

## Tom Harris in Business Insider: M&A Fine Print That Prompted Lawsuits After the Financial Crisis is Back in the Spotlight

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PRACTICES Distressed M&A, Restructuring

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Haynes Boone Partner [Tom Harris](#) talked with *Business Insider* about how buyers' remorse in the aftermath of the financial crisis has led to lawsuits about when and if companies can back out of deals.

Here is an excerpt of the *Business Insider* article:

Courts, keeping with earlier cases, ruled against buyers who wanted to walk away from transactions because their acquisitions' financials worsened after a deal was agreed.

Recent deals that have invoked the MAC [Material Adverse Effect] clause, often alongside other issues, include Sycamore Partners' purchase of a majority stake in Victoria's Secret, which fell apart last month.

Any lawsuit citing a MAC because of the pandemic will likely be on shaky ground, because the adverse change must be significant to the company's long-term earnings power; last for years, not months; and affect the company more than its peers. In recent months, wide swaths of industries, from retail to entertainment to travel, have been hit by stay-at-home orders and uncertainty stemming from the pandemic.

Tom Harris, a Dallas-based attorney who chairs Haynes Boone's M&A practice, said that when he advises buyers, he asks them to think through what would cause cold feet. Often, arranging and closing the deal's financing is a top priority, which can be dealt with outside of the MAC clause.

"If the market falls apart and nobody's lending money ... then the buyer doesn't have to close, but it's not based on a general MAC provision," Harris said.

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