



Managing Through Crushing Litigation & Disruptive M&A

GC AdvantageSM Webinar

March 2021



GC AdvantageSM

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 - **Preparing for Your First Year as GC**
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May 12, 2021, 1-2pm ET
 - **Building, Mentoring, and Coaching Diverse Teams**
June 16, 2021, 1-2pm ET
Registration opening soon

Questions & Answers



Submit questions to panelists at any time throughout the presentation via the **Q&A feature**. Questions will be answered at the end of the webinar.



You may use the **chat feature** to communicate with support staff regarding technical issues.

Featured Speakers



Michael Williams

Senior Advisor – **BarkerGilmore**
Former EVP, CLO & Secretary – **Staples, Inc.**
Former EVP & GC – **Sony Electronics, Inc.**



Lisa Ropple

Partner, Global Practice Leader – Cybersecurity, Privacy & Data
Protection – **Jones Day**
Former VP, Associate GC – **Staples, Inc.**



Disclaimer:

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Topics

- Assess Yourself & Your Organization
 - Search Warrant Raid
 - Cybersecurity Incident/Data Breach
 - Activist Shareholder
 - Big Time Litigation
 - Mega-Merger or Mega-Deal
- Assess Your Audience & Their Level of Participation
 - Cybersecurity Incident/Data Breach
 - Activist Shareholder
 - Big Time Litigation
 - Mega-Merger or Mega-Deal
- Behaviors & Attitudes that Help Managing Multiple Events
- Final Thoughts

Assess Yourself & Your Organization for Different & Multiple Events

- What is my experience in this area?
- Who do we have in-house?
- Who have we retained?
- What do we need?
- Who do we know?
- How do we look compared to others?

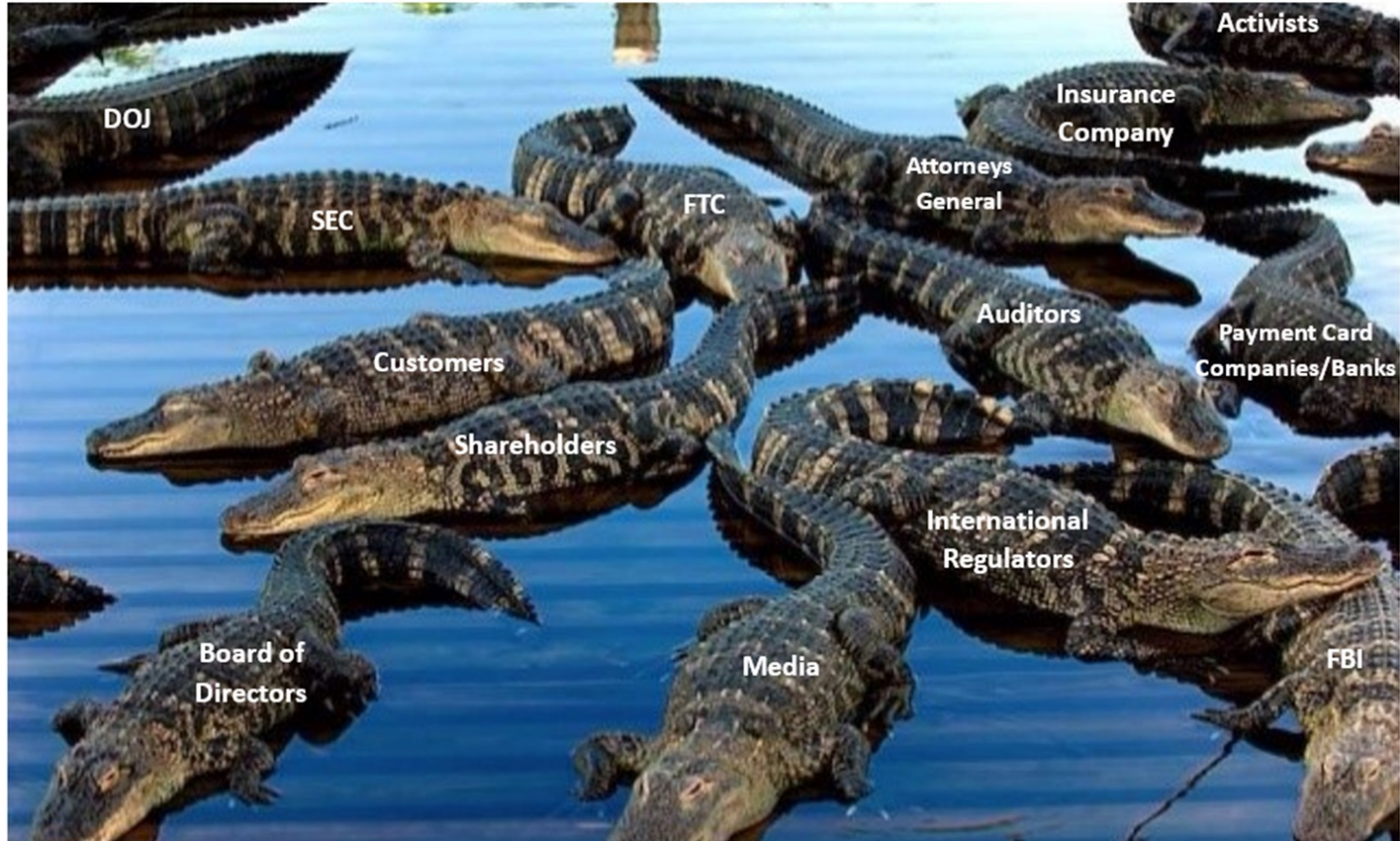
Assess Yourself & Your Organization for: Search Warrant Raid

- What is my experience in this area?
- Who do we have in-house?
- Who have we retained?
- What do we need?
- Who do we know?
- How do we look compared to others?

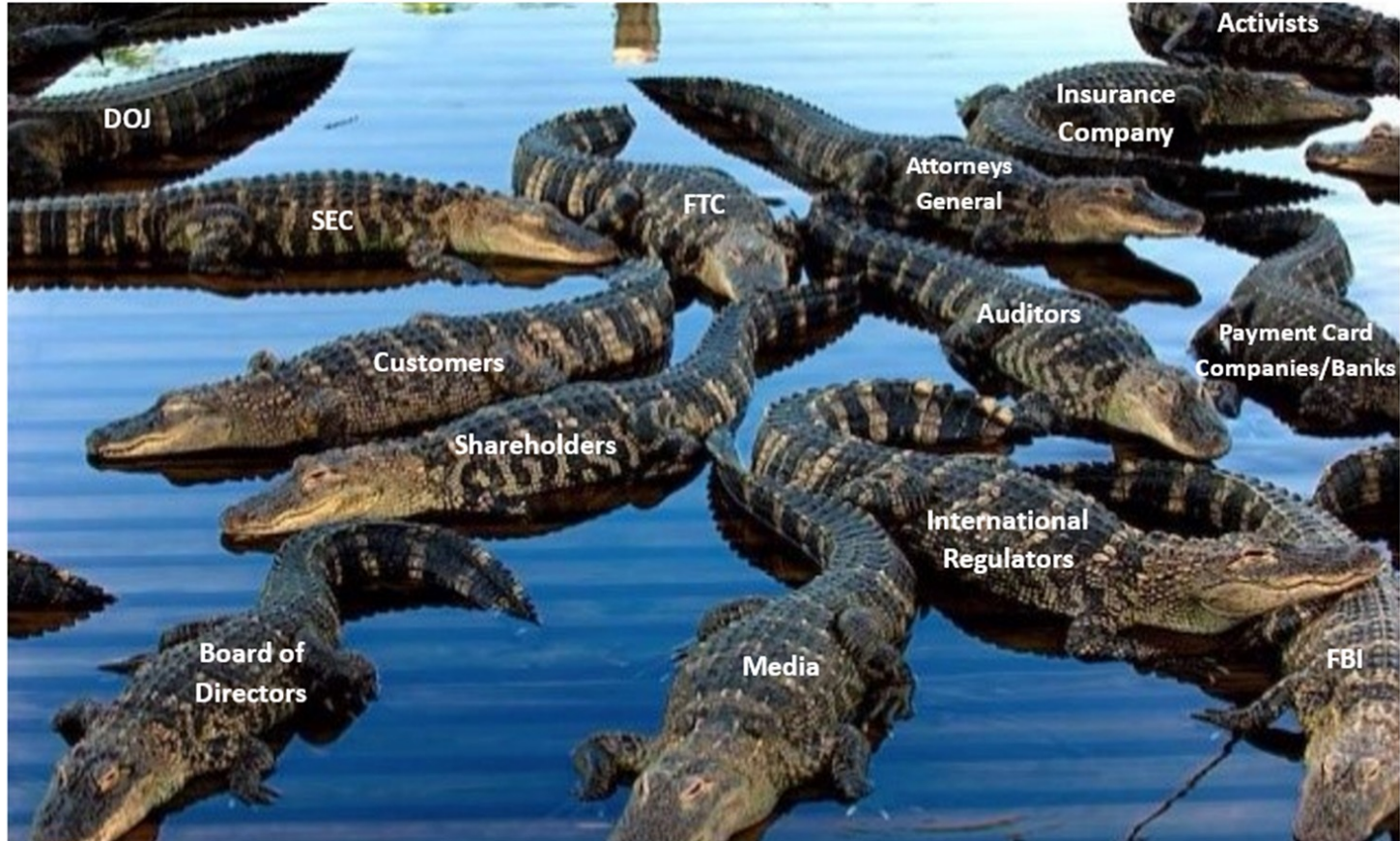
Assess Yourself & Your Organization for: Cybersecurity Incident/Data Breach

- What is my experience in this area?
- Who do we have in-house?
- Who have we retained?
- What do we need?
- Who do we know?
- How do we look compared to others?

What a significant cyber incident can look like ...



When you're up to your neck in alligators, your job is to survey the swamp.



Assess Yourself & Your Organization for: Activist Shareholder Campaign

- What is my experience in this area?
- Who do we have in-house?
- Who have we retained?
- What do we need?
- Who do we know?
- How do we look compared to others?

Assess Yourself & Your Organization for: “Big Time” Litigation

- What is my experience in this area?
- Who do we have in-house?
- Who have we retained?
- What do we need?
- Who do we know?
- How do we look compared to others?

Assess Yourself & Your Organization for: Mega-Merger or Mega-Deal

- What is my experience in this area?
- Who do we have in-house?
- Who have we retained?
- What do we need?
- Who do we know?
- How do we look compared to others?

Assess Your Audience & Their Level of Participation

- The Audience will vary depending upon the problem.
- Not all Audience members are equal.
- Not all Audience members need to participate all the time.
- Make sure the Audience knows not to cross their “i’s”.
 - They should not confuse being informed with being involved.
- How do we communicate effectively with the Audience?
- Understand and appreciate your Audience’s perspective.

Your Audience: Cyber Incident/ Data Breach



- Audience
 - Board of Directors – Often focused on potential personal liability and reputation.
 - CEO – Main focus on containment/limiting business impact/Board.
 - Senior Management – Want to be in the know, but often view situation through single business unit lens.
 - IT/IS – May want to control investigation; concerned may be blamed
 - Employees – What does this mean for me? Why didn't you tell me sooner?



Your Audience: Activist Shareholder Campaign



- Audience:
 - Board of Directors – Some may view the campaign as unwarranted criticism of their tenure as directors and a direct threat to their business reputation.
 - CEO – Some may view the activist as an opportunistic trader trying to pump and dump the company's stock, not concerned with long-term health of the company.
 - Senior Management – If the activist is successful, will we all be fired?
 - Institutional Investors – Shaking up the Board may be a good thing. Is the activist offering only a few candidates for election and not wiping out the entire Board?
 - Employees – What does this mean for me?

Your Audience: Big Time Litigation



- May Depend on the Matter
 - Who has the “D”? Business Unit Exec? Legal?
 - Who will pay damages/settlement? Business Unit Exec? CFO?
 - Is it potentially material? CFO/Auditors
 - Is it an “orphan”? Or a “hot potato?”
- May Depend on CEO/Senior Management
 - “Hot button” issues (even if not material)
 - Management style
- May Interest Other Constituencies
 - BU Leads/employees involved in facts
 - Customers
 - Investors

Your Audience: Mega-Deal or Merger



- CEO / CFO
- Board of Directors or “Transaction Committee” of Independent Board Members (remember to create charter)
- C-suite executives
- Investor relations
- Customers
- Employees

Behaviors & Attitudes That Help Managing Multiple Events

1. Fix the problem, not the blame.

- Don't engage in the blame game.

2. I would rather do it right than right away.

- Set and maintain high standards for yourself in everything you do.

3. When given a task, look at your watch and not your calendar.

- A good plan executed today is better than a perfect plan executed tomorrow.



Behaviors & Attitudes That Help Managing Multiple Events (cont'd)

4. “When you’re dying of thirst, it’s too late to think about digging a well.”

- Be proactive, think ahead, and look around the corners.

5. When the customer asks you what time it is, don’t tell them how to build a clock.

- Efficient communication is key.
- How would Laverne explain this to Shirley?



Behaviors & Attitudes That Help Managing Multiple Events (cont'd)

6. Trust your people to do their job. Do not micromanage them.



Behaviors & Attitudes That Help Managing Multiple Events (cont'd)

7. Set and maintain your priorities.

“If you are working from your Inbox, you are working on other people’s priorities.”

- Donald Rumsfeld



Behaviors & Attitudes That Help Managing Multiple Events (cont'd)

8. Even monkeys fall out of trees.

- Everyone makes mistakes.
- Admit your mistakes, learn from them, but do not repeat them.



Final Thoughts

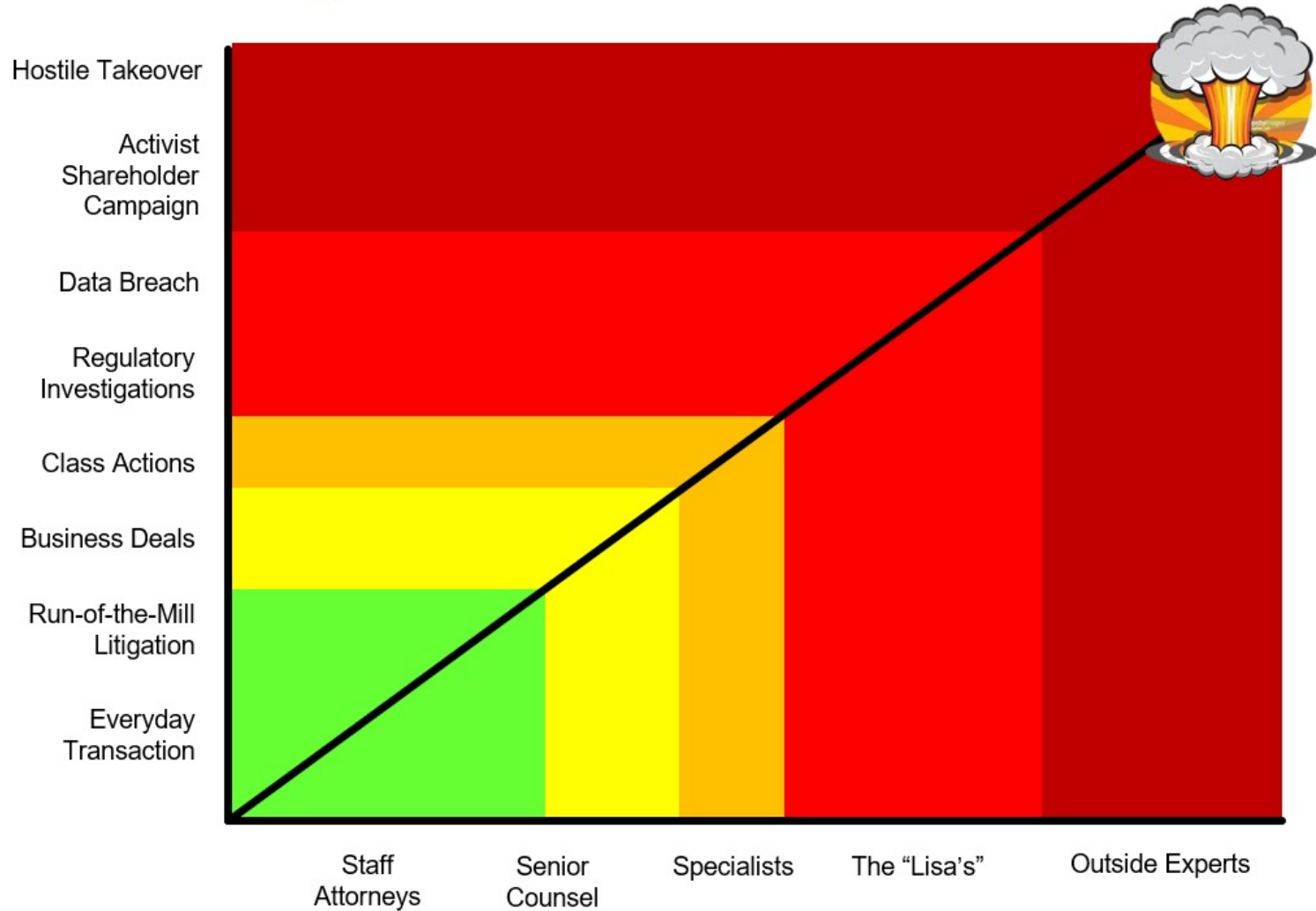
- Establish cadence of meetings for every event.
- Establish a communication protocol for each event.
- Minimize email traffic, use “**LDL**”.
- Practice tip – If you are dealing with an activist problem or a mega-merger, data breach, or litigation where you think there may be a court challenge – ***you*** draft the minutes and have them reviewed by outside securities ***and*** litigation counsel, then finalize draft for presentation to the CEO and Board.

Final Thoughts

- Am I ready to handle multiple thermonuclear events?
 - Do I have the staff that I need?
 - Do I have the support that I need?



Final Thoughts





Q&A Session

Thank you for attending.



Please let us know how BarkerGilmore can help
you succeed.

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