

Balice in Law360: 4th Circ. Towers Watson Ruling Not Final Word on Bump-Ups

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PRACTICES Insurance Recovery, Litigation

Haynes Boone Counsel [Joseph Balice](#) spoke with *Law360* as Towers Watson's defeat at the Fourth Circuit in its bid for coverage of settlements resolving merger-related shareholder litigation has become one of the higher-profile developments in court battles over so-called bump-up exclusions.

"I wouldn't be surprised if, as these cases progress — not just bump-up cases but D&O cases in general — and this sort of variability continues in the outcomes of cases, policyholders look to bargain for choice of law, if only because of the uncertainty," Balice told *Law360*.

He views Towers Watson as another data point for policyholders to evaluate, noting that case law on the bump-up exclusion is not nearly as developed as other contentious insurance matters, such as the definition of "occurrence" in a commercial general liability policy.

"There can be a lot more art than science to litigation — in all litigation, but particularly insurance coverage litigation — because some of these issues are novel or still developing and fluid," Balice said.

To read the full article from *Law360*, click [here](#).