



Lowenstein Sandler's In the Know Series Video 16 – Three Negotiation Tips for Policy Renewal

By [Eric Jesse](#)

OCTOBER 2023

Eric Jesse:

Hi, I'm Eric Jesse, partner in Lowenstein Sandler's [Insurance Recovery Group](#), and welcome to "[In the Know](#)."

Businesses placing new coverage, or renewing existing coverage lines, sometimes assume that they cannot negotiate the terms and conditions in their policies. However, insurers will often agree to modify policy language, sometimes with no increase in premiums—sometimes, all you have to do is ask. And so today, we will discuss three modifications that the policyholders should request during the renewal or when placing new coverage.

First, many policy exclusions include lead-in language—which insurers will assert is broad—which can bar coverage for any claim “arising out of, relating to, or in any way connected with” the excluded subject matter. Consider requesting that this language be replaced with narrower language instead, for example, barring coverage “for” or “because of” the excluded matter. Securing more favorable lead-in language will minimize the risk and remove the insurer’s argument that an otherwise covered claim is excluded because it is in some way even remotely related to an excluded risk.

Second, policies containing a mandatory or binding alternative dispute resolution clause pose several hurdles to policyholders and should be removed wherever possible. While arbitration and mediation can sometimes result in a more cost-effective resolution, the threat of a public litigation is among the most powerful arrows in a policyholder’s quiver. If an insurer will not agree to remove these clauses, consider requesting that they be modified to only require mediation or non-binding arbitration before going to court.

Third, carefully consider the import of each exclusion and/or limitation placed on the scope of coverage on a newly placed coverage line. All too often, policyholders accept policies with “off the shelf” exclusions that functionally eliminate a significant portion of the risks associated with that business's operations. Even seemingly standard exclusions can sometimes be removed without additional premiums, or for a modest additional premium. It is important to work with experienced brokers in coverage counsel to evaluate any gaps in coverage that may be created

by the inclusion of an otherwise standard exclusion when applied to a particular business.

Thank you for joining us, and we look forward to seeing you next time on "[In the Know](#)."