Good Morning,

I have a quick question regarding a particular transaction.

Under an asset purchase deal our client “A” would acquire assets from entity “B” with which A has a history of litigation (including various cross-claims, none of which completed or led to any judgments).

The deal would include a release of all claims for $10 million, which would be credited to B, reducing the amount of cash paid by A at closing.

We think that in determining the size of transaction for HSR purposes, this $10 million must nevertheless be added to the overall deal value, as it is akin to an assumed liability. Agree?

Thanks in advance for your response.