WMACCA Small Law Department Initiative:
Managing Litigation in the Small Law Department Environment

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Managing the Lifecycle

- Pre Dispute Readiness
- Early Assessment and Engagement
- Post Dispute Lessons Learned
- Resolution
- Formal Proceedings
Readiness: Key Considerations

✓ Is legal partnered effectively with the business: Staff? Executives? BOD?
✓ Does legal understand the business?
✓ Does business understand the legal issues?
✓ Are you effectively communicating the value of prevention?
✓ Are policies and procedures aligned with practices?
✓ Are vendors and contracts being managed effectively?

✓ Record retention and destruction: How are they handled?
✓ Are disputes being identified, prevented, and resolved efficiently?
✓ Insurance – is it sufficient?
✓ How are disputes addressed in the budget? Are AFAs available or appropriate?
✓ Who is assessing risks originating outside the company?
Assessment Stage: Key Considerations

✓ Do you have a formal assessment process?
✓ What are the goals?
✓ What are the risks?
✓ Is it an “ordinary” or “bet the company” dispute? Opportunity for precedent?
✓ How do you align your litigation strategy with the economics, goals and risks?
✓ Are there subject matter specific issues?
✓ Establish the budget – and manage it!

✓ How will the matter be managed – and level of involvement?
✓ Assemble the internal team: who is on it?
✓ Assemble the external team: not limited to counsel (vendors, suppliers, consultants, etc.)
✓ Public relations: Who has lead?
✓ How will progress be assessed and measured?
✓ How will progress be communicated internally and externally?
Formal Proceedings Stage: Key Considerations

- Managing While Operating the Business!
- Assessing Progress Against Goals
- Are you telling your story effectively?
- Process Management
- People Management
- Record and System Management ESI and Discovery
- Budget Management
- Distraction and Disruption Management
- CEO/Board/ Stakeholder Management

EFFECTIVE MANAGEMENT
Building the Ideal Outside Counsel Relationship

TRUST

- Active Collaboration
- Mutual Satisfaction
- Effective Liaison
- Long-Term Perspective
- Open Communication
Resolution: Key Considerations

Settlement and resolution strategies

How to promote resolution – is it on the table?

Who should be at the table?

ADR?

Manage expectations for outcomes

Have you accomplished what you set out to do?

Settlement structuring: valuing cash vs non-cash opportunities

What is the cost of not resolving a case?

Who has authority?
Assess Results to Goals

- Do the results justify the cost?
- Are there Opportunities to Improve Business or Legal Practices?

Assess Systems and Procedures

- Risk assessments
- Record management
- Policies and procedures
- Contracts

Assess Each Phase

- Process (e.g., ESI)
- Costs and Efficiencies
- Results

Were Resources Managed Effectively?

- Teams
- Vendors and Service Providers

Were Communications Managed Effectively?

- Internal
- External

Was Budget Managed Effectively?
Questions and Discussion
THANK YOU!

QUESTIONS?

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