



VICTIM OF A **CIVIL RIGHTS VIOLATION IN CALIFORNIA?**

Protect Your Right To Full And Equal Treatment

Jonathon Kaplan, Esq.
Yitz E. Weiss, Esq.

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TESTIMONIALS

"Jonathon went after a very bad person who had literally stolen money that was invested in me and my talents. To make matters worse, the perpetrator succeeded in convincing me that my talents didn't warrant the investment (money that I had raised and placed in his hands), and had so psychologically abused me that I actually STOPPED singing- -this after making my living as a singer! Jonathon went after him and not only succeeded in getting the money back, but the perpetrator left with his tail between his legs after severe admonishment from the litigator. Jonathon PROVED beyond ANY doubt that this guy was an evil liar who had ill intent from the beginning. Finally seeing how badly I'd been mistreated for the first time, (and that virtually everything that came from the perp's mouth was a bold faced lie), Jonathon's victory on my behalf gave me the confidence to sing again. I owe him my career and will ALWAYS be grateful to him. He is an AWESOME attorney and a wonderful human being to boot! I HIGHLY HIGHLY HIGHLY recommend him!"

— Jeanie

"We first hired Yitz E Weiss over three years ago when we started our own business. Yitz's knowledge, thoroughness made us feel very confident that we were making all the right choices while forming our corporation. He has assisted us in areas of legal matters, liabilities and foresight to ensure proper decision making. His approachable demeanor, attention to detail and timely responses to all our needs have made him a vital asset to the growth and development of our company."

— Michelle

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— Michelle

"I've retained Jon on two occasions--both in response to a harassing neighbor. Although the cases were very likely headed to court he managed to stop them before they got there. He handled it brilliantly, and managed to work out a plan with the plaintiff's attorney which remedied the situation as quickly as possible. I couldn't be happier."

— Anonymous

"I regularly consult Jon for legal advice on business and other matters. His advice is always well thought out, insightful and of great assistance. I highly recommend him."

— Sabrina

"Yitz is a great lawyer who helped me reach an excellent settlement in my injury case. I am very thankful to have found such an attorney. Trustworthy, responsive, knowledgeable & kept me informed."

— Diane

"I would and have recommended him and his team. They are straight shooters and if they feel they can help you they will. They bent over backwards to make sure I understood every way my case could go and what the risk there was to me. If I had to do it again I would do it all the same. No matter how many delays and road blocks the other side tried they worked right through them."

— Floyd

"Jon and Yitz make a good team. They handled my case efficiently and with their experience and patience we obtained a positive outcome. I highly recommend them."

— Anonymous

"Our company hires a host of lawyers. Jon Kaplan is definitely the most service oriented and gets us the absolute best results. He is always a pleasure to work with on any matter."

— Anonymous

“Mr. Weiss is a very fine lawyer. He is caring, knowledgeable, responsive and results oriented. He did a great job for me.”

— Howard

“Jonathon Kaplan is the perhaps the best attorney of the many we have hired.”

— Anonymous

“Yitz is the best, I was so pleased with his knowledge and eagerness to take care of my needs.”

— Judith

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ABOUT THE AUTHORS



ATTORNEY JONATHAN KAPLAN

My name is Jonathan Kaplan. I am a graduate of Duke Law School and have practiced law for over 30 years. I have represented clients on civil rights cases and other cases in court during my time in practice. I've won many victories, big and small, for my clients. Civil rights are an essential area of legal practice for me because they establish who we are as citizens and define the boundaries of society. In other words, civil rights involve what is and is not acceptable in civil society.



ATTORNEY YITZ WEISS

My name is Yitz Weiss, and I have practiced law for over 15 years. Prior to law school, I went to Yeshiva and became an ordained rabbi. I started out doing a lot of business-related cases but gradually gravitated toward the civil rights side of the law. I found it to be very fulfilling to represent individuals, many of whom have experienced poor treatment or discrimination simply for who they are. This area of law is important to me, as I believe all people are entitled to equal treatment and opportunity, regardless of who they are.

What Do You Want Readers To Gain From Reading This Book?

We hope that our readers will gain an understanding of what civil rights laws protect and how civil rights laws developed into what they mean today. We also hope our readers will discover what to do if you have been the victim of a civil rights violation.

CHAPTER 1

WHAT IS CIVIL RIGHTS LAW AND HOW DO THEY WORK IN THE UNITED STATES?



Civil Rights are rights that are fundamental to a free society and to human dignity. Civil rights law in turn is a body of laws at the federal, state, and local levels that protect these fundamental rights, such as equality under the law and freedom from discrimination. Throughout the country, these laws exist to protect individuals from discrimination based on their race, color, sex, religion, age, nationality, sexual orientation, disability, genetic

information and other protected characteristics and classes. These laws protect people under several different scenarios including employment, housing, public accommodations, education, and interactions with law enforcement and the government. Some examples of these laws on the federal level are the Civil Rights Act of 1964, the Americans With Disabilities Act, and the Equal Pay Act. In California, there is the Unruh Civil Rights Act, the Fair Employment and Housing Act, the Bane Act, and the Ralph Act.

Some of our earliest civil rights laws came about when this country was fighting the Civil War. When President Lincoln signed the Emancipation Proclamation, he marked the beginning of civil rights legislation in the United States. In the following years, much of our early civil rights laws centered around the rights of black citizens, their equal treatment under the law, and their right to be free from harassment and discrimination. These fundamental civil rights were further expanded and codified with the passing of the Civil Rights act of 1964. The Civil Rights act of 1964 is the centerpiece of civil rights legislation in effect today and

protects against discrimination on a variety of bases, such as sexual orientation, sex, skin color, and religion. More recently this list of protected classes has expanded. In the 1990s, George Bush signed the Americans with Disabilities Act. The Americans with Disabilities Act codified a whole new set of laws that provides fundamental rights to disabled people. Today, we are seeing new civil rights laws, but we haven't seen any major legislation since the Americans with Disability Act. The new legislation in consideration would establish the right to be free from sex trafficking and include protections against gender-related violence.

What Protections Under Civil Rights Laws Do People Have At The Federal Level And In California?

In California, the current centerpiece of our civil rights legislation is the Fair Employment and Housing Act. The Fair Employment and Housing Act is a law in California that guarantees people who apply for housing and who are in the workplace will be free from discrimination and harassment. California also has the Unruh Civil Rights law which states that prohibits any

business from discrimination based on their religion, gender, skin color, and other protected characteristics.

What Protections Do Civil Rights Laws Offer A Disabled Person In California?

For many years there were no real protections for people with disabilities. The protections that did exist were extremely sparse and this meant people who were disabled were shut out of access to society. But in 1990, the federal government passed a law that was signed into action by George Bush called the Americans with Disabilities Act. That law was then later amended and expanded. Since then, it has been the centerpiece of legislation for people living with a disability. In California, we also have the Fair Employment and Housing Act which provides additional protections for disabled people.

California recognizes disability and medical conditions as a protected class and protected characteristic. In addition to the protections that disabled people receive under federal law, the pre-existing conditions and prohibitions against discrimination and harassment will apply to disabled people as well.

CHAPTER 2

WHAT ARE SOME EXAMPLES OF DISABILITY DISCRIMINATION THAT YOU SEE?



Some of the first cases in California involving disability discrimination centered around access. Lawyers filed many lawsuits for people who couldn't get their wheelchair into a bathroom or were unable to use some of the same services that people who didn't have disabilities were able to freely. Simply by virtue of their disability, they were shut out from going into restaurants, working or from enjoying the same kind of

access that able-bodied persons enjoy all day long without a thought. California then began to see an increase in cases related to reasonable accommodation in the workplace for workers with disability. For example, we recently had with a client who had diabetes and sleep apnea. This client needed to take additional rest breaks at work due to their conditions, but unfortunately, the employer considered this a request to sleep on the job. It took a major shift in the thought process of the employer for them to understand that our client's request was a reasonable accommodation. They finally understood that a rest period can assist in preventing a diabetic attack or a hypoglycemic episode.

Another example of a reasonable accommodation case involves a client who suffered from a medical condition and needed to have his leg amputated. Before the incident he was a bus driver. After his amputation he used a prosthetic leg and was able to rehabilitate himself and is able to drive a bus just like before, without any special kind of equipment or accommodation. Nevertheless, the bus company told him he could not be hired because they think it's

unsafe to have him as a driver. This is a great example of a case worth litigating.

What Should Someone Do If They Believe Their Civil Rights As A Disabled Person Have Been Violated?

If you believe your civil rights as a disabled person have been violated, you should seek out and talk to your employer. Ensure that your employer understands your rights are being violated because oftentimes the employer doesn't know. Unless you speak up and document it, you may not be able to get any help. The law clearly states that if you're disabled, you must talk to your employer and engage in good faith to come up with a reasonable accommodation for your disability. However, unless you speak up about it, you can't always count on the employer to do their job of finding a reasonable accommodation.

The next step I would recommend is to document all conversations with your employer and all of their responses. Sometimes employers don't think that they have the duty to make a reasonable accommodation for a disability. Therefore, if you document your attempts to

talk to your employer, that could be critical evidence in your favor.

The next thing you should do is contact a lawyer. An experienced lawyer can help you file an administrative claim with the Department of Fair Employment and Housing or with the Equal Employment Opportunity Commission. If that doesn't work, a lawyer can then help you file a lawsuit in either state or federal court. With the help of a qualified attorney, a court can require your employer to provide reasonable accommodations and potentially compensate you for failure to do so initially.

How Common Are Civil Rights Workplace Violations Occurring In California?

We get phone calls every single day from people who believe that their civil rights are being violated in the workplace. I would say that in roughly half of those cases, people have an actual claim and their civil rights are truly being violated. That means civil rights violations in California happen daily and are often widespread.

CHAPTER 3

WHAT ARE SOME EXAMPLES OF WAYS THAT WORKERS' CIVIL RIGHTS ARE VIOLATED?



Examples of ways workers' rights are violated include harassment, hostile work environment, and discrimination based on a worker's protected class or characteristics. If a worker has been discriminated against or harassed based on skin color, nationality, or other legally protected characteristic, then their civil rights have been violated.

Is There A Defining Line Between Workplace Harassment And Just Common Bad Behavior?

Oftentimes, workplace bullying is unlawful, however it is distinct from a civil rights violation. The distinguishing factor is whether the bullying or harassment is taking place due to bias or discrimination against skin color, gender, or other legally protected characteristic.

The other component to these cases is the severity of the behavior or offense. If it's a one-off situation where someone makes an offensive statement, it may not always be actionable. However, if it's something that's happening repeatedly or is severe, then it's likely unlawful.

There are cases where someone is simply a bad boss or bad co-worker and unfortunately, someone must deal with it because it's not illegal conduct. The law doesn't protect against people being mean or unprofessional, but when it crosses a line to become discriminatory or based on someone's membership in a protected class, that's when it becomes punishable by the law.

What Are The Civil Rights Laws Currently In Place To Protect People In The Workplace?

On the federal level we have what's called Title VII, which finds its roots in the Civil Rights Act of 1964. The Civil Rights Act of 1964 is the starting point and centerpiece of federal legislation for civil rights. It's been amended and expanded over the years and its protection encompasses more people and provides more rights. On the state level in California, we have the Fair Employment and Housing Act, which also can be described as the centerpiece of California legislation for protecting workers' rights.

What Can Or Should An Employee Do If They Believe Their Civil Rights Have Been Violated In The Workplace?

If you believe your civil rights have been violated in the workplace, it is critical to communicate with your employer and document all conversations and pertinent details that arise. The fact that you've tried to communicate the issue with your employer is something important to document, because an employer can't be

liable for the act of most other employees unless they knew what was going on.

It is essential under any circumstance that the employer is given notice of a civil rights violation. If that doesn't resolve your problem at work, then it's time to call an attorney. An attorney can assist you in presenting an administrative claim and filing a lawsuit if necessary.

CHAPTER 4

WHAT ARE POTENTIAL RESOLUTIONS TO EMPLOYEES CIVIL RIGHTS VIOLATION CASES?



Potential resolutions to employee civil rights cases depend on what kind of claim is filed. If an employee files a claim with either the State Fair Employment and Housing Administration, or the Federal Equal Employment Opportunity Commission, those administrative agencies have the power to come in and force the employer to make changes. They can also order the employer to make restitution to any

aggrieved employees. This means if a victim lost any money, such as in the case of being denied a promotion or being terminated, the administrative agency can order backpay to the employee.

In a lawsuit, the resolution often involves involve a settlement or jury verdict. Settlement typically involves the employer making a payment to the employee as compensation. For example, in the case of an employee that was fired for a discriminatory reason, settlements may involve paying back lost wages compensation for emotional distress. In some cases, lawsuits are not able to reach a settlement and they must go to trial. In most cases that go to trial, a jury verdict or judge will decide the outcome.

A court can also issue an injunction forcing an employer to halt a certain practice or to act in the interest of your protection. Injunction normally happens in cases where there's very serious harm or there is harm affecting a large number of workers.

Are There Protections In Place For Employees Against Retaliation If They Do File A Complaint Or A Lawsuit?

There are protections in place for employees against retaliation for filing a complaint or lawsuit. The law protects workers who make complaints or who file lawsuits, as well as workers who testify on behalf of other workers that have filed claims and lawsuits. Therefore, if an employer retaliates against you for any of those things, you have the same rights that you would have as though the employer had discriminated or harassed you.

CHAPTER 5

WHICH STATE LAWS IN CALIFORNIA WOULD COVER SEX AND GENDER DISCRIMINATION?



Civil rights laws in California are split up into employment-related and non-employment related. When it comes to employment related civil rights protections, we refer to the Fair Employment and Housing Act. Outside of the employment context, in reference to day-to-day activities, there are another set of laws provided by the Unruh Civil Rights Act. The Unruh Civil Rights Act establishes that all people in

the state of California are free, equal, and entitled to fair accommodations in any business establishment. Therefore, this act protects victims of discrimination from businesses based on their sex or gender.

If a business wanted to exclude women, for example, the Unruh Civil Rights Act would prohibit that. This law has also developed over time to include a wider range of civil rights protections including protections against sexual battery and sexual harassment. For example, newly added sections of the Unruh Civil Rights Act now cover gender-based harassment. This includes criminal acts such as sexual assault and rape. On the federal level, Title IX protects victims of sexual assault who attend educational institutions that fail to adequately protect against sexual assault on school campuses.

A state corollary to Title IX is Education Code Section 200, which also protects against acts of hate violence, and bias-related incidents. Any public school receiving funding from the state is subject to Education Code Section 200 and thereby must ensure equal

benefits on campus and protect against incidents of sexual harassment or sexual battery. Thus, there are a variety of laws in California that cover sex and gender discrimination, whether it occurred at work, school, or during day-to-day business encounters.

What Are Some Examples Of Unlawful Sex Or Gender Discrimination In California?

There are a wide range of examples of sex or gender discrimination in California. If a college student is sexually assaulted by another student, this type of assault could be considered sex or gender discrimination. There are also examples of sex or gender discrimination occurring in the workplace, many of which are what we might be described as quid pro quo sexual harassment. With quid pro quo sexual harassment, a boss or superior offers a subordinate employee advancement at work in exchange for sexual favors. Overall, the most common instances of sex or gender discrimination occur at the workplace or in schools.

Why Is Someone Being Raped On Campus By Someone Else An Example Of Discrimination Based On Sex?

With instances of campus rape, the victim not only has a case against the rapist but also potentially has a case against the school. Under Title IX, all students are entitled to the same education regardless of sex, and there shall be no discrimination based on sex. Therefore, if someone is raped on campus, it will likely significantly impose on their educational experience.

Since experiencing rape is a majorly disruptive event that usually occurs based on sex, and because it will impact the victim's ability to have an equal education, Title IX now requires schools to follow minimum standards to prevent assault. If a school is deliberately indifferent to the risk that someone is going to be subject to rape on campus, or if the school fails to take the appropriate remedial action after someone is raped on their campus, there can be liability under Federal and State anti-discrimination laws.

Due to the distinction between criminal and civil cases, an experienced attorney could potentially represent a victim of sexual assault or rape in a civil case even if there were no criminal charges filed or if the criminal case didn't result in a conviction. In these instances, we may still be able to bring a civil claim against an individual perpetrator, educational institution, or business.

CHAPTER 6

IF A COMPANY HAS A HARASSMENT, DISCRIMINATION POLICY, DOES IT IMPACT A CIVIL LAWSUIT REGARDING SEX OR GENDER DISCRIMINATION?



If a company has harassment and discrimination policies in place, it can affect a civil lawsuit in several ways. If the company has a good policy and abides by it then there is a good chance that they will properly address any such issues before they get too far, and well before it could ever get to the point of a lawsuit. In

addition, simply raising the issue with the employer may resolve it. However, if they have a bad policy or no policy at all, it may reveal that they don't take these matters seriously. In this case, a company becomes more vulnerable to a lawsuit because they appear to allow sexual discrimination or harassment to go on without having any clear rules against it. A detail such as this could significantly help the plaintiff in a lawsuit.

If an employer does have a policy, but it is not effective or the company doesn't enforce it, it could make them look even worse. It could appear the employer is simply pretending to have a plan in place for the sake of appearances, while in truth it does not care to take these matters seriously. An experienced attorney can establish whether they have legitimate policies and procedures in place and whether such policies are properly enforced.

What Are Potential Remedies Available To Someone Who Is A Victim Of Sex Based Or Gender Based Discrimination?

Potential remedies for victims of sex or gender-based discrimination depend on the circumstances. In

most cases, there may be financial compensation for any damages, including for emotional distress, medical expenses, or therapy. It can also involve “back pay” or reinstatement to a job position. In addition, it could involve an injunction by the court to prohibit the company from repeating its offense or requiring them to take any necessary steps to increase equity in the workplace. In an educational context, it could also include reinstatement at the school. It could also include accommodations to a curriculum, or involve repayment of any litigation cost, out-of-pocket expenses, attorney fees, and in some of the more extreme cases, punitive damages.

What Does A Judge Or Jury Look At To Determine The Amount Of Punitive Damages That Are Awarded To A Victim Of Discrimination In Egregious Cases?

When considering the amount of punitive damages awarded to a victim of discrimination, the court will look to two main points. First, the court will consider the egregiousness of the conduct. Second, they will consider the financial net worth of the perpetrator.

When considering how egregious the conduct was, the court should base their decision on the facts of the case. For an example in the context of sexual harassment at the workplace, there are some specific questions you might want to ask. Did the boss know about it? Did the management know about it? Did management ignore complaints? Did the boss or management participate in it? Was there retaliation against the employee when the employee made the complaint? Did management ignore their own policies and procedures? These details, and more, all contribute to the perceived egregiousness of the violation by a California court.

For example, if a boss was engaged in unwanted physical touch with an employee, that would be considered more egregious than a boss who makes inappropriate verbal comments about a victim's body. It doesn't mean that in both of those cases there could be punitive damages, but offensive touching and groping would certainly be considered more egregious than spoken words. The frequency in which the violation occurs also carries weight in this decision.

When it comes to verbal acts, the egregiousness of the specific words used is considered by the court. For example, if someone uses generally foul language that sometimes makes people uncomfortable, it will not be considered as egregious as someone using a deliberately racist slur.

The other factor when determining the amount of punitive damages is the net worth of the perpetrator. If it's a large corporation or institution, it may be worth millions or even billions of dollars. Punitive damages are designed to make an example of the perpetrator and to ensure that the offense doesn't recur. Therefore, the dollar amount required to make such an example will vary depending on the net worth of the offending party. If it's a business that must pay punitive damages, it will generally require more extensive penalties than an individual. Ultimately, the court will have the final say in the amount of punitive damages awarded.

CHAPTER 7

WHICH BUSINESS AND PUBLIC ACCOMMODATIONS PROTECTIONS ARE AVAILABLE UNDER CALIFORNIA LAW?



Business and public accommodations protections are some of the oldest civil rights protections. The Civil Rights Act of 1866, which guaranteed all citizens of the United States equal protections under the law regardless of who they are, was the earliest of the Civil Rights laws and paved the way for much of the civil rights legislation in America up until today.

For business and public accommodations protections specific to the state of California, we have the Unruh Civil Rights Act, which provides that all citizens of the state are free, equal, and entitled to equal accommodations and privileges in any business. Citizens can't be provided with different services because they have different races, religions, genders, colors, political affiliations, and so on.

What Are Common Violations Of Business And Public Accommodations Protections In California?

There are quite a few common violations of business and public accommodation protections in California. One of the most common examples attorneys see relates to racial discrimination. Historically, many businesses would not allow people of color into their establishment. However, changes in the law requiring protection from racial discrimination meant these businesses had to begin allowing people of color inside their establishments. To adapt to these new civil rights protections, many businesses would provide people of color with alternative accommodations and services. For

example, they might be forced to sit in a different section or pay a different price. Today, we see much fewer cases of overt racial discrimination. However, while overt racial discrimination is now less common, it continues through more subtle means. As a result, the civil rights violations we see nowadays are much more subtle and sometimes harder to prove.

As experienced attorneys, we have many examples of instances like this happening today. For example, we have handled cases where a business representative prohibits a member of a particular race from using the restroom without buying something, while simultaneously allowing members of the other races to use the restroom for free. In other examples, people of a certain color or ethnicity, will be required to prepay at an establishment before getting service. In these cases, unequal treatment is typically rooted in implicit biases or unconscious discrimination against someone due to their race, gender, or other aspects of their identity.

If a clerk at a store makes an inappropriate comment about someone's religion, the person has a claim against the business for violating their civil rights. Whether or not the business has an explicit policy against the behavior does not matter if it has occurred. The same thing would apply if an employee wrote a racist message on a customer's receipt or if any other protected civil right was violated. The examples we see today are much less overt and more subtle than the examples that were prevalent in previous generations, but it still happens. Ultimately, there is an inexhaustible list of examples of racism and gender discrimination as a violation of business and public accommodation protections in California.

What Are Potential Remedies For Violation Of Business And Public Accommodation Protections?

The basic remedy for violations of business and public accommodation protections would be monetary compensation for the offense. This includes compensation for emotional distress, medical expenses, and any out-of-pocket costs incurred. They would also be entitled to

reimbursement for litigation costs, attorney fees if the case warranted it, and punitive damages. Certain violations also cover what is called trebled damages. With trebled damages, an aggrieved person can bring a claim and get three times the amount of their actual damages. Additionally, statutory damage or statutory penalty is a process in which the law provides a set amount of damages regardless of whether you prove you incurred them or not. With the statutory penalty process, depending on the type of case, you could be compensated with penalties against the perpetrator ranging from \$4,000 to \$25,000 per offense. These would be some of the more common remedies.

CHAPTER 8

WHAT LAWS PROTECT PEOPLE WHEN IT COMES TO POLICE AND GOVERNMENT MISCONDUCT?



On the state level in California, we have the Bane Civil Rights Act, codified at Section 52.1 of California Civil Code. It provides that any person acting under cover of authority who interferes with the exercise of enjoyment of legal rights will be liable to the person whose rights were impinged upon. This means that if a law enforcement agency or governmental agency violates constitutional rights, they could be liable for

misconduct. A classic example of that are cases of excessive force or wrongful arrest cases where police officers use their authority selfishly to take advantage of ordinary citizens. Those ordinary citizens can then bring a lawsuit against a police officer and the police department for damages and other appropriate relief.

We have a similar type of provision on the federal level. Title 42 USC Section 1983 prohibits persons acting under cover of authority from interfering with the exercise of constitutional rights.

Who Could Be Potentially Liable In These Types Of Cases?

In cases of police and government misconduct, law enforcement or the individual police officers that committed violations are held responsible. In some cases, their whole departments are held liable.

When Is The Police Department Liable For The Actions Of Police Officers?

There are certain scenarios in which a police department is liable for the acts of its officers. One of those circumstances is when there is a policy or

procedure in the department that leads to a violation of constitutional rights. An example of when police departments can be liable is when they fail to train their officers properly, which results in a systemic deprivation of constitutional rights. When the training is inadequate, and it amounts to deliberate indifference to the constitutional rights of the individual, there is a case to prosecute an entire department. Sometimes a government department ratifies illegal conduct and approves it. In certain cases, the supervisor can also be held directly liable for the officer's conduct as opposed to just the department.

How Common Are These Violations? Is It More Common Than We Think?

Civil rights violations by the government are more common than we think. It's not unusual that something goes wrong in the process of law enforcement. Further, it's not uncommon for the government to exceed its authority in correcting these wrongdoings. We get many calls each week about police misconduct, wrongful arrests, excessive use of force, or improper prosecution. All of these could give rise to a claim.

Many of these violations may be considered minor because they do not result in any physical injury. However, there are also many egregious examples that happen daily, including in correctional facilities. For example, there are cases where someone in jail or prison is physically assaulted or killed. A jail or prison is legally liable in these circumstances. Another example would be someone who was wrongfully detained longer than they should have been confined. In this situation, the former inmate would have the right to receive compensation for being over imprisoned or over-jailed beyond a court sentencing. An experienced attorney would also investigate cases of inmate negligence, or even advocate for victims of wrongful imprisonment. Another example of police misconduct that leads to civil rights violations is when government officials use their social status to elicit sexual favors from victims. For example, a police officer might offer a victim aid or support only if they comply with a sexual favor. This is a real example our firm has encountered.

CHAPTER 9

ARE PEOPLE RELUCTANT OR SCARED TO FILE CLAIMS AGAINST GOVERNMENT AND POLICE MISCONDUCT?



The question of whether there are instances of government and police misconduct that fly under the radar due to fear or reluctance is a scary question to consider. In truth, as an experienced attorney, I do believe there is a certain amount of people who are reluctant to file claims against government and police agencies. Victims just need to be informed that there is someone out

there willing and capable of protecting their rights. Once you have a lawyer and there is public record of your case, I believe much of the initial reluctance and fear will fade away, because you are now being represented by an expert in the legal process. Police departments and police forces are very powerful and can be very intimidating. However, in the United States, that's just one branch of government. We have a separation of powers and there are 3 branches of the government, including the judicial branch in which lawyers most often operate.

Even though you may feel like a helpless victim, when the power of the judiciary is on your side, there can be tremendous changes with a strong lawsuit. It often only takes one person to stand up for you, before we see changes happen. If it weren't for attorneys taking on cases like this, and for courageous victims standing up against police misconduct, we wouldn't have wear body camera requirements for police officers.

Without these lawsuits, we also wouldn't have laws that provide guidelines for the way police interact with people with mental disabilities. We also wouldn't have seen any small changes in jail practices to prevent

overcrowding, and we also wouldn't have seen any changes to the oversight committees that regulate police officers. Therefore, while it is certainly intimidating, there are indeed systems in place to prevent police and government misconduct.

An experienced attorney serves to act as a buffer between the intimidating authority and an individual. It's not just the attorney that gives you that extra buffer of protection and strength, but it's also the law. In particular, section 1983 of our Federal Civil Rights Act and the Bane Civil Rights Act are extremely powerful and robust laws that judges pay close attention to when brought up effectively.

How Does A Civil Lawsuit Get Started and What Does it Entail?

Many civil lawsuits start off with an administrative filing or an administrative complaint. An attorney will help you determine whether you require a "right to sue" letter from the Department of Fair Employment and Housing, a claim from the Equal Employment Opportunity Commission, a Fair Labor

Standards Act claim, or a government claim to the city, county, or other government agency. Most, but not all, have an administrative process that consists of first submitting a claim, then waiting for approval.

Once we get approval, we would then file a complaint in the appropriate court and serve the defendant with the lawsuit. The defendant then has an opportunity to respond and the case is underway.

Lawsuits can often take months if not years to complete. They are complicated and time-consuming processes that involve discovery, depositions, court hearings, motions and ultimately trial.

Oftentimes lawsuits also involve a mediation or other sort of settlement conference while the case is pending. This gives an independent judge the opportunity to help the disputing parties in coming to an agreement without having a trial. Many times these settlement procedures are successful. But if not, the case proceeds to trial where we then have the opportunity to present your case to the judge or jury.

CHAPTER 10

DO MOST GOVERNMENT AND POLICE MISCONDUCT CASES GO TO TRIAL?



The current system is set up so that most cases settle before trial. In our experience, over 90% of cases settle and very few of them go to trial. Even though the process could potentially take a year or more, most settlements occur right before a case is scheduled to go to trial.

When Should Someone Hire Your Firm To Represent Them In A Civil Lawsuit In California?

Filing a lawsuit and presenting a legal claim is an extremely complicated process. While it is not absolutely required, it's highly recommended that a lawyer be involved every step of the way. There are so many common pitfalls and mistakes that can be made along the way. Therefore, if you've been the victim of discrimination, harassment, or any civil rights violation, it is essential that you have a lawyer. Many cases are justified and strong but fall through because a simple mistake is made. It takes many years of study to become a lawyer, and then many more years of practice to become an expert in a field. It's best not to attempt to handle your civil lawsuit without a lawyer.

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NOTES

VICTIM OF A CIVIL RIGHTS VIOLATION IN CALIFORNIA?

Protect Your Right To Full And Equal Treatment



Jonathon Kaplan, Esq.

My name is Jonathan Kaplan. I am a graduate of Duke Law School and have practiced law for over 30 years. I have represented clients on civil rights cases and other cases in court during my time in practice. I've won many victories, big and small, for my clients. Civil rights are an essential area of legal practice for me because they establish who we are as citizens and define the boundaries of society. In other words, civil rights involves what is and is not acceptable in civil society.



Yitz E. Weiss, Esq.

My name is Yitz Weiss, and I have practiced law for over 15 years. Prior to law school, I went to Yeshiva and became an ordained rabbi. I started out doing a lot of business-related cases but gradually gravitated toward the civil rights side of the law. I found it to be very fulfilling to represent individuals, many of whom have experienced poor treatment or discrimination simply for who they are. This area of law is important to me, as I

I believe all people are entitled to equal treatment and opportunity, regardless of who they are.

"I've retained Jon on two occasions--both in response to a harassing neighbor. Although the cases were very likely headed to court he managed to stop them before they got there. He handled it brilliantly, and managed to work out a plan with the plaintiff's attorney which remedied the situation as quickly as possible. I couldn't be happier."

– Anonymous

"Yitz is a great lawyer who helped me reach an excellent settlement in my injury case. I am very thankful to have found such an attorney. Trustworthy, responsive, knowledgeable & kept me informed."

– Diane

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