



Berkshire Hathaway
Specialty Insurance

Providing Certainty in an Uncertain World

Class action litigation in the U.S. creates uncertainty and financial risk for companies. This uncertainty and risk can continue beyond settlement even for claims made settlements. Berkshire Hathaway Specialty Insurance offers solutions to address the risks that arise from pending class action litigation. Our unique approach provides companies with an alternative to the cost and operational uncertainties arising from class action settlements by providing risk transfer of the litigation and/or settlement exposure.

We work with our exclusive MGA, Risk Settlements, to design and provide creative solutions to the most difficult risks. Companies are able to retain Risk Settlements, without any upfront cost, as consulting-only experts in order to review case-specific data to better understand the potential exposure and financial risk. This analysis along with Risk Settlement's proprietary database of historical class action settlements allows us to quantitatively and qualitatively analyze the risk of various litigation and settlement outcomes and provide solutions at an attractive cost.

Depending on the stage of the litigation, we may be able to offer terms for either a litigation buy-out insurance policy or a class action settlement insurance policy. By providing certainty with litigation or settlement risk transfer, a company can mitigate the unintended consequences of class action litigation and resolution, including: uncertain payout, hurdles to mergers & acquisitions or other corporate activities, and remove distractions from the company's core business.

The following are two examples where we provided risk transfer solutions for ongoing class action litigation:

The first involved a large company that was sued for allegedly overcharging customers by more than \$100 million. We were able to assess the financial risk arising out of various settlement structures, and assist the company in structuring an optimal settlement that was backed by full risk transfer with a class action settlement insurance policy. The total cost to the company was less than 6% of the total liability. Using this solution, the company ended years of litigation, substantial liability, uncertainty and expenses.

The second involved a private equity firm that was in the process of selling a portfolio company when the company received a wage and hour complaint that threatened to derail the sale. We were able to analyze the merits of the underlying claim, litigation costs and various financial outcomes, and offered a fixed-cost litigation buy out insurance policy that covered the costs and financial exposure for the existing litigation, including the cost of defense, class counsel's fees, and recovery by the class. Companies now have the opportunity to ring-fence known, existing or threatened litigation that could otherwise derail M&A transactions such as this one.

For more information about litigation buy-out insurance policy or a class action settlement insurance policy, please contact Robert Underhill of Berkshire Hathaway Specialty Insurance at robert.underhill@bhspecialty.com.

Berkshire Hathaway Specialty Insurance (www.bhspecialty.com) provides commercial property, casualty, healthcare professional liability, executive and professional lines, surety, travel, programs, medical stop loss, and homeowners insurance. The actual and final terms of coverage for all product lines may vary. It underwrites on the paper of Berkshire Hathaway's National Indemnity group of insurance companies, which hold financial strength ratings of A++ from AM Best and AA+ from Standard & Poor's. Based in Boston, Berkshire Hathaway Specialty Insurance has offices in Atlanta, Boston, Chicago, Houston, Indianapolis, Irvine, Los Angeles, New York, San Francisco, San Ramon, Seattle, Stevens Point, Auckland, Brisbane, Dubai, Dublin, Düsseldorf, Hong Kong, Kuala Lumpur, London, Macau, Melbourne, Perth, Singapore, Sydney and Toronto. For more information, contact info@bhspecialty.com.

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