

## Lawyers Getting Lattes: Dave Fox

“When you learn, teach. When you get, give” is a quote that reminds me of Dave Fox. Last September when I received Fox Law’s email blast: *\$4.87M Settlement for Delivery Gone Wrong*, I emailed Dave to pick his brain about the settlement. I didn’t really know him. CASD was our only connection; but I had a negligent delivery case too, so I sent the email. He responded within minutes. He gave me his time. He listened. Dave offered strategy to beat the inherent challenges of proving life-long harm for my 82-year old client, which helped me reach a \$600,000 settlement. This is the value of being a member of CASD. Although you may be a solo practitioner, you’re never alone.

We sat down for a chat at Great Maple in Hillcrest. Dave shares how he learned to try cases so well and the beginning of Fox Law. He has great advice for keeping referral sources happy; nipping problems in the bud; and thriving under pressure. I learned that Dave is that nice guy; he’s here to teach and to give back and it’s very admirable.

I hope you enjoy these excerpts:

**Maria Kelly:** Before you went out on your own, you were at Gomez’s office. What gave you an inclination to go out on your own?

**Dave Fox:** I knew that was the plan well before John. It started even in law school. I basically said in law school I want to right wrongs and so I either wanted to be a criminal prosecutor or do personal injury work.

I particularly remember Dave Casey coming to USD and saying if you can get trial experience early it’s gonna help you, so do criminal trials because it’s so hard to get civil trial experience. I figured, if I do the trial experience and I really like it on the criminal side I’ll just stay as is, but if I still have that itch to do personal injury work and start my own shop.

**Maria Kelly:** The plan worked. You tried a lot of cases at the U.S. Attorney’s office.

**Dave Fox:** I did 13 trials there and then the last one was like this 3-week trial on border patrol agents. It was really interesting with people, who were in protection, testifying. After that we had this conviction, it was maybe one of the best cases that I could have dreamed of doing. I thought it was a good launching point to take that vital experience in the private sector.

**Maria Kelly:** At what point in your career did you receive the trial lawyer award?

**Dave Fox:** Right before I left Gomez. You want to leave at a happy point, right?

**Maria Kelly:** Sure.

**Dave Fox:** I just thought now is a good time to take some of the clients; work it out with John and start my shop before having family. I always thought I would say what if I didn’t take that shot. If it didn’t work out, I could always go back and get a job, so I might as well just roll the dice and see what happens.

**Maria Kelly:** I’ve found there’s a great sense of pride and in learning that you have a skill that you can succeed and survive on your own.

By: Maria Kelly, CASD President



Maria Kelly is the founder of Kelly Law and this year’s President of CASD. For over 10 years, her firm has focused exclusively on representing people who are injured. She earned a Bachelors of Science in Biochemical Engineering from Florida State University and a Juris Doctor from California Western School of Law. Maria can be reached at [maria@mariakellylaw.com](mailto:maria@mariakellylaw.com).

Dave Fox is a former federal prosecutor and seasoned trial lawyer that has dedicated his career to helping ordinary people get through extraordinary circumstances.

Dave has obtained over \$50 million dollars for his clients through outstanding settlements and verdicts in difficult cases involving wrongful death, catastrophic injuries, premises liability, and fraud. Dave has been recognized by his San Diego peers as a Super Lawyer, Outstanding Trial Lawyer, and Distinguished Alumni of the University of San Diego School of Law.

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President's Column Continued

Dave Fox: Yes.

Maria Kelly: Before you had left Gomez, did you have it all planned out?

Dave Fox: I wanted to leave on a high point. Things had gone well and I also had cases that I knew folks who'd probably come with me. As far as office space, I just looked around north county. I want to be close to home and a friend of mine opened up space. He was like I've got a separate office here that I'm not using and then you can use my secretary for 10 hours a week if you want and there you go. That's how that kinda happened, random.

Maria Kelly: It doesn't take a lot.

Dave Fox: No, it didn't.

Maria Kelly: The firm's been nothing but successful.



Maria Kelly & Dave Fox

Dave Fox: It's definitely exceeded what I thought would happen. It's been really good. You end up getting good cases referred and they break the right way and one thing leads to another. When I left Gomez, I had this small drunk driving wrongful death case, which we didn't think

it was anything. We started to dig into it and it turned out; he was in the course and scope of work and this once \$30,000 case turned into a multimillion dollar case after 2 years. I built a nest egg to invest in more cases and started to grow.

Maria Kelly: Doesn't it feel good to help people through these tragic events?

Dave Fox: Yes, I think it's the best thing of what we do. I don't think in the law there's something other than maybe like ACLU or innocence project.

Maria Kelly: Where do you find the importance in mentoring or giving back to other lawyers?

Dave Fox: Helps in the long run. It comes back.

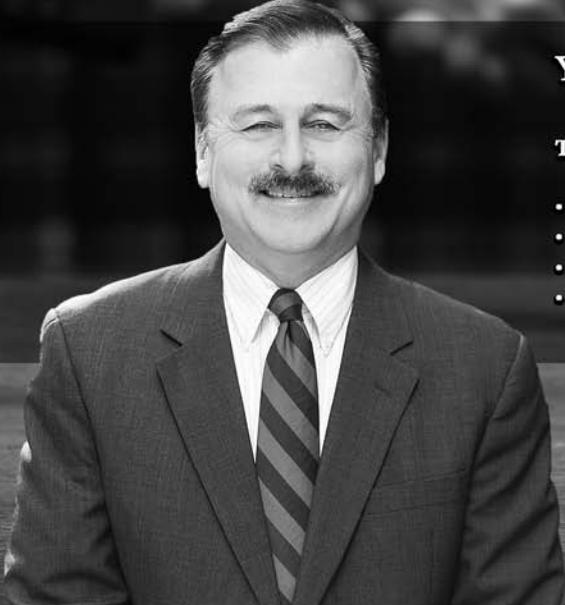
Maria Kelly: What advice would you give to anyone thinking about going out on their own?

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# Monty A. McIntyre, Esq.

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Monty A. McIntyre, Esq. has helped over 2,000 parties and their counsel obtain closure in challenging, complex and emotionally charged cases that appeared to be irresolvable. He can help you and your client. To schedule, contact Monty's case manager Christopher Schuster at ADR Services, Inc.  
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Dave Fox: If they started at a defense firm or the criminal defense side, whatever it is, draw on those relationships a lot and see if you can get those folks to introduce you to other non-PI lawyers. They start to like you and you start a relationship with them. When someone gets hurt that they know, a cousin or whatever and, you're like fresh in their mind.

I would also say letting people know what you're doing. I think it's cleaner if people think of you not as like, "I just opened my own shingle and I'm doing a little this and I'm doing a little that" as opposed to like when you think PI think Maria Kelly, you know what mean?

Maria Kelly: Yes.

Dave Fox: When I'm hurt, or someone's hurt that's where I go.

Maria Kelly: I've heard you're the greatest diplomat. Everyone likes you.

Dave Fox: It's funny, part of what we do is very contentious. But I think my general DNA is more to see if we can get along. Let's see if we can find a reasonable result without fighting. If we have to fight, fine. But I had three older sisters growing up and they were a very wild, exciting bunch. Even still I'll mediate between them to

keep peace in the family and that would happen when I was like a kid, and so I think that translates still today.

Maria Kelly: Make peace.

Dave Fox: Keep it calm.

Maria Kelly: When you do see it coming...

Dave Fox: I try to diffuse it immediately.

Maria Kelly: Right, right.

Maria Kelly: Do you find that helps with clients too?

Dave Fox: Yes, yes.

Maria Kelly: Do you immediately nip it in the bud?

Dave Fox: Yes. What's the issue? Let's, let's talk about it, absolutely.

Maria Kelly: Any motto you live by?

Dave Fox: Um, my motto? I always thought I want to make my family happy first, right? And then try to make as many people as you can for what you're doing or whatever, as happy before you get off this earth.

Maria Kelly: That's a good thing to live by.

Maria Kelly: Are you afraid of anything in trial? For example, if some skeleton should fly out?

Dave Fox: No. Because we spend so much damn time with the client and there's this trust level that I don't think there's gonna be some sort of surprise.

Maria Kelly: Are you ever nervous in trial anymore?

Dave Fox: I try to get as many concessions; a lot with experts or other witnesses that you know you're allowed to get, and you can get more, you know, than you think if you just fool with them and let them talk and then you just use those concessions against them in court. I've done that like over and over. Like there was one case that I had for trial, and their expert, I mean I just had like a good rapport with the guy, and like over time he would give me these little nuggets here and there. So, he became my first witness. I actually called their liability expert as my first witness which is totally unusual.

Dave Fox: I'm also driven to the pressure situation. I was a soccer goalie my whole life and in college and so you can screw up the whole thing; you lose the game for your whole team, you know? I'm just more driven to those pressure situations; it's more exciting.

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President's Column Continued

Maria Kelly: When is the last time your blood did boil a little bit?

Dave Fox: When someone's not truthful, and you know they're lying.

Maria Kelly: What lesson has taken you the longest to learn?

Dave Fox: The instinct to say yes to anything that's sent to you because if you want that person to refer to you a case again and you want to say yes, but in the end it's a bad decision. We reject probably 99% and learning to say no and being okay with that rather than saying "let me look into it". I think there's a few cases that I should not have done early on and your time gets sucked away.

Maria Kelly: How do you say no if it's a referral source that you want to keep?

Dave Fox: I try to call them or see them face to face. Over email

things get lost. If they hear from you as to why there was a rejection and they understand it rather than like you just sort of like blew it off. The more information you can give to a referral as to why you rejected it. Make it so that if they were in your shoes, they wouldn't do that either.

Maria Kelly: You're a fan of the phone calls versus like the emails.

Dave Fox: I think that's the right thing to do.

Maria Kelly: Can you finish these sentences?

**Justice is....** correcting abuse of power.

**Trial is...**I always equate it to you're putting on a play for 12 people that didn't buy tickets, you know? And, but you're really there just for a search for the truth. And you gotta make that search entertaining and interesting for them.

**Juries are...** the ones that find truth, 9 times out of 10.

**Trial lawyers are...** at this stage in our society, it's one of the most underrated in terms of importance. It's a huge deal because, it really is the one area in which someone can find fairness or justice without outside interests and lobbyists and all those things; and then they can find a solution to a major problem.

**The solution to every conflict is...** good judgment, you know? The best lawyers are ones that aren't necessarily trying every case or settling them all. It's just the ones making good decision; having good judgment. **TBN**

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