

An Arm and a Leg Transcript: S4-Ep07 David v Goliath

Published Oct 29 2020

Note: Some of this transcript was machine-generated, so there may be typos. We're doing our best!

Dan: Hey there. As we put this episode together, we're less than a week from a big, stressful election, and meanwhile, the COVID pandemic is ramping up in kind of a scary way. Wow. It may not be a bad time for a little bucking up, and just a really fun story. So: This is possibly my favorite David-vs-Goliath story we've ever done.

Jeffrey Fox got an outrageous bill for a simple test. He said to his wife, "No way am I paying this."

He went to small claims court. All by himself, no lawyer. Fighting the University of California, which operates UCLA hospital. And he won.

Because the thing is: Small claims court is kind of his home turf. He's done this a bunch of times, and he's beaten other Goliaths there.

Jeffrey Fox: You know, I've sued Microsoft and a lot of them related to my business and I won every single one of them

Dan: And not just Goliaths.

Jeffrey Fox: I sued a computer company for \$65. And I told him, I said, you're going to end up paying me 151. So court costs are added. Now I didn't take a day to drive down to court for \$65. I happened to actually have other cases there

Dan: And for ANY given case, he says the actual money at stake isn't the main thing. He's thinking long term: the point is getting better at ... well, at standing up for himself.

Jeffrey Fox: I did it just for the experience again and again, as soon as the company, seeing how they react so that if the bigger cases come, I've got that much more experienced.

Cause every time you go into that court, You watch the other cases you hear the judge say different things.

Dan: You could say it's like how some people do Iron Man triathlons, or ALL their own home repairs, whatever. There's an appetite to rise to a challenge, to keep learning, to get a little stronger and more self-sufficient all the time. Some people bake super-elaborate pastries. Jeffrey Fox defends his rights in small claims court.

But it's not just a hobby. For one thing, there's usually real money at stake, and he wins.

For another, he says he doesn't do this only for himself.

Jeffrey Fox: I like to do it so that I, have foundation on which to be able to encourage others, to learn how to do it and do the same thing.

Dan: Oh, yes please.

This is An Arm and a Leg, a show about the cost of health care. My name is Dan Weissmann-- I'm a reporter, and I like a challenge, so my job on this show is to take one of the most enraging, terrifying, depressing aspects of American life-- and yeah, 2020 is STILL keeping the competition for the top spots pretty fierce, but what the heck I'm still claiming it-- and produce a show that's entertaining, empowering and USEFUL.

I'm definitely leaning in to the useful part these days. This show is a school for financial self-defense. And today we're gonna learn some MOVES from Jeffrey Fox.

It's worth asking: What's the recipe for a guy like this?

Well, if you look at his actual career, you get a big clue: You'll see a super-independent streak. And the confidence to take on things most people wouldn't do.

His first job out of college? He played poker for a living.

Jeffrey Fox: one day I just kind of sat at the table and here's my 21 year old ego. And I thought, am I really willing to, to think that I can't outsmart all these people?

Dan: He knew he was good at math. But it wasn't all ego: He worked at it-- studied the odds, studied the psychology-- and he tested it out. It worked, which was a big rush at first.

Jeffrey Fox: when you're 21, your friends are like, ah, that's so cool.

Cause they're getting jobs. Right. And they're starting to work and there's a lowest rung . And I'm just like, yeah, I'm a poker player. And they're like, that's so cool. You can do whatever you want. But you know, by the time you're 24, they're like, so you're just going to play poker your whole life?

And who— how do you have a good answer for that?

Dan: Especially because day to day he didn't really feel like he was living the dream.

Jeffrey Fox: it's not a healthy lifestyle. You're up at all hours of the night.

Dan: And it's not the STEADIEST income, even for the best players. There's luck involved.

Jeffrey Fox: Otherwise the bad players wouldn't ever find it satisfying. If they never had a winning session, once in a while, they'd stop showing up.

Dan: One day a friend asked him if he wanted to learn to build a computer, just for fun. He was like, SURE! Next thing he knew, he was doing little computer jobs for people, and liking it.

Jeffrey Fox: it was amazing to go to somebody's house and do a little work for him. And I earned, I don't know, like \$45, but it was nice that he just gave it to me and I wasn't at risk of losing \$45. You know, I couldn't go to someone's house and replace the CD drive and it's like, boom, you lost a hundred bucks

Dan: That was more than 20 years ago. His business has been through ups and downs, but he's an independent IT consultant, been in the same one-person office for a long, long time.

So that's a BIG independent streak. A lot of teach-yourself to do-it-yourself. That's one big element.

And then there's this: The influence of his dad, who died when Jeff was 20.

Jeffrey Fox: my dad shaped me. Even even, you know, in just 20 years.

Dan: For one thing-- and this may seem kind of on-the-nose-- Jeff's dad was a lawyer

He had a very-narrow specialty-- workers-comp cases for federal employees. Very technical, not a lot of money in it.

Jeffrey Fox: But my dad liked it because you go in the office, you go pile through the paperwork, you get your work done, you go home

Dan: Jeff started working in his dad's office when he was just 13. He took a typing class at school, and his dad invited him to come take dictation.

Over time, Jeff ended up doing more than just typing.

Jeffrey Fox: I remember shortly before he died, he even just was sitting there looking at a stack of papers. you know, Jeff, you could probably handle these for me at this point.

Dan: So Jeff was pretty familiar with the law as a process -- full of technical details-- from a young age.

He followed his dad down another path too: Jeff's dad was drafted into the Korean war, then spent 20 years in the military before starting his law practice.

And after 9/11, Jeff did something that not every college-educated kid in LA thought to do: He enlisted.

Jeffrey Fox: I just saw the news reports of Americans that were parachuting into Afghanistan. I was like, you know what, I'm almost 30. And I'm perfectly fit, so I should be with him.

So that was pretty easy for the recruiter when I walked in.

Dan: He stayed for 12 years, did three tours in Iraq and Afghanistan. Met his wife in Baghdad, she was a soldier too.

So, yeah-- if you were going to cast somebody to be the type to make a personal practice of using small claims court to take on giants like Microsoft or UCLA-- who might hope he can serve as an example to other people-- Jeff is the person:

Super-familiar, super-comfortable with the law as a PROCESS. Jumping through hoops, filing papers in the right place at the right time, understanding the structure of a legal argument, all that stuff.

A confident, independent streak: Sure, I could play poker for a living.

And a strong commitment to principle: I'm gonna go enlist after 9/11 because I think it's the right thing to do.

And: I'm gonna fight this bill, and I'm gonna win.

And: maybe I can teach other folks to stand up for their rights too.

This is the teacher we've been waiting for.

And here's his first lesson: The other side-- no matter how big they are, and no matter what they say to you -- doesn't actually get to make the rules. Not the LEGAL rules.

Jeffrey Fox: One thing they always do is: They always try to make it seem like their policies apply to you. They're like, well, no, our policy is blah, blah, blah. I'm like, I don't care that doesn't, you know, contract law, the concepts of contract law and what I actually owe you, what a court would say, I owe you is what applies.

I don't care. I remember saying, okay. "Well, my policy is you pay me a hundred dollars every time you say something stupid. So does that apply to you? If it does, you owe me about 400 bucks already. Keep going."

Dan: He says sometimes the person on the other side listens. Other times... He says this is how he ended up in court with UCLA hospital.

Jeffrey Fox: when I talked to UCLA, I can't tell you how many times they would go. "Well, let me explain how this works. Your insurance company allows us..." Listen, listen, I understand how this works. Stop misdirecting! You billed too much

Dan: And how he got from THAT conversation to... satisfaction? We've got the details, which are hilarious, and the lessons, right after this.

MIDROLL

Dan-Track: This episode of An Arm and a Leg is a co-production with Kaiser Health News. That's a non-profit news service covering health care in America. Kaiser Health news is not affiliated with the big health care outfit Kaiser Permanente. We'll have a little more information about Kaiser Health News at the end of this episode.

END MIDROLL

Dan: So, OK, Jeffrey Fox's fight with UCLA hospital. The story starts about six years ago. Jeff's son Richard is three years old, gets a checkup. Doctor thinks maybe Richard's got a hernia, sends him for an ultrasound, which he gets, 15 minutes in and out, and good news: he's OK.

Then the bill comes.

Jeffrey Fox: Yeah. They billed \$2,448.

Dan: Jeff's like, no way am I paying that. For one thing, it's WAY more than he's paid for similar services in the past AT UCLA.

He calls UCLA. He gets the whole condescending spiel: This is what we charge, this is what your insurance allows, blah blah blah.

Jeffrey Fox: they just tell you things, hoping that you'll believe them and you'll go away.

Dan: Not Jeff. But first, he starts by fact-checking himself, making sure his indignation was justified. Maybe 25 hundred dollars really is the going rate these days?

Nope. A site called Health Care Blue Book lets you plug in your zip code and tells you an average for whatever procedure you're shopping for. It says 518. He calls another big-name local hospital, asks what they charge. They say 360.

He ALSO calls UCLA. They've got an office you can call to ask: What's the cash price on this procedure?

Jeffrey Fox: I got the exact bill codes from the bill. and I called them, they said, what do you charge for this?

Dan: He calls three times, gets three different prices. The highest one is less than a fifth of what's on his bill.

So that's one, and then he thinks about his argument: Hey, charge what you want, but TELL me if your prices are super-high, so I can decide. Otherwise, I should expect to pay the going rate.

When he calls, he argues his point, but he also LISTENS. He takes notes on their arguments.

The strongest one: If they just wrote off the amount they were billing him, it would violate their contract with his insurance company. He calls his insurance company to check.

Jeffrey Fox: I said, uh, is that right? And they said, yeah, but of course they can just resubmit for a lower amount.

Dan: Jeff writes everything up in a letter. He tells them what he wants -- stop bugging him for this money-- and why.

It's strongly worded, formal, clear. Legalistic. The word "reasonable" shows up a lot, in phrases like "any reasonable person" and "reasonable and customary."

A month later, he gets a reply. Politely worded, it says: Fuggeddaboutit. Pay up.

Also, they keep sending bills, which now say, "Pay up, or else we send you to collections, mess up your credit."

OK, it's on. And there's two things he's worried about:

First, what's the actual LEGAL theory here? Intuitively, it seems outrageous that the other side can just arbitrarily set a price without telling you first. But do courts actually recognize that?

I kind of love it that he went this far without actually knowing. He googles and googles and finds ... a blog post. By a law professor. Christopher Robertson, discussing "open price contracts."

I talked with Chris last year for an episode of this show, and I just love the way he boils it down.

Chris Robertson: Of course, you don't have to pay a number that the other side just invented. Um, you know, this is, this is shooting fish in a barrel from a contract law perspective.

Dan: Yeah, that's great.

But Jeff's got another problem, a practical one: They're threatening to send him to collections, mess up his credit. And if he heads that off by paying the bill, doesn't that end things right there?

Legally there's something called the "voluntary payment doctrine": You paid when you didn't have to? That's your problem. Jeff needs to show that he paid under protest, under duress.

So, here's one of my favorite parts. He goes to the billing office in person, asks to see the manager.

Jeffrey Fox: and he knew who I was by then.

And, uh, yeah, he takes me into this little private room where there's a desk and I give him the credit card

I could see the relief in his body language because he was sick of my calls and everything.

And it's just like, "Oh good. We won again. This guy is just going to pay that 1700 bucks."

And I said, "We're done?" He said, yeah. I said, "I don't owe you anything?"

He goes, "Nope, zero balance."

"Okay. Here, I'd like you to sign this."

Jeff hands the guy a letter: demanding a refund and threatening to sue.

Jeffrey Fox: And he holds it and he reads it and his face turns red and he just slammed it down on the table and he-- and he walks out and slammed the door.

Dan: Mission accomplished. Jeff has created a paper trail. Yes, he paid, but he immediately demanded a refund. He's not paying voluntarily. Now, he's ready to sue.

And here's where Jeff's experience with court comes in, lessons for us, all the little technical, procedural stuff that trips people up:

Like: You're suing somebody, or a company? Even in small claims court, you've got to serve them-- give them official notice that they're a defendant.

Jeffrey Fox: I sat in small claims court so many every time I go to the hearing, there's somebody they walk up and they're like, "Yeah, the defendant's not here." And the judge is just like, "Did you serve them?" And the plaintiff goes, "Did I what?"

I'm like, Ugh, you have to serve them. They go, "Oh, I thought you guys tell them I filed the case." No, no...

Dan: Which means you have to know WHO to serve. And at what address. In this case, Jeff says he found an address on Wilshire Boulevard where he's supposed to serve UCLA.

Jeffrey Fox: And it's not, I mean, it's not that it's not hard. It's not beyond the ability for anyone to do. Cause you look them up in the secretary of state's records, and they're supposed to list their agent for service of process.

Dan: OK. Are you taking notes? Google this stuff for your own state. How do I serve the other party in small claims court? Or: How does small claims court work in...

I just looked up Illinois and Ohio. Found guides to small claims court from Illinois Legal Aid, and from the Ohio State Supreme Court. You get the idea.

In some states, you may need to pay someone-- like the Sheriff's office-- to serve them. There's gonna be court fees too. You can ask the court to make the other side pay you back for all that. But it's money up front.

You're going to need to write out your arguments. Jeff submitted a two-page statement-- including a list of "exhibits," evidence that he attached: The bills, the letters, printouts from the Health Care Bluebook. Bunch of stuff. He's posted it to the web, and we'll have a link.

More tips from Jeff:

Jeffrey Fox: Don't remind them, "I'll see you in court!" You just file the case, serve it. If they lose track of it, that's their problem.

Then you can win a default judgement-- they didn't even show up to mount a defense.

Jeffrey Fox: Even if they don't show up, it's not an automatic default. The judge will still make you explain

Dan: So come to court prepared.

Jeffrey Fox: I just always imagined that the judge looks at my case and his first inclination is "What nonsense is this?" And he decides to attack me. So I always want to have very calm and reasoned answers to any objections, even if they're kind of ridiculous.

Dan: For this case, Jeff typed up four pages of well-organized notes for himself.

Jeffrey Fox: And it had big type, so I could have it on the table and even flip through it.

Dan: He says the judge did grill him a bit, and then said: Yep. I'm awarding you this judgement.

But that wasn't the end. Jeff still had to collect. And, big surprise! They weren't eager to pay. He says they ignored him.

But he's Jeffrey Fox, and he knows he's got ... another option. He writes them another letter. It said: If you don't pay up by date x...

Jeffrey Fox: I will file a writ of execution with the sheriff who will then confiscate your computers and sell them at auction to satisfy this debt. This process can cost \$1,500 or more in fees payable to the sheriff, which will be added to your judgment. Meaning you may have to pay over \$3,000. If anything I've written is not clear, please call me-- and, uh, Yeah, FedEx was knocking on my door a couple of days later with the check

Dan: I love this so much.

Jeff says in retrospect he didn't play things perfectly in this case. Like for instance, he wrote that letter about bringing in the sheriff less than a month after the court hearing. Now, he says, that was a mistake.

Jeffrey Fox: if they don't show up and you get a judgment, don't say anything for 30 days. Do not mail them and go, "Hey, sucker, you didn't show up! Now you owe me the money."

Because they have 30 days to appeal, and they might go, "Oh, I didn't show up!" And then they can file an appeal and say, "I didn't show up 'cause my grandma was in the hospital."

Dan: Yeah. Don't give 'em an opening. So, OK: Always learning.

Jeff wrote me after we talked. Said, don't leave out some of the lessons learned here, including things he's done differently since having this experience:

One: Always ask the price upfront. If you can avoid landing in this situation-- being chased for a ridiculous fee-- that's better.

Two: If they overcharge you and you decide to pay under duress, put your objections in writing first. That's part of your paper trail. And: Make sure the payment comes with a written indication that it's under duress. In Jeff's case, that was his letter saying, "Gimme a refund right now or I'll sue ya for it."

AND then let ME add one other thing, that I had to remind myself:

You don't necessarily have to pay upfront-- or even go to court-- to use small claims court against someone who's trying to bilk you.

I've talked with folks who say they've used small claims court to make hospitals or other providers accept a reasonable payment -- instead of paying an super-inflated amount and then suing for a refund.

And they told me that a lot of the time, just the THREAT of small claims court -- if you do it right-- brings the other side around quick.

You can hear all about that in the episode where we first talked with the law professor, Christopher Robertson, called "Can They Freaking DO That?!?" And we'll have a link from wherever you're listening right now.

It's great. And it sounds ... easier than what Jeffrey Fox did here.

But: I think this story-- of the little guy fighting back, beating Goliath in court-- and especially of making sure he got paid back by threatening to have the sheriff come and grab the hospital's computers... I mean, I just LIKE that. I love it. WHAM.

... and I want other people to take heart from it. And maybe take action.

Jeffrey Fox: You might be a little bit fantastic to think that we're all gonna rise up and file this flurry of small claims cases and, and all these evil companies will we're forming their practices and then the credits roll.

Dan: YES! That's the movie I want us to be making here

[SFX: brief swell of movie-credits music... which sputters]

-- but yeah-- probably not all gonna happen at once. Still...

Jeffrey Fox: For what it's worth, I just think it's the right thing to do. Don't don't let yourself get pushed around and take it all the way to the end.

Dan: Amen.

Next time on An Arm and a Leg. I've been saying for a while that this show is a school for financial self-defense. So I thought it would be a great idea to talk with an ACTUAL self-defense instructor.

A trainer who teaches people -- often women-- how to defend themselves so if they're ever in a bad spot, they know how to respond. Physical confrontation skills-- the kicks and the strikes-- are just one set of skills they teach. And to be clear, nobody's telling you to knee a bill collector in the nuts.

But the underlying idea of these training seems like something we can all use: That you should get practiced in a REPERTOIRE of options, and deciding what STRATEGY makes the most sense for a given situation in a given moment-- keeping in mind the whole time that YOU are worth protecting. And that you can do it.

Well, THAT seems really, really applicable.

So: Our school for financial self-defense brings in an ACTUAL self-defense teacher. That's next time on An Arm and a Leg.

AND before I go: I got a note this week from a listener who was like, hey, I'd like to support your show with a one-time donation, instead of a monthly pledge on Patreon. Can I do that?

And the answer is: YEP. It just got a whole lot easier. If you go to arm and a leg show dot com slash support, there's a simple form right there. You can use a credit card or PayPal, anything you like. It is super-secure and super-easy.

AND-- this is kind of exciting-- any donation you make in November or December is DOUBLED. A campaign called NewsMatch is ... matching individual donations to hundreds of news outlets. Including this one.

Times are tough right now, and giving money away isn't a reality for a lot of folks. Absolutely.

But if you've been thinking that you'd like to help this show out a bit, this is an amazing time to do it. Because in November and December, you're literally giving us twice as much. That's arm and a leg show dot com, slash support. Yes, we'll still shout you out at the end of the show-- unless you tell us not to.

I'll catch you in two weeks.

Till then, take care of yourself.

This episode of an arm and a leg was produced by me, Dan Weisman and edited by Marian Wang. Daisy Rosario is our consulting managing producer. Adam Raymonda is our audio wizard. Our music is from Dave Weiner and blue dot sessions.

This season of an arm and a leg is a co production with Kaiser health news. That's a nonprofit news service about healthcare in America, an editorially independent program of the Kaiser family foundation. Kaiser health news is not affiliated with Kaiser Permanente. The big healthcare outfit. They share an ancestor. This guy, Henry Jacob Kaiser. He had his hands in a lot of different stuff.

Aluminum ship building, one of the first big resorts in Hawaii, concrete like for the Hoover dam. Seriously, he died more than 50 years ago. He left half his money to the foundation that later created Kaiser health news. You can learn more about him and Kaiser health news at arm and a leg show dot com slash Kaiser.

Diane Webber is national editor for broadcast and Tonya English is senior editor for broadcast innovation at Kaiser health news. They are editorial liaisons to this show.

Thanks to Public Narrative -- a Chicago-based group that helps journalists and non-profits tell better stories-- for serving as our fiscal sponsor, allowing us to accept tax-exempt donations. You can learn more about Public Narrative at [www dot public narrative dot org](http://www.dotpublicnarrative.org).

Finally: Kaiser Health News has a new podcast of its own, which sounds pretty good-- you'll hear some quick details from them in just a sec.

But first, thank you to some of our new supporters-- on Patreon and now at arm and a leg show dot com, slash support

Thanks this time to:

Jeanne Marcoux

and Gerri

Thank you!