ADVERTISING SUPPLEMENT

J. ERIK CONNOLLY, EMIL DAVTYAN AND SHAWN SHAFFIE SHARE THE LATEST INSIGHTS ON HOW TO MANAGE LITIGATION

This roundtable discussion is produced by the LA Times Studios team in conjunction with Benesch; D.Law; and Parker Shaffie LLP.

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After the many unprecedented operational changes that businesses in every sector have had to make over the last few years, a whole new landscape has emerged in terms of litigation issues. This has left even the most experienced C-suite leaders struggling to find answers to crucial questions. What should management be focusing on in terms of new standards, laws and protocols, and how can litigation be most effectively managed?

To address these issues and concerns, as well as many other topics pertaining to the world of litigation, the LA Times Studios team turned to three uniquely knowledgeable experts for their thoughts on the most important "need-to-know" insights and to get their assessments regarding the current state of trial law and the various trends that they have been observing.

Q: IN WHAT WAYS HAS THE PRACTICE OF TRIAL LAW CHANGED OVER THE PAST FIVE YEARS?

A: CONNOLLY

We're seeing several meaningful shifts in trial practice right now, especially around the level of contentiousness in litigation and how it's balanced with our duties as client advocates and officers of the court. Polarization in the broader political climate is finding its way into the courtroom, and at times, that heightened intensity can test the boundaries of candor and professionalism. In this environment, it's more important than ever that we serve as both strong advocates and responsible ambassadors for our clients. That requires aligning our strategies with the expectations of the courts and maintaining integrity in every aspect of our work. Trial lawyers must navigate these evolving pressures thoughtfully – to be assertive when necessary, but always within ethical lines. Ultimately, that balance is what allows us to deliver real value to clients while upholding the standards of the profession.

Q: AS WE MOVE TOWARD 2026, WHAT ARE THE LITIGATION TRENDS TO BE AWARE OF?

A: DAVTYAN

As we move toward 2026, litigation is becoming increasingly shaped by technology, workplace transparency and data protection. We're seeing more employment and privacy-related lawsuits driven by the rise of remote work, AI use in hiring and new state data laws. Plaintiff firms are using digital evidence – emails, texts, even Slack messages – more strategically. Businesses should also anticipate a wave of wage and hour class actions as regulatory scrutiny intensifies. The most forward-thinking companies are prioritizing compliance audits and training to prevent disputes before they escalate. Proactive legal risk management and early mediation programs will be key to minimizing exposure and protecting reputational value.

A: SHAFFIE

A notable development, particularly in California, is the growing number of malpractice claims filed by insurance carriers against their former panel defense counsel. This trend signals a fundamental shift in the carrier-counsel aspect of the tri-partite relationship and underscores an increased scrutiny on defense strategy and billing practices across the industry. This suggests that clients, including insurers, now prioritize counsel that offers not just legal advocacy but proactive risk mitigation techniques.

Q: HOW CAN COMPANIES BEST BALANCE THE COST OF LITIGATION WITH THE POTENTIAL BENEFIT OR PROTECTION IT OFFERS?

A: CONNOLLY

Evaluating litigation should always be treated like any other ROI-based decision. It's important for companies to understand not just the projected legal spend but also the internal resources a case will demand. That starts with looking at the three most realistic outcomes: good, bad and somewhere in the middle, and having ongoing, candid conversations with clients about the value proposition at each stage. If that analysis isn't refreshed regularly, costs can escalate faster than expected. Companies depend on financial predictability in their strategic planning, and litigation shouldn't be treated any differently. As outside counsel, our role is to bring clarity and consistency to that process so clients can remain agile. When litigation decisions are grounded in ROI, they become strategic business choices rather than unpredictable expenses, keeping legal strategy aligned with broader organizational goals.

> *"Ultimately, building a culture of fairness and accountability is the strongest litigation deterrent a business can have."*
>
> – EMIL DAVTYAN

Q: WHAT ARE THE MOST COMMON TRIGGERS THAT LEAD BUSINESSES INTO LITIGATION, AND HOW CAN THOSE RISKS BE MINIMIZED EARLY ON?

A: DAVTYAN

The most frequent litigation triggers are employee disputes, contract breaches and compliance failures. Miscommunication, poor documentation and unclear policies often amplify these risks. The best prevention strategy is education; train management to identify potential conflicts early and address them transparently. Strong internal reporting systems and legal reviews of contracts, HR procedures and data practices can eliminate many risks before they spark a claim. Ultimately, building a culture of fairness and accountability is the strongest litigation deterrent a business can have.

Q: WHEN SHOULD A BUSINESS FIGHT A LAWSUIT VERSUS SEEKING AN EARLY SETTLEMENT OR ALTERNATIVE RESOLUTION?

A: SHAFFIE

The decision to litigate or pursue early resolution is the most critical legal strategic choice a business faces. Given the lengthy delays in the overburdened court system and the high costs associated with arbitration, informal resolution is prudent for most pure cost-of-doing-business matters. With the previous in mind, we also recognize that strategic litigation is essential when a lawsuit threatens a damaging market precedent, a core intellectual property right or involves a "bet-the-company" exposure. This determination requires precise, early liability assessment, including analysis of critical risks like punitive damages or prevailing party attorney fees, to be set out for the client at the onset. While it is ultimately the client's decision, counsel must, where it is so desired, ensure resources are allocated toward business development and not endless litigation, unless the business demands a stand.

A: CONNOLLY

Many times, outside counsel will tell you this decision comes down to cost. In reality, the decision to pursue litigation through its end versus resolving the matter early often comes down to brand protection. When litigation attacks your company's core values and business practices, you have to defend it to the end. Your integrity is at stake; someone is questioning how you run your business. It undermines what you stand for. An early settlement or alternative resolution shies away from addressing that attack head-on and can cause long-term or permanent harm to your brand. Litigating a case to the end shows that you stand behind your core values and business practices and that you will defend them to the finish. The real price you pay is if your customers, suppliers or partners lose faith in your business or your product.

A: DAVTYAN

The decision to fight or settle hinges on three factors: liability, cost and brand reputation. If the facts and law strongly favor your position, fighting may deter future claims and protect your credibility. However, if litigation will drain resources or risk reputational harm, an early settlement or mediation can be the wiser path. Businesses should consult counsel early, assess potential outcomes and decide based

on long-term strategic goals, not emotion or principle alone. The goal is to protect the enterprise, not just win the case.

Q: HOW SHOULD COMPANIES HANDLE PUBLIC RELATIONS AND INTERNAL COMMUNICATIONS DURING ACTIVE LITIGATION?

A: CONNOLLY

Every high-profile lawsuit involves three constituencies. The first is the court, where the legal battle is playing out. While focusing on that battle, we often forget the other two constituencies: the public and employees/stakeholders. Every high-profile litigation involves an ongoing PR battle to influence public perception of the legal battle. The most often forgotten constituency is the company's own employees and stakeholders. It's important to maintain morale when litigation is ongoing and make sure employees know that the company has their back. Map out a communications plan at the outset of the litigation that addresses all three constituencies and stick to it. There may be battles lost during the litigation that scare you. But focus on a long-term strategy to win the war with all three constituencies.

Q: WHAT FIRST STEPS SHOULD A COMPANY TAKE IMMEDIATELY UPON RECEIVING NOTICE OF A POTENTIAL LAWSUIT OR LEGAL CLAIM?

A: DAVTYAN

Upon receiving notice of a lawsuit or claim, time is critical. First, preserve all potentially relevant documents and communications; never delete anything. Next, notify your legal counsel immediately so they can evaluate deadlines, prepare a response and engage with insurers if applicable. Avoid direct contact with the opposing party. Finally, conduct an internal review to understand the facts and potential exposure. Quick, informed action at this stage often sets the tone for the entire case and can open the door to early resolution.

A: SHAFFIE

The first twenty-four to forty-eight hours after notice of a lawsuit are critical. First, immediately tender the claim to all potential insurance carriers to activate the broad California duty to defend and secure experienced panel counsel. The key is tendering to every policy. Do not try to determine under what policy there may be coverage on your own. Instead, tender to all policies and let the carrier determine coverage, as through your premiums, you have paid for that analysis. Second, issue a mandatory written litigation hold letter to all custodians, encompassing electronic and hard copy data. Failure to prevent spoliation can lead to severe sanctions, including adverse inference instructions at trial. Finally, identify key filing deadlines and begin gathering relevant records for counsel's immediate review and defense strategy development. This structured, proactive approach protects your rights and dictates the favorable trajectory of the case.

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Q: AFTER A CASE IS RESOLVED, WHAT LESSONS SHOULD BUSINESSES CAPTURE TO IMPROVE FUTURE RISK MANAGEMENT AND COMPLIANCE PRACTICES?

A: CONNOLLY

Best practice is to conduct a "lessons learned" assessment after every case is resolved. The assessment should be structured to capture lessons from pre-exposure, steps for mitigating exposure and improving coordination between external and in-house counsel. Conducting a thorough pre-exposure analysis is key: Identify what signals were missed, where controls failed and which decisions increased risk. From there, companies should outline clear, practical steps for mitigating exposure – whether tightening policies, improving documentation or enhancing training and escalation paths. Finally, it's essential to examine how internal and external counsel worked together. Assess whether strategy was aligned, communication was efficient and responsibilities were well defined. Then, update workflows to ensure smoother collaboration going forward. By translating these insights into improved processes and more effective counsel coordination, businesses can reduce repeat issues and better position themselves against future risks.

Q: WHAT ROLE DOES INSURANCE PLAY IN MANAGING LITIGATION RISK, AND HOW SHOULD BUSINESSES ASSESS THEIR COVERAGE NEEDS?

A: SHAFFIE

Insurance is a business' primary defense against catastrophic litigation risk. It acts as both a financial safeguard and a strategic resource, activating the broad duty to defend and providing access to expert counsel – a critical factor given the current high-stakes environment. Businesses must assess coverage proactively, moving beyond standard Commercial General Liability (CGL), and policies must be continuously reviewed against emerging risks. The key is understanding that policy language is not static and requires critical legal analysis to ensure your insurance portfolio truly aligns with your real-world liability exposure. Also, to get your insurer to cover your legal defense and potential settlement, do not take a denial at face value. It takes serious review of the policy and often challenges to the fine print to make sure the insurance you pay for actually pays off when you need it most. Therefore, securing a legal opinion outside of that of the insurer's coverage letter protects a business' financial future.

Q: HOW CAN BUSINESSES BALANCE LEGAL RISK MANAGEMENT WITH MAINTAINING A COMPETITIVE EDGE IN THEIR INDUSTRY?

A: CONNOLLY

The most successful business leaders collaborate with outside counsel early and often. Companies should prioritize identifying and addressing the most significant risks while permitting more calculated risk-taking when consequences are manageable. Agile compliance processes – clear policies, rapid escalation channels and practical training – along with open lines of communication with outside counsel will enable businesses to innovate confidently while protecting long-term stability and reputation. Attorneys are naturally risk-averse, but the goal should be helping clients get to a "yes" with minimal exposure, not blocking progress and innovation. Making counsel a meaningful stakeholder early in the process, and throughout, furthers that goal.

Q: WHEN IS IT MORE STRATEGIC FOR A BUSINESS TO SETTLE A DISPUTE RATHER THAN PURSUE LITIGATION?

A: DAVTYAN

Settlement becomes the strategic move when litigation costs and uncertainty outweigh potential benefits. It's not about conceding; it's about controlling the outcome. A well-timed settlement can preserve business relationships, protect reputation and allow leadership to refocus on growth. Particularly when facts are disputed or public exposure could be damaging, confidential resolution through mediation can be a smart business decision. The key is to approach settlement from a position of strength – armed with evidence, clear objectives and an understanding of your leverage.

Q: HOW CAN BUSINESSES BEST MANAGE THE FINANCIAL AND REPUTATIONAL RISKS ASSOCIATED WITH HIGH-PROFILE LAWSUITS?

A: CONNOLLY

At the outset of any lawsuit, businesses should partner closely with their outside counsel to develop a strategy that manages financial and reputational risks. For high-profile lawsuits in particular, the strategy should be clear in defining realistic best- and worst-case outcomes and mapping the path between them while addressing the three core constituencies: the court/legal, the public and the company's employees/stakeholders. Progress should be regularly and consistently tracked against the strategy, noting whether each development moves them closer to – or further from – the desired result. It's essential to avoid reacting emotionally to individual setbacks, such as one bad decision, and instead stay focused on the overall strategy. By maintaining emotional steadiness and adjusting course only when data and counsel support it, companies can protect both their financial positions and their reputations.

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Q: IN THE CURRENT CLIMATE, WHAT IS THE TYPICAL AMOUNT OF WAIT TIME FROM FILING A CASE TO ACTUALLY GOING TO TRIAL?

A: SHAFFIE

In the current climate, the notion of a "typical" timeline is misleading; we are experiencing a significant, systemic backlog. For complex commercial or employment matters, clients should plan for a minimum of two to three years from the initial filing to the start of trial, and arbitration – often marketed as quicker, cheaper and more efficient – rarely delivers on those promises. This judicial overburden is precisely why strategic litigation and proactive liability assessment are paramount. The financial drain and resource commitment over multiple years can eclipse the initial exposure, resulting in a hollow victory where the client is financially upside down or foregoes valuable business opportunities. This reality underscores the necessity of early due diligence, sophisticated risk mitigation and leveraging insurance to secure defense funding. Finally, any attorney promising a "slam dunk" or fast resolution should be avoided. Such claims demonstrate a fundamental lack of understanding of the current system, often proving wrong and detrimental to the client.

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