losses. It's just like, yeah, they suck. I'm not going to pretend like it's good. The only one that haunts me, and I was actually associate, so I wasn't the decision maker, but we took a zero verdict with \$1,200,00 on the table once on a very impoverished widow with two kids. That one still haunts me. It wasn't my call. I would've taken it. But unless a client is harmed... Most of the time when you don't win a case, it's your ego because the offers are almost always... The cases we end up trying, the offers suck. That's why we're trying them. I mean, when they're offering our clients millions of dollars, usually they end up taking it.

Przemek Lubecki:

And a lot of times they make it easy for us.

Michael Cowen:

They make it super easy.

Przemek Lubecki:

And at that point, the karma is all on our side of the case, which those are the easier cases to try.

Michael Cowen:

Yeah.

Przemek Lubecki:

The cases that are hard to try are when they're evaluating it and you've got some issues in the case, and then you still have to go and try to deliver for your client. But again, I think you're 100% right as far as focusing on the positive correction of it and just using maybe that bitterness, or the sting, or the being gutted by that loss as motivation.

Michael Cowen:

Well, to me, it empowers me because I know that, okay, I remember the first time I lost a case and I had a hundred thousand dollars in expenses. I thought the world was going to end. I thought I was going to be broke, that nobody would ever refer me a case again. Nobody would ever hire me again. And then a month later, I'm still there and I'm not out of business. And two months later, people were still sending me cases and...

Przemek Lubecki:

Something to be said about the man in the arena.

Michael Cowen:

And you're like, hey, you realize the worst happened and I'm still here. I don't have to fear the worst anymore.

Przemek Lubecki:

Yeah, yeah. I mean, it's like that old man in the arena code.

Michael Cowen:

Absolutely.

Przemek Lubecki:

But ultimately, everybody, including the other side, is going to respect the hell out of you if you go in there and you get after it and you give them a run for their money. Win or lose, again, being process focused and then learning from it and coming back again and doing it again.

Michael Cowen:

And the more focused you are on what you're doing, instead of the fear of winning or losing, the more likely you are to win, ironically.

Przemek Lubecki:

Right? Yeah.

Michael Cowen:

When you let go, it just shows you're really uptight. You don't trust the jury. I said, "These are good people." I just tell myself, "These are good people. They're here. They want to do the right thing, so I'm going to trust them to do it. I'm going to leave that to them."

Przemek Lubecki:

So in the voir dire training and the opening training, we give cues to sort of help people out with the physicality of whatever they're doing.

Michael Cowen:

Yeah.

Przemek Lubecki:

And one of those cues is is that when you're looking around and you're connecting in the eyes with the jury, you have to like what you're seeing and so your face has to communicate that to the jury. And so you have to have gratitude in your heart or they're going to feel your anxiety and they're going to feel uncomfortable. I mean, how many times do we let's say see a speaker who's anxious or who's nervous, and there's near a nuance, it makes us feel uncomfortable. And so we never want to be in that situation

with a jury. We want to be the leaders in the courtroom. And the best way to do that is to be kind and to have true gratitude in our hearts for them being there to listen to our case and to stay and hear our case.

Michael Cowen:

Also, when you tell the defense lawyer, isn't it awesome that we get to be here and do this? This is a blessing, and they don't usually feel that way, and it freaks them out. I'm always telling them, "Isn't this fun, man, I cannot believe that we get to do this for a living. This is so awesome." And then, "Have fun guys." And then they're just like, "What the hell?"

Przemek Lubecki:

And so again, I came from Poland. So for me, becoming a trial lawyer in America, I mean an American trial lawyer is a dream.

Michael Cowen:

You already won.

Przemek Lubecki:

And so for me to be able to go in a courtroom, and I felt the same way when I was working. A lot of the cases I tried as a defense lawyer were... The first however many I tried, were property damage only cases to a six man jury. But I'm still getting the reps of talk to the jury, picking a jury, doing opening, crossing, closing, just getting those reps without a whole lot of anxiety because the cases don't matter that much, right? I mean, they matter to me.

But when I look back, and in the hindsight, I'm proud of that. I loved representing people. A lot of them at that time were Polish immigrants, Mexican immigrants in Chicago who had never really had anybody fight for them, even on a silly case or let's say they're defendants on a bodily injury case. Let's say there's a legitimate liability dispute. I loved representing the people. I didn't feel like I was representing the insurance company.

Michael Cowen:

But you're not supposed to be representing.

Przemek Lubecki:

You're supposed to be representing the people. Good correction there, Mike. Thanks for catching me. But yeah, representing those individuals and having their voice be heard and sort of giving them inklings of, "Hey, this is justice in America. You're going to have a lawyer who's going to go to town and try to defend you or try to prove your case." So that's why, again, I regard those experiences so positively in my mind.

Michael Cowen:

Now that you're on the plaintiff's side, you've had a ton of great verdicts, seven-figure verdicts, even an eight-figure verdict. Anyone that you're really proud of you want to talk about?

Przemek Lubecki:

Yeah, so my last trucking case that I tried, it had a punitive component. There was a driver driving for CEVA, a multinational logistics company who was delivering a load of auto parts from Texas. He was delivering a load of auto parts from Texas to Southeast Louisiana, and he had taken Xanax.

Michael Cowen:

Oh, my God.

Przemek Lubecki:

And so I got into the case about a month before the trial, figured out some of the FMCSA issues. I actually called Dan, and Dan put me in touch with a couple guys like Joe Fried and his partner, Nathan Gaffney. Gaffney, and also Jay Vaughn, who helped me out with some of those concepts that right off the bat, it wasn't apparent or clear to me as to what the rules really were because you can drive on an active prescription so long as it's within the load that you're prescribed, and the medical examiner has blessed off on it.

Michael Cowen:

That's a big if, if it was Xanax.

Przemek Lubecki:

Right. Right. So in this instance, the driver had had prior jobs where he was allowed to drive on Xanax by the medical examiner. He had lied on his application to CEVA, but CEVA, of course, had not done their due diligence in checking the prior employment records. He also had a deteriorating driving history with CEVA where they should have pulled him out of service. And so we were able to cobble together from all the depositions, essentially a very sorry opening of a teaching section, the story of CEVA and what they did wrong that made the conduct and the ultimate crash foreseeable.

And so that was really the power in the case. I used a lot of the concepts I've learned here, and I learned from following Sari as far as the voir dire and how I built that whole section out, figuring out how to voir dire on the punitive aspect of the case, the exemplary damages. And so for that, the only real creative ideas that I had had on the case were to butcher paper two different boxes for the compensatory damages and for the punitive damages. And so how I voir dire it on that is I drew on the left side of the paper. So I just sketched it out and I practiced doing it because I'm not the best artist, a windshield. Sort of like a little trapezoid with a head. And I said, ladies and gentlemen, imagine a woman is driving down the road and there's a child standing on a bridge hurling rocks down below onto the highway.

Then on the other side, I drew a poison bottle like the skull crossbones in the poison bottle, and this is after I already fleshed out punishment. Why do we punish children? All the purposes for it, et cetera. And I said, do we only punish the child if the rock actually kills this woman or do we punish the conduct based on the propensity for the harm that may happen?

Michael Cowen:

Right.

Przemek Lubecki:

Because in my instance, the actual damages, the compensatory box wasn't all that big, but the punitive conduct was so reprehensible both by the driver and by the company for essentially having a loaded 80,000 pound missile drive through a school zone at 7:30 in the morning-

Michael Cowen:

With the driver on drugs.

Przemek Lubecki:

With the driver on drugs. And so the jury really coalesced around those two principles, and they all to one said, "We punish the conduct," and they gave me all the reasons for why we punish to prevent, to teach, to instill character in our children. Then I fleshed it out into the how do we punish companies? And so obviously money was a discussion that we had. And what was so powerful about that is that later on in closing, when it came time to discuss those two boxes of damages, I reached into my briefcase and I unfurled that big butcher paper rustling the paper around, and I didn't have to re-explain it. Everybody knew because their memory was already indexed to that discussion on voir dire.

Michael Cowen:

It also came from them, not you, which makes them... It's so much more persuasive to tell people they're right than to convince them you're right.

Przemek Lubecki:

Yes. And that was just a nice moment to sort of be able to open it up on voir dire and close on it and for it to just feel good because we have such a righteous case.

Michael Cowen:

Absolutely. Now, just because not all of our listeners will have worked with Sari de la Motte or listened to Sari de la Motte, so you talked about a teaching section and opening because not like the traditional David Ball Reptile opening doesn't necessarily have a teaching section. So what do you mean by a teaching section?

Przemek Lubecki:

Well, so a teaching section is essentially a very sort of aspirational part of the case where we usually through (30)(b)(6) typed up corporate depositions, are able to establish what the rule set is as to what ought to happen in a safe company. What does a safe trucking company do? They do their due diligence before they hire the driver. They train them, they supervise them, they make sure that they're not involved in other crashes. If they are, they give them retraining. And so in this case, CEVA essentially screwed that up eight ways from Sunday. Every which way they could, there was a red flag, which is part of the closing argument that I had put up on the board, where every single one of those infractions became a red flag for the jury that visually also let them know that this should not ought not have happened.

Michael Cowen:

Yep.

Przemek Lubecki:

And so later on, when you then describe as to what actually happened, the story of the case or the story of CEVA, the company, the jury is writing the rest of the story in their mind.

Michael Cowen:

Absolutely.

Przemek Lubecki:

Going, something terrible is going to happen. I don't know what it is quite yet, but it's going to be bad. And in this case, my favorite moment in the trial was an opening where we had the 9-1-1 tape of a driver who reported the truck speeding and swerving shortly before the crash. And so after the story of foreseeability, the story of what happened in this case stopped at the moment in time right before the crash where I played the 9-1-1 tape, and I mean, I got goosebumps. You could hear a pin drop in the courtroom and everybody was on the edge of their seats.

Michael Cowen:

Yeah. They know what's happening. And that's the great thing about the teaching section is because you teach what should happen, and then you tell the story of why it didn't happen. But you tell the story where they come to the conclusion on their own. The defendant did wrong before you say the defendant did anything wrong.

Przemek Lubecki:

I'm not advocating at that point.

Michael Cowen:

And it's so much more powerful when they come to the conclusion on their own. And then when you say they're like, "Oh, no shit, Sherlock," that's what you want. You want them to be almost annoyed like, "Yeah, that's obvious. You don't need to tell me that. They did wrong. Come on, let's move on."

Przemek Lubecki:

Yeah. It's the same way that when I'm trying to teach my kids something, if I tell them something, yeah, maybe they believe me, maybe they don't, but if they experience it themselves or I sort of lead them to the water, but they drink it themselves and they make it theirs, it's so much more powerful.

Michael Cowen:

Absolutely. So how'd the trial turn out?

Przemek Lubecki:

Twelve and a half million dollars.

Michael Cowen:

Oh, my gosh.

Przemek Lubecki:

On \$18,000 of past specials.

Michael Cowen:

Wow. A lot of lawyers would've settled that case for \$30,000, \$36,000.

Przemek Lubecki:

Yeah.

Michael Cowen:

That is incredible. Well, that is just inspiring. It makes me want to go back to trial on Monday.

Przemek Lubecki:

Well, I take inspiration from you, so it's only fair, Mike, that I give you a little bit of a nudge too. [inaudible 00:38:17] time.

Michael Cowen:

Well, man, it's been so great talking to you. I could do it all day, but I got to get back to work.

Przemek Lubecki:

Yes. Yeah.

Michael Cowen:

And you got to get back to the conference. So I look forward to seeing you at TLU in Vegas. If I don't see you at ATA in September.

Przemek Lubecki:

Right. I'll probably be there as well.

Michael Cowen:

For everyone that hasn't signed up yet, I also have my Big Rig Boot Camp July 12th in San Antonio, Texas. You can sign up at bigrigbootcamp.com. We're running out of spaces, so I hope to see you there.

Przemek Lubecki:

And I've heard great things about your program. I've got a bunch of friends in Chicago that are going to Big Rig Boot Camp, so if I don't make it myself, I'll get some reports back from those guys.

Michael Cowen:

Absolutely. Well, thank you all so much and join us next time on Trial Lawyer Nation.

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