



RISK SETTLEMENTS

Waiting to Settle Cost a Company Millions

” *Using Class Action Settlement Insurance, the company transferred 100% of the settlement risk and saved millions of dollars in exposure and enterprise value.*



Case Status When Risk Settlements Was Engaged:

A company was facing consumer class actions in which it was defending five separate lawsuits pending in two states.

Risk Settlements initially assisted the company in its efforts to settle the case precertification. With an optimal settlement structure in place, Risk Settlement arranged for a cost efficient risk transfer making a deal in principle possible. Over the next few weeks, however, as the settlement documents were negotiated, the company decided to pull out of the tentative settlement and resume litigation. The company bought into the notion that they could defeat class certification. Unfortunately, the law and facts were not nearly as favorable as the company had hoped. After the failed settlement attempt, the company continued to engage in expensive and time-consuming litigation and discovery battles. Eighteen months and over \$1 million in attorney's fees later, the company lost class certification in federal court.



Obstacles to Resolution:

The company was owned by a PE firm and was in the midst of an M&A transaction. Placing significant liability on the company's financial statements would have driven down the acquisition price, encumbered liquidity with a massive escrow or killed the deal outright. **The owners needed certainty so that they could close the M&A transaction under favorable terms.**



Solution:

The company was motivated to move back to the settlement table and once again looked to Risk Settlements to help it get there. Being in the unenviable position of having lost not only one, but two class certification motions, Risk Settlements was still able to provide this company with an innovative settlement and notice plan that achieved preliminary and final approval while providing risk transfer options to remove the uncertainty and ongoing financial implications of settlement. **Using Class Action Settlement Insurance (“CASI”), the company transferred 100% of the settlement risk.**



Results:

Risk Settlements designed an optimal solution to achieve final approval. The company followed Risk Settlements' recommendations to prevent waste, fraud and abuse under the settlement. As a result, the cost of risk transfer was both efficient and compelling. After considering the economic and noneconomic benefits to the class, the Court determined that the claims made settlement was fair, reasonable and in the best interest of the class. Although the company paid twice as much as they could have for the first settlement, **it resolved a massive liability, obtained full risk transfer, mitigated the impact of the settlement from the pending M&A transaction and ended years of legal expenses and litigation risk. Better a late win, than no win.**

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