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Class ACTION Memo

To: FDCC Class Action Section
From: Kurtis B. Reeg
Date: April 19, 2011
Re: **Upcoming Hot Topics for our Corporate Colleagues**

Friends:

This is a list of major issues facing in-house counsel and corporate members. I believe it is imperative that the private practitioners in the Federation give attention to the concerns and issues confronting our Corporate Members. I would like members of our Section to review this list and volunteer to sign up to write papers and/or present on any of these topics in which they are interested. In these presentations I hope to have some of corporate/insurer members respond to the points made: Point/Counterpoint; Ideas/Responses. Any other ideas for topics are welcomed but I would like our next winter meeting to focus on topics affecting our corporate colleagues. Moreover, I would like to have our next fall program in place prior to our Williamsburg meeting, so please let me hear from you ASAP.

1. In this environment, cost control is king. What are the 2-4 big things that outside counsel can do to minimize the overall costs of litigation and defense?
2. Most class actions and MDLs get settled (typically early) unless dispositive motions are successful? In those cases that will not be resolved on motion, how can outside/in-house counsel drive an early, cost-effective settlement that does not demonstrate weakness and which minimizes a second or third wave?
3. Many cases are lost or made worse by bad emails and other documents that do not accurately reflect the intent/conclusion of the corporation (or even the sender). How can outside and inside counsel partner better with companies/management to drive better awareness and compliance with Write Smart, particularly in big companies involving thousands of employees?
4. In what ways can outside/inside counsel partner better (particularly with corporate government affairs groups) to make tort reform a meaningful legislative priority and to make some significant advancements there either at the state or federal level?

5. What are the two or three things that outside counsel can do to learn the company's business so that outside counsel can be provide the maximum value-added legal/business advice on key strategies impacting the litigation--i.e., in house counsel are understaffed and overwhelmed; they need better partnership from outside counsel to filter the raw legal advice into usable advice for the company?
6. E discovery. Every in house lawyer hates this, but how can companies set up cost effective systems that discharge our record keeping obligations?
7. How can outside counsel feed lessons learned from the litigation back into the business real time in a manner that does not unduly enhance the litigation risk or adversely impact that outcome?
8. How can outside counsel partner with in house counsel to deliver hard messages on complex, sophisticated legal issues?

Thanks for your time and attention. See you in Williamsburg the last week of July!

Kurtis B. Reeg-Section Chair