

**The Association of General Counsel  
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**Big Stakes Litigation:  
Staffing and Managing the Interdisciplinary Team**

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## **See the Big Picture**

**As plaintiff: Focus on the business objectives of the litigation**

**As defendant: Fully understand the potential threat and all its ramifications**

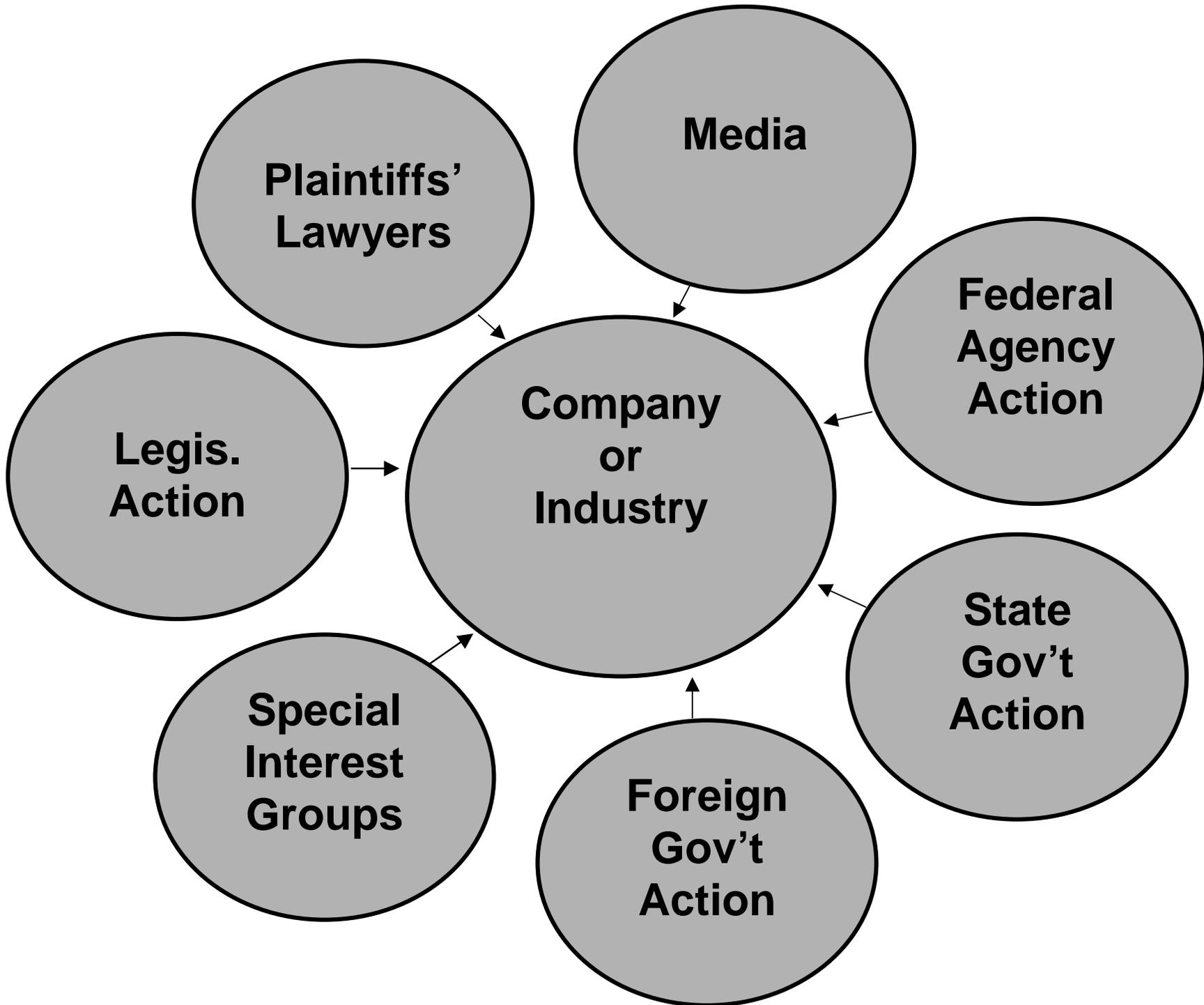
**In all cases: Look beyond the legal claims and defenses, and consider:**

**Emotional issues**

**Societal (juror) attitudes**

**Political issues**

**Adversaries' agenda**



## **Guiding Principles**

- 1. Lead from within**
- 2. Create an effective team**
- 3. Focus on the big picture and establish clear objectives**
- 4. Develop and implement a unified strategy to achieve the objectives**
- 5. Try to seize control of the issue proactively**
- 6. Develop affirmative themes early, to guide communications, pretrial preparation and trial**
- 7. Reevaluate the strategy often and make changes when appropriate**

## **Creating the Internal Management Team**

**Include legal counsel and executive management**

**When appropriate, also include representatives from regulatory affairs, corporate communications and other staff groups**

**Caution: To protect the attorney-client and work product privileges, try to avoid selecting people who are likely to testify as witnesses**

**Designate a leader of the team, and clearly define the responsibilities of each team member**

**Establish a mechanism for regular communications**

**Suggestion: At least weekly meetings or conference calls for operational issues; at least monthly meetings for strategic issues**

## **Selecting Outside Counsel and Consultants**

### **Identify needs**

**Trial lawyers**

**Coordinating counsel (national, regional)**

**Special issues counsel (e.g., Daubert)**

**Regulatory counsel**

**Legislative counsel**

**Jury consultant**

**Strategic communications firm**

**Technical support (e.g., graphics, court reporters,  
document management)**

**Consulting experts**

**Testifying experts**

**External spokespeople**

**Remember that talent is often found in different firms**

**Hire the best people who:**

**Can set ego aside and work as a team**

**Are compatible with the company's values and  
culture**

**Understand the company's objectives**

**Are willing to work closely with the internal  
management team**

## **Managing the Outside Team**

**An inside lawyer should actively manage the outside team**

**Ensure uniform and consistent implementation of the litigation strategy**

**Participate in all key decisions, including the assignment of trial counsel**

**Establish written operating procedures and define reporting relationships**

**In multi-jurisdiction litigation, consider the use of national coordinating counsel and regional counsel**

**Assign responsibility for responding to written discovery to one law firm, in order to ensure consistent responses**

**Create smaller teams, which may be interdisciplinary, for tasks such as:**

**Theme development**

**Daubert**

**The selection and preparation of expert witnesses**

**Settlement negotiations and mediations**

**Implementation of a strategic communications plan**

**Addressing regulatory and legislative issues**

## **Ways to Maximize Value**

**Consolidate generic tasks in one firm**

**Legal research and motions**

**Preparation of generic trial exhibits**

**Addressing class action issues, if applicable**

**Use internal resources for document management, if available**

**Assign one or two lawyers to each key witness**

**Company witnesses**

**Expert witnesses**

**Adverse generic witnesses, including experts**

**Negotiate budgets with outside counsel and consultants whenever possible**

**Press for early resolution whenever consistent with litigation strategy**

**Keep the litigation objectives in mind, and know when to stop**