

Legal Departments Can No Longer Afford To Be Only Cost Centers

Recovery Update 2019

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Pressure On In-House Legal Departments To Add Value

- “In-house counsel must be focused on providing value in today’s corporate legal environment. Failure to do so likely will have adverse consequences for your career.”
ACC Value Challenge
- In recent years, 75% of the Fortune 500 companies were plaintiffs.

Antitrust Recoveries and Considerations

Establishing Your Program

The Basics

- Why is Having a Program Important?
- Formal, Internal Process
- Adopt a Recovery Mindset
- Centralized Focus
 - Notices
 - Publicizing within the company
 - Broadening to affiliates
- Tracking to Build Value



Establishing Your Program

Beyond the Basics

- Involving Your Business Team
 - Overcoming Objections and Incentivizing Participation
 - Credit Sharing
 - Mastering Expectations Management
- Goals and Outcomes
- Allocating Recoveries



Building Your Program

Class Action Settlement Claims

- Portfolio of Opportunities
 - Comprehensive reach
 - Lessons learned from missed opportunities
- Solving Data Challenges
- Maximizing Outcomes
 - Jurisdictional and threshold issues
 - Application of class action rules and regulations



Building Your Program

Beyond the Class Settlement – Opting Out

- The Decision to Opt Out of a Class
 - Level of spend
 - Sensitivity of relationships
 - Strength of case
- Investment in Separate Litigation
- Leveraging and Respecting Relationships
- Parallel Contract Negotiations



Supplier Negotiations

- Buy-in from the business team
- Evaluating recovery options
- Leveraging business and litigation
- Achieving resolution through business terms



Looking Around the Corner for 2019

- Auto Cases
- Credit Card Litigation
- Pharmaceutical – *In re Generics*
- Financial Instruments



Other Areas of Recovery

Adding Layers of Recovery

- Trade
- Global Supply Chain
- Government-facing Opportunities
- Healthcare

Trade/Customs

- Trade practice review
- Identify existing duty savings opportunities
- Tracking
- Implementing ongoing savings practices

Government Contracts

- Who is a government contractor?
- Recovery Opportunities
 - Increased Performance Costs
 - Contract termination
 - Indemnification and Remediating costs
- Active pursuit of claims

Key Takeaways

Take Aways

- Systematize your Program
 - Comprehensive approach
 - Partner with business and leverage relationships
- Adopt a Recovery Mindset
 - Avoid “one-off” evaluation style
- Track Opportunities, Set Goals and Measure Outcomes
- Broad Reach into New Areas Can Grow Results

