

COVERAGE IN ACTION

EXAMPLES OF INSURANCE AT WORK

Private Company D&O Insurance

With today's emphasis on corporate transparency and accountability, an organization's directors and officers face a countless number of exposures. Regardless of your company's size or mission, the legal costs associated with a lawsuit can be devastating for both the organization and your directors and officers.

Many wrongly assume that directors and officers (D&O) insurance is only necessary for publicly traded companies. However, privately held organizations can just as easily fall victim to lawsuits that can impact the company, its officers and board, making D&O insurance a must.

Claims Scenario: *Floored By a Breach of Duty Lawsuit*

The company: A private flooring installation company worth approximately \$20 million.

The challenge: A flooring company with less than 15 employees was recently the subject of a lawsuit. A competing flooring company sued the insured, alleging purposeful contract interference.

Specifically, the competitor accused the company of diverting contracts and sought direct and consequential damages, including lost profits, punitive damages and attorney fees. As a result, the insured and its directors and officers were taken to court.

Private company D&O insurance in action: The case above alleges a wrongful act—an act that falls directly on the insured's directors and officers. Thankfully, D&O insurance provides coverage for alleged or actual acts, which helps organizations respond to various types of litigation.

This is particularly important when you consider that the defense costs and mediation expenses for the above case reached \$193,000. Without D&O insurance, the small-sized flooring company, as well as its directors and officers, would be forced to pay for the defense out of pocket.

Claims Scenario: *Investing Gone Wrong*

The company: A private company specializing in business process outsourcing.

The challenge: A private company works with several Fortune 500 brands and helps manage their shipping and customer care divisions. Recently, shareholders targeted the private company, alleging fraud and misrepresentation.

These shareholders claimed they were told the money they invested would be used to acquire smaller enterprises—bolstering the organization's outsourcing capabilities. Using the shareholders' money, the company would purchase these enterprises with the promise of doubling the original investment. However, when several of these acquisitions failed, shareholders claimed the directors and officers did not conduct the proper due diligence to ensure they were making the right decisions.

Private company D&O insurance in action: Despite their reasonable and best efforts, the directors and officers of the insured company failed in a high-risk, high-reward scenario. As a result, they were sued for negligence and possible fraud.

The company was taken to court—a process that went on for months and led to immense legal expenses. At the end of litigation, the D&O policy limits of \$2 million were nearly exhausted, but helped ensure the financial longevity of the company and its leadership.

Learn More About D&O Insurance for Private Companies

Many private organizations don't believe they need D&O insurance. This can be dangerous thinking, as just one D&O claim can drain the personal assets of a company's leadership team.

The current litigation climate for private companies presents an unending and potentially devastating challenge. Following a financial crisis, error, business interruption or similar incident, management can be held liable. Without the proper coverage, directors and officers would have to face claims brought on by competitors, customers, business partners and regulators on their own, likely with minimal success.

To learn more about D&O insurance and other ways to keep your organization's leadership team safe from litigation, contact your insurance broker today.

Talk to an Expert

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Benefits of D&O Insurance for Private Companies

- **Legal cost reimbursement**—D&O policies can provide legal cost coverage for a variety of claims. Specifically, D&O insurance can provide reimbursement to leaders of private companies following allegations of wrongful acts, financial mismanagement, errors in judgment and negligence. Because D&O lawsuits can occur without warning, it's critical that private company leaders arm themselves with the right policy.
- **Peace of mind**—D&O claims can come from a variety of sources, including employees, clients, contractors and government bodies. For private companies, claims from creditors and competitors are particularly common. D&O insurance ensures that private company leaders are protected regardless of where claims originate, providing timely and effective coverage.
- **An improved ability to attract new leaders**—Simply put, having a strong D&O policy in place makes board seats more attractive. This is because purchasing insurance shows prospective leaders that you take D&O risks seriously and are prepared to protect them.
- **Coverage for regulatory exposures**—Regulatory agencies are increasing their scrutiny of private companies, making D&O insurance all the more important. Paying the cost of an attorney to defend a director or officer against a government enforcement action is expensive, and private company D&O insurance policies can help with these types of expenses.