

­

**10 Steps to Achieving Reform with Individual Cases**

Julia Sherwin

michael.julia@haddadsherwin.com

1. Begin at the beginning, in the initial client meeting.
2. Learn the case and the Defendants’ systems as well as you can, finding the holes and cracks that caused or contributed to the client’s injury, to make your strongest possible case for trial.
3. Don’t kill your enemy – maintaining a professional relationship with opposing counsel, and being respectful to their clients, are more conducive to creating agreed reforms.
4. In your first settlement discussions, let the Defendants know what reforms you want.
5. Use joint sessions to educate the Defendants’ decision-makers and their risk managers.
6. Make the insurance company or risk manager your ally – you are saving them money.
7. Take what you can get but keep working for what you want.
8. Think of all the steps in litigation where you might get reform: if not in a motion for injunctive relief, in a mediation or settlement conference; in depositions of defense witnesses or regulatory officials talking about the impropriety of what the Defendants are doing; in a motion for partial summary judgment; in a Rule 50 motion or motion for directed verdict; in a jury instruction. And, if your case ends up on appeal, you can get a finding from the appellate court that the Defendants’ policy, practice, or training violated the law.
9. Think of ways to get reform outside your litigation – arming experts, community activists, news media, and other Plaintiffs or lawyers; offering to teach risk managers and command staff for free; offering model policies for free.
10. Get an agreement with monitoring and reports to the Court, offering to do some number of hours of monitoring *pro bono* unless you have to go back to court for enforcement.

**Examples of Reforms Achieved**

• the State of California’s first mandatory training and curriculum in a public school district to prevent and address homophobia in the classroom;

• a jury instruction finding a school district’s policy banning controversial speech in the classroom unconstitutional;

• the first court decision in the United States to hold that administrative law judges have a First Amendment right to make decisions free of outside pressure;

• the first jury verdict in the United States finding that discrimination against people who speak English with an accent is unlawful race/national origin discrimination;

• a court order striking down the City of Oakland’s policy allowing police officers to strip search people in public;

• sweeping reforms of the Oakland police department’s crowd control policies;

• statewide reform of a correctional health care corporation’s use of Licensed Vocational Nurses, requiring them to practice within their legal scope of practice and not allowing them to do the work of RN’s, as the company had been doing for decades to save money;

• a Ninth Circuit decision that the police cannot hold non-threatening people suspected of minor violations of the law at gunpoint;

• a federal district court’s order after trial that the National Park Service’s policies and training allowing park rangers to TASE non-violent, fleeing misdemeanants is unconstitutional;

• a complete overhaul of the Napa Police Department’s policies and training concerning child abuse investigations and reporting;

• A California County instituting county-wide Crisis Intervention Team training for all deputies to handle mentally ill people in crisis, training about the dangers of prone restraint and restraint asphyxia, and a local police department instituting required body-worn video camera recording for all contacts in the field;

• several police departments changing their deadly force policies and training, which allowed the unconstitutional use of deadly force when a subject presented an “imminent” threat, to prohibit the use of deadly force against any person unless he presents an “immediate” threat of death or serious bodily injury.