

## **I. Multistate Investigations/Litigations**

- A. How are Multistate investigations typically initiated?
- B. How are each of your offices set-up to make decisions about whether to enter into a Multistate, i.e. who makes the decision, and is it reviewed by the Front Office?
  - 1. Are there downsides or risks to entering into a Multistate? What about the decision not to enter into a Multistate, and either going alone or staying out of an issue?
  - 2. Are there mechanisms in place to keep the Front Office apprised of Multistates that your office has joined?
- C. How is an Executive Committee (“EC”) selected?
  - 1. Under what circumstances would your office decide to be part of an EC? Why would you not?
  - 2. How is information shared between the EC and the non-EC members?
- D. What happens if you disagree with the strategy or tactics being used in an investigation?
  - 1. Can you think of a situation where you would leave an investigation? In reality, does this actually happen?
- E. What factors does EC evaluate when faced with a potential settlement?
  - 1. How closely do non-EC members review proposed settlements?
  - 2. How can non-EC members make their opinions heard on a proposed settlement?
- F. How is the decision made to move from a Multistate investigation to litigation, and how does the Multistate dynamic change afterward?
- G. The experience for the target of such actions is often mixed. On one hand, it may be more efficient to respond to one group of AGs rather than a dozen individual offices, and Multistates offer the ability for a global settlement. On the other, companies may feel they are being “ganged up on,” and the public perception that many regulators are looking into the same conduct can be harmful to a company’s image.
  - 1. Do you believe there is merit to such concerns?
  - 2. What do you wish companies understood about Multistate investigations from your perspective?

H. CAFA's requirement that notification class action settlements to be sent to State AGs has increasingly resulted in AGs cooperating to comment on or object to a proposed settlement.

1. Do you have a group in your office designated to receive these notices?
2. Do you collaborate with other AGs in this process?
3. What are red flags that would cause you to object to a CAFA settlement?

I. There are an increasing number of False Claims Act ("FCA") suits brought by private relators that seek to enforce both the federal law and FCAs of multiple states.

1. Do FCA *qui tam* actions pose any special issues for AGs when Multiple states are named, particularly since it is a private plaintiff invoking the name of the states rather than a decision by the AG to sue?
2. Are there special processes, procedures, or considerations that AG offices use in FCA cases than other kinds of Multistates?
3. How does the presences of a *qui tam* Relator impact decisions by states to settle or otherwise resolve FCA allegations, and do states coordinate on their relationship and communications with Relators?

## II. *Amicus* Briefs

A. How are joint *amicus* briefs initiated?

1. Have you ever initiated a sign-on effort?
2. Does the process change depending on the subject matter?

B. Who in your office is in charge of vetting proposals to join an *amicus* brief?

C. What factors are considered when deciding whether to join an *amicus* brief? Why might you stay off or decline to participate?

D. When would your office draft an *amicus* on its own?

E. What are the advantages of getting other AGs involved on a state issue? Can you describe any examples when that has occurred?

## III. Sign-Ons

A. Can you explain the process of how sign-on's are initiated? How does your office initiate a sign-on? How do other offices contact you to join a sign-on?

- B. Again, is there a group of assistant AGs in charge of vetting them? Is it a different group than for *amicus* briefs?
- C. In 2005-2006, former NAAG president and former Indiana AG Steve Carter implemented a policy that all sign-ons will be posted on the NAAG website – Is this still done?
  - 1. Do you think that policy is a good one?
  - 2. Are requests to sign-on to a letter public records in your state?
- D. What are the benefits of joining a sign-on? Risks?
- E. In your mind, what makes a sign-on letter more persuasive? Less persuasive? Is there a critical mass that needs to be reached to make a sign-on letter persuasive?
- F. Have you noticed an increase or decrease in sign-ons? Why do you think that is?