UCLA Health Overbilling and Open-Price Contracts

October 1, 2017 Jeffrey Fox

Background

In October 2014, during a routine checkup, our primary care physician, part of the UCLA network that is in our insurance company's network, referred my wife to take our three-year-old son to their radiology office for a potential problem. She called the number given, and made an appointment. They arrived at the appointment, and the scan was performed. The appointment took about 15 minutes. Nothing was discussed about charges before or after, since all our bills from UCLA had been reasonable for many years.

UCLA Health billed our insurance \$2,448 for that appointment. This was \$1,192 for ultrasound of the scrotum with doppler, and \$930 for duplex of abdomen/pelvic vessels, plus \$326 for the physician to review the results. The insurance company discounted the total amount to \$1,992.25 and paid \$293.55, leaving us with a balance due to UCLA Health of \$1,444.37 for the procedure, plus \$254.33 for the doctors, totaling \$1,698.70.

Upon receiving this information, I called UCLA Health to advise them that the \$1,444.37 is not valid, and the \$293.55 received from insurance was more than enough for the procedure. I told them I was going to pay the \$254.33 for the doctors, which I did. No one acknowledged my concerns, and they stopped returning my calls. I then wrote a letter, dated December 23, 2014, attached.

Representatives of the billing office replied by letter dated January 27, 2015, attached, offering only intransigence and misdirection. They told me on the phone, also, that it would represent insurance fraud if they were not to collect the patient's responsibility, so their hands were tied. This was a lie; I contacted my insurance company, and they told me UCLA Health is perfectly welcome to resubmit the claim for a lower amount. They also told me the government of California publishes a chart showing standard billing. I found this online, and it did show what they billed. But, this proves my claim that they knew I was in the dark about pricing, and they meant for it to be this way. I only found this in a giant chart buried in a government website, and they should know that most of their patients wouldn't know about this. This document isn't a substitute for fair dealing with ordinary people seeking medical services.

At risk of losing my money, but in order to remove the leverage UCLA Health might have to damage my credit rating, I went to their office on February 20, 2015, and asked to pay the \$1,444.37 due. The manager himself took my payment, and, thinking this dispute was over, displayed great relief in his body language as he handed me the credit card receipt and confirmed that it had been processed, until I handed him a letter, attached, demanding a refund. He refused to sign my copy to acknowledge receipt, and stormed out of the room.

When the billing office continued to completely ignore me as I followed up on my refund, I filed suit in Small Claims Court. Attached is my filing, including a Plaintiff's Statement that I

brought to the hearing, making the open-price contract argument I discovered from comments on a law-related blog from Dr. Christopher T. Robertson.

Fair Price Research

UCLA Health had billed small amounts for X-rays in the past, from \$125 to around \$200. It was reasonable to think an ultrasound in the same office would be about the same, not many multiples more.

UCLA has an office that provides cash quotes for services. I called them multiple times, and got different quotes. I made sure to describe everything: Ultrasound Scrotum Evaluation with Doppler. Once I was told \$180, then another time \$475, both including interpretation. A little while later, I called the radiology office directly, who didn't refer me to the cash quotes office, but told me that it's \$180, including physician's interpretation. This not only indicates the market value of their services is much lower than what I was billed, it shows they are not even set up to give an accurate price quote when asked.

Cedars Sinai offered \$360 cash, including physician's interpretation.

The Health Care Blue Book showed \$518 in our Zip code for the closest services I could find, including physician's interpretation.

Legal Arguments

The open-price contract argument was easily winnable. But, one thing I worried about was making this argument on a bill that was paid; I had found a case where a company lost due to having paid a disputed bill already. However, in that case, it was recurring billing, and the company paid the bill for several months before complaining. I also worried in general about having a court award money in a demand for a refund.

Results

No one showed up on behalf of UCLA Health on the court hearing date.

Of course, in Small Claims Court as anywhere, to get a default judgment still requires you to show your claim has merit. The judge read only the filing forms, but did not take my Plaintiff's Statement. He briefly tested my open-price argument and the voluntary payment issue. He asked if we had asked about the price before receiving the service, or signed anything agreeing to a price, and I told him we did not. I had claimed in my written filing that I made my payment under duress, to head off any voluntary payment defense. The judge asked how I indicated to them that my payment was under duress. I told him that I couldn't write this on a check or anything, since I paid by credit card, but that I had objected to the payment immediately after making it, so it's not like UCLA could claim some sort of hardship for having relied on this money. I also stated that the letter threatening to send me to collections on a bill that had been under dispute from the beginning should be sufficient evidence of duress.

The judge accepted these arguments, and awarded me the total amount of \$1,698.70 that I had paid, plus the \$293.55 paid by my insurance company, less the highest fair price I had found of \$518 (as I had offered, honorably giving UCLA the benefit of the doubt). So my judgment was \$1,474.25, plus court costs. A copy is attached.

UCLA Health, being disorganized and having contempt in general for their patients, ignored my requests for payment, until I threatened to have Sheriff's deputies come and confiscate their computers to sell at auction, after which they sent a check via FedEx.

In the end, the whole process was satisfying. The moment I pulled the EOB out of its envelope that showed what we owed for this procedure, I told my wife we're not paying it because it's not fair, and within seven months I had total victory. I was fortunate that this was a small enough amount that I could pay it and pursue recovery, and to have the knowledge to execute a Small Claims Court filing and service of process.

Thankfully, the \$518 ultrasound showed no pathology that required treatment, and my son's symptoms went away, long before the billing issue was resolved!

December 23, 2014

UCLA Health 10920 Wilshire Blvd., Ste. 1600 Los Angeles, CA 90024-6502

Attn: Hospital Services Billing Dept.

Re: Guarantor Number:

Account No.:

Date of Service:

October 24, 2014 November 27, 2014

Statement Date:

Dear Sir or Madam:

This is to advise you that the above-referenced billing is not valid. I request that you reverse the billing, and cease and reverse any collection activities and/or credit reporting you have done or are planning.

I have attempted to resolve this matter by phone, but only spoke to intransigent representatives of your billing office, who eventually referred me to Management. I have left messages for Management, but he has not returned my calls after nearly two weeks. Therefore, I am sending this letter with an explanation of why your bill is wrong, and a clear course of action you can take to resolve this matter.

Here is the problem with your bill:

- 1. The amount charged is not reasonable. For a 15 minute appointment on a common piece of equipment, UCLA Health billed a total of \$2,448, which includes your bill for Hospital Services, and a separate bill from Physician Services.
- 2. The amount charged is not customary in relation to the charges we have paid for other services at UCLA Health.
- 3. The amount charged is five to ten times the market rate in this geographic area, so it is not a customary or reasonable charge in any case.

I recognize that your business has a right, in general, to ask for more than the market rate for services you offer. However, your charges in this case are not valid because we had no mutual agreement on the price beforehand, and it is your fault we didn't.

UCLA Health

Attn: Hospital Services Billing Dept.

Re:

Guarantor Number:

Account No.:

Date of Service: Statement Date:

October 24, 2014 November 27, 2014

December 23, 2014

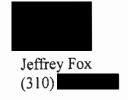
Page Two

If you feel you are entitled to charge such high fees through some special intangible qualities your hospital or your ultrasound machine possess, any reasonable person would expect to be notified in advance. In other words, someone somewhere in your organization should have notified my wife, at any time after the order for the test was received, when she called for the appointment, or when she showed up for the appointment, that you wished to charge so much more for the services than what you know a regular customer of UCLA Health would expect to pay. There is no fee schedule posted in your office, and your staff at the clinic do not provide pricing information. Your silence on this issue conveys a message that you intended to charge an amount commensurate with the usual charges we have paid for similar services. A half-hour visit with a UCLA Health physician is billed at \$230. We recently got an X-ray for which UCLA Health billed about \$118. Therefore, a 15-minute ultrasound should be in that range.

Because it is perfectly reasonable for us to assume that your charges for this service will be similar to what you charge for other services, it is your responsibility to inform us in advance if you wish to charge an unreasonable price, and you did not. Therefore, our implied agreement is that the fees will be reasonable and customary.

At this point, you have already received \$293.55 from my insurance company, which is more than the market rate for this service in this geographical area. Also, I and/or my insurance company will pay the amount of \$254.33 billed for the radiologist's services through Physician Services billing. The total of \$547.88 is way more than enough. I therefore demand that you credit the balance of \$1,444.37 on this account, and close the account as having been paid in full.

Please contact me promptly on this to advise me what you intend to do.





Patient Business Services 10920 Wilshire Blvd #1600 Los Angeles, CA 90024-6502

01/27/2015

Jeffrey Fox

LOS ANGELES, CA 90025

RE: Patient Name:

Account Number:

Account Balance:

\$1,444.37

Dear Jeffrey Fox:

Thank you for bringing your billing concern regarding a disputed charge(s) to our attention. Thank you for providing your feed back. Your feedback is important to us. Your letter of December 23, 2014 indicates you are disputing the charges and the cost of the ultrasound and doppler procedure performed to your son.

We do not charge for services by the minute. All services have a set rate according to the services rendered. In your sons' case he received two diagnostic procedures for a total of \$2,122.00; professional services are billed separately as are all billing at large hospital facilities as ours. Our prices are reviewed by a committee who set the price according to the same logic of demographics and other large facilities in our area. For the purpose of this dispute I choose Cedar Sinaii as a comparable facility.

Their Ultasound - Scrotom & Testicles procedure (76870) is set at \$1,885.77, with a cost of \$2,451.50 for emergency cost. The second procedure Doppler - Uterine Artery (93976) is set as \$1,563.42 with a cost of \$2,031.10 for emergency testing.*

Our charges are considerably lower at \$1,192.00 and \$930.00.

Having said this we are able to provide the cost of a radiological procedure if requested by the patient, but unable to provide the patient liability for this service as your insurance determines this cost. The issue here is your insurance company left a \$1,150.82 deductible amount and \$293.55 co-insurance. Because they have done so we are unable to adjust your balance as this would be considered fraud under anti-fraud laws.

We have provided services in good faith and ask that you meet your financial responsibility in good faith as well.

Sincerely,

Senior Customer Service Representative Patient Business Services 310-825-8021

*Ref: http://www.oshpd.ca.gov/chargemaster

February 20, 2015

UCLA Health 10920 Wilshire Blvd., Ste. 1600 Los Angeles, CA 90024-6502

Attn: Manager, Hospital Services Billing Dept.

Re: Demand for Reimbursement

Guarantor Number:

Account No.:

Dear Sir or Madam:

This is a demand that you pay me \$1,444.37, which represents the amount that you overcharged me for medical services provided to my son in October 2014. I have already explained the reason your billing was invalid in my letter dated December 23, 2014. Your Customer Service Representative, Jersey, wrote me a letter in response to mine, dated January 27, 2015, but this did not refute any of my arguments, and at the same time raised some nonsensical and disingenuous new arguments. My attempts to contact him to further discuss this failed, because he refuses to speak to me on the phone or return my calls.

If you do not refund this money within 15 days of the date of this letter, I will sue you in Small Claims Court. When I prevail, you will have to pay the amount requested, plus court costs.

I did not want to have to pursue this, but your failure to handle this in a professional manner has left me no choice.

Jeffrey Fox

Original received Hao/2015, 2:57 p.m. By: M

Refused to sign

SC-100

Plaintiff's Claim and ORDER to Go to Small Claims Court

Notice to the person being sued:

- You are the Defendant if your name is listed in ② on page 2 of this form. The person suing you is the Plaintiff, listed in ① on page 2.
- You and the Plaintiff must go to court on the trial date listed below. If you
 do not go to court, you may lose the case.
- If you lose, the court can order that your wages, money, or property be taken to pay this claim.
- · Bring witnesses, receipts, and any evidence you need to prove your case.
- Read this form and all pages attached to understand the claim against you and to protect your rights.

Aviso al Demandado:

- Usted es el Demandado si su nombre figura en ② de la página 2 de este formulario. La persona que lo demanda es el Demandante, la que figura en ① de la página 2.
- Usted y el Demandante tienen que presentarse en la corte en la fecha del juicio indicada a continuación. Si no se presenta, puede perder el caso.
- Si pierde el caso la corte podría ordenar que le quiten de su sueldo, dinero u otros bienes para pagar este reclamo.
- · Lleve testigos, recibos y cualquier otra prueba que necesite para probar su caso.
- . Lea este formulario y todas las páginas adjuntas para entender la demanda en su contra y para proteger sus derechos.

Clerk stamps date here when form is filed.

CONFORMED COPY ORIGINAL FILED Superior Court of California County of Los Angeles

MAR 19 2015

Sherri R. Carter, Executive Officer/Clerk By A. Allen, Deputy

Fill in court name and street address.

Superior Court of California, County of

Los Angeles, Southwest District Inglewood Courthouse One Regent Street Inglewood, CA 90301

Clerk fills in case number and case name:

Case Number: S02017

Case Name:

Order to Go to Court

The people in 1 and 2 must go to court: (Clerk fills out section below.)

Trial Date	→ Date MAY 2 2 2015	Time 8/30a	• _	Name and address of court if diff	
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	3		State National Control of the American Control of the		Onto Reight Street
Date: _	MAR 1 9 2015	uwwanoje	Clerk, by	SHERRI R. CARTER	A. ALLEN (20), Deputy

Instructions for the person suing:

- · You are the Plaintiff. The person you are suing is the Defendant.
- Before you fill out this form, read Form SC-100-INFO, *Information for the Plaintiff*, to know your rights. Get SC-100-INFO at any courthouse or county law library, or go to: www.courts.ca.gov/smallclaims/forms.
- Fill out pages 2 and 3 of this form. Then make copies of all pages of this form. (Make 1 copy for each party named in this case and an extra copy for yourself.) Take or mail the original and these copies to the court clerk's office and pay the filing fee. The clerk will write the date of your trial in the box above.
- You must have someone at least 18—not you or anyone else listed in this case—give each Defendant a court-stamped copy of all 5 pages of this form and any pages this form tells you to attach. There are special rules for "serving," or delivering, this form to public entities, associations, and some businesses. See Forms SC-104, SC-104B, and SC-104C.
- Go to court on your trial date listed above. Bring witnesses, receipts, and any evidence you need to prove your case.

Plaintiff (list names):

The Plaintiff Name: Jeffrey	y D. FOX		Phone: (310)
Street address:		Los Angeles	CA	90025
Mailing address	Sifeet	City	State	Zip
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If more than	one Plaintiff, list next Plaintiff here	:		
Name:			Phone: ()
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☐ Check here	if more than 2 Plaintiffs and attach Form SC-	100A.		
Check here	if either Plaintiff listed above is doing busines	s under a fictitious name. L	f so, attach i	Form SC-10.
The Defenda	ant (the person, business, or public egents of the University of California	entity being sued) is		
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Street address:	1111 Franklin St., 12th Floor	Oakland City	CA State	94607 Zip
			010.0	210
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b. [Where the buyer or lessee signed the contract, lives now, or lived when the contract was made, if this claim is about an offer or contract for personal, family, or household goods, services, or loans. (Code Civ. Proc., § 395(b).)					
c. 🗌	Where the buyer signed the contract, lives now, or lived when the contract was made, if this claim is about a retail installment contract (like a credit card). (Civil Code, § 1812.10.)					
d. []	d. Where the buyer signed the contract, lives now, or lived when the contract was made, or where the vehicle is permanently garaged, if this claim is about a vehicle finance sale. (Civil Code, § 2984.4.)					
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Assistive listening systems, computer-assisted, real-time captioning, or sign language interpreter services are available if you ask at least 5 days before the trial. Contact the clerk's office for Form MC-410, Request for Accommodations by Persons With Disabilities and Response. (Civil Code, § 54.8.)

PLAINTIFF/PETITIONER: Jeffrey D. Fox

DEFENDANT/RESPONDENT: The Regents of the University of California

DECLARATION

(This form must be attached to another form or court paper before it can be filed in court.)

SC-100, Item 3

The highest reasonable fair market price the Plaintiff found for the services provided is \$518.00. This came from the Health Care Blue Book for the local geographical area.

The Defendant has received payments totaling \$293.55 from the Plaintiff's insurance, and the Plaintiff paid another \$254.33 to the Defendant directly. The Defendant then billed the Plaintiff an additional \$1,444.37 on November 27, 2014. Therefore, the total amount the Defendant has demanded is \$1,992.25. The overcharge, relative to a fair market price, is therefore \$1,992.25 - \$518.00 = \$1,474.25.

I declare under penalty of perjury under the laws of the State of Ca	alifornia that the foregoing is true and correct.
Date: March 19, 2015	
Jeffrey D. Fox (TYPE OR PRINT NAME)	Attorney for Plaintiff Petitioner Defendant Respondent Other (Specify):

Case No.: 15S02017

Plaintiff's Statement and Index of Exhibits

May 22, 2015 Page 1 of 2

In October last year my son visited his regular doctor at UCLA for a checkup. The doctor referred him for an ultrasound at a different UCLA medical office because of a slight bulge on his scrotum. My wife called and scheduled the appointment. The staff there did not discuss the price with her over the phone or when she arrived for the appointment. The procedure took about fifteen minutes. This was just a scan to see what the bulge was; there was no treatment performed. In the coming weeks, we received billing just for that appointment totaling \$2,448. Our insurance company reduced it by about \$400, they paid about \$300, and I paid one of the bills for \$250, leaving a balance of about \$1,400.

I advised the Defendant that this billing is excessive, and they should only have billed \$500 at most for the procedure. I explained that when a price for a service is not discussed in advance, we have an implied agreement that the service will be billed at a reasonable and customary rate, so the \$550 they received should be more than enough. The Health Care Bluebook, a website that aggregates market rates for health care services, lists the price at \$518. Apart from that, the defendant itself offers the same service for \$475—about the market rate—but only if you know to ask for this price in advance, and pay cash on the day of service. If you don't, they insist on the full amount. The cash price for medical services is customarily close to what is billed to insurance, and they even say so on their website, so if they're going to impose such a tremendous and unusual price discrepancy on me, they had a responsibility to inform me of my options, but they didn't.

The Defendant threatened to assign us to a collection agency, so I paid the balance due under duress, and now I am respectfully applying to the Court for a judgment to return the excessive portion of the bill.

We never agreed to the price they billed; we only agreed, through an **implied open-price contract**, to pay the **reasonable and customary market rate** for our geographical area. We had four good reasons for not spending the significant time it takes to try to get exact pricing in advance:

- 1. The Defendant states in their own documentation that their cash pricing is about the same as what they bill their in-network health insurance providers. And, in past experience, I have found that cash discounts are marginal, and you often end up paying about the same out of pocket as when you use insurance. So there was no reason for me to think this one procedure would be so much more expensive through insurance. It's unprecedented and unconscionable.
- 2. The Defendant makes it difficult to get pricing in advance. They don't have price lists in their medical offices, and the staff doesn't know. They do have a cash quote office that's reachable through voicemail, but their price quotes aren't necessarily accurate. Once this dispute started, I called for a quote on the procedure in question three separate times to see what they would say, and they told me \$180, then \$475, and then \$180 again. And they refused to put it in writing. And keep in mind, I had the exact procedures from the actual bill already when I made these calls. If I had tried to get pricing before the service, I wouldn't have known exactly what procedures they're going to bill for, or what billing codes to get quoted, or even if the quote I got was accurate.

Case No.: 15S02017

Plaintiff's Statement and Index of Exhibits

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- 3. I've never paid or considered paying cash to the Defendant, because they have always submitted reasonable amounts when billing my insurance. For example, they charge just \$60 for an X-ray, and only \$230 for a full examination with a physician.
- 4. Apart from all that, any business with any integrity would have told my wife, when she first called, "Hey you're paying cash for this, right? Normally we bill insurance about the same as for cash, but for this procedure, it's five times as much." They should know that no one in their right mind would go for that, and so they had the obligation to tell us.

The Defendant made the disingenuous argument that "anti-fraud laws" prevent them from adjusting the balance due. This is false; I confirmed with my insurance company that all they have to do is resubmit the claim with the correct billing amount.

Exhibits

- 1. Written correspondence between Plaintiff and Defendant's representatives.
- 2. UCLA Health FAQ about billing, where they state cash prices are the same as insurance (highlighted in yellow). The entire FAQ is included for integrity's sake.
- 3. Printout from Health Care Bluebook, showing market price of \$285 for scrotal (testicular) ultrasound plus \$233 for Doppler (duplex), totaling \$518, including physician's interpretation.
- 4. Bills and receipts for the transaction at issue:
 - a. Bill for \$2,122 dated November 27, 2014 (date of service of October 24, 2014 not shown), showing insurance adjustments and payments, and a shocking balance due of \$1,444.37.
 - b. Second bill for \$213 and \$113 for the doctor who validated the test results (after we had left) on the same day, showing an additional \$254.33 due.
 - c. Receipt for payment of the \$254.33.
 - d. "Final Notice" bill dated February 12, 2015, threatening assignment to a collection agency, which would ruin our excellent credit.
 - e. Receipt for payment of \$1,444.37, made under duress.
- 5. Additional bill, showing that total billing to insurance for two X-rays was \$126, including physician's services, demonstrating that a usual and customary charge to insurance for other types of outpatient imaging should be within that range.
- 6. A photograph of the office we went to, showing it is an ordinary outpatient office, and not an inpatient facility. Defendant's representatives told me they are entitled to charge the "hospital" rate because they are a "hospital", but this is not the case.

(-19455-1 WEST DISTRICT SANTA MONICA (MAL) COURTHOUSE 1725 MAIN STREET, SANTA MONICA, CA 90401

SMALL CLAIMS CASE NO: ING 15S02017

- NOTICE TO ALL PLAINTIFFS AND DEFENDANTS -

Your small claims case has been decided. If you lost the case, and the court ordered you to pay money, your wages, money, and property may be taken without further warning from the court. Read the back of this sheet for important information about your rights. - AVISO A TODOS LOS DEMANDANTES Y DEMANDADOS -

Su caso ha sido resuelto por la corte para reclamos judiciales menores. Si la corte ha decidido en su contra y ha ordenado que usted pague dinero, le pueden quitar su salario, su dinero, y otras cosas de su propiedad, sin aviso adicional por parte de la corte. Lea el reverso de este formulario para obtener informacion de importancia acerca de sus derechos.

PLAINTIFF/DEMANDANTE

FOX, JEFFREY D

LOS ANGELES, CA 90025

DEFENDANT/DEMANDADO

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA 1111 FRANKLIN ST., 12TH FLOOR OAKLAND, CA 94607

NOTICE OF ENTRY OF JUDGMENT

JUDGMENT WAS ENTERED AS STATED BELOW ON (DATE): 05/22/2015

Defendant (name, if more than one): THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

shall pay plaintiff (name, if more than one): FOX, JEFFREY D

\$ 1474.25 principal and \$ 70.00 costs on plaintiff's claim.

Other (specify):

DEFAULT JUDGMENT.

Enforcement of the judgment is automatically postponed for 30 days or, if an appeal is filed, until the appeal is decided. EXHIBITS, IF ANY, WILL BE DESTROYED AT THE END OF 60 DAYS FROM EXPIRATION OF APPEAL TIME.

CLERK'S CERTIFICATE OF MAILING - I certify that I am not a party to this action. This NOTICE OF ENTRY OF JUDGMENT was mailed first class, postage prepaid, in a sealed envelope to the parties at the addresses shown above. The mailing and this certification occurred at the place and on the date shown below

Place of mailing: SANTA MONICA, CALIFORNIA.

SHERRI R. CARTER, Executive Officer/Clerk By NEYA RODRIGUEZ , D , Deputy

Date of mailing: 05/22/2015 The county provides small claims advisor services free of charge. Read the information sheet on the reverse. NOTICE OF ENTRY OF JUDGMENT (Small Claims)

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