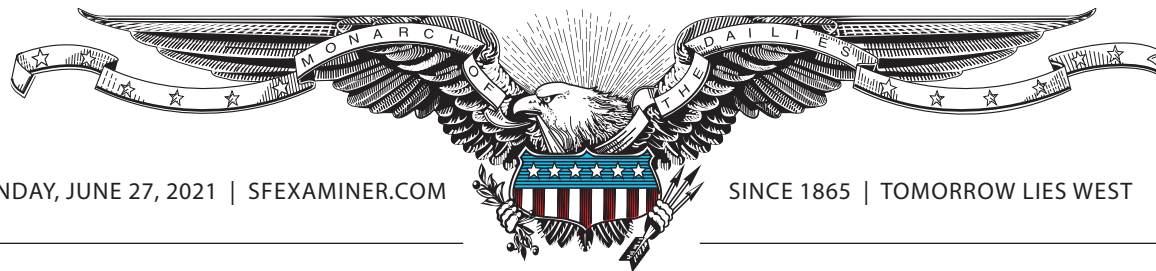


San Francisco Examiner



SUNDAY, JUNE 27, 2021 | SFEXAMINER.COM

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What Should I Do If I am Involved in an Accident?

By Christopher B. Dolan and Allison Stone

This week's question comes from Remi P. from the Bay Area:

During my commute to work I sometimes see people involved in car accidents. I hope it's never me, but how should I prepare myself if I'm ever involved in a car accident?

Thank you for your question and reaching out, Remi. Being involved in an accident can be scary, stressful, and overwhelming. It is important to do your best to stay calm and remember the following tips:

Make sure you are safe: The priority is always your safety. Only exit your vehicle if it is safe to do so. If you are in the middle of a lane or intersection, turn on your hazard lights to alert other drivers to slow down.

Call the police: Regardless of whether it is a major or minor accident, report it and have the accident documented and a report created.

The police will come to the scene to help make sure the parties exchange information and will make an official report. Even if you think the accident is minor, reporting the accident to the police ensures a record is created, which often provides key evidence in a personal injury claim.

Keep in mind that in some areas and instances, officers may not respond to a minor collision. In the situation where an officer does come to the scene, usually the officer will provide you with an information card which contains what you will need to obtain the report. But regardless, always make sure to get the officer's name, badge number and contact information including what department s/he works for (police department, sheriff's department, etc.), and if there is a report number.

Obtain contact information from all drivers: Get all identifying information, including names, addresses, telephone numbers, email addresses, driver's license numbers and insurance information for any driver involved in the collision. If the collision involves multiple vehicles, obtain all the above information from each driver.

In addition, get all the vehicle information including the year, make and model, color, license plate number and vehicle identification number (VIN) for each vehicle involved. Get the driver's insurance company's name, the insurance policy number and the insurance company's phone number.

Ask for physical copies of the driver's registration and VIN number to ensure accuracy. You can simply take photos of the documents with your phone to make the process of collecting this information easier. If the driver's name does not match up with the vehicle's registration or insurance, ask the driver what their relationship is to the vehicle's owner.

Obtain contact information for all passengers and witnesses: Be sure to get all identifying information, including names, addresses, phone numbers and email addresses of any witnesses, as well as other passengers in any vehicles involved in the collision. These individuals will often have important information that you are not aware of. See if any witnesses will provide you with details about what they saw and heard before they leave the scene.

Take photos to document the scene: Use your cell phone camera to take pictures and video of the scene. This includes taking multiple photos of your vehicle, the other vehicle(s), the scene, any traffic lights or street signs, visual obstacles, skid marks, broken glass, and other items on the roadway. Do your best to photograph everything from multiple angles. Get photos that show the position of the vehicles relative to each other and

relative to the street/freeway. This is necessary so a person who was not at the scene can look at the photos and understand what occurred, and how the vehicles came to their point of rest, and re-create the collision if need be. Also, photograph any visible physical injuries such as bruising, cuts, abrasions, bleeding, etc.

Avoid discussing fault: Regardless of how the accident happened, you should refrain from apologizing or admitting fault for the collision. The insurance company and/or lawyers will collect multiple statements and documents before they come to a determination of fault. Do not to argue with the other driver. Simply limit communication to exchanging information.

Seek medical attention if needed: If you were badly injured, call 911 immediately. If someone is taking you to the emergency room before police or paramedics arrive, leave your contact information with someone at the scene.

When the paramedics arrive, let them examine you.

Remember, due to shock and adrenaline, you may not realize you have been injured. It is human nature to say, "I'm ok" or "I'm fine," but your injuries may not reveal symptoms immediately and injuries can take several days to present themselves. To avoid having your words used against you later, you can say, "I'm shaken up, I do not know if I am injured and will be seeking medical care and treatment if necessary" or something to that effect.



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If you do not go straight to the emergency room from the scene, see your own doctor as soon as possible because you may have injuries that become apparent later.

Your health is paramount. Sometimes injuries from accidents can last a lifetime. Your health and medical care should be your priority regardless of who is at fault in an accident.

Document medical and accident-related details: Keep track of your medical appointments (doctors' names, their specialty,

and visit dates) and medications. Also keep a record of days missed days from work.

Report the Accident to the California Department of Motor Vehicles: California law requires traffic accident on a California street/highway or private property be reported to the Department of Motor Vehicles using the SR-1 Traffic Accident Report form within 10 days if there was an injury, death, or property damage more than \$1,000.

If you were in an accident, do not hesitate to contact us for a free consultation at Dolanlawfirm.com.

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Christopher B. Dolan is the owner of Dolan Law Firm, PC. Taylor French is an Associate Attorney in our Los Angeles Office. We serve clients in personal injury cases throughout the San Francisco Bay Area and California from our offices in San Francisco, Oakland and Los Angeles. Email questions and topics for future articles to: help@dolanlawfirm.com. Each situation is different, and this column does not constitute legal advice. We recommend that you consult with an experienced trial attorney to fully understand your rights



This week's question comes from Peter L. from San Jose: *I have been reading some of your articles and they are very informative. I was wondering if you can tell me what type of documents I may need if am ever involved in an accident and if I need to hire a lawyer?*

Thank you for your question and reaching out, Peter. Dealing with the aftermath of a car accident can be an overwhelming experience. Most likely, the last thing on someone's mind immediately following such a traumatic event is what documents are important or even necessary to obtain in order to pursue a personal injury lawsuit. However, it is extremely important to begin gathering and maintaining the following documents as soon as possible:

1. Traffic Collision Report: If a police officer arrived at the scene of the collision, the officer mostly likely prepared a traffic collision report. This report contains important information related to the car accident, including the involved parties' driver's

What documents do I need if I am involved in a car accident and need to pursue a lawsuit?

By Christopher Dolan and Taylor French

license and insurance information, descriptions of the weather and roadway conditions, statements from the parties and other witnesses, whether any traffic laws were violated and by whom, descriptions of any reported injuries or property damage, etc. If a traffic collision report was created, either a crash victim or their attorney, if they have one, will need to obtain it from the issuing law enforcement agency. The information needed to request a police report includes the date and location of the incident (this can be an approximate address or an intersection), the names of the parties involved, and the requesting party's name and address.

2. Medical Records and Bills: A person injured in a car accident should obtain all medical records and bills for any treatment related to the collision. Depending on the severity and the type of injuries suffered, the individual may need to obtain records related to emergency medical services (i.e., paramedic or ambulance services), emergency room treatment, primary care physician treatment, chiropractic care, physical therapy, pain management, pharmacy prescriptions, and treatment provided by other healthcare specialists.

3. Photos and Videos: The injured individual should gather all photos or videos taken of the incident scene, the vehicles involved in the collision, and the injuries sustained as a result of the collision. It is becoming increasingly more common for homes or businesses to have security cameras that sometimes capture car accidents, so it is important to obtain this footage if it exists. It is better to act quickly to obtain this footage as it often gets deleted within a short period of time. If a camera is found in the surrounding area, it is important for the crash victim to communicate this information to their attorney so that they can send a letter requesting that the footage be preserved.

4. Property Damage Estimates: If there is damage to one's vehicle, as a result of the collision, it is important to maintain copies of any repair estimates, receipts for deductibles paid, and/

or other documents related to the repairs. Typically, a body shop making repairs will take photos of the repairs to submit to the insurance companies, so these photos should be requested from the body shop or from the individual's insurance company.

5. Records Related to Lost Income: In a personal injury lawsuit, an individual can recover income lost as a result of a car accident. In order to recover the lost income, detailed proof of the claimed losses must be produced. For this reason, it is important to obtain proof of income via paystubs, direct deposit records, or other financial documents, as well as documents establishing how much time was missed from work due to the collision.

6. Communications Related to the Collision: Following a car accident, it is likely that the parties' insurance companies will begin to send letters or other communications to the parties. These letters should be maintained and provided to one's attorney. Additionally, on occasion, a party or witness to the collision will text, call or email an injured party. If this happens, these communications should be preserved as well.

While falling victim to a vehicle collision can be both traumatic and stressful, it is important to try to remain as calm and clear-headed as possible so that all necessary documentation can be obtained. Retaining an attorney will, of course, ease the strain on an injured party following a car accident, but it is still crucial to gather the above documentation in order to prevail in a lawsuit.

If you were in an accident, do not hesitate to contact us for a free consultation at Dolanlawfirm.com.

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I was laid-off because of COVID-19.

By Christopher Dolan and Mari Bandoma Callado

I was laid off, along with my whole crew, when Covid first hit. I worked for a company that provided janitorial and building maintenance to a commercial building. Now, my company is hiring again. Can I reapply to my old job, or are they supposed to notify me if I can come back? I have only found spotty employment, in the meantime, I would really like to go back to my old job. - Ray B. from Concord.

Thank you for this excellent question, Ray. We are sorry you were one of the many people laid off from your position because of COVID-19.

As COVID-19 restrictions are generally being lifted, many businesses have opened back up and, thankfully, rehiring many of the people who had been placed out of work during the shutdown. Before the pandemic, California businesses without a collective bargaining agreement were generally unrestricted in their discretion to pick and choose which, if any, employees would be recalled to work following a layoff. However, during the pandemic, many cities adopted "right to recall" ordinances that restricted employer hiring discretion after a layoff.

Last April, California followed suit by enacting Senate Bill 93, which created Labor Code Section 2810.08 which requires employers in certain industries (see covered employers below) to make written offers to employees laid off because of a reason related to the COVID-19 pandemic (e.g. public health directive, government shut down order, lack of business, a reduction in force, or other economic, non-disciplinary reason due to the COVID-19 pandemic). This law does not expire until December 31, 2024.

Covered Employers Covered employers generally include:

- hotels with 50 or more guest rooms;
- private clubs that operate a building or complex of buildings containing at least 50 guest rooms;
- publicly or privately-owned event centers of more than 50,000 square feet or 1,000 seats used for public performances, sporting events, business meetings, or similar events;
- airport hospitality operations that provide services related to the preparation of food or beverages for aircraft crew passengers, and to the public at an airport;
- airport service providers that provide services directly related to the air transportation of persons, property or mail; and
- employers that provide janitorial, building maintenance, and

security services provided to office, retail, and other commercial buildings.

Covered Employees

To be protected by Labor Code Section 2810.8, an employee must have worked at least two hours per week by the covered employer, been employed by a covered employer for at least six months in the twelve months preceding January 1, 2020 and be separated from active service due to a reason related to the COVID-19 pandemic. Any employer of a covered enterprise must comply with the recall provisions regardless of the number of its employees.

Employers' Obligations to Covered Laid-Off Employees

- Within five business days of establishing a position, a covered employer must offer its laid-off employees all job positions that become available for which the laid-off employees are qualified in writing.
- A laid-off employee is "qualified" for a position if the employee held the same or similar position at the time of the employee's most recent layoff with the employer.
- A laid-off employee who is offered a position has to be provided at least five business days from the date of receipt to either accept or decline the offer. We recommend responding in writing as soon as possible and keep a written copy of your acceptance. If your contact information has changed, please make sure to update your former employer with all current contact information to facilitate the employer contacting you and avoid missing a recall opportunity.
- Simultaneous, conditional offers of employment may be made by the employer to more than one laid-off employee, with the final determination of which laid-off employee gets the position determined by seniority. Seniority is based on total length of service with the employer, not on the basis of job seniority.
- In the event that an employer declines to recall a laid-off employee on the grounds of lack of qualifications and instead hires someone other than a laid-off employee, the employer is required to provide the laid-off employee with written notice within 30 days. The notice must specify the length of service with the employer of those hired in lieu of that recall and all reasons for the decision.
- Labor Code Section 2810.8 also contains anti-retaliation provisions and requires employers to keep records for three years. The records must include the laid off employee's full legal

name, job classification at time of layoff, date of hire, last known residence, email address, and phone number, as well as lay off notices and all communications regarding employment offers made under Labor Code section 2810.8's requirements.

Enforcement and Remedies

The Division of Labor Standards Enforcement (DLSE) has exclusive jurisdiction over the enforcement of Labor Code Section 2810.8. While there is no private right of action, laid-off employees may file a complaint for a violation of Labor Code Section 2810.8 with the DLSE, and the DLSE may bring a civil action in court.

Remedies for violations include reinstatement, back pay, benefits, and interest on all amounts due and unpaid, Civil penalties may also be imposed, including \$100 for each employee whose rights are violated, and liquidated damages of \$500 per employee, for each day an employee's rights have been violated.

If you believe that your recall rights were violated, you may report the violation to the DLSE for investigation.

City and County Ordinances

Cities and Counties may enact greater protections through local ordinances. Labor Code Section 2810.8 does not preempt right-to-recall ordinances adopted by multiple cities throughout California. Some of the cities and counties which have enacted such ordinances include Carlsbad, Glendale, Los Angeles County, Los Angeles City, Long Beach, Monterey County, Oakland, Pasadena, San Francisco, Santa Clara, San Diego, and Santa Monica.

If you believe that your employer used COVID-19 as a cover for discriminatory lay-offs during the pandemic, and/or if you have questions about whether Labor Code Section 2810.8 applies to you, please contact an employment attorney and/or the DLSE.

For more information contact us for a free consultation at [Dolanlawfirm.com](https://www.dolanlawfirm.com).

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2022 California Legislative Update

By Chris Dolan, Steven Balogh and Nancy Villatoro

This week's question comes from Fred in Oakland:

Every year, it seems laws get changed or updated. Can you share some laws that your firm may be looking out for in 2022?

Thanks for your question, Fred. During the first of the year the California legislature and Governor enact numerous bills that affect the courts or are of interest to the judicial branch. This year is no exception and the same thing happened in 2022. This is not a complete summary of all the laws, but here are some laws that we believe are worth mentioning as they relate to personal injury and employment law:

AB 855 Judicial Holidays

Native American Day (4th Friday in September: 9/23/22) replaces Columbus Day.

SB 241 More Efficient Courts

Remote appearances are extended until 2023. The general rule that other case deadlines are also extended for the same length of time as a continuance or postponement now also applies to arbitration. Courts are required to hear minor's compromise petitions within 30 days of filing and, if the petition is uncontested, to issue a decision upon the hearing's conclusion.

SB 447 Pain & Suffering in Survival Actions

Updates CCP 377.34 puts a deceased person's non-economic damages back on the table for their survivors. Applies to all causes filed starting this year through to the end of 2026. Learn more here.

SB 331 Silenced No More Act

The prohibition on NDAs in settlement agreements has been expanded from just those involving sexual harassment, assault, and discrimination to cover settlement agreements for all forms of harassment or discrimination. SB 331 also expands the prohibition on overly broad confidentiality and non-disparagement clauses to include workers who have to sign one as part of a severance agreement. This only applies to agreements made after 1/1/22.

SB 93 Rehiring and Retention

Employers are required to essentially give laid-off workers right of first refusal for their old jobs. Requires an employer to keep records of these offers for three years.

AB 1033 Expanding the California Family Rights Act

Employers with at least 5 employees must provide employees up to 12 weeks of job-protected leave from work, on an annual basis, to care for a parent-in-law with a serious medical condition.

AB 849 Undoing Jarman v. HCR Manorcare (2020) 10 Cal.5th 375

Caps violations of regulatory resident rights (at skilled nursing and intermediate care facilities) at \$500 per violation. The new caps apply to violations occurring after March 1, 2021.

AB 654 Covid-19 Exposure Employer Notification Requirement

Employers must provide local public health agencies with notice within 48 hours or a business day, whichever is later, upon learning of a potential exposure event. The Employer is also required to notify the employees, customers, and anyone else on site who may have been exposed. Only applies through to the end of 2022.

AB 701 Warehouse Workers Quota and pace-of-work standards Disclosures

Requires disclosure of quotas and workers cannot be fired or retaliated against for falling to meet an unsafe quota. The bill focuses on the relationship between quotas and incidence of workplace injury.

SB 762 Arbitration Invoice Payment Requirements

Amends Code of Civil Procedure §§ 1281.97 and 1281.98 to change the default rule to all arbitrator invoices are due upon receipt, unless the parties' arbitration agreement sets a number of days. Extensions for invoice payments must be agreed upon by all parties

to the arbitration.

SB 974

Minors on horses on highways must wear approved helmets.

SB 286 Delivery App Tips

Tips for delivery cannot be retained by the apps but go to the delivery driver. Tips for pickup still go to the restaurant.

SB 389 Alcohol to go

Restaurants can sell alcohol to go through to the end of 2026.

AB 177 Judicial Evaluation of Remote Proceedings

The judicial council is to collect data on how many and how well remote proceedings are doing and present this information to the Legislature and governor by January 2023. This law also requires the Judicial Council to come up with guidelines on how to administer remote proceedings in the same timeframe.

For more information on CA Bills take a look at the links below:

[All Bills Enacted in 2021 that become effective in 2022](#)

[2022 CA Workplace Laws](#)

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