

Merger & Acquisition Disputes

TEAM

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OVERVIEW

M&A deals are significant strategic opportunities for entrepreneurs and middle market companies—whether raising capital through disposition of assets or expanding operations. Given the complexity of governing contracts, misalignment of seller and buyer expectations, transitional difficulties, unanticipated developments, or financial and operational provisions subject to different interpretations, post-closing disputes can sometimes develop between the parties.

We offer particular experience handling post-acquisition disputes, with amounts in controversy ranging from several million dollars to more than \$100 million. Often these cases involve claims related to interpretation of the parties' agreement, purchase price adjustments or allocation, representation and warranties of the seller or buyer, or indemnification for costs that arise post-transaction.

Our first priority is consideration of your strategic objectives—financial and reputational—to determine whether the dispute can be fairly resolved quickly and efficiently. Upon engagement, we thoroughly examine transaction documents and assess whether negotiation or mediation will end the conflict. If the case goes to court or arbitration, we have deep experience handling all aspects of the proceedings including pleadings, motions, discovery and trial or hearing. We work well with expert witnesses who may be called on to consult or offer opinions on issues in controversy.

Our post-acquisition experience spans:

- Earn-out claims
- Purchase price adjustments
- Breach of representations and warranties
- Fraudulent inducement under merger, stock purchase or asset purchase agreements
- Financial statement misrepresentation

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- Former officer or employee breach of agreement claims
- Claims against consultants or other professionals involved with the deal

EXPERIENCE

- Pursued post-acquisition earn-out payments in excess of \$10 million due the seller of a business.
- Represented the seller—a dental benefits administrator—in connection with a post-acquisition dispute with the buyer following the \$100 million sale of the company. Successfully resolved the case on the first day of arbitration.
- Obtained a winning jury verdict in a groundbreaking post-acquisition dispute involving implied reasonable efforts obligation.
- Represented a venture capital seller in connection with a buyer's refusal to release escrow. Successfully resolved the matter.