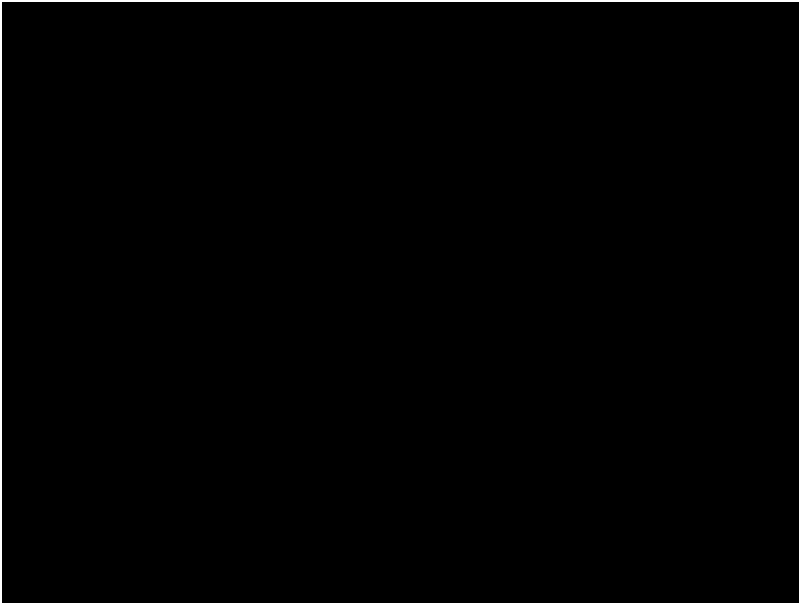


Policyholder Playbook Episode 50: Tips for Settling High-Risk Cases With Insurance

January 8, 2026 Greg Van Houten

PRACTICES Insurance Recovery, Litigation



To receive future posts by email, please subscribe [here](#).

Show Notes:

Your company is facing a potentially catastrophic, nuclear verdict, and your insurer refuses to put real money on the table to settle. What can you do? Today we are going to cover two strategies for dealing with this situation, which has seemed to occur with more frequency over the last several years. In future episodes, we will cover additional strategies.

1. First, a strong partnership with defense counsel is absolutely critical, including because you must ensure that defense counsel is independently valuing the case—as in, without influence from the insurer—and that defense counsel is properly assessing and documenting the risks of trial. The documenting piece is key because, from the policyholder perspective, you want an exhibit that you can wave to the insurer to say, "Hey, see, if you don't settle this case, here are the risks."

For example, the insurer would be under much more pressure to settle a difficult case for \$20 million if defense counsel writes, in a pre-mediation report, for instance, that if the case goes to verdict, there is a risk of a \$100 million nuclear verdict. With that as exhibit, the policyholder can exert much more pressure on the insurer to settle.

2. Second, and flowing from the same idea, consider whether the company needs independent appellate counsel, who can state in writing that, if there is a nuclear verdict, there is a material chance it will be upheld on appeal. Why is this important? Because, especially as of late,

insurers have a tendency to justify refusing to settle upon an argument that while a nuclear verdict is possible, such a verdict is unlikely to be upheld on appeal. But the policyholder doesn't want to roll those dice, and if qualified appellate counsel states that a nuclear verdict may be upheld on appeal, then the insurer will be under additional pressure to settle the case pre-trial.

Those are two practical tips for the policyholder who is facing a potential nuclear verdict. We will cover additional strategies in our next episode.