

Practical Considerations for National Coordinating Counsel in Complex Litigation

The role of national coordinating counsel in complex litigation is multifaceted, with an approach to keep everyone of the same page from the beginning to end

By Christopher N. Weiss

CORPORATIONS increasingly face lawsuits by groups of claimants, rather than cases pursued by individuals. Group claims are typically filed either as class actions or in clusters of individual filings or multi-plaintiff single cases in which a large number of claimants are represented jointly by a single set of lawyers. Group claims filed in one jurisdiction often prompt similar group claims filed by different law firms in different states.

Some plaintiffs' counsel prefer a particular federal forum; others like their local state court. To defeat an attempt to remove cases from a perceived favorable state court venue to federal court, state cases regularly include a locally based vendor or other resident-defendant, thereby defeating federal diversity of citizenship jurisdiction. It is not unusual for a corporation to be required to mount a defense to multiple cases pending simultaneously in both federal and state venues.

Numerous factors account for this increase in multijurisdictional lawsuits, perhaps most important being the Internet's facilitation of access to information and its creation of a fast, inexpensive and global portal for communication with prospective and actual claimants. In the United States, more lawyers than ever are practicing in these fields, with a not so surprising corresponding increase in litigation. Legal publishers closely track dozens of types of specific litigation—for instance, Mealey's and Andrews publications on securities, toxic torts and pharmaceuticals—enabling counsel access to case developments, theories and experts.

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THE STAKES

Group litigation increases the potential recovery for claimants' attorneys, although not necessarily for the individual claimant. For lawyers working on a contingent fee basis, the potential fee is frequently increased as a function of the size of the client group, with seven-figure fee awards not uncommon. And with large fee awards cached as working capital, the plaintiffs' bar is better funded to take on the substantial legal and financial challenges of complex claims against a variety of targeted industries and products. Legal claims include the traditional realms of products liability¹

1. See, e.g., Elizabeth J. Cabraser, *Your Products Liability Hit Parade: A Class Torts "Top 20,"* 37 TORT & INS. L.J. 169 (Fall 2001).

and shareholder litigation, but they now press corporate defendants on employment and compensation practices, including allegations of discrimination, wage and hour violations, employee benefits and stock option plans.

Dozens to thousands of claimants are presented in multijurisdictional and class action litigation, with each plaintiff or putative class member seeking monetary and/or non-monetary remedies. Because of the number of claimants, such filings attract more attention by the media and investors. Corporate reputations are impacted to a far greater degree by group litigation, a consideration that goes beyond the reserves that must be set aside for such claims.

With the stakes so high, at the inception of multijurisdictional or class action litigation, corporate counsel is well advised to involve several professionals for the company's initial response, including national coordinating counsel, the corporate risk manager responsible for insurance notification and coordination, and the company's public relations director and/or an outside public relations firm to respond to media, investor and other inquiries.

THE ROLE OF NATIONAL COORDINATING COUNSEL

One of a defendant company's first steps in responding to multijurisdictional litigation is designating its national coordinating counsel.² That role can be filled by in-house corporate counsel or a private law firm.

National coordinating counsel serves as the principal point of contact on litigation matters with general counsel and the offic-

2. Mark Dombroff & Ellen Clemente, *Effective Coordination of the National Counsel Program*, 11 No. 6 PRAC. LITIGATOR 29 (November 2000).

3. Thomas W. Tardy III, *Effective Use of Coordinated Defense Support and National Coordinating Counsel by the Peripheral Asbestos Defendant*, Asbestos Personal Injury Litigation Seminar, Defense Research Institute (November 2000).

4. Alexandra Lahav, *Fundamental Principles for Class Action Governance*, 37 IND. L. REV. 65 (2003).

5. Richard C. Stewart II et al., *Outside Counsel Selection Process—Preparing for Success*, 22 No. 1 ACCA DOCKET 45 (January 2004).

ers and directors of the company. The lawyer or lawyers selected should have the experience not only in managing class action or mass tort dockets, or both, but they also must have litigation technologies and staffing support to manage huge volumes of paper documents and electronic data.³

National coordinating counsel performs a number of essential functions.

A. Global and Unifying Litigation Strategy

With corporate counsel, national coordinating counsel formulates, implements and supervises an over-all litigation strategy for the multiple case filings. Although each case will not be handled identically, it is essential for the defendant to maintain consistent positions on its central factual and legal themes.⁴ Procedural strategies also require a coordinated approach that seeks to manage the status of the different cases toward defined objectives—for example, a negotiated settlement of all claims, a successful trial in one or more cases, or both.

The prospect of collateral estoppel is a key reason national coordinating counsel and corporate counsel must monitor and adjust the global litigation strategy consistently for all cases.

Litigation strategy also must be harmonized with the values and business objectives of the company.

B. Identification and Supervision of Local Counsel

National coordinating counsel plays a key role in the identification, recommendation and engagement of local counsel in the venues in which cases have been filed.⁵ Charged with managing the global case strategy, coordinating counsel is best situated to supervise local counsel's work on the specific cases. Similar issues will arise across the cases, allowing national coordinating counsel to communicate how such issues should be addressed.

C. Procedural Strategies

Several docket management options are available to a defendant facing multijuris-

dictional litigation, including: (1) consolidation of actions pursuant to Rule 42(a) of the Federal Rules of Civil Procedure; (2) using the multidistrict litigation proceeding (MDL) available under 28 U.S.C. § 1407; using class actions under Federal Rule 23; and (4) motions for stay.

Federal judges and national coordinating counsel often take guidance from the Federal Judicial Center's *Manual for Complex Litigation* (4th ed. 2004) as a resource for formulating case management orders.

Consolidation. Consolidation allows multiple independent cases to be joined for purposes of pretrial, trial or both. During the late 1980s in King County, Washington, the crush of several hundred separate asbestos personal injury cases prompted the state trial court to formulate what it termed accelerated case review rules, which consolidated groups of cases, usually dozens of individual filings, for pretrial discovery, settlement and trial purposes. Similar consolidations have taken place in major metropolitan state courts across the country and at the federal level in a variety of mass tort contexts.

Multidistrict Litigation. Section 1407 authorizes federal courts through the Judicial Panel on Multidistrict Litigation to transfer federal cases to a single district for consolidation and coordination of pretrial proceedings. Follow-on orders allow for the transfer of new case filings to the MDL court. On completion of the defined pretrial phase, the MDL court issues remand orders transferring individual cases back to their originating districts.

A defendant must assess closely whether it favors or opposes MDL status for multiple federal cases. For example, MDL consolidation increases the likelihood of certification of a national class action in

appropriate cases. On the other hand, if federal lawsuits have reached a substantial number and cover a large geographic area, MDL consolidation may provide a cost-effective approach, a strategic approach, or both, to ensure uniform treatment of the various cases.⁶

Mixed Federal and State Dockets. Multijurisdictional cases frequently are pending in both state and federal courts simultaneously. Mass tort cases, based on state common law theories, often involve a federal MDL proceeding with concurrently pending state cases. For instance, the director of the Federal Judicial Center, Judge Barbara Rothstein, has retained jurisdiction of the phenylpropanolamine (PPA) MDL in Seattle. In 2003, she arranged for joint Daubert hearings for federal and state PPA cases. She hosted state court judges in person and by closed-circuit television at the Seattle federal courthouse, and they jointly presided over the scientific hearings.

Federal courts also can coordinate with state courts to issue common protective orders, scheduling orders, joint pretrial conferences, coordinated document depositories, joint-captioned depositions and other pretrial arrangements designed to minimize the potential for unnecessary duplication and delay.⁷

In addition to formulating the framework on which cases will proceed, national coordinating counsel also provides guidance on a variety of procedural strategies for liability and damage discovery and trial. For example, Lone Pine orders have proved effective in mass tort cases in which questions are presented as to the existence and scope of injuries sustained among a large group of allegedly affected claimants.⁸ Bifurcation orders, including reverse bifurcation in which damages are

6. "Although we are sensitive to the argument that Section 1407 transfer may cause certain parties to suffer some inconvenience, we are nevertheless confident that prudent counsel in all actions, under the guidance of the transferee judge, can apportion their workload and otherwise combine forces to effectuate a significant overall savings of cost and a minimum of inconvenience to all concerned with the pretrial activities." In re Cuisinart Food Processor

Antitrust Litig., 506 F.Supp. 651, 655 (J.P.M.L. 1981). See also In re Motion Picture Licensing Antitrust Litig., 468 F.Supp. 837, 842 (J.P.M.L. 1979).

7. Dianne M. Nast, *Managing Mass Tort Cases*, 1 SEDONA CONF. J. 43 (July 2000).

8. William A. Ruskin, *Prove It or Lose It: Defending Against Mass Tort Claims Using Lone Pine Orders*, 26 AM. J. TRIAL ADVOC. 599 (Spring 2003).

tried first, also are potentially helpful methods by which to resolve group case filings efficiently.

D. Class Action Litigation

Class actions are governed under Rule 23 of the Federal Rules of Civil Procedure and under each state's own civil rules.⁹

Some people link the increased cost of insurance premiums and calls for legislative reform to the surge in class action filings. Congress struggled in 2004 with two bills that would have conferred exclusive federal jurisdiction over most class actions. Whether that legislation will be enacted or face the same extended discussion to which federal tort reform has been subjected remains an open question.¹⁰

In some state court courts, motions for class certification may be noted on a regular motions calendar, which is usually far too short a time to allow for effective discovery and briefing of the issue. Early, advance arrangement with plaintiffs' counsel on an agreed briefing schedule is advisable. Absent coming to an agreement, defense counsel might consider a motion for a scheduling conference.

Discretionary appeals are authorized under Federal Rule 23(f) from orders granting or denying motions for class action certification. By contrast, some states have no provision for such appeals.

When multiple class actions are pending simultaneously in federal court, national coordinating counsel must assess the strategic implications of the creation of an MDL panel to which all federal cases would be transferred and coordinated.

When filed, class actions identify a putative class or classes that would be represented by the named plaintiff or plaintiffs, who would serve as the class representative. Much of the work in class action cases focuses on whether it is proper to certify a class under the Rule 23(b) criteria. Certification is sometimes sought only on particular issues pursuant to Rule 23(c)4.

The scope and timing of class certification discovery is a subject of disagreement between counsel for plaintiffs and defendants. The disagreements can be resolved by case scheduling orders entered either by stipulation or following motion practice.

Settlements of class actions are exceedingly challenging. The U.S. Supreme Court issued two decisions in the 1990s that impose increased procedural safeguards ostensibly protecting class member interests.¹¹ These safeguards, however, make approval and enforcement of class action settlements more difficult.¹² Federal Rule 23(a) states that any class action settlement requires formal notice to all class members and court approval, including approval of the provisions for compensation of the plaintiffs' counsel. Dismissal orders require notice and court approval. Rule 23(e).

Ethical considerations seem to arise more frequently in class action litigation than in other litigation contexts. Conflicts of interest are presented regarding the interests of the class representative and absent class members, as well as the professional responsibility obligations incumbent on the representational duties of class counsel.¹³

9. Peter J. Beshar & Megan A. Jones, *The New Class Rules*, N.Y.L.J., December 4, 2003, at 4; John Bronsteen & Owen Fiss, *The Class Action Rule*, 78 NOTRE DAME L. REV. 1419 (August 2003); Robert L. Clayton & Bethany Brantley Johnson, *An Overview of Employment Class Actions*, 14 No. 4 PRAC. LITIGATOR 33 (July 2003).

10. Class Action Fairness Act of 2004, § 2062, 108th Cong. (2004); National Class Action Act of 2003, § 1769, 108th Cong. (2003); *Filibuster Stymies Class Action Reform Bill in Senate*, 10 Andrews No. 10 Class Action Litig. Rep. 9 (November 2003).

11. *Amchem Prods. Inc. v. Windsor*, 521 U.S. 591 (1997); *Ortiz v. Fibreboard Corp.*, 527 U.S. 815

(1999).

12. Tamara Loomis, *Class Action Rule Changes—Plaintiffs Now Have a Second Chance to Opt Out of a Settlement*, NAT'L L.J., December 8, 2003, at 10; Francis E. McGovern, *Settlement of Mass Torts in a Federal System*, 36 WAKE FOREST L. REV. 871 (Winter 2001).

13. Geoffrey P. Miller, *Conflicts of Interest in Class Action Litigation: An Inquiry into the Appropriate Standard*, 2003 U. CHI. LEGAL FOUND. 581 (2003); Nancy J. Moore, *Symposium: Ethics 2000 and Beyond: Reform or Professional Responsibility as Usual? "Who Should Regulate Class Action Lawyers?"* 2003 U. ILL. L. REV. 1477 (2003).

E. Internal Fact Investigation and Development

National coordinating counsel investigates the facts and develops the key defense witnesses and documentary evidence. They typically prepare the core chronologies, organizational charts, witness lists and other fact-based work product that serve as the foundation for the management of the various pending cases. Utilizing such automated litigation support tools as CaseMap, Concordance, Summation, and Binder, national coordinating counsel is able to develop work product in electronic databases that can be made available to corporate counsel and to local counsel.

F. Management of Discovery

Discovery is expensive and time consuming. National coordinating counsel's role is to develop a strategy that is cost-effective and minimizes disruption of the corporate defendant's ongoing business activities.¹⁴

National coordinating counsel must assess whether there is proprietary or confidential information at risk in the case, a situation that would make protective orders appropriate. National coordinating counsel coordinates efforts to obtain consistent protective orders across cases, and most important, must ensure that protective documents are collected back at the conclusion of litigation.

Responding to discovery requests pro-pounded to the corporate defendant is managed by national coordinating counsel. Of obvious importance, responses to written discovery must be handled in a consistent manner across jurisdictions. National counsel should serve as the coordinating entity to work with the company in developing full responses and appropriate objections. Local counsel ensure that the responses conform with the requirements of the particular venue.

Answering interrogatories and document requests can disrupt business activities and intrude on the individuals whose electronic and paper files must be reviewed. Repeat searches for documents are expensive and

understandably can annoy the company employees who must again open their files. National coordinating counsel therefore should craft a strategy that seeks to obtain as much of the potentially relevant data as possible at one time. National coordinating counsel can then maintain the data—electronic and paper documents—at its offices.

National coordinating counsel should devise and implement strategies (1) for assessing the company's record retention schedules and whether the litigation should affect those policies and (2) for conducting electronic discovery of such media as e-mail and documents maintained only in electronic form.

National coordinating counsel should develop common sets of interrogatories, document requests, and requests for admission to the plaintiffs in each case. If personal injuries are asserted, a consistent strategy should be implemented for independent medical examinations of each claimant or a representative sample of the claimants.

If the case is proceeding as a class action, one must determine the degree to which the local rules and the assigned judge, or both, will allow or limit discovery of absent class members. The manner in which the class action complaint is framed and the positions plaintiffs take in subsequent case filings, or both, may permit such discovery to take place. National coordinating counsel should take the lead in determining whether discovery of absent class members is strategically beneficial or detrimental to the global case strategy.

Depositions are of central concern for national coordinating counsel. The schedule of depositions for lay witnesses across cases has important procedural consequences in the way each case develops. The identification of witnesses and the order of examination of witnesses also are matters national coordinating counsel and local counsel should decide.

14. Carlton S. Chen et al., *Managing Discovery in Large-Scale and Pattern Litigation*, 21 No. 9 ACCA DOCKET 60 (October 2003).

G. Development of Company's Witnesses

National coordinating counsel plays an important role in identifying which current and former employees are the appropriate witnesses to convey the company's position in deposition and at trial. The process involves the direct interaction by national coordinating counsel with those potential witnesses, including thorough preparation of them in advance of testimony to ensure they are familiar with the documents and facts on which they likely will be questioned.

The passage of time can prey on the frailty of human memory. National coordinating counsel must take the time to examine the historical documents and to interview persons with knowledge. That process often involves a review of documents with a prospective witness in advance of a deposition appearance.

Presentation of a corporate witness pursuant to Federal Rule 30(b)(6) is a special challenge in discovery. Because the witness will be answering questions directed to the company on designated topics, national coordinating counsel is in the best position to prepare and participate in what often are key case deposition examinations.

H. Experts and Scientific/Technical Evidence

As with all complex litigation, experts play a pivotal role in an effective defense. National coordinating counsel identifies and retains both consulting experts (protected from disclosure under the work product rule) and testifying experts (discoverable). Working in conjunction with experts, national coordinating counsel must develop "fluency" in the subject matter in dispute—whether it is computer code, the pharmacology of prescription medications or market share in a relevant market.

National coordinating counsel often takes complete responsibility for experts in multijurisdictional litigation, to the exclusion of local counsel. It is imperative that national coordinating counsel and local counsel be consistent in the development of experts, preparation of reports, defense of their opinions in deposition and testimony at trial.

National coordinating counsel also must take the primary role in meeting the challenges of plaintiffs' experts—for understanding the opinions that must be met, for taking those experts' depositions, and for cross-examining the plaintiffs' experts at trial, if the experts can make it there. *Daubert* and in some remaining states, *Frye*, define the standards for admissibility each side must be able to meet in order to present their expert opinions in summary judgment motion practice and at trial.¹⁵ *Daubert*'s "gate-keeping" obligation on a federal trial court, which requires a disciplined inquiry into both relevance and reliability, applies not only to "scientific" testimony but also to all expert testimony.¹⁶

National coordinating counsel must monitor the defense experts vigorously to ensure they have the credentials and the integrity in the development and substance of their opinions to meet *Daubert*'s mandate. On the other hand, coordinating counsel is responsible for challenging plaintiffs' experts. A successful *Daubert* challenge often results in summary judgment dismissal of claims and/or a favorable settlement.

I. Knowledge Management

Strategic advantages and cost efficiencies in multijurisdictional litigation result from the effective use of automated litigation technology and support. Litigation technology improves the depth and quality of case analysis and increases the speed with which information can be accessed and analyzed. The technology compresses critical documents, depositions, images and other data into a portable package—namely, a laptop computer—making it possible for lawyers to carry, analyze and present millions of pages of case material

15. See generally REFERENCE MANUAL ON SCIENTIFIC EVIDENCE (Federal Judicial Center, 2d ed. 2000).

16. *Kumho Tire Co. v. Carmichael*, 526 U.S. 137 (1999).

anywhere their work demands their presence.

Clients recognize the importance of incorporating technology in their own business practices, and they seek legal counsel who do the same. Clients also require counsel capable of managing electronic media—e-mail and other electronic business documents—which increasingly are the objects of extensive and expensive discovery demands. In short, clients need counsel that has the technology infrastructure and experience to manage e-discovery.

Unparalleled volumes of information must be managed in multijurisdictional litigation. The information is in paper form and in electronic databases, including such materials as (and clearly without limitation):

- Paper documents;
- E-mail;
- Electronic documents and data;
- Medical and employment records;
- Industry-specific information;
- Medical, epidemiological and other scientific information;
- Government documents;
- Pleadings;
- Depositions;
- Document repositories;
- Correspondence;
- Brief banks;
- Legal research; and
- Reference libraries.

As the volume of information requiring management has increased into the realm of terabytes, national coordinating counsel, using hardware and litigation software, must be able to implement automated legal services that allow for the sharing of case resources over broad geographic areas, thereby facilitating the dissemination of case information, the division of case responsibilities and the management of case and client knowledge.

National coordinating counsel's role includes creating and managing a variety of case databases, as well as defining the methods by which the databases can be accessed by the client and local counsel. Extranets have emerged as a primary way in which this communication can be en-

abled and supported.¹⁷

At its center, litigation identifies and evaluates facts developed from documentary evidence and testimony. The large volume of information and the need to organize and analyze it make the discovery process an obvious target area for automation. Imaged document and transcript management databases are proved systems for use in discovery analysis.

The most significant new component of today's discovery regime is computerized documentation. The use of efficient automated collection and processing methods for electronic discovery, such as e-mail, is crucial not only to succeed in litigation but also to ensure that clients and opponents are compliant with their discovery obligations.

1. Fact Management Tools

The organization and evaluation of important case knowledge, or "fact management," represent another important area for application of automated processes.

CaseMap and Summation offer automated tools that go well beyond basic discovery management. Building casts of characters, chronologies and lists of issues, as well as developing the key questions involved in cases, always have been good litigation procedures. Automated software applications eliminate the disparate and often manual methods employed to prepare these types of case analysis profiles. Efforts now are focused in one location, within a database where all the critical resources (*e.g.*, discovery evidence) already exist. With the case analysis information available to all members of the legal team, information does not need to be discovered and rediscovered independently, and thus team collaboration is greatly enhanced.

17. Jerry Lawson, *Law Firm Extranets: Baking a New Pie* (November 1, 2001), available at <www.llrx.com/features/lawfirmextranet.htm>; Richard S. Granat & David Levine, *Extranets: Creating the Collaborative Law Practice*, available at <www.digital-lawyer.com/digital-lawyer/extranets.htm> (visited August 17, 2004).

2. Core Documents Databases

Database systems should be used for managing the core collection of paper and electronic documents in litigation. The two leading litigation database handlers are Concordance and Summation. They have obvious application with respect to larger document populations, but they are equally effective for medium and some small collections. With proper levels of coding based on the individual needs of a case, these systems can boost legal team efficiency in the organization and retrieval of documentary evidence.

Properly organized paper and electronic document databases provide legal teams with the means to retrieve, analyze and report information instantaneously. This information can be used to identify issues in the case, develop discovery requests and responses, prepare witnesses for depositions and interviews, and support motion practice. These databases can be used to analyze opponents' document production or prepare for client production by electronically managing reviews for responsiveness, privilege and confidential status. They also can be used to create both physical and electronic document productions, including sequential Bates labeling and confidential/privilege status branding.

To control the costs associated with the scanning, coding and optical character recognition processes required for the creation of these databases, outside vendors specializing in these areas are often the best solution.

3. Transcript Management Databases

All deposition transcripts should be managed in a database system. Summation contains an electronic deposition handler. RealLegal Binder (previously eBinder) is also a very effective transcript management software package.

The ability to search dynamically and instantaneously retrieve testimony across transcript collections allows for more accurate identification of case facts than can be accomplished through a manual system. The minimal costs involved in setting up

transcript management databases are among the litigation technology expenses most quickly mitigated by productivity enhancements.

4. Electronic Discovery Methods

Computer-based documents and communications have become a primary source of discovery. Clients create and maintain the overwhelming majority of their documents electronically. And the ease with which electronic documents are created has increased significantly the volume of information available in discovery. These facts are even more apparent when one considers electronic correspondence. The volume of e-mail generated, combined with the informal nature of this type of communication, can make it the most important resource in litigation. National coordinating counsel must have the resources to employ automated strategies to collect, process and review this data. Electronic documents cannot be ignored, and traditional methods of generating paper equivalents are unworkable and cost-prohibitive.

5. Presentation Technology

Multimedia presentations now are commonplace at trials, hearings, arbitrations and client meetings. National coordinating counsel must have the technical hardware and software, as well as the support, to make effective presentations. Sanction and TrialDirector are the leading litigation presentation software packages. Effective multimedia courtroom presentations also require specialized hardware, including laptops to run the software, external data storage devices to satisfy the enormous byte-size requirements of video, high-quality projectors for clear and quiet visual display, and scanner/printers for document preparation.

J. Management of Budgets and Reporting

As in all litigation, multijurisdictional litigation must be managed for purposes of reserves, cost budgeting and, if applicable,

coordination with the insurer. National coordinating counsel serves as the central point to collect budgeting and reports from local counsel and then prepares periodic reports on the entire case for the defendant company. Any budget or case development issues that arise at the local level can be resolved by national coordinating counsel, corporate counsel, or both.

Electronic billing by outside counsel is gaining acceptance among in-house counsel as a method to manage litigation and eliminate paper billing. Serengeti (www.serengetilaw.com) is one of the industry leaders in providing both electronic billing and matter management in one system. In-house counsel can track not only spending but also current status, key dates, documents, budgets, outside counsel performance and results. This information is all organized for quick online retrieval and reporting.

Auditing of legal service billing also is emerging as a budgeting tool for the management of complex litigation.

K. Pretrial and Trial Strategy

National coordinating counsel plays a key role in determining pretrial and trial strategies. They identify and engage jury consultant firms for case evaluation, mock jury exercises, jury selection, as well as for preparation for key hearings, mediations and witness preparation.

A member of the national coordinating counsel typically will try any case called to the trial docket. Depending on the unique characteristics of the jurisdiction and its rules, local counsel's role may vary anywhere from providing an introduction at the commencement of the trial to acting as lead trial counsel.

L. Settlement Strategy

Among national coordinating counsel's most challenging roles is formulating and managing a national settlement strategy. Consistency across jurisdictions is essential. Settlement in one jurisdiction creates the potential for a precedent to have been set for litigation pending in other jurisdictions. National coordinating counsel must work with corporate counsel to determine the company's position regarding whether one, more or all cases are to be settled, and the timing and positions to be taken at court settlement conferences and mediations.

When class actions are at issue, settlement requires close attention to the form and method of service of the notice of settlement to class members regarding the terms of settlement, the management and response to objections, and the briefing and hearings necessary to achieve an enforceable order approving the settlement.

CONCLUSION

Corporations will continue to be the primary targets of group litigation claims. Although federal legislation may be enacted to reform class action proceedings, the high stakes of group claims invariably will generate new waves of filings. Corporate counsel's recruitment of experienced national coordinating counsel is an essential response to multijurisdictional and class action litigation. The team approach, including the use of centralized, sophisticated litigation technologies, provides practical solutions for the management of cases in a cost-effective and strategic manner.