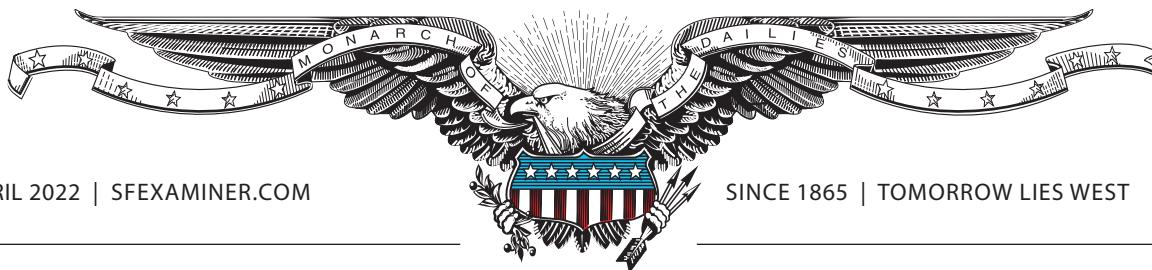


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Implementing Diversity, Equity, and Inclusion (DE&I) Initiatives Within Law Firms and Corporations

By Christopher B. Dolan, Mari Bandoma Callado, and Katelyn P. Dembowski

This week's question comes from Skyler from San Francisco who asks:

There is a lot of talk going on right now about diversity, equity, and inclusion within corporations. Is your firm doing anything to foster diversity yourselves? If so, what can others do to follow your lead?

Thanks for your question, Skyler. In the winter of 2020, senior associate attorney Mari Bandoma Callado approached Dolan Law Firm Founder and Chief Legal Officer Chris Dolan about starting a Diversity, Equity & Inclusion (DE&I) Committee. This was right after the peak of the Black Lives Matter movement in the summer of 2020. Mr. Dolan was immediately on board with her vision. It was an easy transition because our firm has always been supportive of attorneys being involved in DE&I initiatives outside the firm, including but not limited to, sponsoring diverse bar association fundraising efforts, encouraging attorneys to take leadership roles and/or volunteering at community organizations and events. The firm was also very supportive of attorneys with children and has allowed a more flexible schedule for new parents.

However, every organization or law firm is different. There is no "one size fits all approach" to starting a Diversity, Equity and Inclusion Committee or implementing DE&I initiatives. This article will discuss information on the importance of DE&I and provide tools on how to establish a DE&I committee or initiative as well as reflect on the success and challenges of the Dolan Law Firm's efforts.

What is Diversity, Equity and Inclusion (DE&I)

Diversity is expressed in different forms including visible and invisible diversity: race, ethnicity, gender and gender identity, sexual orientation, age, socioeconomic status, language, culture, religious commitments, and (dis)ability status.

However, diversity without "Inclusion" is exclusion. Most lump diversity and inclusion together but they are actually two different things and having diversity does not necessarily translate to inclusion. Inclusion is diversity in action. It's about creating an environment that understands, accepts,

and values the differences between people - and not just different backgrounds but different ideas, experiences, and perspectives.

Equity or the experience of fairness is about ensuring that all people have equal opportunities, and that bias, harassment, and discrimination are not tolerated. It involves an understanding that not everyone's path is the same and eliminating the barriers that prevent the full participation of some groups.

Developing a DE&I Strategic Plan

We recommend collaborating with stakeholders and supporters in developing a DE&I strategic plan based on the firm-wide assessment you conduct. It was important for us to take our time in scaling the program and working as a group to build a shared vision and determine our goals. This included extensive discussions within the committee (which included heads of human resources and marketing) and encouraged participation from everyone at the firm by inviting all staff to monthly planning meetings.

The Dolan Law Firm Committee drafted a mission statement and objectives as a group:

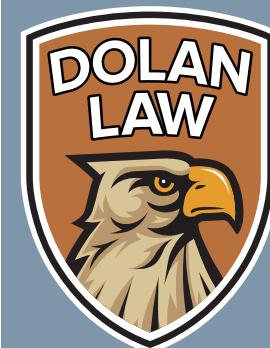
Mission Statement: In order to deliver equal justice for all, the Dolan Law Firm is committed to advancing and nurturing a diverse, equal, and inclusive workplace that reflects the communities we serve.

Implementing DE&I InitiativesImplement a structure to facilitate your plan. Through our monthly meetings (which were held virtually during the pandemic), we were able to delegate tasks and coordinate the programming and activities to fulfill our objectives related to retention, recruitment, and community outreach.

1. Retention

A key component is including an activity or discussion that allowed us to get to know each other better and for employees to be better understand their own experiences and even their own biases. The Committee came up with group activities depending on the presentations we were doing that month, things that were happening at the firm, and/or current events. Sample group activities include:

- Discussion regarding the use of pronouns;
- "Land Acknowledgement" presentation;
- Activity on overcoming imposter syndrome;
- "Wall of Appreciation" which allowed members of the committee to anonymously tell each other things they appreciated about their colleagues;
- Activity on identity and diversity – "How Does the World See You?";



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- Discussion on "What is your superpower?"; and
- Check-in on the highlight of your week.

During the first year, we focused on developing DE&I presentations and activities created by our committee members to fulfill the retention objective of our mission statement. Sample presentations include:

- Black History Month presentation on the Unsung S/heroes of the Civil Rights Movement
- Women's History Month Presentation on Intersectionality
- Anti-AAPI Hate Presentation + Bystander Intervention Training
- Celebrating Diversity Month - Presentation on Implicit Bias
- Celebrating Pride Month - Pride Month Presentation
- Anti-Semitism in Progressive Spaces Presentation
- Latinx/Hispanic Heritage Month Presentation

2. Recruitment

It is important for the Committee to be part of recruitment efforts. We have a representative at each attorney and/or staff interview who shared the firm's commitment to DE&I and to ask questions to gauge the candidate's interest and/or commitment to DE&I. We also added the mission statement/commitment to DE&I in job postings. The committee continues to collaborate with Human Resources in developing and implementing the DE&I talent acquisition strategy.

3. Marketing and Community Outreach

A DE&I representative is part of the marketing team and assists with ensuring that the firm continues to be connected to the community that we aim to serve. The Committee regularly creates content for the firm's website and social media accounts that highlights the diversity of our team, issue statements that reflect the commitments and values of the firm, and regularly spotlight our team members who are doing incredible things for the community through their leadership roles and volunteer work.

Additionally, the firm is committed to supporting organizations that share the same commitment to DE&I. The firm is a long-

time supporter and sponsor of various organizations such as the CAOC Diversity, Equity and Inclusion Committee, the Bay Area Lawyers for Individual Freedom (BALIF), Filipino Bar Association of Northern California (FBANC), East Bay La Raza, and just recently became a sustaining law firm member of the Charles Houston Bar Association.

We hope you found this information useful and if you know any firms or organizations looking to implement more DE&I measures, please do not hesitate to reach out to us.

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What You Should Know if You Are Injured as a Passenger on Public Transportation and The Defendant is a Government Entity.

By Christopher Dolan and Cristina Garcia



This week's question comes from Julia L. in Pacific Heights, CA, who asks:

I am a frequent city bus rider who rides to work every day. While on the bus last week, I felt a sudden acceleration through the intersection followed by a strong impact on the right side of the bus, where I sat. The crash surprised me because I was reading an email at the time of the collision. When I looked up, the traffic light facing the bus was red, and there was a truck smashed into the side of the bus. At first, I was okay, then felt an unbearable pain in my right arm. The paramedics informed me that I had a broken arm and needed immediate medical attention. I had surgery and stayed overnight at the hospital. I have significant medical bills

and missed several days of work due to the accident. Although the police report is not ready, based on the statements I heard from eyewitnesses, it appears that the city bus ran the red light. I have heard special rules apply when pursuing a personal injury claim against government entities, such as a city bus. However, I am not sure what are my next steps. How do I file my claim against a government entity?

Hi Julia,

This is a great question. Many people are unfamiliar with the unique requirements an injured person must comply with before filing a lawsuit against a government entity. Generally, the statute of limitations (the period when a lawsuit can be filed) is two years

from the date of the accident or injury in California. However, special rules apply when a government entity is responsible for the injury. When pursuing a personal injury claim against a government entity, in your case the City or County, you must first file a special claim often referred to as an "administrative claim" with the government office or agency before you file in court.

It is important to note that there is a limited time in which you can bring an administrative claim against a government entity. Under California Government Code Section 910, you must file a claim against the government entity within six (6) months after the event or occurrence. It must be filed with the appropriate government office or agency. Please note that you must use the claim form of the particular government agency when filing a claim, as section



910 prescribes a list of the required information you must provide in your claim. Otherwise, the claim may be deemed invalid.

After filing your administrative claim, the government entity has 45 days to accept or reject the claim. If the government rejects all or part of the claim or does not respond within 45 days, the injured person can file a lawsuit in court. If the government entity rejects the administrative claim, the injured person only has six months from the date of the rejection letter to file a lawsuit.

If you are successful in your claim against the government, you can seek financial compensation for your injuries, including medical bills, loss of income, property damage, and pain and suffering. However, the statute of limitations for government claims can be complicated. Therefore, we highly encourage you to seek legal representation to ensure that you comply with all the requirements as prescribed in Government Code Section 910.

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Are My Therapy Records Protected in a Lawsuit?

By Christopher Dolan and Emile Davis



This week's question comes from an anonymous writer who asks:

I was recently in a bad car accident. I was in the hospital and required surgery to put some screws and a plate in my shin. I am in therapy for some very private and personal issues arising from an abusive relationship. I don't want to share that information with anyone, but, I have also been talking to my therapist about the difficulties in recovering from the accident and being so limited with my leg while I heal. It wasn't my fault, but I am scared to bring a lawsuit.

Is there anything I can do to get compensated but not let the driver who hit me or the insurance companies know my personal business from my therapist even though I talked to her about the accident?

Dear Anonymous,

You have raised an interesting dilemma that affects many people who file a lawsuit and are in litigation. What you describe is at the heart of many privacy laws in California- the conflict between a litigant's privacy and the need for information to get to the truth of a matter.

We need to start at the most basic level to understand how this conflict plays. First, every person has a privacy right to their medical records. The California constitution expressly provides that all people have an "inalienable" right to privacy. This clause has created a zone of privacy that protects against unwarranted compelled disclosure of certain private information, including medical records.

However, this privacy right is not absolute. As your question understands, certain medical privacy rights are waived by bringing a lawsuit. Clearly, in evaluating a leg injury like the one you have suffered, prior injuries to that leg would help inform a clear understanding of the damage this accident caused. Defendants sometimes litigate and argue that all privacy in medical records is waived by bringing a lawsuit. Courts have held the line well, limiting physical records to the body parts in question in the litigation or if the body parts are directly implicated.

Mental health records follow a similar analysis, but there is a more transparent and absolute way to protect therapy records from being disclosed. Part of the damages a Plaintiff in a civil lawsuit arising from an auto accident generally includes what is referred to as non-economic damages: pain and suffering, emotional distress, fear, and anxiety.

Since the non-economic damages are likely discussed in therapy records, as it is in your case where you have explained the difficulties of the recovery process with your therapist, they would be directly relevant to the litigation. However, the law has developed a mechanism to allow protections and allow the maintenance a litigant's privacy.

The Plaintiff can make an election between what is known as a "garden variety" claim for emotional distress damages or what is called a "special claim."

When making a "garden variety" claim, the Plaintiff indicates that "no claim is being made for mental and emotional distress over and above that usually associated with the physical injuries claimed." If the emotional distress suffered is of the type expected from the physical injuries, a Plaintiff's therapy records would not likely be at issue and could be kept from disclosure.

A special claim is the opposite. It is where the emotional injuries exceed what would be expected from the physical injuries. An example would be when someone had a severe emotional reaction and sought psychological treatment to deal with the emotional injures from the accident.

With the bit of information, we have from your question, it seems that a garden variety claim would accomplish your goals of moving forward with a lawsuit while, at the same time, likely keeping your therapy records private. Please understand that there is no half-measure; if some of the records from a therapist are disclosed to prove how difficult your recovery has been, that will often open up the rest of the therapy records.

If you choose to move forward with a lawsuit, make sure to find an attorney who is knowledgeable about these things and can advise you regarding these important issues.

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Our Rights to an Interpreter

By Christopher Dolan and Carole Okolowicz



This week's question comes from an anonymous writer who asks:

If you are charged with a crime in California and do not understand English, you have a right to an interpreter in court. (Cal Const Art 1, Sec 14.) If you have an attorney, they may provide an interpreter; the court will provide one if you do not have an attorney. But, do you have a right to an interpreter in a non-criminal situation? For example, if a car hits and injures you, or your employer wrongfully fired you, and you have to file a lawsuit, do you have a right to an interpreter?

Dear A
Dear Anonymous,

Let's start at the beginning. One of the first decisions you make when you are injured or mistreated is whether to hire an attorney and which attorney to hire. Many California lawyers and law firm staff note if they speak languages other than English on their website. If you are unsure if the attorneys speak another language

other than English, when contacting an attorney, you may want to ask a family member or friend to translate for you.

Next, during litigation, you may have to appear for a deposition as your case proceeds. A deposition is a question-and-answer session which does not happen in court but, you are still sworn in to tell the truth. You have a right to have an interpreter during your deposition, and your attorney will hire one for you. During your deposition, the lawyer for the other side asks you questions, you respond, and a court reporter types everything said, creating a record.

Last, it is very likely that you will never have to appear in court in your civil case. Most cases settle without ever going to trial. But if your case does go to trial, an interpreter must be provided for you. An interpreter must be provided for any witness "who is incapable of understanding the English language or is incapable of expressing himself or herself in the English language" in a way that can be understood by the attorneys, the court, and the jury. (Evid. Code 752(a).) This is a rule of evidence, meaning that if the

witness cannot understand the questions and if the court cannot understand her answers, the witness's testimony is not useful evidence – unless there is an interpreter.

Unlike in criminal court, a civil court will not pay for the interpreter if one is needed. (Evid. Code 752(b)(2).) The cost of the interpreter is a cost of the lawsuit, just like the cost to file papers with the court and costs associated with depositions, for example. The party that loses the trial, could be you or the other side, may pay the costs. Or, you could pay it if you decide to settle out of court. You may decide it is worth it to settle for various reasons.

It is ultimately up to the court. The court may determine whether or not an interpreter is needed. Suppose you or anyone testifying in court appears to speak and understand the English language well enough to be understood. In that case, the court may determine that no interpreter is needed. However, your lawyers may decide to hire an interpreter regardless of the court's determination. They want you to be able to provide your best testimony and fully understand what the court asks of you.

Because California is such a diverse state, there are interpreters for many different languages and dialects, including Spanish, Mandarin, Cantonese, Tagalog, Hindi, Farsi, Portuguese, even some indigenous languages. Your inability to fully understand the English language should not be a barrier to getting legal representation when you have been wronged.

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