Michael Cowen:

This is Michael Cowen, and welcome to Trial Lawyer Nation.

Voiceover:

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

Michael Cowen:

Today on Trial Lawyer Nation, we're joined by a very good friend and a great trial lawyer, Joe Fried. Joe, how are you doing today?

Joe Fried:

I'm doing great. Thanks so much for having me. I always love our time together, Michael.

Michael Cowen:

Thank you you for coming on and before we dive in, as always, I want to thank our sponsor, LawPods. LawPods just worked with you and me to do all the work and try to make a sound and look as good as you and I can possibly sound and look, they make it easy.

Joe Fried:

Best in the business. As you know, I do a lot of these and you do too, and they are the most conscientious in the business, from my experience.

Michael Cowen:

Absolutely. So let's just jump in. Is it your third or your fourth time on Trial Lawyer Nation? I don't remember.

Joe Fried:

A few times I've been here. I was one of your first people. I remember that.

Michael Cowen:

You were.

Joe Fried:

And then I think I did a second one and I think this may be the third.

Michael Cowen:

And you just got a nice verdict on a case. One of the first cases ever tried like this against Amazon.

Joe Fried:

Yeah, and let me start off by giving the primary accolades to my law partner, Michael Goldberg, who was the lead on this case. He's the one who worked it up, but I came in a few weeks before trial to help kind of strategize the final push and then present the case.

It's a case, what makes it unique and particularly interesting for lawyers is it's the second case in the country and the first in Georgia, where the issue was presented on whether Amazon should be held responsible for the conduct of drivers of delivery services who are doing Amazon work. And of course, Amazon's position is those drivers are not only independent, but they work for a totally separate company than Amazon, so Amazon shouldn't be responsible for them. So it was an interesting thing and I'm sure we'll jump into that.

Michael Cowen:

I want to clarify that, because I'll confess that there are vans and trucks with the Amazon smile on the side of them that come to my house pretty regularly and the person wearing an Amazon shirt drops a box off at my front gate or my front door. Are you saying that those people don't work for Amazon?

Joe Fried:

They don't. Almost none of those people, maybe none of those people work for Amazon, as far as I know. And so you have these sort of two kinds of Amazon cases. This one is the one with the people who are delivering to your home or your office, as compared to the 18-wheelers. And we can talk about those as well, but that's a different kind of case from my perspective. Has some similarities but also some differences.

So these are the ones where those vans, some of the vans say Amazon on them, some of them don't say Amazon at all. Many of the people are wearing Amazon branded clothing or a vest or a badge, some of them aren't. But yeah, they don't. Whoever is coming to your door, Amazon's position is, they're not Amazon. They're totally and completely independent of Amazon, according to Amazon. Yeah, it's obviously it's a huge issue because as you're not the only person who has Amazon coming to the house. I spoke to would be jurors who said, "I think Amazon comes to my house two or three times a day." So yeah, it's obviously it's the new way that people shop.

Michael Cowen:

And they've gotten more sophisticated because I know Federal Express and theirs it was more like labor and employment issues, but they used to claim that all their drivers were independent contractors and they just pay them on the 1099 and the state of California said, "No, they're not. They're your employees because you control them." So I think Amazon does the same thing. They had people create a corporation in the middle so that Amazon or FedEx pays the corporation, then the corporation says that they employ the driver and pays the driver. And so Amazon wants to make the profit but then not have any responsibility when something goes wrong.

Joe Fried:

Right, I think you summarized it really well. I mean, it's I think in terms of solving a logistical problem, what Amazon has done is nothing short of genius. Now they borrowed some of the key concepts from FedEx who was doing this earlier, in terms of you think of those vans that come to your house that say FedEx on them. We could have a whole webinar on those as well, but in Amazon's case, what they've done to solve the logistics problem is truly amazing and innovative and brilliant.

The only real hesitation I have with it is two. One of them is, the program itself puts tremendously unreasonable expectations on the people working in the system. So these poor men and women who are driving, the pressures that are on them. And in our case that we just tried, this 21-year-old driver had 187 deliveries scheduled for the day of the incident. He was between I think 142 and 143.

Michael Cowen:

In one day?

Joe Fried:

In one day, and that's when the wreck happens. So they're under tremendous pressures and so Amazon created that. So I have a problem with that degree of requirements on these people who are out there trying to make their deliveries.

And the second thing that I have a problem with is you create this amazing system and then you want to run away from it as soon as something happens, somebody gets hurt. Instead of standing in there with everybody else and saying, "Yes, we created it. Yes, we have a lot of control over it." They pretend and they do it in an arrogant and bullying kind of a way, that they should have no responsibility for it. And that's why I was so proud of not only my client and I can tell you why, because he stood there in the face of a $3.5 million offer and said, "No, we're going to trial." And on one hand... The other hand, so proud of these jurors who, they got it right and they listened and they really made a statement with their verdict from my perspective, and we'll get into some of that.

Michael Cowen:

So we've got the setup. So Amazon, they're telling the world that we will deliver to you, you can even get live tracking sometimes or you get tracking updates from Amazon and where your package is. But then they've set up this structure where technically the drivers are hired by a third intermediary company. What are the legal theories that you can use to hold Amazon responsible in this kind of situation?

Joe Fried:

Well, there's probably several that you could use. I think the most traditional one is a situation where you're trying to establish agency and you're doing it especially in this kind of a situation. Remember, this driver, he's already the employee of a company that is the service provider. So the question is, can you hold another company also responsible? And while there are differences in state law, this would be governed by state law. So there are going to be nuanced differences from state to state. All states, I believe, at least all that I've looked into, have the concept that whoever controls the time, method, and manner of the actual work being done should share at least in the responsibility. And it's possible for someone to have technically more than one employer at the same time.

So you could have, the easiest way to think about it or the cleanest way that people are most used to thinking about this, is think about what happens when people are employed through a temp agency. You go to Ronstadt or whoever, let's just call it temp agency. I don't want to pick on anyone in particular, and

you are an employee of that temp agency, but the temp agency now puts you in Michael Cowen's law firm to work. And so the temp agency is the one who's paying you. They're the ones who interviewed you. They're the ones who are taking care of your benefits. They're the ones who are tracking your time. They're the ones who are doing all those things.

But when you're assigned to work in Michael Cowen's law office, the people at Michael Cowen's law office are telling you what to do. They're the ones who are controlling really, what time do you get there? What are you going to do? How are you going to go about doing this? I don't want you to just write a letter, I want you to write this letter. I want you to include this content. I want you to do these things. You're going to abide by these policies, these procedures. Almost like while you're in my house, you play by my rules. Well, the same, the law recognizes that conceptually as creating an agency relationship. Right?

So in that kind of a situation, if now Michael Cowen's temp employee goes and gets in a wreck on the way to do something that God forbid, something for you, Michael, then there's potential liability not only on behalf of Ronstadt, the employer, but also potentially Michael Cowen's law firm. And we'd have to look again at state-specific law, but just about anywhere you go, there's going to be that concept of agency. So theory one is a control theory, and specifically that regardless of what it might say in a document like a contract which always says you're an independent contractor, we have to look beyond that and say, "Who is actually doing the time method and manner controlling in the case?"

In our case, we also maintained that Amazon undertook the duty to train the driver and that they were negligent in that because they failed, while they trained on all kinds of things, our position was they failed to train on two important things in our case. One of them was, what do you do when you encounter young children in residential areas when you're driving? Something that every delivery driver who delivers to residential neighborhoods is going to come in touch with all the time. Interestingly, in our case, the driver got that training but not until 17 days after the incident, and Amazon took the position that that was just coincidence that that happened that way.

And the other thing that was important in our case is, the driver was driving a rental van, not the typical van, and so it didn't have the setup that is mission critical to the way they do and organize and teach and train these drivers to do the deliveries. There's a very dedicated system that has shelves and bags and the way you set things up in your van for efficiency purposes, and also for safety purposes. So in our case, the van driver was doing the best he could, but he was using the front of the van, including his extra seat in the front and the dashboard and everything else, to kind of be his prep station. And so you got all this stuff piled all over the place and there was an argument that potentially that made it more difficult for him to see this young child who ends up getting hit. I haven't told you the facts of the case, but that's what happened in the case.

Michael Cowen:

And before we get into the facts, just a few other things. I kind of want to talk about the big overall picture about, I mean, obviously this case is going to be important to the family, but why it's really important to the practice and the-

Joe Fried:

Absolutely.

Michael Cowen:

... future practice. And so I think two huge points. One is on the agency, is that we have to remember that agency's not limited to the legal employee relationship. I mean, employers are responsible for the

conduct of their employees because of the agency, but anytime you have that control or right of control over the details of a person's work, then you create that vicarious liability principle agent relationship. And then two, negligent undertaking, especially when you have multiple corporations or even multiple entities that are related corporate entities. I mean, you can make so many claims through, if you undertake to do something, you have to do it right. Because once... If Amazon says they're going to train your employees, why would some little mom and pop company... I mean, they're not going to come up with a better training program than Amazon, they're going to rely on it. And so these are really important things.

Joe Fried:

Well, not only are they going to rely on it, but they're required under the contracts in this case to rely on it. They're required, they can't do anything inconsistent with that training or they'll get in trouble themselves.

One more interesting point when we talk about themes and theories, is that one of the things that we learned from this case is that people really do, when they learn the pressures that Amazon's system creates on drivers, it's almost like, you remember back when Domino's got in trouble with their 30-minute guarantee?

Michael Cowen:

Yeah.

Joe Fried:

And they got in trouble because what happened was, while it sounds great from a marketing perspective, it creates the wrong incentives for drivers. I mean, if you've got to get there in 30 minutes or you're going to get dinged and have to give your pizza away for free, then you are more likely to speed. You're more likely to come to an incomplete stop at a stop sign. You're more likely to be distracted and be pushing and whatever else. And people really reacted too, and for good reason.

I mean, you couldn't help but feel sorry for this young guy in our case who says, "Man, I get there in the morning. I get my big gulp and my sesame seeds," not sesame seeds, "My sunflower seeds, and I get ready to rock and roll." And this guy had been working his butt off over 100 deliveries that day before this happened. He hadn't taken a single break and he's pushing. And so we didn't have it in our case, but for those cases in the future, I'm recommending including some type of a systemic cause of action for, they create an unsafe environment by virtue of the requirements that they put on these drivers. And man, there's no question that our jury reacted to that. They didn't really have a place for the outlay, for that to outlet that feeling and I think it somewhat comes out in the negligent training verdict line, because that's the only line that's against Amazon individually.

So to put a highlight on your point that you said, remember, you got the agency side gives you vicarious liability, but look for ways to also have direct liability that's not dependent on the driver's action. It's dependent on Amazon's choices in how they set things up, how they train, how they monitor, and those kinds of things, which I think are viable claims depending on the circumstances and the facts of your case.

Michael Cowen:

Yeah. Just to give the case a little more context, can you just tell us what happened in the actual, that crash? What-

Joe Fried:

Yeah. So first let me say, interestingly and uniquely, this is not a case that any of the facts were captured on any videotape.

Michael Cowen:

Wow.

Joe Fried:

None of the things that you and I are trained to look for in engine control modules, telematic systems, all those kind of monitoring systems, no data at all that helps us with this case.

So what you have, is you have a delivery driver and then you have four very young people. You have a four-year-old, two five-year-olds, and then the kid who got hit is eight, and that's your whole witness. That's all your witnesses, right? So what we know for sure that happened in the case is, I mean, if you jump to the specifics that you can't really argue about is, van hits kid who is crossing a residential, really small residential street.

The little boy is on a electric bike that looks like a dirt bike, it's little. And what we know for sure is van going slowly hits boy going slowly. We know that from the reconstruction. He knocks the boy down, runs him over, and the boy gets pinned between the bike and the ground and the van. His leg is against the ground. He gets dragged for 21 feet, he breaks his pelvis and he gets what's called a de-gloving injury to his leg, which sounds like what it sounds like. It's like a glove being pulled off, but in this case the glove is all of his skin and soft tissue and some of the muscle in his calf, and kind of from the knee down, kind of just he gets skinned. That results in him having to have some pretty significant skin grafts and wound vacs and those kind of injuries.

Thankfully for him and his resilience and just the circumstances and his hard work in getting back, he's left with, after about six or seven months of really intense kind of therapy and difficulties, he's left with a very severely scarred leg that requires significant care, which also poses some issues for him potentially for the future as he grows. But he has full use of the leg and they thought that the TikToks and the YouTubes that they had of him doing back flips and jumping off of rope swings and running around the neighborhood in his shorts and all that, they thought that that would carry the day for them, but so he had a tough injury with a very good recovery that leaves him with scarring. And kids are cruel, so all the stuff that comes from that, from an emotional side, so that's what we know happens.

Okay, so what the driver says happens is he's pulling down this residential street and this is a double cul-de-sac. Literally, it's a T-bone, a street that T-bones into a double cul-de-sac street. So the only people who come back here either live there or they're delivery drivers. I mean, that's pretty much it. There'd be no other reason to go back in this area. So there's kids all over the place, right? And so the delivery driver who's 21 years old and one of the nicest people you'd meet, he says, "I'm coming up. I see these young people near the street, it looks like they want to cross the street. So I stop my van. Three kids cross. I thought it was clear. I start to go, I hear a scraping noise, I stop immediately. I look over, the little kids are on the side of the road are wide-eyed and I jump out and I look and there's this eight-year-old who's lodged underneath. I never saw him before it happened." That's what he says.

There was an adult neighbor caretaker who was supposed to be watching everybody who says that within five minutes before this happened, she ran in, she's one of the moms in the neighborhood. She ran in to go to the bathroom. At the time she ran in, the kids weren't near the street, they were playing on the swings in her yard. The electric bike was in her garage. And so it was that kind of a scenario.

So there was an agreement from... Each side hired a reconstructionist who largely agreed on the speeds and the whatever. What they disagreed on is, was the little boy coming from the left or coming from the right? And they each had a theory as to why it ended up the way it did under the thing and with the wheel turned and the way, and they could not agree.

One important thing that we did in the case and turned out to be really super important, is we did a reenactment where we got an exemplar van, an exemplar little bike, and an exemplar kid, and who was the same height. And we had him go in front of the stopped van in each direction. So we said, "Let's do it the way our reconstructionist said, let's do it the way their reconstructionist said." We mounted a camera in there that was looking straight ahead, and then we did it again with the camera mounted looking in each direction. Right? So look this way and look this way. And what the reenactment showed, which was mission critical for us, is that whichever way the kid was coming, he was visible to be seen, unless packages on the dash blocked the view. So that was important.

I think a teaching point, Michael, is you've heard me say, in fact we were talking about this, we were texting back and forth about this just a couple days ago. The idea of being careful what you undertake to prove in a case. A lot of plaintiff lawyers would've made the mistake of saying, "We have to prove that our accident reconstructionist is right." And the reality is, is on the issue of which direction this boy comes, if you've got the burden of proof and you're the plaintiff, you're going to lose, because two really good accident recon guys who each have 30 years of experience disagreed on that. And neither one of them were BS-ing. Neither one of them was being intellectually dishonest. I know both of these guys and neither one of them are being intellectually dishonest. They actually like each other in the real world. They just said, "The other guys that ding bad, he doesn't understand this." Right? So the other side, in our case, Amazon and the DSP, were fighting so hard to prove that their guy is right and we're wrong, when that's not the issue.

And so it's important for us on our side, frankly, it's important for people on both sides. Take a step back from the fight and say, "What are we really fighting about?" And when you're the plaintiff, be really careful because if you accept the gauntlet being thrown down... Another place we see this all the time is dark vehicle in the roadway ahead, truck hits it in the middle of the night. And the issue is, were the flashers on or not on, or were the lights on or not on? I know we've talked about this before, Michael. I'm building my case assuming the lights are off. I'm assuming they're right, so how can they be a hundred percent right and I still win, right? You've heard me say that before. So the way that applies it here is to not get sucked in to it.

And in fact, we said, "Jury, if you'd like to totally disregard our acts of reconstructionist, let's go straight on their reconstruction and that he's visible." The issue here is whether or not he's visible, not which side he's coming from. Hopefully that makes sense, but I think it was an important teaching point.

Michael Cowen:

Try your case, try your best. Don't let them pick the case you try. Don't let them pick what you fight over.

Joe Fried:

That is such an important point. Our mutual friend, Josh Carton, always says, "If you're explaining, you're losing."

Michael Cowen:

Yep.

Joe Fried:

And I think that so many of us, and I'm sure I'm guilty of it and have to slap myself to remind myself of this, we just get in this mindset. It's almost like this five-year-old defensive mindset of, if they say it, I got to disprove it. And most of the things, we really don't have to. So make sure that you take that extra step and some of you are listening to this, you're doing it right now in your case, I promise you. Go look at your case and you'll find, oh my gosh, I'm seeking to under... It's on the damages too. I mean, we have times like when people who handle herniated disc cases. I always say, "Well, I have to prove the herniated disc." No, you don't, and you're a fool if you undertake in a herniated disc case to prove that the wreck caused the herniation. I hate to say it to you, I'm on a podcast, I hope it's not thrown back in my face someday. You can't prove that unless you have a film before and a film after, you can't prove it.

But here's the good news, you don't have to. Unless you undertake to prove it, you don't come in and say, "I got to prove the herniation." What you're going to prove is that whatever it was herniation or no herniation, there were no symptomatology, there's no limitations. There was no detriment in this person's life before this. No limitations in their life. And then the wreck happens and either the herniated disc was there and it gets aggravated, or it wasn't there and it gets herniated. But either way, I don't know and I'm not undertaking to prove it. I'm just undertaking to prove that before there were no limitations and now he's got limitations. And more likely than not, either one of those things gets us to liability. So hopefully that makes sense for everybody.

Michael Cowen:

Yeah, it makes sense to me. So, why did you do a recreation, rather than an animation?

Joe Fried:

First of all, if I were Michael Goldberg, I could answer that question, but I'm Joe Fried and I was not involved in that. But I think that the rationale in this case was that we wanted people to actually be able to see an actual exemplar bike, an actual... When you think about it, this could have been done either way and probably to the same ultimate effect. So I don't know that one is better than the other, but in this case, it was nice to have a real boy. It wasn't just an avatar on a screen, although the avatars on the screen are sometimes more realistic even than the real thing. I mean, it's almost like hyper-realism. And then you can change the perspective once you build the model and you can look at it from a top down view and a side view and this view and that view. So those are nice. I'm doing that in a case right now that's a crossing case. We're doing it this way, but in this case, this is the way Michael chose to do it, and it was very effective.

Michael Cowen:

Yeah, I think when you can do a recreation, there are some cases where you just can't safely do a recreation. Let's say it's like someone coming at 40 miles an hour and there's a pedestrian goes to the crosswalk. You either would have to stop so far back, car.

Joe Fried:

You got to pay that guy a lot of money to get there.

Michael Cowen:

But outside of safety concerns, I really do think that a physical video of human beings or objects is so much more persuasive than a cartoon that you could modify. Obviously good experts won't do that, but there's always that suspicion with the jury, well, you created it, you can make it look like whatever you

want. As opposed to actually being in a real van with a real person around the same size. I just think it's more, when we can do it ,more persuasive.

Joe Fried:

I agree with you. I think creating something like that, I agree. And in this case it was very effective and I'll tell you where to me it was the most effective, is defense acts and reconstructionist on the stand. What we did is, okay, so here you don't take issue with what we did, in terms of the animation. You just say it came from... I mean, the simulation or recreation, you just say he came from this side and not this side from the right side. Yes, yes.

So we pulled up, Michael pulled up the animation and he said, "Okay, so this is the view where the guy's looking straight out the window, not to the right, but looking straight. I'm going to press play and you tell me where to stop, where you believe the impact occurred." Okay? So you press play and it goes 1,001, 1,002, 1,003, and he goes, "Stop." And so he said, "Oh, you went a little tiny... There was a tiny bit, back up a tiny bit." So tiny, he got it exactly where it was. He said that's where it was, right? So then Michael pointed out, so all the way from here when we started, all the way to where when you said stop, this kid was visible to be seen. And the guy goes, "Yeah, unless there's packages blocking the view," which is like-

Michael Cowen:

Wow, that's so great.

Joe Fried:

So it was like he ended up having to concede because of this. He had to concede that what most likely happened is that this driver is watching the three young children cross the road and he just doesn't look back to the right, or he looks back to the right, but his vision is obscured by boxes on the dashboard. And we had video that came off of the officer's body cam that you could see packages stacked up on the dashboard from outside. So we know there were packages there. So that's how that all came in.

Michael Cowen:

Which is a crazy place to put packages.

Joe Fried:

It is, except if you have... I mean, imagine if you have 187 deliveries to make, and that's not packages, that's places you got to stop. Some of them have more than one package, and you don't even have shelving in the back. So you're trained, they're trained to have a staging session where when they make the delivery to your house, when they come back to the van, they're trained to set up the next delivery. Right? So it's all there, it's done, they know what it is. So then they get to the next place, they jump out and do that one, and there's a staging and staging, there's like staging for the neighborhood. So we get the bag for this neighborhood out and we get it all set up, and now we stage between each stop.

But when you're in a rental van, they give these guys no direction, there's no training on, how do you deal with it then? So he's just doing the best he can. He's got stuff spread out everywhere in here just trying to figure it out. And he's trying to explain, "So my system is on the floor immediately to my right is this, and then on the seat is this, and then on the dash is this." And so he had to figure that out himself, which I give him great ingenuity points for, but that's negligent training when you have that kind of a situation. Right? So that's why it was an effective claim.

Michael Cowen:

So I think we've talked a little bit of how you proved that the driver was negligent, that the driver should have seen the child if he was looking and didn't have a bunch of packages blocking his view, which is something that whether he was trained properly or not, something that shouldn't have been done.

Joe Fried:

Michael, just real quickly, we did not tell the jury which of those things that we thought they needed to believe. We said either one, either one, either one.

Michael Cowen:

What evidence did you do then to show that Amazon was responsible?

Joe Fried:

Okay, so at that point, remember, we have this Amazon negligent training claim, and then we have this Amazon agency claim. And so the agency claim centers on control and specifically, control of the time, method, and manner of the actual delivery of the driver's conduct. And so what we did was we pre-trial. Depositions had been taken of Amazon and of the owner of the delivery service provider, and of the driver. And there had been lots of things that we had done initially to try to be able to prove this up. Because remember, and we should talk about it at some point, Amazon is really, really, really aggressive, in terms of their confidentiality of trying to control anybody being able to see how their, according to them, secret sauce is done. So everything is confidential.

So what we ultimately did at trial was we used the delivery service provider owner, who was a nice guy, retired military, who prior to becoming an Amazon delivery service provider, which he took great pride in being his own business, his independent business, he had never had any experience in the delivery service providing business. He had never owned a delivery service, he had never worked at a delivery service. He got bought into. And I honestly think, I know this is a pejorative term to say, I mean it in a pejorative way, frankly, this is kind of the modern day share cropping or tenant farming concept, because this man was sold by Amazon on this bill of goods of, you're your own independent businessman. You have control over your thing, and there's nothing that that guy controls.

And so we had to get into, with this guy who had a lot of pride in being his own businessman, we had to kind of... And this is another thing that I learned tremendously from this case is, my first few questions to him was, "Sir, I want you to understand, nobody here is here to take away from you that you own your own business. Nobody here is saying that Amazon replaces you as the employer here." I said, in fact, I asked him, I said, "Did Amazon train you as part of the training? They trained you on everything else. Did they tell you as part of that training that under Georgia law and the law of most states, if they control the time, method and manner, then they can be responsible in addition to you?" Right? And he said, "No, no, no, no one ever explained that to me." I said, "Well, that's what the case... That's why I need to talk to you about control." And he had obviously been trained and prepped to not acknowledge control.

But then what we did was we went through, there were several documents that includes an agreement, and then a series of policies and procedures that are adopted by direct reference into the agreement. And then there's additional Amazon DSP program materials, including an operations manual, that just lays out what we believe demonstrated control. And it's everything, on the DSP side, it's everything from literally what kind of business it needs to be, to what its name is, to how it handles payroll, to how it handles paid time off, to how it handles policies and procedures, to how it handles discipline, to how it handles payroll. All of the stuff is dictated by Amazon, and Amazon has not only control by dictating it, but then also requires access to all of it. So the DSP has to provide Amazon with direct access to their

payroll, direct access to their policy and procedures, direct access to... Very intertwined. That's on the DSP side.

But now get to the driver themselves, because we felt like we needed to establish that Amazon controlled not only the DSP, but also the driver himself. And on the driver himself side, we were able to establish that in addition to the stuff that was coming through the DSP, Amazon monitors these drivers, they train the drivers. They have the power to require that driver to be disciplined. When I say that, it's that the disciplining actually happens by the DSP, but Amazon literally says to the DSP, "Hey, your driver violated this policy. This is what we're requiring of you to discipline or retrain that driver. And by the way, if you don't do that, then you're in violation of your agreement and you're going to get dinged." Right? So I'm going to step away for one second just to show you what I-

Michael Cowen:

I heard there was a chart somewhere, I don't know if that's what you're going to show me.

Joe Fried:

The chart I can pull up, but this was, I didn't ultimately use it, but this is what I was going to use at trial.

Michael Cowen:

Oh, a puppet.

Joe Fried:

A marionette, and what I was going to say is, this is Amazon here at the top, this is the DSP, and this is the driver. And I bought this of course from Amazon, and so what I was going to say is this is Amazon, and they're saying, "We don't control the driver, we just control the strings. We just control the DSP." Right? So I was making the point that that's a ridiculous argument. If you control the strings, you control the driver. So the concept is really a marionette concept. So that's what we were able to establish that, and we can get into a bunch of detail on this if you'd like, but the short version is that Amazon controls everything by training the driver on what to do, and then controlling the disciplinary process, and controlling the apps.

And the magic of Amazon is they're a technology company, right? So they control everything with apps. So from the minute the person gets to the facility to start operating, all the way until they're done with their deliveries, it's all controlled by this app. The driver has to make input onto the app, but the app is telling the driver what's next for you. What's the next step that you need to take? What's the next process that you need to... Everything from, take a picture of that on the doorstep, get in your van, step on the gas, step on the brake, step on the... I mean, literally it's that detailed. And so they're monitored.

We felt that the evidence was pretty overwhelming, and it's why Amazon fights so hard to keep that stuff confidential. Every DSP signs off saying they're going to maintain the confidentiality under penalty of ridiculous consequences. You're signing the equivalent of an NDA, even from the time before you've even signed the contract on how this all works. But at the end of the day, the way it works is what I've already said. I mean, there's the professing on the beginning of it that says you're independent and it literally says, "You're in control of your drivers and their dot, dot, dot, but there's part, there's really no part of this that you're in control of." So it's a farce, and yet what they've done is they've created this amazingly sticky employee in the owner of a DSP. Right? That DSP has contributed, they feel like they're an owner. They buy in, they work really, really hard, following every step of the way what Amazon requires of them.

And my wife's one of the most conservative people that I know, and when I read her the list off of that chart of all the things that Amazon controls, she literally, her comment was, "What does Amazon not control?" And I said-

Bingo, yeah.

Michael Cowen:

What did the jury ultimately conclude?

Joe Fried:

So it's super interesting, Michael, because what they concluded was that Amazon was directly responsible to the tune of 85% for the negligent training piece, and I want to talk about that in a second. But then the other 15% was they said 10% against the driver and his "Employer," and they had a special interrogatory where they were asked the question whether Amazon is included in that or not. And then 5% they held against the adult who ran inside to go to the restroom and came back, or was inside when the incident occurred.

So when you look at that, it's really interesting. Right? Most of us would assume that this case is really about showing first and foremost how negligent the driver is, and that's actually not true. In this case, our emphasis in the case, our focus, our whatever the right word is, was to show that this driver really was, and the DSP really were kind of victims of this Amazon system and apparently, the jury agreed with us in that regard.

So I think, what I said, I wanted to talk about this. Think about it this way. There was the jury could have found against the dad of our kid who was riding, which was the fact that Amazon went after him. They found zero against him, but the fact Amazon went after him was such a mistake. I mean, our client not only salt of the earth good dude, but the guy, literally, he was home. What he does for a living is he works with counselors who work within the foster care system.

Michael Cowen:

Oh, wow.

Joe Fried:

He was home taking care of a two-month-old foster child, literally in arms himself. Not like when I say I took care of my kids, I was home while my wife was taking care of my kids, right? This guy was hands-on with a two-month-old and they're going to make that guy into a bad parent? And by the way, he testified that he had supervised his child learning how to use this bike and becoming proficient at it until he felt that he was safe to operate it beforehand. Amazon took the position that what was required of him to be reasonable was he should have read the owner's manual on the friend's bike. He should have read that. Now, who the hell does that? I mean, talk about creating an unrealistic world.

And that the bike, this is kind of funny because the bike is this tiny little bike, and, but the manufacturer says it should be used by 13-year-olds or above. And so on the caregiver, they went nuts on the caregiver saying, "You bought this bike for your 5-year-old when it's designed for 13-year-olds," and they went crazy. Well, literally the morning of that testimony, we find out that she bought the bike from Amazon.

And so that morning we look on Amazon's website, literally the morning, this is in the middle of trial. You know how that is, when things happen at trial and you go, yeah, I should have thought about that a year ago, but I didn't. Right? So literally that morning on my iPad, I'm pulling up from before the date when she purchased it, all of the reviews and they're like, this bike is way too small for a 13-year-old. This is

perfect for a four to 6-year-old, and there's pictures of four year olds riding the bike and all these kinds of things. This is a great starter bike for a five-year-old. This is, my nine-year-old can't use the pegs anymore because his legs are too long, but he still loves it.

So when she's on the stand and she says, "Yeah," I mean, she... and Michael in crossing her says, "By the way, did you look at the reviews?" She goes, "Oh yeah, I looked at the reviews," and we didn't know what she's going to say. She said, "Yeah, I looked at the reviews and man, those reviews are why I bought it." There's little pictures, who Michael was able to give her, they objected. These didn't come into evidence, but he was able to show them to her and say, "Yeah, these are the reviews," because it goes to explain conduct, right? So it's not a hearsay. And she said, "Yeah, look at these. It says four to 6-year-old, it says this kind of stuff."

So that was like, God is good. I mean, this was like a divine moment in the trial where we got to come in later and say, "Okay, so they're bitching about this lady buying the bike for her five-year-old when they have reviews on there that says that's good to do." And they didn't take any of those down, they've been on there for years. So they incentivize you to buy it, and then if you buy it, they're going to come in here and call you a bad parent for buying it. So that was kind of fun.

Michael Cowen:

What did the jury find on this, as far as who the employers were?

Joe Fried:

It was stipulated that one of the employees was the DSP. And so the question was simply, and I'm actually looking at the verdict form now. The question is, it says, "Relationship between Amazon Logistics and the DSP and the driver," and it says, "Select one." And they could either select an Amazon Logistics exercised control over the driver and the DSP, such that it created the relationship of employer-employee. And this judge, because we kept using the phraseology, employer-employee, this judge charged it that way and would not use the word agency. So I would recommend to people, agency to me is broader than employer-employer. I would recommend that you use and explain this terminology more in the... using the terminology of agency. But in our case, we were able to equate those two things. We told the jury you can have more than one employer. The truth is, you can have more than one employer but the real issue is whether or not Amazon, whether or not this driver should be deemed an agent of Amazon, which is all a control question.

So they check that box. They could have checked that Amazon had an independent contractor relationship with the DSP and the driver, that was the other option. And then they checked the box on, we find for the plaintiff and against Amazon on negligent training. And then they did an allocation, and then they awarded this young man had $206,000 in past medicals, no future medicals. They awarded the 206 and they awarded four million for past pain and suffering and 12 million for future pain and suffering. That's how it played out.

Voiceover:

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

Michael Cowen:

So you've got a lot of issues potentially in this case. I could see someone making this a complicated multi-week trial because you have the whole, how does Amazon train people? How did the crash happen? What kind of control do they have? What kind of apps? What are the damages? How long did it take you to try the case?

Joe Fried:

We started, I believe if memory serves, and it's all on CVN if people want to watch the trial, but I believe that we got through jury selection and openings on Monday, and I believe that evidence actually started Tuesday morning. So at like 9:00, let's just say 9:00 or so Tuesday morning. And we closed our case Wednesday at lunch, so before the jury left for lunch.

And during our case, this judge, and you know how it's different in different parts of the country and different judges, and even in different cases, some judges will let the defense put on their case during your case. Meaning, if you put on a... like the driver, for instance. When we called the driver for the purpose of cross examination, many judges would not then allow Amazon or the DSP to examine that driver, they would have to do that in their case. The judge in this case allowed it to happen. So not only did we put our case up in basically a day and a half, but that included all of the direct or other peripheral crosses by... Because I mean, the fallacy in the courtroom is that there's independence here, right? So they have two different lawyers. So like when we put up the driver in our case for cross examination, Amazon was allowed to cross examine that driver as if he was an opposing party, which it was obvious he wasn't. He had been trained by Amazon what to say, but they got to do all that.

So once we closed on Tuesday, I mean, on a Wednesday afternoon, Wednesday at lunch, the only thing left for Amazon to put on was their accident reconstruction expert, the adult caretaker neighbor they put on. And then we didn't know if they would put on Amazon's corporate representatives or not, because we made the choice not to in our case, which was kind of an interesting thing we can talk about. But so we tried the case, basically our case came in, including their examinations of the people we put up, went in in a day and a half. So pretty quick, Michael.

I mean, and to your point, it's not about speed. It's about we made a decision of... The way I like to think about it is this. When you're trying a case, you're employing the jury to do some or a number of very specific things. It's worth taking time to get ridiculous clarity around what it is that you need those jury to do. And then that should be informing your presentation of your evidence. By contrast, the way I used to do things and the way I was really trained to do things was, if it's good for me or bad for them, it goes into evidence. Well, that's not me anymore, because that's a recipe for a two-week or three-week trial where we felt like making it very, very direct, like this was the way to go.

We did not do overkill on damages either, in the case. Of course, we didn't have that much to do, frankly, on damages, but we didn't. There were two doctors testified for a total of about 45 minutes, that was already done in the can on video so they were about 20 minutes each, 20, 25 minutes each. I don't even think, I'm sure that both of those together, I think were actually like 47 minutes long in total. That included the cross-examinations of those witnesses. So we didn't spend a whole lot of time, we didn't show a lot of graphic pictures. We introduced a lot of pictures without publishing them to the jury. We just said, "These are there for you to look at if you'd like to." There was no, none of that stuff that usually just takes a lot of time to do. So the case went in very cleanly and very quickly, from my perspective.

Michael Cowen:

Why did you choose not to play the deposition clips from the Amazon corporate representatives?

Joe Fried:

One of the things that we were struggling with trying to figure out is when we were thinking about showing control, we felt like what we needed to do is show that this relationship was first and foremost, different than a typical independent relationship. And then secondly, we'll show specific control. So what we tried do, we took a corporate representative deposition of Amazon, as it related to their relationship with other carriers like UPS, that was excluded. But the idea was to show that they don't have any control when they hire one of those. The idea was to show if Amazon were going to give Amazon packages to a DHL or a UPS or a FedEx, they don't get to put apps on their phones and monitor them and discipline them and do all these other things. So that was excluded.

The deposition of the person who was the corporate rep in our case, I wasn't involved at that point, Michael took that deposition. And of course, sometimes when you take those depositions relatively early on in a case before you have it really fully developed out, the deposition doesn't read as well as when you're... Even though you spend the time and you do it, and I mean, I'm a big proponent and you are too of, you don't wing these depots. I mean, these should be, these are a trial. You're getting ready for trial. Every time you take a corporate rep depot, you try to do that. It just wasn't very clean. It was longer than you'd want it because we were learning at that time about concepts, because we didn't even have some of the documents that we ultimately later had to get. So it was just not as clean. And then, so what we did is we weren't sure if we were going to play or not.

Oh, by the way, before, the third corporate rep was on training specifically, and he did get played. It was a short deposition on training, and I'll tell you about that one in a second. But as to the control issue, we waited until we put the DSP up first. And I went through all of the control stuff with the DSP, and then literally it went well for us and in about 45 minutes, I was able to go through maybe even a little less than that, all of the key documents. And I didn't go page by page through. I picked the things that I wanted to establish control. And it was like, for instance, I would say to the DSP, I would say, "Amazon told you Amazon had the right to force you to change the name of your company if they didn't like it." He'd say, "Well, no, I don't think that that's right." I already put in the documents, I'd say, "Pull up whatever, whatever." I'd read it to him, I'd say, "Did I read that correctly?" "Yes." Then we'd go to the next point, right?

I mean, so he would fight me on these things, but then I would just show the contract and show, this is what you agreed to, this is what you agreed to, this is what they have the power to do. And so 30 to 45 minutes of doing that, that's a lot. I mean, we went through dozens of provisions that showed that.

So what happened was at the end of that, we were like, okay... And this is something I credit Michael. Michael's a great trial lawyer, and one of the reasons I love trying cases with him is he's really one of the few people in my world who can come to me and say, "Consider making a game day change right now," and I will give it a lot of thought. Whereas most people come, I'm not changing things. And the same is true, the relationship is bilateral. So I can go to him and say, "I don't think we need this witness." And we believe, I believe, and I think you would agree with us, that every witness is a two-edged sword, right? The ones that you think you don't have anything to be afraid of, those are the ones you better be afraid of because something's going to happen and you just don't ever know when you put somebody up.

So in this case, the DSP went in really well with the final question being, "So you agree that while you had some control as the employer, Amazon also had the same control, so you both had control." And he said, "Well, I don't like the word control, but yes." And so to then put on another 45 minute to an hour, I mean the next witness was really going to be Amazon to kind of sandwich this all together, but to do that, we just said this jury got this.

And so we sat there and said, "What if we don't put them up? What's our risk?" So we first look and see before... We already had this epiphany before, so we thought, okay, so there's some exhibits that we want to get in through him. Let's see if I can get them in through the DSP. If I can't, then we may have to

call him just to get these exhibits in. But I was able to get everything I wanted in through the DSP, and then was able to get the testimony that was helpful to us.

And so then we started thinking also, if we don't put Amazon up, we believe Amazon wouldn't put Amazon up. And so then what's the optics of that in front of the jury? Amazon doesn't even care enough to put a real person up in front of you to talk about this case. And that's what happened. So they had a rep in the courtroom who was just a risk manager rep. So that we knew they weren't going to... We thought about calling that rep and saying, "What are you here for? Who are you? Why are you here?" We didn't do that and I'm glad we didn't at this point, although it would've been a lot of fun.

And so I know this is a very long-winded answer to your question, but there was a lot that went into the decision and it was the right decision to not do it. And what I'm proud of is, it was on the order of proof, this was the plan. And what I'm proud of is having so hard to keep awareness during trial and to have the awareness to say, "You know what? Don't need it. Let's play this out in our mind and let's change the plan." I think that's the kind of trial lawyer I always want to be, is one that has that level of awareness and I'm not so wed to what I've decided to do that I can't make a game day change. And I know you feel the same way, Michael.

Michael Cowen:

Absolutely. I mean, Federal Judge, it's probably a Texas thing. A Federal Judge told me a long time ago, "When you hit oil, you to stop drilling. When you..." So you're in the courtroom, you're feeling that you're... And it's a lot easier when you're not the one asking the questions, honestly, to get the feel for it.

Joe Fried:

That's why I said what I said about it's nice to have the relationship with somebody who is a trust relationship. Unequivocally, Michael and I have each other's back, right?

Michael Cowen:

Yeah.

Joe Fried:

We've been doing this together for a long time, but it's really nice. And speaking to the people in both sides, if you're the lead or if you're the not lead, that's what you want, is the kind of relationship where it's not an ego call, it's just, what's best for the case under these circumstances? And boom, you go for it. So, I think that was the right call to make.

Michael Cowen:

I want to turn now to damages. So what did you ask for and how'd you come up with a logic of what to ask for?

Joe Fried:

Well, that, objection. Presupposes things that didn't happen.

Michael Cowen:

Okay.

Joe Fried:

So here's the unvarnished reality. First, number one, we ask for the money in opening. We almost always do that, and I say almost because now my default is to ask for the money in opening. Whereas it used to be that my default was I'm scared as hell to ask for the money. I'm going to wait as long as I can, and maybe even if I can get away with it, I'm not going to even open my mouth about money until after the defense has gone and I get to get up in my rebuttal and do it. Right? Some courts will let you do that, some won't.

But now for the last close to approaching a decade, we shifted that around. And so you burst the bubble early in things. And if people think the number is very big, well, you give them time to get over that feeling. Whereas if you don't, you wait until the end, it's like boom. It's like, holy smokes. I mean, you just got punched in the gut with this huge freaking number and they haven't had a chance to digest the number. So even in this case, being only a few days long, there was a few days for the jury to digest the idea of a case being worth $25 million.

Number two, there's a fallacy that I believe in, and you and I have talked about it before. I don't know exactly where your feelings are on this, Michael, but I know parts of this you will at least agree with. And that's number one is, what I've learned is that jurors, no matter how intelligent and worldly they are, they have no idea what the value of a case is. To the tune of a million or five million, five million or 10 million, five million or 25 million, they don't have an idea. And I know that sounds crazy and it sounds like I'm being pejorative towards jurors. I'm not. I'm just being observant of what I've seen in the world.

And so I've believed for a long time that plaintiff lawyers have a tendency to over try our cases and one of those places is in our ask for money. If it's the right number, how much justifying do you really need? And if it's the right number, what does that mean? Who gets to tell them it's the right number? So this has to do with being credible and if you are the credible voice in the courtroom, you say a number, then by God it should be given at least very serious consideration.

So all of that is a precursor to say, when Michael had come up with the $25 million number, had come to me, we started talking about it and I said, "Why is it worth that?" And he said, "Well, I just think it's worth that. I mean, I think it's a lot for a kid to go through and da-da-da." And my honest feeling was that the number was high and I'm usually the one who people are saying that to, not me saying it. But I thought, wow, that's a lot for this case, but it's Amazon and I get it, and we're going to be the credible voice in the courtroom.

So Michael tried a couple of arguments to me to try to justify. I said, "Michael, if you believe it's the right number, you can't get here with a per diem because it's just really hard to do." And somebody on this thing is going to look, sure you can. I'm not saying you can't do it. I'm saying the fallacy is to think that that's going to create more credibility, but a lot of times it doesn't create more credibility and you're now actually asking people to delve in and start to take apart these numbers. The more you ask them to do that, the more I think it becomes cognitively, you become cognitively aware that there is no system. This system doesn't make sense in a lot of ways.

I mean, how do you translate deficits of emotional things to dollars and cents? There's always a disconnect. No matter how you do it, at least I have not found a way to truly connect it up. You can say big is big and small is small, you can do all those kinds of things. But now when I say let's convert this to dollars and cents, there is not a clean conversion there. Because nobody says, "I love you $25 worth," at least not in the trades that we're going to talk about. Nobody says, "I've got a $45 headache going on right now." That's not the way we in the real world equate value and damages.

So we did not try to justify the number. In fact, Goldberg got up in opening and he said, "You're going to hear what this has been like, and that's a $25 million injury in this case." And if they don't think that that's true, then they'll tell you that's not true. And they got up and they basically said, "Look, it was a bad injury, but the kid got better. And you're going to see YouTube videos and TikToks of him doing back

flips and jumping off of rope swings." And so they really tried to minimize it, but then in close they said that they thought that it was a $2.5 to $3.5 million dollars case, which was really helpful to us.

So my rebuttal close, I got up and I said, "Look, they're trained. They come in and they put a number on and they... You've heard me make the argument, the low anchor argument, where basically it's they know that they want to pick a number that's big enough to when you hear it, you go, wow, that's a lot of money. But they know it's a fraction of the value of the case. And what I suggest is that what they want you to do is take their number, take our number, add them up and divide by two. We ask you not to do that." But if you now go and you go and do, look at the math that they did, well, it's not exactly, but.

Michael Cowen:

They get closer to yours than theirs.

Joe Fried:

It's pretty close to what they did. So that's another long-winded answer, but I wanted to really own the idea that from a teaching point, I think we have a tendency to over try to justify our numbers. And the more you try to justify, it's back to that you're explaining you're losing. The more you try to justify the number, the less it is.

Interestingly, in this case, the defense lawyer came up after and said, "Where the hell did you come up with that number and why didn't you try to justify it?" And the honest answer to him was, "How do we justify it?" He tried to justify it. He started putting per diems out and stuff on his number, and we just got to get up in the rebuttal and say, "He's talking about these things. How many thousands of dollars per hour or week or month or whatever. This isn't about days or weeks or months. This is about the next 60-plus years of his life. If you put those kind of numbers that he's talking about on that, the number is going to be $100 million dollars. We're not asking you for that."

Michael Cowen:

That's probably why our Texas Supreme Court is now requiring us to justify the number.

Joe Fried:

Well-

Michael Cowen:

We actually, in Texas only, we actually have to come up with a justification tied to the evidence. It's making it trickier to try cases because you can feel the difference when you're talking to the jury about, you're talking about a number that they don't necessarily have a problem with, but then you try to make it a per diem and it becomes more problematic.

Joe Fried:

The good thing is that you are part of an amazing bar in Texas of really creative and smart people, and I'm sure that you guys are think tanking, what are the best ways to do this? My off the cuff feeling is that you still do it. My training like yours is whenever something like the legislature changes something, I say, "How can this end up being a blessing for us?" Right? So the question, but instead of, whoa, poor pitiful me, that doesn't really help us very much to stay in this victim mentality. So I'd actually love to be a part of that think tank, and how do you argue it to satisfy the judicial requirement, but to not step into the quagmire that our tendency is going to be to step into because of fear?

Michael Cowen:

Yeah, I mean, we have a seven and an eight figure verdict since then, but I think on the seven, it may have been an eight without the per diem, or at least with a different per diem argument. But I mean, you never know. Yeah, no point re-litigating trials that have already come through, but it's something I'm working on.

Joe Fried:

Except to learn, except to learn from them.

Michael Cowen:

Exactly.

Joe Fried:

And so it'd be interesting, I'd love to be a part of it if you want to lead on it. I'd love to be a part of, I think pulling together some focus groups-

Michael Cowen:

Absolutely.

Joe Fried:

... to do that. That's the way I think we would best try to learn how to do it.

Michael Cowen:

And I'm fixing to actually purchase your trial from CVN and use that as part of my firm training, so. We just resolved an Amazon case when I'm sure we're going to have many more, and just the general trial.

Joe Fried:

It really is for those who are watching who don't know, I believe that Amazon cases are the future of trucking and transportation cases. And I say that both ways because we're dealing with the delivery vehicles are not technically commercial motor vehicles for the most part. There are some exceptions to that. But then you have the whole side, and maybe we'll do a talk on this sometime, Michael, but it's what they call the relay cases, and that's the 18-wheelers that Amazon has set up a system that we say also is a control based system. Where you have motor carriers who are forming for the sole purpose of doing Amazon work, 100% of their revenue and work comes from Amazon. And then there's this pretending that Amazon doesn't have influence and control in that situation, which is just as absurd as these DSP cases.

So, Amazon is really good at stopping these cases from going to trial. That's why when I said before that our client was a rock, it's not easy in a situation like this given the damages that were in the case. It takes a special person and some people would say something different than special, but it takes a special person to say, "No, it's important for this to be known. It's important." They tried to make him out to be a bad person because he agreed for CVN to record this trial, because you're a bad parent because your child's medical condition is going to be out there. And how bad do you feel about your kid if you're broadcasting it to the world? And so they tried at every opportunity to make him be a bad guy. And you know how that is.

The old adage is a good plaintiff makes for a good verdict. I'd add to that. A good plaintiff who the defense goes after in ridiculous ways makes for a great verdict. So the defense playing into that is a big part of it. They should not have gone after him at all in this case. They should have said, "You're a victim of your neighbor screwed up, but you didn't screw up. You're a great guy, man. You're a foster parent, you're da-da-da-da-da."

So, but this was a fun trial. It was really interesting to me to see that. It's obvious to me that the jurors really feel like this world that Amazon has created is one where, that has unreasonable expectations of these people who are delivering their packages and they create it, they require it. They try to create this distance that separates themselves from it. And I think it's offensive to people of intelligence when they see, get a view behind the curtain.

And my closing argument, I'd be very careful, I didn't want to miss try the case after it went in the way it went in, but I did get to tell the jurors at the end, "This is a super important case and what makes it a super important case is you have had one of the rare looks behind the curtain at what Jeff Bezos has created. For our community, you're the ones who have gotten to see this. It's usually sealed up and confidential and nobody gets to look at it. And so you get to be, you are the jurors, and it's not a coincidence that each one of you are here. You get to make the decision for this community, whether given this that they've created, given the amount of control that they have, is it fair to say to the DSP and this driver, 'You're now on your own?' So this isn't only about being fair to the plaintiff in the case. What we're asking you to do is also we believe most fair to the DSP and the driver who have been made to live within the system. And then Amazon is now saying, 'No, no, no, you're on your own.'" I think that that resonates with people.

So at the end of the day, super proud of my law partner Michael, who deserves the credit for this result. If not, I mean it was also, I think divinely inspired in many ways for the reasons that we've talked about. I think, I know it's not popular to say it this way, but I think God showed up here and part of that strength, in fact, he would say all of that strength client would say is all because of his faith. And the jury got it right. There's so much bitching about the jury system and the implications sometimes as they're not really all that bright. And in my experience, even if you have some people who aren't that bright, the wisdom of getting 12 people together and if you can get them to care and they cared, I mean obviously in this case. You get them to care and look at it, there's a wisdom that comes out of it that actually to me has always been impressive.

I started seeing juries when I was a police officer way back in many, many more than three decades ago, and I saw it then, and I continue to see it as late as this last trial. They don't always get it right, but usually they get it right. Sometimes it takes me a little while to agree that that was right, because I wanted to see it through my lens, but they did a great job in this case.

Michael Cowen:

I could talk to you all day, but there's kind of a normal kind period for a podcast. Usually 45 minutes to an hour, we're already well over an hour, but there are some more opportunities coming up. You teach so much, but to learn from you and specifically on these issues. I know at the Academy of Truck Accident Attorneys on September 25th to 27th in Nashville, you're going to be talking on the Amazon case?

Joe Fried:

I am. I was either being smart or being stupid when I set myself up to speak about Amazon just before a trial. I figured if I lost it would be that kind of a talk. If not this, then yeah. I'm going to speak at ATAA and my shameless plug for ATAA is if you do anything in commercial transportation and you're not a member of ATAA, you're missing out. It's a nonprofit, I was one of the founders, but I don't make anything from

the organization. It's got an amazing group of people that will... Amazing resources for you, it's very inexpensive.

So I'm going to be speaking there on Amazon along with some other people, and I'm also going to be speaking on Amazon at TLU, which you're going to be at as well. And among other things at TLU, I'm going to do a section on Amazon, and I'm also going to do a section on two other things. One is on the trucking side, I'm kind of going back to the basics. And for folks who are really just sort of more novice at this, but they really want to know how to do these cases, as opposed to just referring the cases. I'm going to come back to some of the basics and really make sure people have a strong foundation in how to build your traditional left turn, right turn, dark kind of cases, the basic basics. And hopefully that feeds into what you're doing at TLU, Michael, you're doing-

Michael Cowen:

I'm doing a master class and I'm having it... we're doing it Wednesday the 16th of October, so it's a day before a lot of the main lecture things go. And part of it is, you're doing a thing on what they call speed trial, but it's really how you try a case and bring it down, and you Sach Oliver are doing a presentation, program that Thursday. And frankly, not only did I not want to go up against you, I also wanted to sit in the audience and learn and take notes during your presentation. So we're not on at the same time, which is really nice.

Joe Fried:

That's great.

Michael Cowen:

But yeah, I'm doing a trucking master class. So I'm doing a combination of things you need to know, resources you have to do trucking cases, along with some things on how to build a trucking practice and how to make your practice support you. And then just because it's something I'm really into and I think it's been a major change, I'm doing some mindset stuff of how you get a mindset where you can enjoy this practice and enjoy going to trial and handle the ups and downs and still have a life. So I'm really looking forward to it. That's the Trial Lawyers University in Las Vegas, October 16th through 19th. You can go to TLUlive.com and sign up. I'm really looking forward to seeing you also at both these programs because I really enjoy our time together. It's living in different states, we don't get enough time together as friends.

Joe Fried:

We don't, but you are. I mean, for people who don't, I know obviously everybody who listens to this knows you and knows you probably pretty well. But if you've not, I've watched what you've done on your master class stuff in the past. I've watched, I was beside you as a friend and a confidant while you were writing your book and while you were developing out the... What people don't maybe know is that when you developed your masterclass, you developed it first as internal training for your own people. We didn't collaborate, it's all your stuff, but I got to see what you were doing. And anybody including me, and I'm having people come to TLU from my office who will, I guarantee you be in your audience to watch your masterclass and it's well advised for people to watch it. And if you can't do it live and you're part of Ambrose's community, watch it on your own time, but and then also please come to ATAA because it's a good time and it's a lot of great content. So those are my plugs, Michael.

Michael Cowen:

I'm presenting there too. I've got a fun topic, as far as all this new technology and when and how to bring claims against motor carriers if they don't use it. And I think more importantly, when not to bring claims against motor carriers when they don't use it.

Joe Fried:

It's the hardest thing for us to teach, right? Is the, just because you can doesn't mean you should, concepts.

Michael Cowen:

That's one of the quotes in my paper I'm writing right now, so yeah.

Joe Fried:

Well, awesome. Well, Michael, thanks so much for having me. I appreciate you jumping on this so quickly with me and really support what you've done. It's been fun for me to watch you from the beginning of this endeavor, and you've made a huge difference by bringing all kinds of folks. I haven't gotten to listen to all of them, but I've listened to many and always learn something. I always take away, and you've gotten a lot better at this frankly, I mean, as well in the approach. And I think it's probably helped you on the lawyering front also. In a strange way.

Michael Cowen:

It's made my direct exams much better.

Joe Fried:

Well, thanks again. I appreciate it.

Michael Cowen:

Yeah, Joe, thank you for coming on and everyone thank you for listening to Trial Lawyer Nation, and please join us next time.

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Voiceover:

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