



Tuesday, October 21
4:30 pm-6:00 pm

703 In-house Litigation Management

Wendy Toolin Breau
Director, Counsel
EY Claims Management Limited

Sheri V.G. Fanaroff
General Counsel
Columbia Association, Inc.

Mary Mack
Technology Counsel
Fios, Inc.

Albert C. Peters II
General Litigation and Contracts Counsel
Pennsylvania Turnpike Commission

Faculty Biographies

Wendy Toolin Breau

Wendy Breau is a director with EY Claims Management Limited, which works with Ernst & Young member firms worldwide to manage their professional indemnity insurance programs and to assist them in litigation matters.

Prior to joining EY Claims Management, Ms. Breau was a partner in the law firms of Freeman, Freeman & Salzman and Dickinson Wright LLP specializing in commercial, employment, and professional liability litigation.

She is a graduate of Case Western Reserve University School of Law and Providence College.

Sheri V.G. Fanaroff

Sheri V.G. Fanaroff is the general counsel for the Columbia Association, Inc., a public benefit corporation that serves as the governing organization for Columbia, Maryland, the largest planned community in the country. The association serves 100,000 residents and 13,000 commercial properties, owns and operates dozens of civic and sports facilities, maintains thousands of acres of parkland, and provides community services and programs. In her role as general counsel, Ms. Fanaroff manages the human resources as well as the legal department and addresses a broad array of legal issues involving contracts, litigation, risk management, finances, corporate governance, compliance and regulatory matters, government relations, real estate, and employment matters.

Prior to joining the Columbia Association, Ms. Fanaroff served as general counsel for a life insurance company and as senior in-house litigation counsel for several international insurance brokerage companies. Ms. Fanaroff spent the first part of her career as a litigator in private practice in New York.

Ms. Fanaroff is a member of the National Association of Women Lawyers ("NAWL"), ACC, and the Community Associations Institute, and has served as a panelist at several ACC annual meetings, and as a planning committee member for NAWL's annual General Counsel Institutes.

Ms. Fanaroff graduated from the University of North Carolina School of Law in Chapel Hill with a JD with honors and as a member of the Order of the Coif and received her BA from Brown University.

Mary Mack

Mary Mack is corporate technology counsel for Fios, Inc. in Portland, Oregon. Whether in response to an inquiry, a second request or class action litigation, Ms. Mack brings legal and technical professionals together in a focused manner to determine a successful, cost-effective course of compliance with electronic discovery requests. As corporate technology counsel for Fios, she has years experience delivering enterprise-wide electronic discovery, managed services, and software projects with legal and IT departments in publicly held companies. Ms. Mack is a hands-on strategic advisor to counsel for some of the largest products liability class actions, government investigations, and intellectual property disputes. Clients include the largest law firms, pharmaceutical companies, and insurance companies in the world.

Ms. Mack is a member of the Illinois Bar, ACC, and the ABA's Section on Litigation. She is one of the leading speakers and authors on electronic discovery issues, technology, and the law. She is co-author of the popular book, *A Process of Illumination: The Practical Guide to Electronic Discovery*, co-editor and contributor of *eDiscovery for Corporate Counsel*, published by Thomson Reuters, and hosts the blog, "Sound Evidence," featured on DiscoveryResources.org. She's is also regularly featured as an expert in the leading magazines and newspapers, such as *The New York Times*, *Inside Counsel Magazine*, *Law.com*, *Chicago Lawyer*, *Compliance Week*, and *Metropolitan Corporate Counsel Magazine*.


Ms. Mack received her JD from Northwestern University School of Law and a BA from LeMoyne College in Syracuse, NY. She holds certifications in computer forensics and computer telephony.

Albert C. Peters II

Albert C. Peters II is general litigation and contracts counsel with the Pennsylvania Turnpike Commission. His primary practice areas include litigation management, contracts, and employment and labor. He also conducts training programs in supervisory development and workplace law.

He is a member of ACC's Board of Directors, and is a past president of ACC's Central Pennsylvania Chapter as well as a past chair of the ACC Small Law Department Committee. He has also taught a course on law and business environments at Penn State Harrisburg.


Mr. Peters received a BA from the University of Virginia and a JD from the University of Pittsburgh School of Law.

 **What does "Litigation Management" mean?**


- Handling individual cases efficiently and cost-effectively

Plus:

- Promoting prevention and early resolution of disputes
 - Addressing business issues in litigation
 - Developing a "preventive" cycle

 **Addressing the Business Issues**

- Aligning litigation strategy with corporate strategy
- Helping outside counsel tell the story
- Seeing the forest for the trees

 **Promoting Prevention & Early Resolution**


- Spend up front to save in the end
 - Global issues: Document management and legal holds
- Getting business people to the table
- Educating business people and yourself
 - Privilege
- Reacting within the business while dispute is ongoing

 **Your Role Before Litigation Strikes**


- Processes in place
 - Document retention/production plan
 - Crisis management plan
- Team in place
 - Not just outside counsel
 - Cross-functional discovery response team
 - Also need a business team

 **Handling Litigation Efficiently & Effectively**


- More than just cost control
- Your level of involvement
- Managing (multiple) outside counsel
- Care and feeding of the CEO/Board

 **Does Case Type Impact Management?**

- Issues to consider
 - What can be handled in house
 - What events require your attendance
 - What can outside counsel handle without your involvement
- What tips the balance in one direction or another?

 **Management - More Than Cost Control**

- Guiding strategy across cases
- Knowing the facts/telling the story
- Prioritizing tasks
- Looking for cost efficiencies across cases
- Setting the tone for team dynamics

 **Case Type Impacts Management – What's in Your Portfolio?**

- Routine and low risk
- Routine and high risk
- Repetitive
- High risk or complex cases
- Corporate principle cases

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Key Role – Early Case Assessment

- The key to any case is telling the story.
- Know the facts; know them better than the other side.
- Know the facts around ESI for meet and confer (FRCP 26(f))
- You set the agenda for the defense and create momentum and good faith.
- Knowing the case permits you to look for early opportunities for resolution.

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Working with Outside Counsel

- Set expectations up front and establish a shared vision of the case
- Discuss desired outcome/objective of defense
- Advise re specific issues for your company
- Determine level of defense needed – not every case requires a “Cadillac” defense, for some a “Civic” will do

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“Facts win cases. Lawyers lose cases by not paying attention to facts.”

Joshua Lock, Harrisburg PA Attorney

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Working with Outside Counsel (cont')

- Set specific expectations re:
 - Events you need to attend
 - Documents you need to review and timing required for that review
 - How strategic decisions will be made
 - Significant milestones and timing/cost of reaching those
 - Total cost of discovery (ranges)



Working With Outside Counsel (cont')

- Set specific expectations re:
 - Staffing: who is on the team, why, and what they will do
 - Tasks: which can be handled by junior people and which cannot
 - Reporting: how often and what they will contain
 - Budgets & billing: how often, what information, and how reviewed



Settlement Strategy Considerations

- Learn and analyze the facts early – saves money in the long run
- Consider ADR early
- Look for pressure points on the other side
- Consider using business people for discussions




Settlement

- Know your organization's philosophy
 - Settlements based upon litigation costs
 - Fight everything
 - Fight on specific principles/issues
- Know your limits of authority
- Be willing to be creative



Care & Feeding of the CEO/Board

- No surprises – regular reports
- Explain the issues, risks, costs, and possible outcomes
- Ensure you are of like minds
- Know the limits of your authority
- Demonstrate cost savings/effectiveness



Developing a Preventive Cycle

- Cycling back with Lessons Learned
 - Look for patterns and corrective measures
 - Update training/policies
- Look for Process Improvements
 - within the business
 - within the legal department
 - evaluate outside counsel and experts

LITIGATION MANAGEMENT CHECKLIST

ACC Annual Meeting 2008

Session 703 – Approaches to In-House Litigation Management

This checklist was created as a handout for this session. A more detailed version of this checklist is included in your course materials.

Pre-litigation

- Learn your business.
- Form relationships with your business people, and understand their relationships.
- Make sure that a manageable document retention and disposal policy is in place and that it is being followed.
- Make friends with your IT Department to prepare for e-discovery.
- Know your company's insurance coverages.
- Have a form litigation hold memo ready.
- Have a handle on the outside counsel you would use in given locations for various types of claims.
- Have a form retention letter ready.
- Understand your company's litigation philosophy.
- Have a crisis team and plan in place.
- Make sure that employees receive training on matters that may give rise to liability.

Litigation

- Read the complaint before you break into a cold sweat and pick up the phone to call outside counsel.
- Take a deep breath and a little time to assess the claims based on your knowledge of your client.
- If applicable, remember to provide notice to your insurer.
- Retain outside counsel. Discuss the preparation of a litigation plan and budget, proper staffing, the approach to discovery, motions, early resolution, ADR, etc. Share your view of the case and the desired outcome and make sure that you are both on the same page.
- Actively assist outside counsel in gathering the facts and documents and in interviewing your employees.
- Actively participate with outside counsel to the extent justified by the facts, exposure, principles involved, etc.
 - Review of documents drafted by outside counsel
 - Participation in the discovery process
 - Participation in mediation and settlement
- Communicate regularly with outside counsel to ensure that the case is being handled as you believe appropriate.
- Never let management be surprised.

Post-Litigation

- Stop and pat yourself on the back.
- Do a “post-game analysis” to see what lessons may have been learned.
- Evaluate whether you were satisfied with the outside counsel. If so, great! If not, look at other firms in order to be prepared for the next suit.
- Continue to keep informed on your company’s business and to maintain your relationships with your business partners.

Successful management of the handling of a lawsuit is only part of the process of litigation management. The efforts you invest before the lawsuit arrives and after it’s resolved may have just as much, if not more, of a significant impact on your results.

LITIGATION MANAGEMENT CHECKLIST

ACC Annual Meeting 2008

Session 703 – Approaches to In-House Litigation Management

Pre-litigation

Before your company is ever sued, you should prepare for the eventuality. While some of the items listed below might seem obvious, as in-house counsel managing litigation, one of your essential functions will be to use your intimate knowledge of your company in combination with your legal expertise in order to act as liaison between the business people with operational knowledge of the facts and outside litigation counsel. You must be prepared to provide your business people with an understanding of the litigation process and possible outcomes and to provide your outside counsel with an in-depth understanding of your company.

- Learn your business. Acquire an in-depth understanding of your company’s business, its products/services, and its processes and policies. Try to be aware of future plans as well as past endeavors.
- Form relationships with your business people, and understand their relationships. You will need to understand who is responsible for what functions, so that you will know who to go to for factual information, and you will need good working relationships to promote the necessary cooperation.
- Make sure that a manageable document retention and disposal policy is in place and that it is being followed. (You can find sample policies by going to www.acc.com, clicking on “Search the Virtual Library”, typing in the search term “Document Retention Policy”, and under “Material Types” checking the box for “Sample Form & Policy”. Then click on “Search” and you will have dozens of forms from which to choose. For your convenience, one sample policy is attached to this checklist.)
- Make friends with your IT Department. In this age of e-discovery, you will need to understand how e-mails are handled, how documents are stored, what processes are in place for backing up the system, what processes are in place for deletion of e-mails and documents.
- Know your company’s insurance coverages, so that you will know whether notice of suit must be given and to which insurer, and so that you will be better able to evaluate the exposure posed by a suit. Keep on your computer a simple list of all your coverages, your contacts at the insurer, and the address to which notice must be sent – this will save hours of having someone (quite possibly you) dig through files.
- Have a form litigation hold memo ready that can be adapted to the particular situation and distributed promptly, so that when the lawsuit comes in the door, you will be prepared to put the hold in place. (Samples of this form also can be found in ACC’s virtual library.)

- Have a handle on the outside counsel you would use in given locations for various types of claims. You do not want to have to first figure out which firm you will use when the complaint is already on your desk. Have a form retention letter ready as well.
- Understand your company's litigation philosophy. Make sure that you have an understanding of senior management's approach to litigation - do they believe that any case that can be settled for less than the anticipated legal expenses should be settled, or that no case should be settled unless liability is clear, or do they believe in a case-by-case analysis?
- Have a crisis team and plan in place. If a significant piece of litigation hits, know your company's approach to public relations and your PR contacts. Have a spokesperson designated to deal with press, customer/client and internal inquiries. Be ready to pull together press releases, talking points for those facing client questions, and talking points to cover with employees/staff.
- An ounce of prevention is worth a pound of cure. Training of employees on matters that may give rise to liability is essential to the avoidance of litigation. Identify the training available to your company's employees on topics such as fair employment practices, safety, regulatory requirements applicable to your industry, and to the extent that training is lacking, work with the necessary parties to create such training.

Litigation

The complaint has arrived on your desk. Now what do you do?

- Read it. That may sound ridiculous, but before you break into a cold sweat and pick up the phone to call outside counsel, you want to know the parties, the type of allegations, the amount at issue, the venue, etc. You will then be able to make an informed choice of outside counsel, since any or all of these may affect which law firm you choose.
- Take a deep breath and a little time to assess the claims based on your knowledge of your client. You want to be able to speak intelligently with outside counsel when you call them regarding your perspective on the strategy and handling of the case.
- If applicable, remember to provide notice to your insurer.
- Retain outside counsel. Although you have already prepared a form of retention letter, you will want to discuss with outside counsel the preparation of a litigation plan and budget, the proper staffing of the case, the approach to discovery, motions, early resolution, ADR, etc. You should share with outside counsel your view of the case and the outcome you desire, ask for their analysis and suggested approach, and make sure that you are both on the same page.
- Actively assist outside counsel in gathering the facts and documents and in interviewing your employees. You're the one with the in-depth knowledge of your

business, policies, practices and procedures and with the relationships with the business folk.

- Actively participate with outside counsel to the extent justified by the facts, exposure, principles involved, etc. The extent to which you participate is a judgment call, but clearly larger exposures and precedential issues require greater involvement. Your participation may take different forms:
 1. Review of documents drafted by outside counsel - - this does **not** mean that you should pick up your red pen and try to remake the document in your writing style (none of us have the time to rewrite every document!); it does mean that you should review it for factual accuracy, for the logic of the argument being made or position taken, for consistency with the strategy you wish to pursue in the case, and for consistency with positions and strategies in other cases of which your outside counsel may not be aware.
 2. Participation in the discovery process - - besides the gathering of information, you should participate in interviews and deposition preparation of, at the very least, your key witnesses in order to make the witnesses more comfortable and make sure they understand the litigation process and ramifications, and in order to make sure that your outside counsel fully understands the facts of the business. You also should attend the depositions of the key witnesses for the opposition, since there is no better way to make your own assessment of the credibility of those witnesses and the potential impact of their trial testimony.
 3. Participation in mediation and settlement - - A mediation or settlement meeting generally evolves over the course of hours or days, sometimes taking odd twists and turns, and the best way to achieve a satisfactory outcome is to be present in order to effectively respond to developments.
- Communicate regularly with outside counsel to ensure that the case is being handled as you believe appropriate. Set up a standard reporting protocol with all outside counsel. (Also obtain electronic copies of all briefs and memoranda to aid in addressing similar issues in future litigation).
- Never let management be surprised. Make sure that you explain to your business people the issues, risks, costs, and possible outcomes of the lawsuit, and that you are of like minds. Keep them updated regularly as significant developments occur. Make sure that you know the limits of your authority.

Post-Litigation

Congratulations. You won the case or settled it early for an appropriate amount. Is that all there is to it? Well, actually, no.

- First, stop and pat yourself on the back. Your business people won't because no matter how good the outcome of the litigation or how much they respect your legal abilities, the case was still an expense, aggravation and use of their time that they would rather have spent on their "real" jobs.

- In light of that reality, after resolution of a lawsuit, there should always be a “post-game analysis” to see what lessons may have been learned - - what gave rise to the suit, how can that be addressed and avoided in the future, is there a pattern over a number of lawsuits suggesting a need for changes in procedures or practices?
- Evaluate whether you were satisfied with the outside counsel - - consider not only whether they achieved a successful result but the quality of their work, your ability to work with them satisfactorily, their responsiveness, the reasonableness of their billing, and thus ultimately whether this is an outside counsel you would retain again. If so, great! If not, look at other firms in order to be prepared for the next suit.
- Continue to keep informed on your company’s business and to maintain your relationships with your business partners. There will always be changes in the business and turnover of employees, so this education and relationship process will always be a work in progress.

As I’m sure you’ve noticed, you’ve now come full circle. The point is that successful management of the handling of a lawsuit is only part of the process of litigation management. The efforts you invest before the lawsuit arrives and after it’s resolved may have just as much, if not more, of a significant impact on your results.

COLUMBIA ASSOCIATION, INC.

RECORD RETENTION AND DISPOSAL POLICY

Purpose

The purpose of this Record Retention and Disposal Policy (the “Policy”) is to ensure necessary “records” (as defined below) of the Columbia Association, Inc. (“CA”) are adequately protected and maintained, and to ensure that records no longer needed or of no value are disposed of at the appropriate time.

The law requires CA to maintain certain types of records, usually for a specified period of time. Failure to retain those records for those minimum periods could subject CA to penalties and fines, or charges of destruction of evidence or contempt, cause the loss of legal rights, or significantly impair CA’s ability to defend itself in litigation.

Administration

The Vice President Administrative Services in consultation with the General Counsel shall be responsible for developing, implementing and revising this policy governing the retention and disposal of CA’s records, and will designate others, on an ad hoc basis, to assist in implementing this policy, including the following:

- Identifying and evaluating which records should be retained;
- Publishing an appropriate retention and disposal schedule;
- Monitoring local, state, and federal laws affecting record retention;
- Annually reviewing the record retention and disposal program;
- Developing a training program for personnel responsible for record storage and maintenance; and
- Monitoring for compliance with the record retention and disposal program.

Implementation

For purposes of implementing this policy, CA’s organizational structure is segmented into five (5) divisions as follows:

- Administrative Services
- Communications and Marketing
- Community Services
- Open Space Management
- Sport and Fitness

Each department will prepare a list of major documentation used and maintained by the department and will compare it to the documents listed in this Record Retention and Disposal Policy. In addition, each department periodically will review currently used records and forms to determine whether these records and forms are adequate and appropriate for the department’s requirements.

In addition, each department periodically will review this policy to determine any special circumstances that necessitate changes in the retention periods. Requests for changes in retention periods or deviations from specified retention periods should be made to the Vice President Administrative Services, and may be implemented only after his/her written approval and written approval of CA's General Counsel.

Applicability

This policy applies to all records generated in the course of CA's operations, including both originals and reproductions. It also applies to records stored on computer as well as paper records.

To the extent that there are multiple copies of records, either in paper or electronic form, only one copy of each record need be retained. Likewise, if there are multiple drafts of a particular record, only the final record need be retained, unless such drafts reflect a course of communication.

Definition of "Record"

A "record" for purposes of this Policy is any body of information that has been documented from the business activities of CA, whether in written or electronic form. Examples of "records" include: financial data, statements and associated workpapers; analyses; agreements; books; contracts; charts or tables; data; correspondence and communications, which are created, sent or received; diagrams; images; invoices; letters; logs; maps; memoranda; opinions; plans; projections; statements; studies; and vouchers. Examples of what may not be "records" for purposes of this Policy are: (a) superseded drafts of documents, including memoranda, financial statements or regulatory filings; (b) notes on superseded drafts of memoranda, financial statements or regulatory filings that reflect incomplete or preliminary thinking; (c) previous versions of workpapers that have been corrected for clerical or typographical errors or errors due to training of new employees; or (d) duplicates of documents.

A "record" may exist in various forms, including printed, electronic or recorded format (for example, letters, e-mail messages, text messages and voice-mail messages). "Records" stored electronically also include records that are stored using equipment located within CA property or on other devices (whether or not owned by CA) such as: cellular telephones; laptop or other portable computers; and personal data assistants, Blackberry, Palm or other similar personal communication devices. By way of example and not in limitation of the foregoing, the term "record" includes all copies of records made to enable CA personnel to work outside CA's offices.

Retention Periods

From time to time CA will establish retention or disposal schedules for specific categories of records in order to ensure legal compliance, and also to accomplish other objectives, such as preserving intellectual property and cost management. Appropriate retention periods for certain categories of documents are identified in Appendix I attached hereto.

Disposal of Records

Generally, records may be disposed of in accordance with the schedule reflected in Appendix I. However, in the event of a governmental audit, investigation, or pending litigation, record disposal may be suspended at the written direction of the Vice President Administrative Services or General Counsel. In addition, the Vice President Administrative Services or General Counsel should be informed of any

situation that might give rise to legal action as soon as the situation becomes apparent. Record disposal after any suspension shall be resumed only at the written direction of CA's General Counsel.

Each department will ensure that its team members are fully informed of this policy and confirm that they agree to comply with this policy. Team members must be informed that any question regarding this policy is to be directed to the Vice President Administrative Services or the General Counsel.

Approved by the CA Board of Directors on October 26, 2006

Appendix I

Item	Retention Period
Accident Reports/Claims (Settled Cases)	7 Years
Accounts Payable Ledgers and Schedules	7 Years
Accounts Receivable Ledgers and Schedules	7 Years
Archive of All Website Content	7 Years
Audit Reports (External)	Permanently
Audit Reports (Internal)	7 years
Bank Statements	7 Years
Bank Reconciliations	2 Years
Bond Issuances and Ledgers, Transfer Registers, Stubs Showing Bond Issuances, Debt Issuances, Etc.	Permanently
Charts of Accounts	Permanently
Checks (Cancelled Checks for Important Payments, Special Contracts, Purchase of Assets, Payment of Taxes, etc.) Checks Should be Filed with the Papers Pertaining to the Underlying Transaction	Permanently
Checks (Cancelled Except those Noted Above)	7 Years
Contracts, Leases and Licenses (Expired)	7 Years
Contracts, Leases and Licenses (Still in Effect)	Permanently
Corporate Minute Books	Permanently
Correspondence, General and Schedules	3 Years
Correspondence, Legal and Important Letters	Permanently
Correspondence, Routine with Customers/Vendors	3 Years
Deeds, Easements, Mortgages and Bills of Sale	Permanently
Depreciation Schedules	Permanently
Duplicate Deposit Slips	3 Years
Employee Personnel Records (after Termination)	3 Years
Employment Applications (non-hires)	3 Years
Financial Statements (Year-end, Other Months Optional)	Permanently
Financial Statement (Other)	7 Years
General Ledgers, Year-End Trial Balances	Permanently

Item	Retention Period
Immigration Matters	The longer of: (i) entire term of employment plus 1 year, or (ii) 3 years
Insurance Records, Policies, etc.	Permanently
Invention/Innovation Journals (or any other Documents or Information Evidencing Creation, Modification or Ownership of Intellectual Properties or other Company Property)	Permanently
Inventory Records	7 Years
Invoices to Customers or from Vendors	7 Years
IRA and Keogh Plan Contributions, Rollovers, Transfers and Distribution	Permanently
Membership Agreements (Terminated)	7 Years
Membership Agreements (Still in Effect)	Permanently
Payroll Records, Summaries and Tax Returns	7 Years
Petty Cash Vouchers	3 Years
Program Registrations (e.g., for BASC, Camps, etc.)	7 years
Property Records, Including Costs, Depreciation Reserves, Year-End Trial Balances, Depreciation Schedules, Blueprints, and Plans	Permanently
Purchase Orders	3 Years
Receiving Sheets	3 Years
Recordings of Board of Directors and Board Committee Meetings	4 Years
Retirement and Pension Records	Permanently
Safety Records	7 Years
Sales Records	7 Years
Stock and Bond Certificates (Cancelled)	7 Years
Subsidiary Ledgers	7 Years
Tax Returns, Revenue Agents' Reports, and other Documents Relating to Determination of Income Tax Liability	Permanently
Time Books, Cards and Daily Reports	7 Years
Trademark Registrations, Patent Letters, and Copyright Registrations	Permanently
Voucher Register and Schedules	7 Years
Vouchers for Payments to Vendors, Employees, etc. (includes Allowances & Reimbursements of Employees, Officers, etc., for Travel & Entertainment Expenses)	7 Years

**ACC Annual Meeting 2008
Session 703: In House Litigation Management
Form Checklists/Templates**

The ACC Virtual Library needs ACC members to share the forms they've been using for early warning systems, early case assessments, case management plans, and after action reviews!

While there is a current dearth of these forms on the Virtual Library, there are plenty of articles and previous annual meeting program materials on litigation management. From these sources, we have created these checklists and templates for your use.

We encourage you to customize these ideas for managing your company's litigation. You could create multiple forms, or just use these ideas as simple checklists that you refer to as you handle cases. You might also find that it works better to establish a more formal or structured system for only certain cases based on their frequency or importance.

Early Warning System

- New cases, statutes, regulations
- Customer complaints / claims / department or company metrics
- Media reports of other companies (especially competitors or peers)
- Other sources of information

Early Case Assessment

- Team members (e.g. business unit, in house counsel, outside counsel)
- Type and value of case (core principle / specialty / complex / routine)
- Nature of relationship with opposing parties / Risks
- Case themes / Important facts / Witnesses / Documents
- Estimated resolution costs / Value of the case (settlement/judgment, fines/penalties, attorney fees, costs, business disruption)
- Valid? / Meritless?
- Suggested resolution options: Settle? Mediate? Arbitrate? Litigate?

Focused Case Management Plan

- What are your Objectives for Disposition?
What strategy and tactics are thus called for? What is the likelihood of success?
- What does a 30 second summary of your case theme sound like?
What's the outline of the closing argument?
- What are the elements of the claims and defenses?
How strong is the supporting evidence?
- What information is needed from discovery?
Discovery plan (initial disclosures, written discovery, depositions, admissions)
- What staffing and billing arrangements do you expect from outside counsel?
- What dispute resolution methods are appropriate for this dispute?

Value of the Case

- Total Resolution Cost (less reimbursements, indemnities, recoveries)
 - Settlement/judgment
 - Fines/penalties
 - Attorney fees / budget
 - Early Assessment
 - Pleadings
 - Discovery (Written and Depositions)
 - Mediation
 - Motions / Trial
 - Costs
 - Business disruption (e.g. colleagues gathering documents, being deposed)

After Action Review

- Lessons learned
- What worked?
- What didn't?