

Representations + Warranties

After insurance companies introduced representation and warranty policies for M&A transactions, our attorneys began pioneering many of the negotiation and arbitration strategies that help policyholders recover claims when R&W disputes arise. And, we're still an industry leader. Simply put: No law firm in the world brings more experience representing policyholders in these cases than our award-winning team.

A relatively new area of insurance, R&W policies have recently seen a surge in popularity as companies increasingly prefer them over traditional indemnity and escrow structures. Not surprisingly, the rise of these policies means an uptick in R&W claims. Commonly these claims involve tax matters; the accuracy, honesty, and sufficiency of financial statements; compliance with laws; adequate disclosure of material contracts; and other issues. When insurers deny claims, the M&A attorneys who helped negotiate the corporate acquisition are often conflicted out of the matter or simply don't have the legal background to handle these coverage disputes. Our team does. We understand the complexities associated with these M&A deals yet have the independence to represent policyholders against insurance companies.

Clients turn to us because we understand all of the factors involved in R&W claims and have the ability and experience to arbitrate these claims. Our lawyers bring decades of institutional knowledge combined with cutting-edge strategies that enable us to take the best approach possible to resolve disputes. Our team negotiates settlements, engages in mediations and, when pushed, we don't hesitate to take the cases to arbitration. In fact, we are one of very few firms that have gone all the way to verdict on these claims, and we have done so several times and prevailed on behalf of our clients. Opposing counsel know this, which gives us leverage to advance our clients' interests.

Our Inventive Approach

Ahead of the Curve. Years ago our team led the way – and distinguished ourselves – by crafting creative alternative fee arrangements for R&W matters, working with clients to find solutions.

Proper staffing. Because our lawyers have handled so many claims in this area, we size up cases quickly and accurately to determine what team members we need to serve the client effectively and efficiently.

Collaborating with Other Professionals. If we see that clients have very good insurance brokers who are gaining traction in the negotiations, we defer the lead role to them and offer any support we. For those claims that can't get resolved, we are positioned to step in and arbitrate. We also collaborate closely with our client's M&A lawyers.

Relationships Matter. In a similar vein, when clients have risk managers who maintain strong relationships with the insurance companies, we partner with those professionals to help maximize the recovery.

Our Strengths

In representing our clients, we draw on our experience and knowledge resolving disputes when insurance companies dispute or deny claims for any number of reasons, including:

- Inadequate disclosures in the application or during the due diligence process
- Disputed damages or valuation issues, potentially eliminating coverage entirely due to large retentions
- Allegedly unreasonable settlements
- Allegedly premature claims
- A claim falling outside the definition of a covered loss
- Exclusions, including fraud-based exclusions
- A policyholder's awareness of a troubling issue before the M&A transaction closed